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Commentary

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Tackling Somali Piracy: Towards a Political Solution

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Since January 1991, Somalia has been without a functional central government and, thus, has the dubious distinction of being the longest-running instance of a failed state in post-colonial history. In the past two decades, Somalia has become embroiled in a vicious cycle of clan violence and general anarchy, which has resulted in a series of humanitarian crises. Somalia's protracted crisis, after years of neglect, has once again re-emerged at the centre stage of international politics, albeit for all the wrong reasons. This time, the international community is coming together in an effort to tackle the burgeoning risk of piracy in Somali waters.

This paper is an attempt to understand the phenomenon of piracy in the Gulf of Aden. As nations lobby for stronger military measures in the region to thwart piracy, the causes of the phenomenon and the policy responses to it warrant scrutiny. It questions the underlying rationale for naval deployments in deterring piracy and the belief that piracy as a phenomenon can be dealt at sea alone.

The nature of piracy in the Gulf of Aden is discussed and the naval response by the international community to contain the same is analysed. An attempt is also made to link piracy at sea with structural factors and political crises on land in Somalia. The paper investigates the various attempts at resuscitating a centralised state in Somalia and the causes of their repeated failure. By distinguishing between political and social order, an attempt has been made to suggest an alternative state-building process in a post-

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Westphalian world.[1] The alternative framework of a mediated state is presented for envisioning a new form of state-building that can transcend the centrifugal forces at work in Somalia. In conclusion, certain nuances are highlighted within the discourse on state failure, of which Somalia is a prime example. It is also argued that the phenomenon of piracy is best understood, and dealt with, when viewed in context of Somalia's internal political processes.

Somalia's geographical location plays a partial role in the germination of piracy in the region. Strategically located along the Gulf of Aden and at the eastern approach to the Red Sea, more than 21,000 ships traverse these waters annually. Apart from all the trade conducted between Asia and Europe, 3.3 million barrels of oil also transits the Red Sea every day *en route* to the rest of world. The Strait of Bab el-Mandab that connects the Red Sea to the Gulf of Aden and the Arabian Sea is a major chokepoint, which further aids the case for piracy. Chokepoints on widely used global sea routes considerably slow the movement of ships navigating through these narrow channels. This provides the pirates with a perfect opportunity to attack and board ships. Indeed, the first quarter of 2010 saw 35 cases of piracy in the Gulf of Aden and the Red Sea region.[2] Moreover, according to the International Maritime Bureau's (IMB's) Piracy Recording Centre, almost two-third of piracy attacks of 2009 are attributed to Somali pirates. The spiralling instances of piracy in the Gulf of Aden have become a major cause of concern for the international shipping industry that not only has to pay exorbitant ransoms to release captured crew and cargo, but also has to absorb additional costs in the form of war risk binder on vessels traversing these troubled waters.

The startling numbers of pirate activity in these troubled waters and the insecurity it has inflicted on international trade and commerce has not gone unnoticed by regional and global maritime powers. With mounting attacks on vessels, the United States (US) and the European Union (EU) have responded by deploying naval task forces to deter the pirates. The US led Combined Task Force 151 and the EUNAVFOR have been deployed since January 2009, in addition to the already deployed North Atlantic Treaty Organisations (NATO) 'Ocean Shield', created to provide security to World Food Programme shipments. Taking a cue from the task forces, India, China and Malaysia have been conducting independent operations in the Gulf of Aden. The Indian Navy claims to have safely escorted more than 700 merchant vessels in the piracy-prone waters off the coast of Somalia.[3] Despite all this, the number of actual and attempted pirate attacks in 2009 has again overshot figures for the previous year.[4]

Naval deployments in the Gulf of Aden have not been able to eradicate, or even ameliorate, the menace of piracy. This is largely because the current policy discourse on piracy views it as a purely maritime phenomenon that needs to be dealt in the high seas. It fails to appreciate or address the linkages that connect piracy with deprivation ashore. Thus, so far, navies have ended up playing 'whack-the-mole' with naval assets.[5] This has proven to be not just inefficient but also the least cost-effective method of suppressing piracy. As the British Foreign Secretary Lord Palmerston noted, referring to naval action against slavery, "taking a wasps' nest... is more effective than catching wasps one by one".[6] Hence, in an effort to bridge the gaps in the current policy discourse, due attention needs to be given to the fact that the roots of piracy lie ashore. As pointed out by the Swedish Defence Research Agency, naval operations in the region do not address the drivers of piracy.[7]

