



# The Human Cost of Somali Piracy

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## EXECUTIVE SUMMARY

In 2010, thousands of seafarers in the Indian Ocean and Gulf of Aden were subjected to assaults with automatic gunfire and RPGs, beatings, and extended confinement as hostages. In some cases, hostages were used as human shields to protect pirates from navy vessels or were forced to crew “motherships” that were then used to lure and attack other merchant traffic. Some captive seafarers also were abused, both physically and psychologically. There is a genuine fear that abuse and even torture will be used with increasing frequency to provide additional leverage during ransom negotiations. Somali communities are also suffering, and their youth are put at risk by this criminal activity.

In spite of the violent nature of these crimes, the human cost of piracy is still underreported and misunderstood by the public. In most communities ashore, the type of violent crime occurring in the Gulf of Aden and the Indian Ocean would be reported in a systematic and consistent way, allowing the public to grasp the significance of these crimes. However, the unique challenges of coordinating rule of law operations and public affairs in international waters, and the multinational nature of crews and the shipping industry, have resulted in inconsistent reporting of these violent crimes. The economic cost of piracy is well known. This report illustrates that the human cost of piracy may be less known, yet staggering.

### Primary Findings by Section

#### Data Analysis and Piracy Reporting

The foundation data for this report was based on International Maritime Bureau statistics on piracy attacks in 2010 and was checked against figures from the Office of Naval Intelligence, EU NAVFOR, press accounts, and confidential sources provided to the Oceans Beyond Piracy Project. This data was then divided into categories for two different types of analysis:

- First was a breakdown of the types and severity of attacks. A review of piracy narratives from multiple public and private databases identified several different types of experiences that piracy survivors might have, along with the different types of dangers associated with each. These experiences include: (1) Seafarers Attacked, (2) Citadel Survivors,\* (3) Hostages, (4) Seafarers Abused or Tortured, and (5) Seafarers used Human Shields or Forced to Collaborate.
- Second was a comparison of data to examine the difference in how violence was reported in international waters as opposed to how this same information might be reported on land. The report broke down what might be described as simply a “pirate attack” into the many associated crimes that potentially are being committed between the capture of a vessel and its subsequent release or rescue.

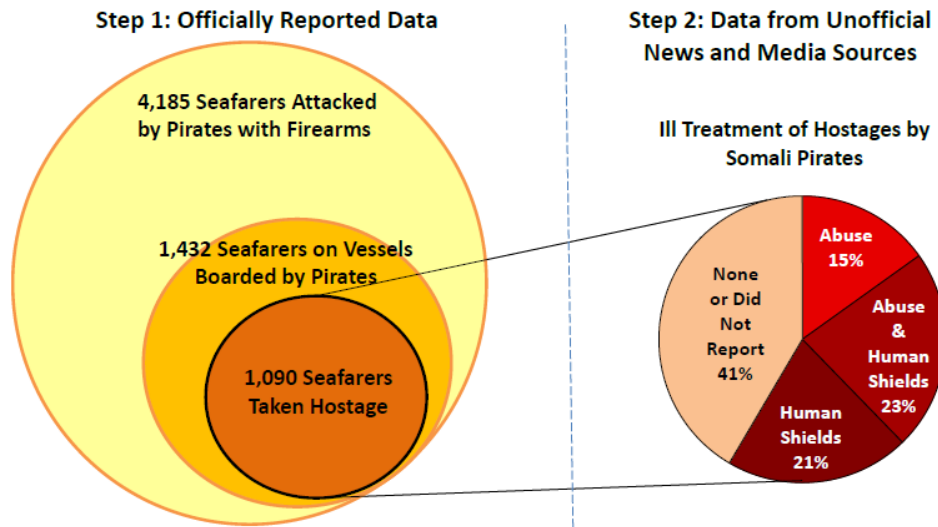
#### Findings:

1. There is no designated lead agency or framework to interpret and promulgate data related to crime in international waters. The lack of such a reporting system tends to lead actors to downplay the violence faced by seafarers and to underreport the number of attacks, particularly those against smaller vessels and fishing boats.

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\* A “Citadel” is a fortified safe-room on a ship designed to protect the crew if pirates board the vessel.

2. There is very little aggregate data available to the public about violence faced by hostages. This is primarily due to sensitivities shown towards victims, military classification restrictions, liability concerns, and fears of retribution.
3. There is no systemic reporting method to document Somali casualties caused by the numerous military and private actors involved in operations in the Gulf of Aden and Indian Ocean.

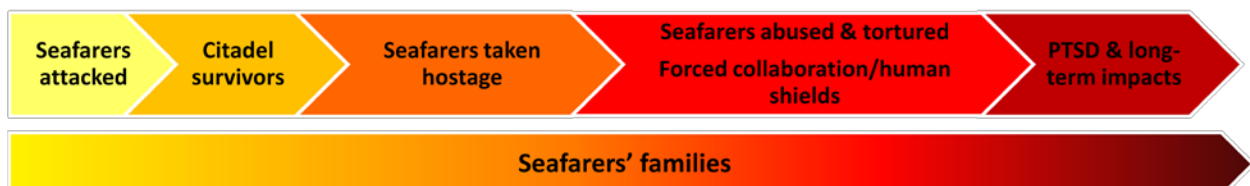


### Analysis of the Effects of Violence on Seafarers

Both successful and unsuccessful attacks expose seafarers to dangerous experiences, with the potential for long-term physical and psychological trauma. Somali pirates are heavily armed, frequently with automatic weapons, rocket-propelled grenades (RPGs), and explosives. Pirates attack ships, abuse seafarers, and place hostages in the complete control of heavily armed men. All of these have the potential to cause serious injury or death to seafarers.

#### Findings:

1. Thousands of seafarers are traumatized through violent crimes at sea. Transiting through pirated waters alone adds significant stress to their jobs. The risks encountered in the course of their work would be unacceptable in most industries.
2. Trauma to seafarers is undervalued and misunderstood, but it can have lasting negative implications both for seafarers and their families.
3. Families and others who depend on seafarers are faced with stress and fear from the time a seafarer enters high risk regions until the seafarer returns home. In the case of a hijacking, families may be subjected to psychological manipulation from pirates.



## Crimes against Seafarers

The international community’s desire to criminalize piracy was examined. Through a comparison of piracy with similar violent crimes ashore, the report looked at the effectiveness of using customary law and universal jurisdiction to prosecute pirates. The report then compared the rights of seafarers to be protected under the law and their right to know the risks associated with the high crime rates endemic to the Gulf of Aden and the Indian Ocean. Finally, crime reporting by the press was examined in the context of piracy reporting.

### Findings:

1. Seafarers do not have adequate protection under the rule of law because piracy has been criminalized without creating effective enforcement institutions.
2. Civil authority is fragmented in international waters; there is no lead agency designated to protect seafarers and coordinate rule of law efforts.
3. Detailed reporting of crime would allow ship owners and seafarers to make more informed decisions regarding the risks of transiting through dangerous areas.

Crime Rates at Sea in Waters off Somalia (per 100,000)		Highest National Crime Rates of Equivalent Crime Ashore (per 100,000)	
Seafarers Subjected to Armed Attack on Vessels	697.5	Major Assault	576 (South Africa)
Seafarers Taken Hostage	181.7	Kidnapping	~15 (Turkey)
Seafarers Killed	1.3	Murder	~58 (Jamaica)

## The Cost to Somalia

This section was developed to study the impact on Somalia by examining: (1) the effect of piracy on food price security and its impact on trade, (2) piracy’s impact on Somali society and culture, (3) available statistics of pirates killed or missing, and finally (4) instances of Somali children and adolescents coerced into piracy.

### Findings:

1. There is no reliable reporting system in Somalia with which to gauge the full impact of piracy on Somali citizens and communities. There is general a lack of reporting on the second-order effects of piracy on Somali communities, nor is there any reporting system to document deaths and injuries amongst the Somali perpetrators that occur during the commission of the crimes.

2. While piracy is a pressing issue for seafarers, the international community, and the maritime shipping industry, it is only one of the many challenges that Somalis face. Hence, there is a mismatch of priorities between the international community and the Somali people.
3. Allegations against foreign vessels of illegal fishing and toxic waste dumping are still being made in Somalia and continue to provide justification, in the eyes of many Somalis, for the crime of piracy. These allegations have never been adequately addressed.

### **Underreporting of the Human Costs of Somali Piracy**

There is no single, reliable source available to inform seafarers or the general public of how seafarers are treated during captivity, or how widespread abusive tactics are amongst the various pirate gangs.

