

REVIEW ARTICLE

Understanding Somali Piracy

LAURA SEAY

*Department of Political Science, Morehouse College, 830 Westview Drive,
S.W. Atlanta, GA 30314, USA*

Email: lseay@morehouse.edu

The Pirates of Somalia: Inside their Hidden World by JAY BADAHUR
New York, NY: Pantheon, 2011. Pp. x+300. \$26.95 (hbk.).

Piracy and Armed Robbery at Sea: The Legal Framework for Counter-Piracy Operations in Somalia and the Gulf of Aden by ROBIN GEIB and ANNA PETRIG
Oxford: Oxford University Press, 2011. Pp. xiv+321, £55 (hbk.).

Somalia: the New Barbary? Piracy and Islam in the Horn of Africa by MARTIN N. MURPHY
New York: Columbia University Press, 2011. Pp. xiii+277, \$26.50 (hbk.).

With its history of state collapse, war, and general perceived chaos, for most people, Somalia by 2005 had become an afterthought. That changed in the late 2000s as stories about pirate attacks against major shipping companies, oil tankers and private vessels began to appear in the international press. Headlines that could have been written in the 1600s told of hostage situations, pirate codes of conduct, and even stock exchanges where Somali investors could reap the rewards of maritime criminal activity. Interest in Somali piracy from policy makers, industry, journalists and scholars is at an all-time high, but until recently, security conditions in Somalia as a whole and the northeastern Puntland region in particular made it nearly impossible to gather reliable data on the pirates, their goals and their means of operations.

Several recent books aim to fill the Somali piracy data gap with a focus on the host of social, political and legal issues surrounding these crimes. Journalist Jay Badahur provides an accessible take on pirate society for general audiences in *The Pirates of Somalia: Inside their Hidden World*. His first-person account of several months of travel in Puntland is compelling and offers useful, if not systematically gathered, general data

on who the pirates are and how they operate. One of the book's most important contributions comes in Chapter 3, where Badahur dispels several popular myths about Somalia's pirates. One is that the pirates are controlled by Somali Islamists; there is not now and never has been evidence for this claim. Badahur reminds the reader that the Islamic Courts Union (which controlled much of Somalia in 2006) declared piracy as un-Islamic, and notes that every pirate he met in Puntland strongly denied association with the Islamists. Likewise, Badahur convincingly lies to rest the notion that Somali piracy is operated by international criminal cartels, or that Somali pirates have access to 'highly sophisticated intelligence networks'. Neither is true, and as Badahur shows throughout the book, Somali piracy operations tend to be highly localized and decentralized, with groups forming on the basis of family and clan ties rather than loyalty to an international criminal gang. As for those intelligence networks, Badahur wryly points out that information about vessel locations is readily available for public consumption online. All the pirates need to locate ships are an internet connection and a GPS system.

The remainder of Badahur's account mostly consists of anecdotal information gathered during his 2009 sojourn in Puntland. He tells the stories of how individual pirates came to join the trade. Momman, a resident of Garowe, was a fisherman who claims to have joined his local pirate gang to ward off foreign fishermen who were stealing fish from Somali waters. He later broke off and formed his own pirate gang. Badahur gathered Momman's story through somewhat unconventional means; namely, by getting him to chew khat (a popular amphetamine-like stimulant). Momman had since joined the 'pirate redemption movement', an attempt to renounce participation in piracy and live life as a 'better' Muslim. Badahur contrasts the lavish lifestyle of pirates and ex-pirates like Momman with that of people like the non-pirate citizens of Eyl, whose homes and lifestyles are much simpler, as a means of pointing out that piracy is neither welcomed nor beneficial to many Somalis. As a man named Abdirizak told him of two ships held hostage near the city, 'Everyone in Eyl will be happy to see them go' (p. 178).

Badahur concludes with a series of predictions about what will happen to Somali pirates and the international response to their activities in the next few years. He notes that it is likely to become an even more lucrative occupation, that the pirate gangs will be increasingly well-organized, and that pirate boardings of ships are likely to become much more violent. He agrees with those who think that a land-based response to Somali piracy is the only possible solution, and argues in favour of creating and

funding effective police forces and prison systems in Puntland, coordinating intelligence activities with Puntland residents who oppose piracy, and stopping illegal fishing, in addition to improving security on ships. All of these measures are reasonable and relatively inexpensive. In addition, they have the benefit of supporting the improvement of governance and the growth of centralized authority in Puntland. However, the international response to piracy over the last two years has largely ignored these measures in favour of covert operations against pirates aimed at rescuing hostages held on land. It is not at all clear that these measures are effective deterrents for future piracy, or that they significantly impede pirate gangs' capacity to engage in other operations. Badahur's recommendations are far more likely to work because they leverage local sentiment and work to address the root cause of the piracy problem: a lack of governance in Somalia.