The well known American journalist, Robert Kaplan has stated that "piracy is the ripple effect of anarchy on land".[8] After the fall of the Siad Barre's regime, Somalia has been fraught with clan violence and general anarchy, interspersed with the direst of humanitarian crises. The Somali famine of 1992 was a terrible landmark. The absence of effective governance and deprivation in Somalia has led the populace to find alternative sources of income. While on the one hand, the lack of opportunities on land has 'pushed' the Somali populace to augment its resources through illicit activities at sea, on the other hand, the lack of any political authority on land has provided immunity to the people engaged in piracy. Thus, Gary Weir has rightly noted that "proximity of politically unstable nations or territories has been both cause of and permission for armed robbery or piracy at sea".[9]

The political instability in Somalia has also resulted in the unrestrained exploitation of the country's natural resources, which has further pushed the Somali people into the clutches of piracy. The sea is an enormously rich fishing resource for the local economy. With the disappearance of effective governance in Somalia, however, large foreign fishing trawlers started to appear in its waters. Not surprisingly, the first instances of piracy in Somali waters started to appear between 1995 and 2000 when local fishermen boarded foreign vessels and sought compensation for fishing within Somali territorial waters. Thus, many of these pirates continue to view themselves as "Robin Hoods of the seas", or are closer to what Eric Hobsbawm has termed as "social bandits".[10] Interestingly, such occurrences of maritime predation in the waters of the Malacca Straits have also been noted in the past, which typically fits the mould of "fish wars".[11]

In this steady and accelerating curve of piracy in the Gulf of Aden, there was a significant dip in 2006.[12] During the six months of rule by the Islamic Courts Union (ICU), piracy seemed to have vanished from Somalia.[13] Although the occurrence of piracy is largely based on structural factors such as lack of economic development, poverty and socio-economic inequalities, it also requires an environment where it can be sustained. What allows Somali piracy to continue and grow is the absence of state on land.

Somalia has been labelled as a failed state ever since the ousting of Siad Barre's government in 1991.[14] Since then, more than a dozen attempts by the international community towards establishing a government have met with failure. Established after two years of chaotic negotiations, the Transitional Federal Government (TFG) came into being in 2004. Although at present the TFG internationally represents the Republic of Somalia, its authority extends only to a few blocks in the capital, Mogadishu. The repeated failed attempts at establishing a central government in the country puts into question the basic premise of the state-building experiment: whether the establishment of a central government in Mogadishu is at all viable or appropriate for the revival of the state?

The state in Somalia has historically been the primary source of power as well as wealth. It acts as the nodal point for foreign aid coming into the country, and provides monopoly over the use of force, which is employed by the empowered to expropriate assets of rival clans. The repressive and predatory nature of the Somali state under the former ruler, Siad Barre, has left a legacy of distrust for the state as an institution.[15] In other words, the revival of a central state is seen as a zero-sum game where one faction or a clan benefits at the cost of others. The problem of spoilers further adds to the intractability of the situation. While a number of Somali actors would like to usher in peace and stability in the country, state building efforts are often seen as a threat to those groups and individuals who have benefitted from state collapse. The business community's apprehension towards a central state brings out the fear of high taxation, corruption and nationalisation of such commercial ventures. Other actors, such as warlords who fear marginalisation with the return of the rule of law and whole clans that have benefitted from armed occupation of valuable real estate, also act as spoilers in the process of state building. Furthermore, a central state would also need to be financially viable. Without a substantial amount of foreign assistance, the state has to rely on tax revenues in order to be operational. However, the present Somali

economy is poor and tax evasion is an easy proposition. Many of the rival clans and faction are unwilling to hand over key economic assets such as seaports and airstrips, which provide income in the form of customs duties, to the TFG. Given an extremely modest annual budget, it is only natural to expect that state building in Somalia would have to be minimal in its scope. However, the Somali political elite continue to be wedded to a maximalist view of Somalia, which is completely incongruent with present fiscal realities.[16]

The repeated failures of externally supported top-down efforts at reviving a central government in Somalia should not obscure the significant successes achieved by local communities towards governance-building.[17] Indeed, some analysts suggest that Somalia might be a failed state but it is certainly not a failed society.[18] Despite the absence of centralised modern state institutions, Somali communities in some parts of the country have devised means of establishing a modicum of order and predictability in an otherwise dangerous environment. Such instances of localised, *ad hoc* governance in areas of protracted conflict suggest that the Somali experience is not unique.[19] Either due to governmental indifference to marginal frontier areas or due to protracted warfare, communities cut off from effective state authority have sought to devise arrangements for themselves that provide the core functions of the state. As one analyst has pointed out, Somalia is filled with examples of "organic, local revival of governance".[20] Somaliland (a separatist state in the Northwest) and Puntland (a non-secessionist, autonomous state in the Northeast) are two such state-like entities that have achieved a significant degree of functionality.[21] Indeed, this "building-block approach" to state building was given impetus by international donors and the creation of the TFG as a federal entity further stimulated the regionalised state building process in the country.