Findings:

1. To garner support from the general public, as well as governments and international organizations, details of the crimes against seafarers should be reported in a way that does not confuse violent crime with pirate fables.
2. All stakeholders with direct knowledge of these violent attacks should consider a responsible way to provide this information to the media. The press cannot share the stories that will build public support for seafarers' well-being unless they are given access to those stories.

## Contents

SECTION I: ANALYSIS OF REPORTING METHODS AND DATA .....	7
SECTION II: DETAILED ANALYSIS OF THE EFFECTS ON CREW.....	13
SECTION III: CRIMES AGAINST SEAFARERS .....	21
SECTION IV: SOMALI COSTS .....	234
SECTION V: UNDERREPORTING OF THE HUMAN COST OF SOMALI PIRACY.....	27
APPENDIX I.....	29
Resources.....	30

## Basis for the Report

This paper is a product of the Oceans Beyond Piracy (OBP) Working Group and the OBP Project, which is sponsored by One Earth Future Foundation (OEF). The OBP Working Group is made up of experts from Maritime Industry, Governments and International Organizations, Seafarers Groups, and Academia. In the course of the inaugural OBP Working Group meeting in January of 2011, the OBP Working Group identified seafarer welfare as a top priority. The OBP Working Group members expressed particular concern about the lack of reporting on piracy and other violent crime in international waters and the resulting lack of attention paid to the plight of seafarers held hostage off the coast of Somalia. At the direct request of the OBP Working Group, the OBP Project conducted this study with the help and support of the Working Group members.

This paper is the first of two reports on the risks that seafarers face due to piracy and other violent crime at sea. This first report assesses piracy databases, official incident reports, and press accounts from 2010 to chart recent trends in violence. The second report will address longer-term effects of piracy on seafarers and will explain the reasons behind the lack of systematic reporting.

## Acknowledgements

The OBP Project staff would like to thank the members of the OBP Working Group; the International Maritime Bureau; Per Gullestrup, CEO and Partner of the Clipper Group; Kimberly Karlshoej, Program Officer for the TK Foundation; Kerstin Petretto, Researcher for the German PiraT Project; and Dr. Michael Garfinkle, Associate Clinical Professor of Psychiatry at Mount Sinai Medical Center and Clinical Researcher for the Center for Seafarers' Rights. Without their assistance, this report would not have been possible.

We would also like to thank OEF staff, fellows, and interns for their contributions to this project. In addition to the OBP Project team, Bronwyn Bruton, Anna Bowden, Caroline Chapman, Meadow Didier, Jeff French, Chris Hall, Dan Klein, Maurice Janssen, Lori Anne Meyers, Roberta Spivak, and Tracie Ware provided valuable help and support.

## SECTION I: ANALYSIS OF REPORTING METHODS AND DATA

### Findings:

- There is no designated lead agency or framework to interpret and promulgate data related to crime in international waters. The lack of such a reporting system tends to lead actors to downplay the violence faced by seafarers and to underreport the number of attacks, particularly those against smaller vessels and fishing boats.
- There is very little aggregate data available to the public about violence faced by hostages. This is primarily due to sensitivities shown towards victims, military classification restrictions, liability concerns, and fears of retribution.
- There is no reporting system to document casualties caused by the numerous military and private actors involved in operations in the Gulf of Aden and Indian Ocean.

### Methodology to Determine Incident Accounts

The International Maritime Bureau (IMB) provided the basis for the information used in this report from 2010 data on attacks by Somali pirates. The IMB's information is compiled from data received directly from ship masters and chief security officers. It includes information such as date of attack, release date and reason, type of vessel, number of crew and their nationality (when available), etc.

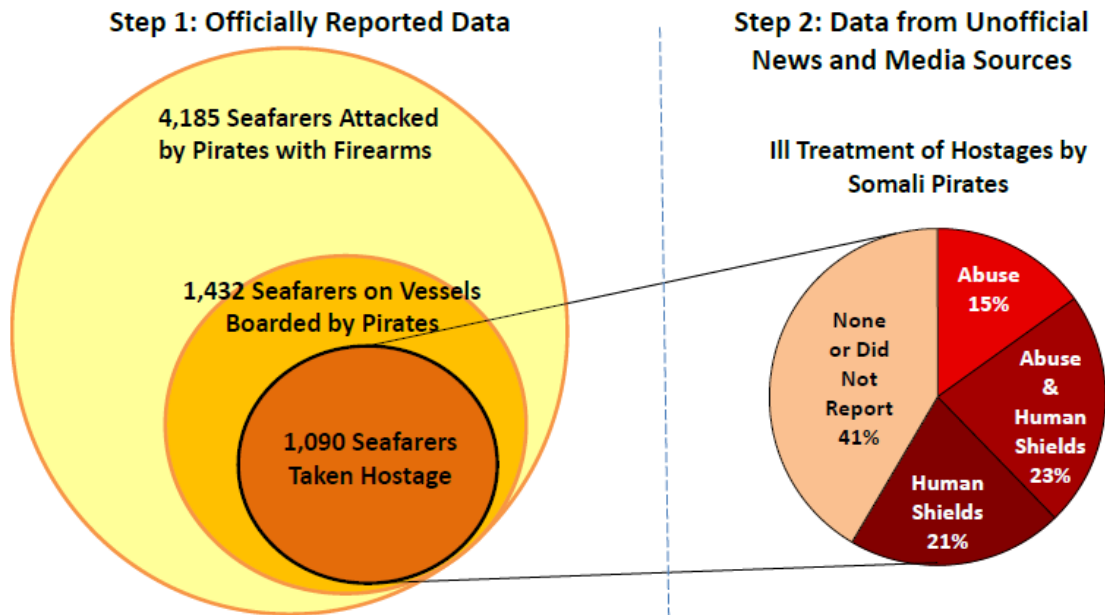
The IMB's database was cross-checked against the U.S. Office of Naval Intelligence's (ONI) weekly worldwide threats to shipping reports. The ONI weekly reports similarly include details about the date and location of attempted or successful attacks, but do not include post-attack information. Aggregate numbers from European Union Naval Force (EU NAVFOR) were used as a final check. These comparisons revealed only minor discrepancies in the reported number of attacks and hijackings. A compilation of IMB and ONI reports yielded an aggregate estimate of 53 vessels hijacked in 2010 by Somali pirates.

2010 Hijacked Vessels	
IMB	49
ONI	45
EU NAVFOR	47
OBP	53

To gain an understanding of what happens to hostages and hijacked vessels, we searched for detailed data for each ship hijacked in 2010 with a focus on information related to the treatment of hostages by pirates. Information was obtained from both conventional media sources, such as Reuters and Associated Press, and specialized media including the Maritime Security Review and SomaliaReport. These were press accounts, post-incident interviews provided by crewmembers, or confidential information provided to the authors. In all cases where a vessel is specifically named in this report, the information about that vessel came from open, public sources.

Open but unofficial sources provided information on hostage negotiations and final ransom amounts, mothership activities, the use of violence by pirates, and general descriptions of hostages'

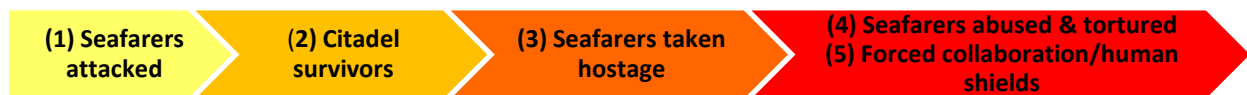
experiences. Using a combination of these reports and official numbers from the IMB and ONI, we found that 26% of seafarers attacked by armed pirates were ultimately taken hostage. Of these, 59% faced increased levels of violence, including abuse and forced involvement in mothership operations. The following charts show the number of seafarers involved in attacks:



### Categories of Violence against Seafarers

The IMB produces the most detailed reports on pirate attacks available to the public. Its data provides valuable information used to track the crime of piracy. However, this reporting format does not incorporate the activities and crimes that occur after the point of attack or hijack. Therefore, the reporting does not accurately account for the full array of crimes committed by Somali pirates against individuals that are taken hostage.

The IMB classifies pirate attacks under four categories: Attempted, Fired Upon, Boarded, and Hijacked.<sup>†</sup> To better understand the phenomenon of violent crime at sea, we restructure the current reporting format to focus on attacks with firearms and include information on the types of violence committed during the attack as well as the subsequent period of captivity. This report splits the types of trauma that seafarers face into different categories based on the “severity of violence.”