With *The Pirates of Somalia: Inside their Hidden World*, Badahur provides a solid entry point for learning about Somali piracy. While it is not scholarly and the data in the text is not systematic enough to be satisfactory to most academics, it is a well-written and engaging introductory overview for readers new to the topic.

Martin N. Murphy, by contrast, takes an academic approach to understanding the relationship between piracy and Islamic norms in *Somalia: the New Barbary? Piracy and Islam in the Horn of Africa*. He provides a broad and detailed overview of the history of Somali piracy dating from 1989, placing the phenomenon in wider, regional economic and political contexts. Murphy's discussion of the early years of Somalia piracy under the Barre regime is a unique contribution; very little information on this subject is available elsewhere. Understanding that piracy occurred before the Somali state fully collapsed and, indeed involved some clans that were jostling for political power as the state weakened provides analysts of the region with a much deeper understanding of the roots and causes of Somali piracy than those available from most other accounts.

Murphy also argues that Somali piracy is best understood by distinguishing between two types of piracy: defensive and predatory. Defensive piracy involves actions taken by fishermen to defend their waters and activities from illegal fishing by international ships. Predatory piracy is the aggressive, attacking form that has become dominant since 2005, though Murphy notes that it was 'present from the beginning'. The distinction between these categories is further complicated by the fact that most predatory pirates claim the defensive pirates' reason to justify their actions, when in fact there may be no basis for such claims.

In distinguishing between two types, Murphy affirms the complicated task of determining why individuals decide to join pirate gangs: in short; motivations differ. It logically follows that responses must differ as well. Those needing details on the nature of attacks and the dominant pirate gangs prior to 2006 will find a wealth of information in Murphy's account. He provides succinct details on the origins and activities of the Kismayo, Marka, Haradheere-Hoboyo and Gulf of Aden gangs.

The 2005–2006 piracy seasons were a turning point in Murphy's view. Not only did the scale and scope of Somali predatory piracy expand greatly in this period, it also marked the beginning of expanded international attention toward the problem. The attack on a cruise ship, the *Seabourn Spirit* in November 2005, was particularly instrumental in drawing attention to the pirates' activities. While the cruise ship was able to repel the attack and escape, as a result of this attack international actors quickly moved to coordinate activities and attempted to begin formulating more effective responses.

Despite the title's promise, Murphy's discussion of the relationship between Islam and piracy is disappointingly limited to just a few pages. What is included in the text is a helpful recounting of the history of Islam and Islamist extremism in Somalia through the rise and fall of the Islamic Courts Union (ICU). This narrative is briefly tied to piracy with a note that there was less pirate activity in the period in which the ICU ruled as it was subject to strict punishment by the ICU. But beyond this brief mention, the reader is left with the sense that this is not really a book about 'piracy and Islam' as the title suggests, but rather about piracy in a predominantly Islamic state where the latter has only occasionally had an impact on pirate activities. Murphy also devotes a chapter to al-Shabaab and its fight against the Transitional Federal Government (TFG) and foreign forces. Like every other scholar of the subject, Murphy finds little evidence of coordination between pirates and Islamist extremist groups, seeing them as antagonists rather than allies.

Like Badahur, Murphy concludes that the solutions to the Somali piracy problem are ultimately political. He contends that sea-based responses from foreign navies rarely stop piracy and usually lead to the same processes of negotiation that occur when those navies are not present. Murphy also argues that raids on coastal cities to rescue hostages are more likely to result in hostage death and 'could have the unwanted effect of uniting Somalis against a common enemy'. Instead, he argues for strengthening infrastructure and improving economic opportunity in other sectors.

Murphy's book is a fascinating read, full of detailed and well-researched information about Somali piracy. However, its short chapters often read like individual essays rather than a cohesive manuscript, and it is not always clear how one chapter relates to the next. The book jumps around in time and themes, which can be confusing (e.g. a discussion of early piracy from 1989–2006 is followed by several chapters on pirate identity, clans and attacks in 2005–2006, then the manuscript returns to piracy in the Barre era and goes on to cover the Transitional Federal Government). Murphy arrives at the question posed in the book's title ("the new Barbary?") only in Chapter 27, and there argues that some parallels exist, including the non-religious motivation of the pirates and that governing authorities in both places benefited from pirate spoils. But this too reads like an addendum rather than a theme of the manuscript; there is no prior mention of Barbary and the parallels between the two cases are not a theme of the book. The account would have benefited greatly from restructuring to cover theoretical issues together and the historical narrative in order rather than moving between and among the two. That said, the analysis is solid, and professors looking for classroom reading assignments may appreciate that each chapter can stand on its own.