Since the collapse of the central state in 1991, two political trends have emerged in Somalia that could pave the way for a viable national structure in the future. The first is the repeated failure of attempts to establish a conventional central government through a process of top-down power sharing arrangement among the country's elites. Although partially attributable to the leadership's efforts at recreating the erstwhile patronage system, a central state in Somalia suffers from structural impediments. The second trend, and one that presents a glimmer of hope, is the emergence of local, informal polities that have been able to provide many Somali communities with varying degrees of governance, security and social services.[22] An alternative approach to state building in Somalia could provide "what is already working locally with what is

essential nationally".[23] A mediated state emerging out of these two political trends could provide the much-needed sense of order and predictability that has so far eluded Somalia.

In a mediated state the central government with limited power and capacity relies on a diverse range of local authorities to execute the core functions of the government.[24] In order to do so, the central government needs to mediate its relations between the local communities and the state. The centre carries out certain basic functions of governance that are not already provided by the local nodes. In this way, the central state does not extend its mandate into areas which it cannot realistically govern, and in return, the local authorities (mediators) gain legitimacy in the eyes of the local populace by continuing the services they are already providing. Thus, both the centre and the mediators complement each other and provide services that the other does not. In other words, this approach of state building can harmonise the top-down efforts with the bottom up, organic emergence of informal, localised polities in Somalia.

The notion of the mediated state has its genesis in the study of pre- and early-modern state formation in Europe.[25] Monarchs with limited power were forced to manipulate and make deals with local rivals to extend their authority, which eventually led to the formation of modern states that exist today. Although considered as an obstacle in state building, in the case of Somalia, this kind of an experiment could provide a semblance of effective governance. Instances of mediated states seem to be appearing in many of the weak and failed nations in the developing world. The Kenyan experience is a case in point whereby the country has made deals with non-governmental organisations, traditional leaders and other civic bodies to bring order in the country's lawless border areas.[26] Furthermore, by limiting the powers of the central state, the mediated state approach reduces the risk of derailment of the state building process by spoilers.

Failed states are not only problematic in themselves but are also viewed as drivers of other security threats, such as regional instability and terrorism. Moreover, the academic and policy discourse on the subject has equated state failure with the absence of order. However, the Somali experience in particular and other weak states in general have shown that the two aspects are not necessarily synonymous. As pointed out, despite the absence of a central state in Somalia, local communities have formulated, in varying degrees, informal forms of governance based on customs and traditional norms of interaction and coercion. In other words, there is a need to differentiate

between the 'political' and 'social' problem of order.[27] In the case of Somalia, while political order has been absent since 1991, the same cannot be said about social order in different parts of the country. Nonetheless, the conflation of political and social (dis)order into a single category of "state failure" has led to a distorted understanding of the dynamics within Somalia. As a result, the policies adopted by the international community to pull the country out of crises have been equally skewed.

Numerous attempts have been made towards resuscitating a central state in Somalia without success. For reasons noted earlier, a unitary, centralised state in Somalia which is recognised by the international community and is a recipient of foreign aid and investments, would continue to remain an attractive, if elusive, objective. For, such a state would be contested by various clan-based factions and would be hard to stabilise. It could, therefore, be argued that the Westphalian notion of modern nation states as propounded by the Western powers has, in fact, been the driver and perpetuator of conflict in Somalia.[28] As analysts such as Peter Halden have pointed out, the state-building attempts by the TFG were in fact "destructive to the relatively stable stateless order prior to 2005".[29] Thus, the problems caused by state failure are probably not best addressed by trying to reconstruct the flawed structure but by creating alternatives.[30]