<sup>†</sup> Attempted: vessels approached by a pirate skiff; no shots fired by the pirates. Fired Upon: vessels shot at by pirate groups; pirates unable to board vessel. Boarded: vessels boarded by pirates, but not hijacked. Hijacked: vessels over which pirates successfully gain control; crew is taken hostage. (IMB 2010 Annual Report)



## Statistics on Violent Crime in the Gulf of Aden and Indian Ocean vs. Land-Based Crime

Generally, crime reporting at sea is limited to the reporting of traditional and customary maritime crime. Therefore, most of the incidents fall under the overarching rubric of “piracy”. Details of the crimes are typically limited to the number of casualties that have occurred during a piracy attack, rather than a breakdown of separate crimes. Most piracy attacks are reported by time, place, crew count, and number killed or injured in the attack. This is in contrast to most reporting ashore that would emphasize the different acts of crime that might be committed. For example, where a crime at sea might be reported as a failed pirate attack with three wounded crew, the equivalent crime ashore could be reported as attempted murder, attempted armed robbery, or aggravated assault.

It should be noted that some states with a nexus, or link, to individual attacks have prosecuted under national legal codes for crimes other than piracy. However, most nation states cannot prosecute for crimes other than piracy without a nexus to an individual attack. Therefore a blanket term of “piracy” is used to describe and prosecute most of these crimes that occur at sea.

To illustrate this point, this report compares specific crimes committed at sea (seafarers attacked, seafarers taken hostage, and seafarers killed) to comparable crimes ashore based on categories accepted by the United Nations Office on Drugs and Crime (major assault, kidnapping, and murder). While this provides a clear relationship between violence occurring at sea and how the crime would be perceived in most countries, international crime statistics are normally based on less precise categorizations.

### Reliability of Data

While there are a number of organizations that interview hostages upon release of the vessel, these reports are not publicly available, and most officials were not willing to share the post-incident transcripts or a summary of the type of treatment and abuse that hostages encountered with OBP for this study. As a result, there is very little official data available on the physical and psychological abuse of hostages, or other crimes that may be committed during captivity. Below is a description of the reliability of data collected for each level of violence:

(1) Seafarers attacked, (2) Citadel survivors, and (3) Seafarers taken hostage. This information is derived from official databases including the IMB, EU NAVFOR, and ONI. The number of vessels is precisely reported. The number of seafarers is reported in the majority of incidents; when not reported, an average is used for each type of vessel. The primary weakness in this data involves the smaller coastal and fishing vessels, which are not always reported. This information is considered to be reliable.

(4) Seafarers abused and/or tortured. As there is no official reporting on this subject, the attacked vessel reports were compared against press accounts, blogs, confidential sources, etc. Because of sensitivity concerns for the victims, structural impediments, and liability concerns, the exact number of crew and incidents cannot be verified, and is often at odds with official press releases and databases. First-hand accounts given by crew, press reporting, and general statements made by government and industry spokesmen do provide enough empirical evidence that these crimes are

actually occurring. Because of the lack of official reporting methods, the specific numbers are considered to be less reliable.

(5) Forced collaboration/human shields. There are various sources in press accounts and official incident reports and warnings to mariners that identify the vessels used as motherships and incidents where crewmembers were used as human shields. The initial findings were then matched against military sources and briefings provided to public sources for verification. This information is considered to be reliable.

Another challenge involves underreported and unreported attacks. Discussions with piracy experts revealed that even a compilation of data from the IMB, ONI, and EU NAVFOR was incomplete because there are many vessels that do not report attacks to the authorities as suggested in the shipping industry's Best Management Practices (BMP). These generally include dhows, local fishing vessels, or vessels involved in illegal activities. Some of these are taken by pirates and used to launch future attacks. There are also reports of pirates stealing vessels from Somali fishermen to use in their operations.<sup>1</sup>

#### **Are Seafarers Being Tortured?**

Reports have emerged through the media and unofficial sources of increasing violence against hostages. Initially, there was strong resistance to stating that any of the hostages were "tortured" by pirates. Officials acknowledged that pirates were undeniably abusing seafarers, but were reluctant to classify this abuse as torture. However, since the beginning of 2011, many officials have made statements on the use of torture against seafarers by pirates, supporting our use of the term:

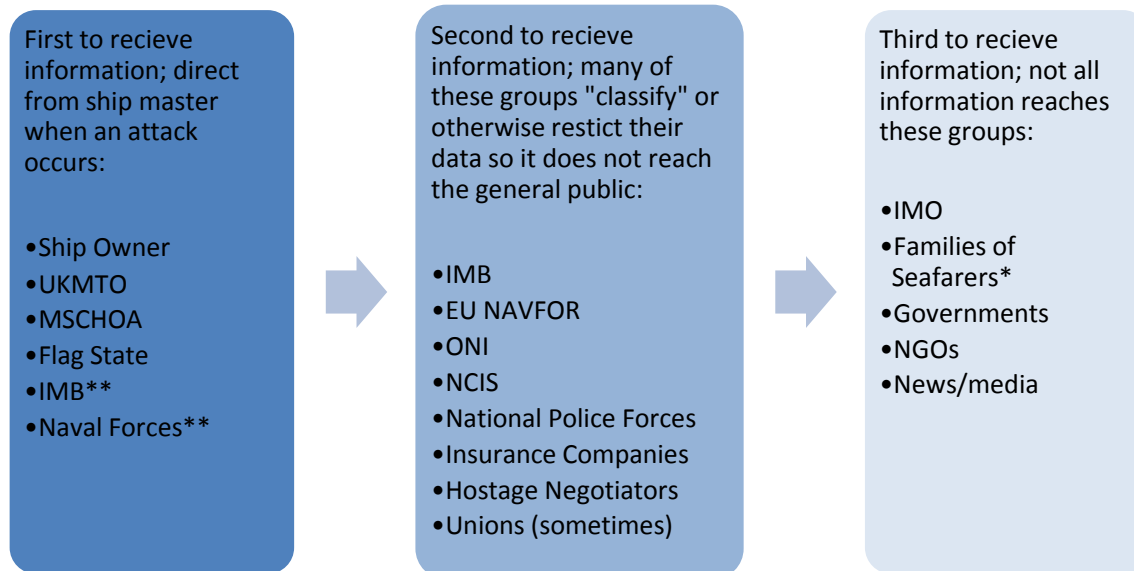
- The Operation Commander of EU NAVFOR, Major General Howes, said there are "regular manifestations of systematic torture."<sup>2</sup>
- Andrew J. Shapiro, U.S. Assistant Secretary of State for Political-Military Affairs, said in a speech in March of 2011 that "the attacks are more ruthless, more violent and wider ranging. Hostages have been tortured and used as human shields."<sup>3</sup>

In **Appendix I**, we consider several leading definitions of torture and conclude that many of the abuses committed by Somali pirates constitute torture.

#### **Discrepancies in Reporting**

The majority of information officially reported relates to initial attacks and the release of vessels, as is outlined in the diagram below. There is limited information assessing periods of captivity, and the information that is released is often controlled by the pirates and used to influence hostage and ransom negotiations. Hostage accounts and post-incident reports are gathered and maintained by flag state officials, ship owners, and law enforcement agencies. However, this information is not publicly available. The information beyond the attack and release that filters through these organizations and reaches the public is largely limited to detail on the attack and release. In other words, the information that the original group receives does not always make it to the third group.

#### **Flow of Information on Pirate Attacks and Hijackings**



*\* While some shipping companies contact families directly when an attack occurs, there are many families that receive their information from press reports.*

*\*\* The IMB and naval forces sometimes receive first-hand accounts when an attack occurs either through direct contact with the ship, as with the IMB, or due to direct observation of the attack, as sometimes occurs with naval forces.*

Details on the hostage experience are not available at any of the official piracy reporting sources. As a result, there is very little data with which to develop a base level analysis of the treatment of seafarers, let alone to analyze trends over time. The lack of data on the prevalence of abuse and torture also makes it impossible to determine if this treatment is random or systematic. Consequently, there is limited understanding of physical abuse, psychological abuse, and other crimes that may be committed during captivity. Given the limited data on the crimes themselves, it is extremely difficult to accurately track the long-term impact on seafarers or their families.

### **Data Related to Somali Casualties**

There is no official reporting on the numbers of Somalis killed by navy and coast guard personnel or by armed private security. This is surprising because this information is typically required of military forces. In the waters off Somalia, however, there is no such required documentation. For example, in a well-reported incident during which the Russian Navy apprehended ten suspected Somali pirates and set them adrift in a raft, there is no accounting for the whereabouts of any of these pirates.<sup>4</sup> As a result, the minimal information that is available on casualties amongst Somalis is considered to be unreliable.