In contrast to Badahur and Murphy, whose books offer accessible takes on the history and nature of Somali piracy, Robin Geiß and Anna Petrig delve into the intricacies of international maritime law in *Piracy and Armed Robbery at Sea: The Legal Framework for Counter-Piracy Operations in Somalia and the Gulf of Aden*. Aimed at a specialist audience, the book details current (as of 2010) efforts to fight piracy in the Gulf of Aden and Somalia, provides a broad overview of anti-piracy law, and discusses in great detail the nuances of counter-piracy enforcement powers, criminal prosecution of pirates and suspect transfers.

The legal issues surrounding international maritime piracy are more complex than they might at first seem. While most states, courts and international legal institutions agree that piracy is a crime (and, indeed, have agreed on this notion for several centuries), there are still a number of definitional and jurisdiction issues that are yet to be universally agreed upon. As Geiß and Petrig note, for example, there is no legal term for 'pirate'. The crime is defined not by who commits it, but rather by the action taken (piracy).

Likewise, there is some ambiguity as to whether armed robbery at sea constitutes piracy (Geiß and Petrig conclude that it is reasonable to claim so) and whether piracy must be conducted from a 'pirate ship' or 'ship taken by piracy' as opposed to other forms of attack at sea.

Additional ambiguities arise when considering human rights law and whether pirates who commit crimes in international waters have the right to the same rights and freedoms that individuals who have not done so are guaranteed. Geiß and Petrig note that understanding whether anti-piracy enforcement actors take factual control over pirates is key to understanding what human rights laws apply, and that this can currently only be decided *ex post facto* on a case-by-case basis.

Jurisdiction and the laws of states also play a role in determining how accused pirates are to be treated, both during capture and prosecution. Does a ship flying under the flag of a particular state then become territory of the state? Geiß and Petrig do not think it does; they contend that factual control over a ship is more important than the flag flying from its mast. Where should suspected or captured pirates be prosecuted? There are many options available (courts in the pirates' home countries, courts in the enforcing state, temporary courts, international courts). Geiß and Petrig argue that regional models have the advantage of being close to the suspect's home state, but acknowledge that there are many challenges to this model (for example, Kenya's regional piracy prosecutions must follow national evidence standards that are particularly difficult to meet even when evidence clearly demonstrates guilt). At the international level, Geiß and Petrig consider the possibilities for international piracy prosecution venues and conclude that the most realistic and viable solution is 'specialized piracy chambers within the domestic criminal justice systems of regional States.' (p. 184).

While they do use highly technical language, Geiß and Petrig's work is clearly written and should be widely read in international law courses and by practitioners working on piracy prosecution and international maritime law. For non-lawyers, the most useful portion of the book is likely part one, which details the origins of Somali piracy and provides very detailed information on the wide variety of efforts to combat the problem.

These recent works by Badahur, Murphy and Geiß and Petrig provide much-needed insight into the myriad of issues surrounding piracy in Somalia and beyond. They provide insight into the origins and character of Somali piracy, as well as the legal and security challenges associated with the international response to the crisis. Though all three are recent publications, they do suffer from the unavoidable problem of being slightly out-of-date almost as soon as they were published. Events in Somalia are changing rapidly; 2012 has been a pivotal year in the Transitional Federal Government's efforts to reestablish effective control over Mogadishu and southern Somalia, and pirate activity is

slightly down this year. Confronted by the TFG and the AMISOM peacekeeping force (who themselves benefit from considerable assistance from international actors with an interest in Somalia's stability), al-Shabaab and other Islamic extremist groups are significantly weaker. Counter piracy responses by the USA and other international actors have expanded to include onshore raids to rescue hostages. A new constitution just went into effect, replacing the TFG with Somalia's first permanent government in over 20 years. Expatriate Somalis are beginning to return to the country to invest in new businesses and rebuild homes and community structures. All of this suggests that work by Badahur, Murphy and Geiß and Petrig represents just the beginning of a new wave of research and writing on Somalia. There is much more to be learned.