The mediated state strategy presented here offers one such possibility for Somalia. The emphasis here is not so much on the strategy itself but on finding alternative approaches that transcend the axiomatic state building exercises so far adopted vis-à-vis failed states. Instead of an end in itself, the mediated state should be seen as a medium-term strategy; an important station *en route* to establishing political order in the country. Thus, external actors should encourage the existing trend of sub-national and regional projects for establishing order that have sprung up in Somalia, rather than attempting to transform the country into images in their own likeness.[31]

The issue of piracy in the Gulf of Aden that has captivated the international community needs to be seen within the larger context of the political crisis in Somalia. Criminality and lawlessness has always had a political dimension but the current policy discourse has flipped the problem into a security issue. This has been especially noticeable since September 11, 2001 (9/11) whereby the phenomenon of state failure is viewed from the prism of security.[32] Indeed, the securitisation of piracy in the Gulf of Aden has resulted in the adoption of policies that ignore the political dimension. Moreover, it has enabled the international community to engage in a minimalist manner, without addressing the larger issue at hand, that is, the polity of Somalia. Therefore, the

collective naval power of the US government and that of its allies is a "perfect metaphor for the desire not to become involved to any worthwhile extent in reaching a solution to Somali state failure".[33] The presence of naval warships in the region has been useful as a guide for the World Food Programme shipments to famine-struck parts of Somalia. However, these patrols at best address only the symptoms of the disease. Furthermore, such a containment policy should be seen as a near-term response since maritime measures cannot be carried out indefinitely. In other words, piracy is a land-based problem that requires a land-based solution. And unless this fact is firmly acknowledged, the policy discourse will continue along a faulty course set by a fallacious premise.

Notes

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6. Paul Reynolds, "Rules Frustrate Anti-piracy Efforts", *BBC News*. November 19, 2008.
7. See Karl Sorenson, quoted in "A Political Solution in Somalia: Sharing the Responsibilities", Group of European People's Party in the European Parliament, November 2009, p. 24.
8. Kaplan, Robert. "Anarchy on Land Means Piracy at Sea". *New York Times*, April 11, 2009.
9. Gary E. Wier, "Fish, Family, and Profit", *Naval War College Review*, (Summer 2009): 16.
10. See Eric Hobsbawm, "Primitive Rebels", 1971, Chapter 2.
11. "Maritime Predation in the Malacca Straits", NTS Insight, August 2009, p. 7.
12. Roger Middleton, "Piracy in Somalia: Threatening Global Trade, Feeding Local Wars", Chatham House Briefing Paper, October 2008, p. 3.
13. IMB-PRC data shows a significant reduction in the number of pirate attacks attributable to the Somali pirates. See Middleton, op. cit., ICG Africa Report #106.
14. Murphy op. cit., p. 1. Also, see International Crisis Group Africa Report 147.
15. Ken Menkhaus, "Governance without Government in Somalia: Spoilers, State Building and the Politics of Coping", *International Security*; Vol. 31(3) (2006/07): 94.
16. *Ibid.*, p. 95; the composition of the 82-member TFG cabinet concords to this. To establish a central government in Mogadishu, all clans need to be represented, which in

turn would require large sums of state revenues for political patronage, as have been seen in earlier attempts.

17. *Ibid*.
18. Martin Murphy op. cit., p. 2.
19. Georg Lutz and Wolf Linder, *Traditional Structures in Local Governance for Local Development*, 2004.
20. Menkhaus, 2006/07, op. cit., p. 82.
21. *Ibid*., p. 83. Other instances of sub-national governance structures in Somalia have been the Rahanweyn Resistance Army's administration of Bay and Bakool regions in 1998-2002 and the Benadir Regional Authority in 1996.
22. Menkhaus, 2006/07, op. cit., p. 102.
23. *Ibid*. p. 103.
24. *Ibid*.
25. *Ibid*. Menkhaus, 2006/07, has quoted Swen Voekel, "Upon the Suddaine View: State, Civil Society, and Surveillance in Early Modern England", *Early Modern Literary Studies*, Vol. 4(2) (September 1998).
26. Menkhaus, 2006/07, op. cit., p. 104.
27. Peter Halden, "Somalia: Failed State or Nascent States-System?" FOI Somalia Papers: Report 1, 2008, pp. 17-19.
28. *Ibid*., p. 49.
29. *Ibid*., p. 51.
30. Doornbos, 2002, cited in Halden, 2008, op. cit., p. 52.
31. Menkahus, 2006/07, p. 105.
32. Edward Newman op. cit., p. 434.
33. Murphy, 2009, op. cit., p. 3.