### **Piracy's New Tactics**

Although this report focuses on data collected from 2010 piracy attacks, it appears almost certain that piracy attacks will increase, numbers of hostages will increase, and the violence will increase as a result of the growing danger and complexity of Somali piracy. Throughout 2010, Somali piracy continued to be discussed in the media and by maritime and government officials as a "gentlemen's agreement" in which

seafarer-hostages were generally well-treated. While this perception was maintained through most of the year, it did not reflect the reality faced by hostages. In late 2010 and the first part of 2011, troubling accounts from hostages released after months in captivity forced maritime stakeholders to reassess their perception of piracy. Specifically, hostages recounted incidents of physical and psychological abuse by their pirate captors, which eroded the perception of Somali pirates as humane captors. IMB director Pottengal Mukundan stated, in May of 2011, that “[Somali piracy] has reached a tipping point. We can’t allow piracy activities to go on. Crewmen are being physically tortured during captivity; [there is] not enough deterrent to stop them.”<sup>5</sup> Examples of new tactics include:

- Reports from seafarers rescued or released in 2011 increasingly describe brutal treatment. Two separate ships crewed by South Koreans reported severe abuse by their captors, including repeated beatings by rifle butts.<sup>6</sup> One sailor reported being beaten so severely that he lost teeth.<sup>7</sup>
- When pirates captured the *SV Quest*, four Americans were killed by their captors, reportedly due to confusion and paranoia over negotiations for their release and fear of approaching naval forces. In another case, two seafarers were killed aboard the *MV Belluga Nomination* following a mismanaged rescue attempt. These cases constituted the first reported intentional murder of hostages by Somali pirates.
- Incentives for pirates are also growing. While ransom payments originated as “merely” a million dollars or so, they continue to grow at rapid rates. The highest known ransom payment in 2010 was \$9 to \$9.5 million for the *MV Samho Dream*. In early 2011, the ransom amount jumped 50% when pirates received approximately \$14 million for the release of the *MV Irene SL*.
- Pirates are increasingly using hijacked vessels as “motherships” and kidnapped crew as labor to conduct pirate attacks. This allows the pirates to move further into the Indian Ocean where they are more likely to catch vessels not on pirate watch. Where the threat was once limited to traffic through the Red Sea and Suez Canal, pirates now also threaten traffic to and from the Strait of Hormuz.
- The supposed code of conduct for piracy is at risk of changing now that each side has reneged on the terms of hostage and ransom negotiations. In April 2011, Somali pirates took a ransom payment for the *MV Asphalt Venture*, but then refused to release seven of the 15 Indian hostages.<sup>8</sup> The following month, the Indonesian navy attacked retreating pirates, killing four, after the ransom was paid and all hostages were released aboard the *MV Sinar Kudus*.<sup>9</sup> Revenge and retaliation will only increase the dangers that seafarers face as they are less likely to be released and more likely to be targeted for abuse simply because of their nationality.
- To further complicate ship owners’ ability to negotiate for the release of their crew, hostages are not always kept aboard their vessels. In some cases, they are moved to other boats. In one known case, only the crew was taken while the ship was left behind (the *MV Leopard*). In the case of the *MV Vega 5*, two Spanish crewmembers, the only Western seafarers aboard the vessel, were held separately. As a result, they were not freed when the vessel was rescued by the Indian Navy and the Spanish government later paid a reported \$7 million for their release.<sup>10</sup>

## SECTION II: DETAILED ANALYSIS OF THE EFFECTS ON CREW

### Findings:

- Thousands of seafarers are traumatized through violent crimes at sea. The transit through pirated waters alone adds significant stress to their job. They risk encountering violence from armed pirates that would be unacceptable in most industries.
- Trauma to seafarers is undervalued and misunderstood, but it can have lasting negative implications both for seafarers and their families.
- Families and others that depend on seafarers are faced with stress and fear from the time that the seafarer enters high risk regions until he leaves. In the case of a hijacking, families may be subjected to psychological manipulations from pirates who call specifically to traumatize them and increase the pressure for a ransom.

Both successful and unsuccessful attacks expose seafarers to dangerous experiences, with the potential for long-term physical and psychological trauma. Somali pirates are heavily armed, frequently with automatic weapons, rocket-propelled grenades (RPGs), and explosives. Pirates attack ships, abuse seafarers, and place hostages in the complete control of heavily armed men, all of which have the potential to cause serious injury or even death to seafarers. Additionally, the long-term psychological impact of these experiences, though subtler and more difficult to detect, is nevertheless severe.

Official literature provided to seafarers to help them prepare for a pirate attack is framed in terms that tend to downplay the dangers faced by seafarers. For example, Revision 3 of the BMP states that “the bridge is usually the focus of the attack. In the initial part of the attack, pirates direct weapons at the bridge to try to coerce the ship to stop.”<sup>11</sup> The passage goes on to say that “consideration should be given” to provide crews access to Kevlar vests and helmets. However, there is no discussion of the dangers associated with having weapon fire directly aimed at the part of the ship where seafarers work and live other than suggesting further protection enhancement. Additionally, BMP suggests that ships consider establishing a citadel for the crew, which is a “designated, pre-planned area built into the ship, where in the imminent threat of boarding by pirates, all crew will seek protection. [It] is designed and constructed to resist a determined pirate trying to gain entry.”<sup>12</sup> This description may lead to a false expectation that the crew is completely safe within a citadel, and disregards the fear that crewmembers experience when under direct attack by pirates, and that crews may spend days in the citadels awaiting military response. Finally, EU NAVFOR’s guide, *Surviving Piracy off the Coast of Somalia*, advises: “If your vessel has been pirated, accept that you may be held in captivity for an extended period of time. Typically periods of detention range from 6 to 12 weeks, but may last considerably longer depending on the success of the negotiations.”<sup>13</sup> This not only downplays the mistreatment of hostages during the period of captivity, it also risks blaming the seafarers for the mistreatment they suffer because they did not properly “accept” that they would be held against their will for months on end.

In order to better understand the real magnitude of violence faced, this report analyzes five categories of the severity of violence against seafarers in order to enhance public understanding of the dangers associated with Somali piracy.

(1) Seafarers attacked

(2) Citadel survivors

(3) Seafarers taken hostage

(4) Seafarers abused & tortured  
(5) Forced collaboration/human shields

**Seafarers Attacked: 119 vessels with 2,753 crewmembers**

Primary physical dangers	Primary psychological dangers
<ul style="list-style-type: none"><li>• Weapon fire and explosives from pirates</li><li>• Abuse or violence if pirates gain access</li></ul>	<ul style="list-style-type: none"><li>• Experience of threat during attack</li><li>• Fear and uncertainty about pirate success in attack</li><li>• Potential exposure to combat experience of exchanged gunfire</li></ul>

The initial violence occurs when pirates fire AK-47s and RPGs at a vessel at the start of most attacks. While this is the least severe form of violence described in this report, these experiences engender fear and distress in the seafarers. Numerous ships and crews have suffered attacks, some multiple times, and increasingly the pirates are not intimidated by armed security guards, as evidenced in the following excerpt from an incident report detailing an attack on the *MT Al-Nouf*:



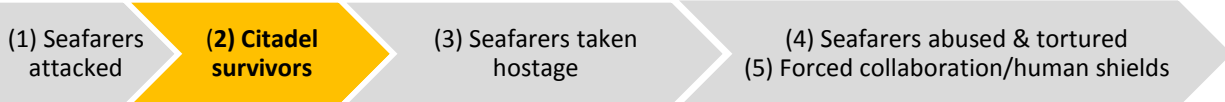
*MT Al-Nouf*, Credit: Tradewinds

*The pirate action group (PAG) fired RPG's and other automatic weapons at the Tanker and attempted to board her... their armed security team was engaged in a firefight that eventually led the PAG to break off their attack.... Three crew members were injured by pirate gun fire, one seriously and the vessel sustained damage from the RPG's and automatic gun fire.<sup>14</sup>*

Although deaths are infrequent, seafarers under attack are exposed to direct weapon fire that is virtually nonexistent outside of active war zones. Studies show that people are distressed when they are a target of rifle fire, which is a much less destructive weapon than an AK-47 or RPG.<sup>15</sup> There is no current research on the specific effects this has on seafarers, but a prolonged struggle with a hostile enemy force has the potential to cause distress similar to other combat exposure.

A development that may increase the risk to seafarers is that increasing numbers of vessels are now carrying private armed security guards to counter pirate attacks. While this tactic is largely successful and increasingly supported by ship owners and flag states, pirates are increasingly returning fire and engaging in shootouts with armed personnel.<sup>‡</sup>

<sup>‡</sup> The first engagement with private security guards known to result in pirate deaths was in March of 2010, when a security detail onboard the *MV Alemazaan* returned fire from an attack by Somali pirates.



**Citadel Survivors: 19 vessels with 342 crewmembers**

Primary physical dangers	Primary psychological dangers
<ul style="list-style-type: none"> <li>• Weapon fire and explosives from pirates</li> <li>• Smoke or chemical inhalation from pirate attempts to enter</li> <li>• Abuse or violence as retribution if pirates gain entry</li> </ul>	<ul style="list-style-type: none"> <li>• Prolonged experience of threat during attack</li> <li>• Fear and uncertainty about pirate success in attack</li> </ul>

After first firing upon a vessel, pirates attempt to board using grappling hooks and ladders. In the case of a successful boarding, the crew faces the risk of a direct encounter with a pirate. One of the tactics proposed in the BMP is to build a safe-room (a ‘citadel’) where crew can hide and await help from naval forces. Once in the citadel, crews face an undetermined amount of time waiting for rescue or further attack while pirates have complete freedom of movement on the ship.

“They started fires, they burned ropes, and they put burning wood on the fans that were bringing in air...They wanted to suffocate us, they wanted to murder us and take control of the ship and take it. They went crazy.”

–Crewmember from the *MV Arillah-I*<sup>16</sup>

The time the crew spends locked in a citadel during a pirate attack can be extremely stressful. The attacks may last for hours or days. In the best situations, the seafarers may spend a few tense and terrified hours waiting for rescue. However, in the worst scenarios, naval forces will not be nearby, allowing pirates time to locate and try to break into the citadel. One vivid example of this occurred aboard the *MV Arillah-I*, which was attacked in 2011. The crew retreated to the citadel, but the pirates sought to force their way inside. For thirty hours, the crew engaged in a continuous battle with the pirates outside the citadel. The crew had to be constantly alert and responsive to new threats until UAE Special Forces rescued the ship.<sup>17</sup>

A dangerous development is that pirates breached citadels in 2011. For example, pirates used welding equipment to cut their way into the citadel on the *MV Beluga Nomination*.<sup>18</sup> According the EU NAVFOR, citadels do not guarantee military response.<sup>19</sup> They therefore should only be used if naval forces have been contacted and are verified to be able to rescue the crew and vessel. The fact that citadels are not 100% effective can increase the fear and stress experienced by seafarers under pirate attack. Additionally, the expanding region patrolled by pirates increases the time that seafarers may spend in a citadel, as well as the risk that no military help will arrive in time to rescue them.



Rescued Crew from the *MV Arillah-I*, Credit: Emirates News Agency (WAM)

(1) Seafarers attacked

(2) Citadel survivors

(3) Seafarers taken hostage

(4) Seafarers abused & tortured  
(5) Forced collaboration/human shields

**Seafarers Taken Hostage: 53 vessels with 1,090 crewmembers**

Primary physical dangers	Primary psychological dangers
<ul style="list-style-type: none"><li>• Violence from captors</li><li>• Malnutrition</li><li>• Lack of access to medicine or health care</li></ul>	<ul style="list-style-type: none"><li>• Lack of control over own life</li><li>• Sense of perpetual, lasting danger</li><li>• No access to family for prolonged periods of time</li></ul>

The most obvious category of people affected by Somali piracy consists of those who are captured and held hostage for ransom. The experience of hostages can be extremely distressing. Hostages are held for months without proper nutrition, access to medical care, or interaction with their families. Seafarers taken in 2010 were held hostage for an average of five months. Hostages are kept ignorant of their fate, away from their families, without access to regular medical care, and lacking control over their own lives. The potential for violence from heavily armed pirates is a constant threat.



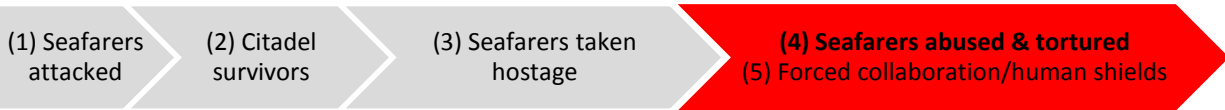
Hostages on the *MV Iceberg*, Credit: CNN/IBN

“Diseases have appeared among crew members, some have hemorrhoids, one has lost his eyesight and another has serious stomach problems...The water we have is unclean and we have only one meal a day, boiled rice, that’s it. The crew is suffering physically and mentally.”

- Captain of the *MV Iceberg 1*<sup>20</sup>

There are clear indicators of the toll that the hostage experience has already taken. The third officer of the *MV Iceberg 1*, for example, is reported to have committed suicide by drowning after seven months in captivity and other crewmembers report increasing mental distress (the *MV Iceberg 1* was still held by pirates as of June 1, 2011, marking 429 days in captivity).<sup>21</sup>





**Seafarers Abused or Tortured: up to 21 vessels with 488 crewmembers**

Primary physical dangers	Primary psychological dangers
<ul style="list-style-type: none"> <li>• Violence from captors</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of control over own life</li> </ul>
<ul style="list-style-type: none"> <li>• Malnutrition</li> </ul>	<ul style="list-style-type: none"> <li>• Sense of perpetual, lasting danger</li> </ul>
<ul style="list-style-type: none"> <li>• Lack of access to medicine or health care</li> </ul>	<ul style="list-style-type: none"> <li>• No access to family for prolonged periods of time</li> </ul>
<ul style="list-style-type: none"> <li>• Torture</li> </ul>	<ul style="list-style-type: none"> <li>• Death threats or mock executions</li> </ul>
<ul style="list-style-type: none"> <li>• Risk of suicide</li> </ul>	

In contrast to the common perception of pirates as humane captors, there are increasing reports of pirates physically and psychologically abusing seafarers either as a means to an end or as general cruelty. Press reports and other sources indicate that as many as 21 of the 53 hostage incidents in our database may have involved abuse or torture.

*Physical Abuse*

Physical abuse, as defined in this report, includes: deprivation of food and water, beating (often with the butt of a gun), shooting at hostages with water cannons, locking hostages in the ship’s freezer, tying hostages up on deck exposed to scorching sun, and hanging hostages by their feet submerged in the sea.

“They took me on deck one day and tied my hands and my legs behind my back for two hours, and also tightened a cable around my genitals... When I screamed, they tightened it more.”

- Engine technician from the *MV Marida Marguerite* <sup>22</sup>

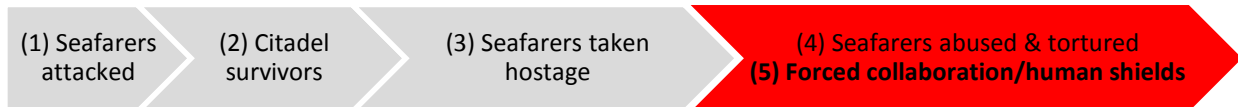
There are many reports of hostages experiencing direct, severe abuse. For example, the hostages from the *MV Marida Marguerite* were subjected to beatings, forced time in the ship’s freezer, and hanging from the mast and meat hooks.<sup>23</sup> There are also reports that hostages have died due to malnutrition and a lack of access to medical care.<sup>24</sup> During captivity, hostages are fed inconsistently and poorly. The captain of the *MV Iceberg 1*, the longest held ship still in captivity, reported that his diet consisted of a single daily meal of boiled rice.<sup>25</sup>

*Psychological Abuse*

In addition to physical abuse, seafarers suffer psychological abuse. Psychological abuse, as defined in this report, includes: firing weapons as an intimidation tactic, solitary confinement, calling family members while threatening hostages, parading hostages naked around the vessel, and taking hostages ashore to see the hostages’ supposed graves.

Sailors also regularly report death threats and mock executions. In some cases, threats or sudden outbreaks of violence occur. One captain reports that the ship’s engineer was threatened several times with a gun when pirates accused him of using too much fuel.<sup>26</sup> In other cases, abuse can involve elaborate and

convincing mock executions. The captain of a hijacked vessel was forced to endure a drawn-out mock execution that included writing a farewell letter, kneeling in preparation for execution, and months of solitary confinements.<sup>27</sup> In some cases, the crews are segregated by nationality by the pirates in an apparent attempt to increase factionalism in the crew.<sup>28</sup>



**Seafarers Forced to Collaborate or Used as Human Shields: up to 23 vessels and 516 crewmembers**

Primary physical dangers	Primary psychological dangers
<ul style="list-style-type: none"> <li>• Abuse from captors</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of control over own life</li> </ul>
<ul style="list-style-type: none"> <li>• Exposed to danger from militaries and other ships</li> </ul>	<ul style="list-style-type: none"> <li>• Sense of perpetual, lasting danger</li> </ul>
<ul style="list-style-type: none"> <li>• Similar dangers to hostages</li> </ul>	<ul style="list-style-type: none"> <li>• Death threats or mock execution</li> </ul>
	<ul style="list-style-type: none"> <li>• Guilt from participation in piracy</li> </ul>

The crews of some captured ships are forced to continue to operate their ships as the pirates use these vessels to capture others. Even more terrifying, some crewmembers are used as human shields in attacks on other vessels.

*Forced Collaboration*

In 2010, pirates began using hijacked vessels as motherships to launch pirate attacks on other vessels. When they use this technique, pirates force the crew to facilitate the attack. Seafarers forced to participate in pirate attacks may experience guilt for their role in abetting piracy. There are also indications that the crew is at risk of greater violence during attacks because the pirates themselves experience higher stress and this makes pirates more likely to beat or even shoot the crew.

“Steering the boat to capture other innocent vessels was really more painful than death because I myself was experiencing hell under the pirates.”  
 -Captain of *FV Golden Wave 305*  
 29

*Human Shields*

Pirates sometimes use captured seafarers as human shields when naval forces approach. This can be as simple as hostages placed visibly on deck to deter naval attacks (as appears to be the case with the *MV Polar*, captured in 2010).<sup>30</sup> The use of hostages as human shields can also be more sinister. EU NAVFOR Operation Commander Major General Howes reported that pirates abuse seafarers to pressure navies to retreat: "If warships approached a pirated ship too closely, the pirates would drag hostages on deck and beat them until



Captain of the *FV Golden Wave 305*, Credit: Somalia Report

the warship went away.”<sup>31</sup> Pirates have also taken a hostage from a previous hijacking to another vessel where the crew is hiding in a citadel. The pirates then threaten to kill the hostage if the people inside the citadel do not come out.



**Post-Traumatic Distress and the Long-Term Impact on Seafarers: *no numbers available***

Exposure to direct threats to life or physical safety, experiencing an event that evokes fear or emotional reaction, and experiencing events that put people under control of others are often predictors of long-term problems. This last predictor—the experience of being wholly controlled by someone else, with every aspect of life and safety at the whim of an unpredictable figure—has been identified as particularly distressing and something that can cause lasting problems.<sup>32</sup> Long-term psychological impacts include substance abuse, depression, and post-traumatic distress.<sup>33</sup> Although data on the long-term impact of the experiences of hostages held in Somalia is not available, research with former hostages held by non-pirate groups suggests that as many as 50% of individuals held hostage will show significant long-term distress.<sup>34</sup>

Dr. Michael Garfinkle is conducting a study for the Seamen’s Church Institute (SCI) on the psychological impact of piracy on seafarers.<sup>35</sup> While Dr. Garfinkle’s study is not yet complete, his initial review of interviews with seafarers suggests that many seafarers—both those who have and have not experienced an attack—show increased anxiety about the potential for an attack. Many seafarers report feeling they must return to sea despite their fears, emphasizing that choosing to not continue is not an option because their families, and in some cases entire villages, rely on their incomes.<sup>36</sup>



**Seafarers’ Families: *no numbers available***

The impacts of pirate attacks and hostage-taking reach beyond the seafarers who are directly exposed. The seafarers’ families are an important group of victims that is often overlooked. Their experiences may not be as obvious as those of seafarers who are captured by pirates, but in many ways the psychological impact of their suffering is just as severe. Seafarers themselves have said that their greatest concern while in captivity is the well-being of their families.<sup>37</sup>

One of the main sources of trauma for the families is their lack of knowledge about the situation. Reports show that most families are not only terrified for their loved ones, but also in a state of uncertainty with no clear idea of to whom to turn for accurate and timely information.<sup>38</sup> The majority of seafarers come from developing countries where there may be limited access to information outlets such as the internet.

Many families receive infrequent and inconsistent correspondence from their loved ones and may not be aware that their loved ones will be transiting high risk waters. When a seafarer is taken hostage, their family knows that their loved one is experiencing severe distress or abuse, but the family cannot get accurate information about the seafarer's status. As a result, families are in a constant state of fear and uncertainty—an extremely distressing situation that may cause long-term problems.

There are also reports of Somali pirates explicitly using families as a method of increasing pressure on the shipping companies in negotiations. Families and seafarers have reported that pirates may encourage seafarers to call their families, only to take the phone and threaten the family that their loved one will be killed if the ransom is not quickly paid.<sup>39</sup>

Seafarers' experiences may also affect their families directly after a release. Post-traumatic distress and long-term problems are characterized by an increase in negative behavior, including increased substance abuse, problems with interpersonal relationships, and spousal abuse/intimate partner violence.<sup>40</sup> Even if a survivor's loved ones are not directly affected by the distress of the hostage situation, there is the possibility that the survivor may act in ways that are destructive or damaging in interpersonal relations.



Wife of Captive Filipino Sailor, Credit: NTDTV

### SECTION III: CRIMES AGAINST SEAFARERS

#### Findings:

- Seafarers do not have adequate protection under the rule of law because piracy has been criminalized without creating effective rule of law institutions.
- Authority is fragmented in international waters—there is no single group to protect seafarers.
- Detailed reporting of crime would allow seafarers to make better informed decisions regarding the risks of transiting dangerous areas.

As illustrated by the data presented in this report, seafarers face a dangerous and violent work environment as they transit areas at high risk from piracy. Although billions of dollars are spent to protect seafarers, there is still no effective law enforcement to deter violent attacks by Somali pirates.

#### Protecting Seafarers Rights to a Safe and Secure Workplace

The basic rights of seafarers are enshrined in Article 9(1.) of the International Convention on Civil and Political Rights (ICCPR), which declares that “everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” In addition, the International Labor Organization (ILO) adopted the Maritime Labour Convention in 2006, which lays out the rights of seafarers.<sup>41</sup> The most basic right is described in Article IV (1): “Every seafarer has the right to a safe and secure workplace that complies with safety standards.”

To protect this right, the international community has chosen, in forums such as the United Nations, to treat piracy as a crime, subject to prosecution and incarceration. This is clear in the latest UN Security Council Resolution on piracy 1976(2011):

*13. Urges all States, including States in the region, to criminalize piracy under their domestic law, emphasizing the importance of criminalizing incitement, facilitation, conspiracy and attempts to commit acts of piracy*

*14. Recognizes that piracy is a crime subject to universal jurisdiction and in that regard reiterates its call on States to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law*

However, there are no adequate laws, prosecution venues, or incarceration facilities to successfully treat piracy as a crime. The acknowledgment of this inefficacy is found in the same resolution 1976(2011):

*Further expressing concern over a large number of persons suspected of piracy having to be released without facing justice, reaffirming that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community and being determined to create conditions to ensure that pirates are held accountable*

While it is important to officially establish piracy as a crime, a major problem in the current international legal regime is an enforcement deficit. States have the power to try pirates because piracy

occurs on the high seas where every state has the right to prosecute, but the vast majority of pirates never face prosecution. The United Nations Security Council reports that 90% of pirates that are captured by international navies are released.<sup>42</sup> High prosecution and incarcerations costs give each state an incentive to rely on the expenditure and work of other states. This perverse incentive system may help explain why Eugene Kontorovich and Steven Art, using data from 1998 to 2009, find that only 1.47% of piracy cases punishable under universal jurisdiction were prosecuted internationally.<sup>43</sup> This is far below the global average: for all types of crime, where about 33% of all alleged criminals are prosecuted, and 20% of all crimes end in conviction.<sup>44</sup> Regardless of the number of pirates that are prosecuted, there is a consensus that in order to enforce the seafarers’ rights, much more needs to be done.

### Comparison of Crime Rates at Sea with Crime Rates Ashore

Since the international community has classified the violent acts perpetrated against seafarers as criminal acts, these acts should be compared to other high crime areas in order to better understand the risks faced by seafarers. For this comparison, it is necessary to match attacks reported under the blanket term of “piracy” to other reportable crimes ashore. Although criminal laws vary between different nations and jurisdictions, the following categories will allow a comparison:

- Major Assault – Compared to armed attacks at sea.
- Kidnapping – Compared to successful pirate attacks where the crew is taken hostage.
- Murder – Compared to pirate attacks that resulted in “killed” or “missing” seafarers.

Crime Rates at Sea* in Waters off Somalia (per 100,000)		Highest National Crime Rates of Equivalent Crime Ashore (per 100,000)	
Seafarers Subjected to Armed Attack on Vessels	697.5	Major Assault	576 (South Africa)
Seafarers Taken Hostage	181.7	Kidnapping	~15 (Turkey)
Seafarers Killed	1.3	Murder	~58 (Jamaica)

*\*Determination for crime rates at sea: sample base is derived from 2010 numbers. Using an average yearly number of ships transits through the Red Sea and Gulf of Aden (30,000) and assuming an average crew of 20 for each vessel, this calculation yields an affected population of 600,000.*

- On a per capita basis, the Major Assault rate in the waters off Somalia is the highest in the world.
- The country with the highest kidnapping rate in the world is 12 times lower than what seafarers face.<sup>45</sup>
- The murder/missing rate is currently below the world median; however this rate is expected to rise precipitously in 2011.
- The numbers for crimes at sea are probably higher than represented due to the fact that the 600,000 seafarers spend an average of five to six days per transit in the affected area, as opposed to the crimes on land, which is based on victims living in the affected area for an entire year.

### **Lack of Reporting on Perpetrators**

Piracy is a high risk crime without question, but with the mix of law enforcement agencies (such as navies, private security guards, and coastguards) it is currently impossible to determine how many perpetrators have been wounded or killed in the commission of crimes, or the exact circumstances surrounding these instances. In normal crimes, this reporting is an important part of criminal investigations.

### **Honoring Seafarers' Right to Information on the Commission of Crimes**

According to a crewmember from the *MV UBT Ocean*, which was held by pirates for four and a half months, during which time crewmembers were reportedly abused and tortured, "All the seafarers must be fully aware of this danger and risk in crossing the Indian Ocean."<sup>46</sup>

As discussed above, a significant portion of the information on crime at sea is controlled by private agencies and flag states, which do not have an obligation to report this data to the general public. At the micro-level, each organization may have specific, and usually sound, reasons for keeping this information out of the public domain. In this sense, there is a significant difference between the reporting of crimes within a state with clear laws and guidelines, such as in the United States, and the reporting of crimes that are committed in international waters where multiple states and citizens are involved.

#### **Comparing Reporting of Crimes at U.S. Universities to Crimes at Sea**

Crimes that occur within state borders are required to follow more stringent reporting and transparency requirements than those that occur in international settings. The U.S. Crime Awareness and Campus Security Act of 1989 highlights the value of a comprehensive and transparent crime reporting system. This U.S. bill encourages development of security policies for all institutions of higher learning and includes accountability measures to ensure compliance. The purpose of uniform crime reporting is twofold: first, to facilitate the review of the data collection and an accurate compilation of best practices for distribution;<sup>47</sup> and second, to assist in keeping potential victims safe by notifying them of crimes that may pose a potential threat.<sup>48</sup> When students and other members of the campus community are aware of on-campus crimes, they, too, are empowered to contribute to prevention of future crimes. U.S. Senator Arlen Specter, who introduced the U.S. bill, stated that a reporting system forces authorities to acknowledge the issue by participating in the process: "This awareness, in turn, will help students to be more careful in observing security precautions," Specter said.<sup>49</sup>

Seafarers are entitled to accurate and timely information about dangerous situations so that they can make informed decisions about their own safety. This can also help them to fully understand need to take actions, such as the precautionary measures suggested in BMP, to reduce their likelihood of being taken hostage by pirates.

## SECTION IV: SOMALI COSTS

### Findings:

- There is no reliable reporting system in Somalia with which to gauge the full impact of piracy on Somali citizens and communities. There is a general lack of reporting on the second-order effects of piracy on Somali communities, and there is no reporting system in place to document deaths and injuries amongst the Somali perpetrators that occur during the commission of the crimes.
- While piracy is a pressing issue for seafarers and the maritime shipping industry, it is only one of the many challenges that Somalis face. Therefore there is a mismatch of priorities between the international community and the Somali people.
- Allegations against foreign vessels of illegal fishing and toxic waste dumping are still being made in Somalia and continue to provide justification, in the eyes of many Somalis, for the crime of piracy. These allegations have never been adequately addressed.

With approximately 2,000 Somalis involved in piracy,<sup>50</sup> pirates represent an extremely small fraction (0.02%) of the Somali population, which is loosely estimated to be around 9 million.<sup>51</sup> However, the effects of pirates' activities are substantial, not just on maritime stakeholders but also on Somalis themselves. The economic impacts are well known and estimated to be between \$7 and \$12 billion per year; the human costs are less well known, as this report highlights, but also understood to be substantial. Conversely, the impact of piracy on Somalia and Somalis is poorly documented or understood. There is no reporting system within Somalia to document changes in socio-economic factors, and therefore no way to gauge the full impact of piracy on Somalis.

Despite the negative impact of piracy on Somalis, it cannot be assumed that these costs are large enough to incentivize Somalis to root out piracy independently. Somalis simply do not have the capacity to do so because they are faced with many wide-ranging challenges, only one of which is piracy. It is therefore unlikely that piracy will be prioritized or solved by Somalis without international support.

Further complicating counter-piracy efforts within Somalia are concerns over illegal fishing and dumping in Somali waters. The first pirates who conducted operations in the Gulf of Aden stated that their intent for capturing foreign vessels was to protect Somali waters from illegal exploitation. While this is clearly not the reason that pirates today conduct their operations, especially given their extended operation far beyond Somali waters, the original complaint has not been resolved. It is important to tackle this issue in conjunction with counter-piracy efforts because pirates use these justifications to legitimize their attacks on international vessels. Additionally, it is important to root out and report all illegal activities, both those committed by Somali pirates and those committed by foreign nationals against Somali interests.

### Food Price Insecurity and the Impact on Trade

By far the most damaging impact of Somali piracy on the local population—and the aspect that has received the least amount of attention in the international dialogue and press—has been its impact on food security. SomaliaReport and AllAfrica.com both reported significant increases in the price of basic food commodities (e.g., sugar, rice, and wheat flour) and petrol as a direct result of pirate hijackings of commercial vessels, though it is difficult to disaggregate the specific impact of piracy from other problems facing



Somalia.<sup>52</sup> Pirate gangs have also begun to target Somali fishermen, stealing their engines and boats, and reportedly driving many fishermen out of the trade.<sup>53</sup> These increases have undermined the average Somalis' ability to purchase basic food and supplies.

While these impacts are real, it is important to consider whether the economic benefits of piracy outweigh the costs, at least to targeted communities. For example, as long as the residents of the Somali community of Hobyo continue to earn outrageous profit margins by supplying pirate enterprises, Hobyo is likely to continue to offer sanctuary to the pirate networks, and the anger felt by Mogadishu or inland residents over food inflation is not likely to undermine the pirates' ability to operate.<sup>54</sup>

A new development that could exacerbate the challenges faced by Somali civilians is the call by U.S. Senator Kirk to blockade completely Somalia's coast. According to Stephen Jones of the Maritime Security Review, a blockade would further increase food prices by dramatically reducing avenues for international trade.<sup>55</sup>

### **Piracy's Impact on Somali Society and Culture**

There is limited information on the impact of piracy on Somali society as a whole, which faces a plethora of challenges to the lives and livelihoods of that society's members. Given the vast incentives of increasing ransoms for pirated vessels and hostages, it is probable that the number of Somalis involved in piracy will grow. Right now it may be only 2,000 Somalis involved in piracy, but organized crime, once established, can ruin entire societies.

According to a report from Jack Lang, the UN's Special Adviser on Legal Issues related to Piracy off the Coast of Somalia, piracy is already having a destructive effect on Puntland's clan structure.<sup>56</sup> Unfortunately, the dearth of reporting on Somalia makes it difficult to produce concrete evidence of these socio-cultural changes. While it is common for criminal activities to bring negative influences to a community (such as increased drug use and prostitution), and there are stories available from news outlets on these problems, there is no statistical data available to exclusively link them to piracy. It is therefore difficult to disaggregate the changes caused by piracy from those already occurring. For example, the idea that pirate networks are undermining the clan structure overlooks the fact that the authority of clan "elders" has been in decline for decades.<sup>57</sup> Their legitimacy as leaders and peacemakers has only very recently—within the last decade or so—begun to enjoy something of a renaissance.<sup>58</sup>

### **Pirates Killed or Missing**

The Somali pirates, as the perpetrators of attacks, are not often included in the public discussion about piracy and its impact. However, when considering the human cost of piracy it is important to acknowledge that piracy is a dangerous business for the attackers, with many killed each year. In his report, Jack Lang stated that "200-300 pirates have not returned from their expeditions since the resurgence of the phenomena."<sup>59</sup> Media reports indicate that at least 62 pirates have been killed at sea in the first five months of 2011, which amounts to 7% of the 2,000 pirates if this figure is annualized. This is likely an underestimate because it does not take into account the pirates that are lost at sea.

Part of why we do not know how many pirates die is because there is no agency within Somalia that reports how many Somalis are killed from piracy. It is important to have this information available in order to

help deter would-be pirates by making clear that piracy is a dangerous business, and it may also convince potential new recruits that only the lowest foot soldiers put themselves at risk. Most piracy financiers, leaders, and ransom negotiators, which a new recruit is unlikely to be, get the lion's share of the proceeds without going to sea.

In addition to the lack of reporting within Somalia, there is no consistent reporting on the pirates killed by naval forces. Pirates may be killed in international military raids to rescue hostages<sup>60</sup> or in apparent retaliation for piracy.<sup>61</sup> As was previously mentioned, in May of 2010 the Russian navy released ten suspected pirates in the Indian Ocean without navigational equipment; while it is assumed all ten died, there is no way to verify this. In a more recent case, a U.S. naval helicopter opened fire on a pirate skiff as it was attacking a boat, likely killing all pirates onboard, and departed without verifying the condition of the pirates.<sup>62</sup> It is important that information on all people killed or injured as a result of piracy are accounted for in order to maintain consistent principles of law when dealing with both perpetrators and victims of criminal acts.

### **Coercion of Somali Youth**

There is concern over children being coerced to join pirate gangs. In a recent arrest, the Indian Navy captured 61 suspected pirates in 2011, 25 of which were suspected to be under 15 years of age.<sup>63</sup> Using children as pirates violates a number of children's rights. The Convention on the Rights of the Child, which came into force in 1990, holds that "States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities."<sup>64</sup> Using children as pirates also violates the International Covenant on Economic, Social and Cultural Rights Article 10 (3.), which states that "children and young persons should be protected from economic and social exploitation."<sup>65</sup>



Somali Pirates, Credit: The Hindu

## SECTION V: UNDERREPORTING OF THE HUMAN COST OF SOMALI PIRACY

### **Finding:**

- To garner support from the general public, as well as governments and international organizations, details of the crimes against seafarers should be reported in a way that does not confuse violent crime with pirate fables.
- All stakeholders with direct knowledge of these violent attacks should consider a responsible way to provide this information to the media. The press cannot share the stories that will build public support for seafarers' well-being unless they are given access to those stories.

Thousands of people are subjected to gunfire, confinement, beatings, and in some cases torture in the course of doing their jobs. One would expect that these types of crimes would be reported in a systematic and consistent way. This could allow the public to grasp the significance of the crimes. However, the unique challenges of coordinating police activities in international waters, and the multinational nature of crews and the shipping industry, have resulted in inconsistent reporting of these violent crimes.

### **Garnering More International Support through Transparent Reporting**

A major obstacle that impedes full assessment of the human cost of piracy is the lack of consistent and transparent reporting on crimes that occur in international waters. This is only exacerbated by the treatment of piracy as a single crime that encompasses all acts that occur from hijack until release. This fails to fully account for the array of crimes committed against those individuals unlucky enough to be taken hostage.

The public has so far not been moved by stories of piracy, which are often fraught with comparisons to popular movies and books. As stated in a recent article in the Chicago Sun Times, "These criminals, far from the dashing figure of Johnny Depp in the 'Pirates of the Caribbean' movies, are thugs. In February, pirates murdered four Americans aboard a yacht in the Indian Ocean."<sup>66</sup> In order to make his point, the author uses the term "thugs" instead of "pirates" and "murdered" instead of "killed". In a recent story for the BBC, reporter Tom Mangold referred to the Somali criminals as "Sea Gangsters" and wrote: "They torture. They kidnap. They brutalize. They murder without pity."<sup>67</sup>

### **Concern over Discrepancies in Public Attention**

Why do some hostage situations or some trapped individuals attract 24-hour news coverage and capture the imagination of individuals around world while others don't even make the news? In the Chilean mining accident in 2010, 33 miners were trapped underground for 69 days.<sup>68</sup> An astonishing 1,500 journalists from all corners of the globe were on hand to witness the successful extraction of each person.<sup>69</sup> But very few journalists are waiting off the coast of Somalia, camera and microphone in hand, to see how seafarers are treated when they are released. More than 500 seafarers are currently held hostage off of Somalia.

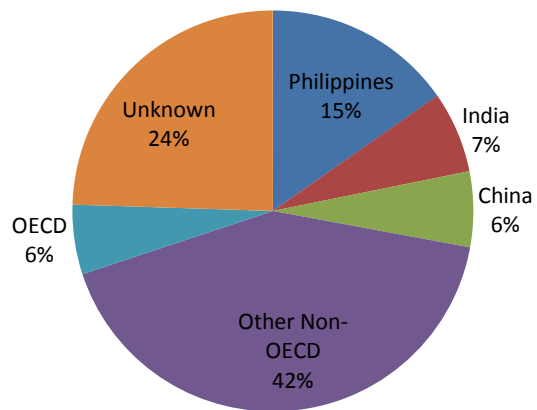
It is only through this effective reporting on the actual nature of crimes that it will be possible to garner greater public support to counter piracy. This reporting might consider not using the term "piracy," which is in many ways outdated, and replace this with descriptions of crimes that will resonate with the

public. These terms are: assault, murder, kidnapping, physical and psychological abuse and torture. Unfortunately, the information relating to these specifics is largely kept away from the public, making it difficult to bring more public pressure to bear on this topic.

#### Nationalities of the Seafarers

The seafarers taken hostage in 2010 came from at least 30 countries. The majority of seafarers come from developing countries. Only 6% of the hostages were from developed countries that are members of the Organization for Economic Cooperation and Development (OECD). The nationality of the kidnapped seafarer may directly affect the response from navies in the region and from countries around the world. For example, the U.S. mobilizes warships and numerous media sources report on the attack when U.S. citizens are involved, as when four Americans were killed aboard the *SV Quest*. However, there is little attention or public outcry for the majority of seafarers taken captive by pirates.

**Hostages by Nationality  
(based on 1,090 seafarers taken in 2010)**



## APPENDIX I

### Somali Pirates and Torture

Recent reports show that some Somali pirates are turning to violent methods including dragging hostages behind boats, beatings, forcing hostages into freezers, and clamping plastic ties around hostages' genitals.<sup>70</sup> For example, BIMCO, the International Chamber of Shipping, INTERCARGO, INTERTANKO, and the International Transport Workers' Federation publicly declared that:

The international shipping industry is truly disturbed at reports that pirates have been torturing seafarers physically and mentally, often in the most barbaric ways, including hanging them over the ship's side by ropes around their ankles with their heads under water and even subjecting them to the horrendous practice of keelhauling.<sup>71</sup>

While these actions are undeniably abuse, whether it is torture depends on the precise definition of the term.<sup>72</sup> One of the most prominent definitions of torture comes from the 1984 Convention Against Torture (CAT), an international treaty law, which defines torture as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.<sup>73</sup>

Under this definition, torture does not require physical abuse. Mental harm alone can be torture. This widens a typical understanding of torture to include intimidation.<sup>74</sup> However, CAT is designed to protect citizens from states and therefore requires an act to be committed by state actors to be considered torture. Given that Somali pirates are not state actors but are in fact perpetrators of torture, the CAT definition is limited both in its scope and its ability to protect seafarers from pirates.

The International Criminal Court (ICC) offers a definition that aligns more closely with our common understanding of torture. Although it lists torture as an element of a war crime as well as a crime against humanity, only under the latter crime is it defined. The Rome Statute says torture is:

the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.<sup>75</sup>

The ICC's definition similarly includes mental harm as torture, though the ICC does not permit intimidation (unless it can be shown to constitute mental harm) to be deemed torture. Unlike with CAT, there is no requirement of a state nexus in the ICC's formulation. Under the ICC's definition, Somali pirates' actions qualify as torture. According to the ICC and even the most restrictive definition from the CAT, the recent repulsive Somali pirate actions *do* constitute torture. Not only are these acts morally reprehensible and illegal under international law, but they also violate the human rights of seafarers.

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