

## The Influence of State Weakness and State Failure on Marine Piracy

### INTRODUCTION

The Dalhousie Marine Piracy Project (DMPP) is a two-year project on global maritime piracy funded by the TK Foundation, and with in-kind support provided by Dalhousie University. The project entitled 'Policy Development and Interdisciplinary Research for Actions on Coastal Communities, Youth and Seafarers' (PIRACY) has explored many legal and governance conditions that have seemingly allowed piracy to gain a foothold in various regions. However, the discussions in this article are framed around the dominant conditions of weak states and failed states, specifically those that have been identified as having some influence or association with the growth and spread of piracy. In so doing, the article provides an outline of the structural indicators evident within functional/strong states as the basis for analyzing the essence of state failure specifically within the East and West African regions. It culminates with some key considerations regarding the influence of state weakness and failure on maritime piracy operations.



Source: [www.marimerrorism.com](http://www.marimerrorism.com)

The manifestations of state weakness and state failure are not homogenous as they vary from place to place, region to region, and are marked by many indicators, primarily analyzed from the economic and political perspectives. In the first instance, focus is limited but not restricted to the general deterioration of living standards, foreign-exchange shortages, food and fuel scarcities and decreased essential

services (medical, educational etc.). In the latter, varying actions of political leaders and their associates have been determined as contributing factors to state failure as their actions undermine or disregard democratic procedures, legislatures, judicial independence, and in general, the control of security and defense forces. The end state of state weakness and failure is evidenced by the lack of legitimate authority and capacity of the government no longer extending throughout the state, but are limited to specific regions or groups.

The terms 'fragile states' and 'failed states' even though distinct, are particularly relative when comparing the presence or absence of a functional government and the state's performance and/or capacity (at specific points) to govern its own space. Other references to 'weak states' and 'failing States' indicate that those states exhibit key elements of fragility or some susceptibility to fragility or failure because of their limited governance capacity and may be experiencing organized political violence.

### INDICATORS OF STATE WEAKNESS AND STATE FAILURE

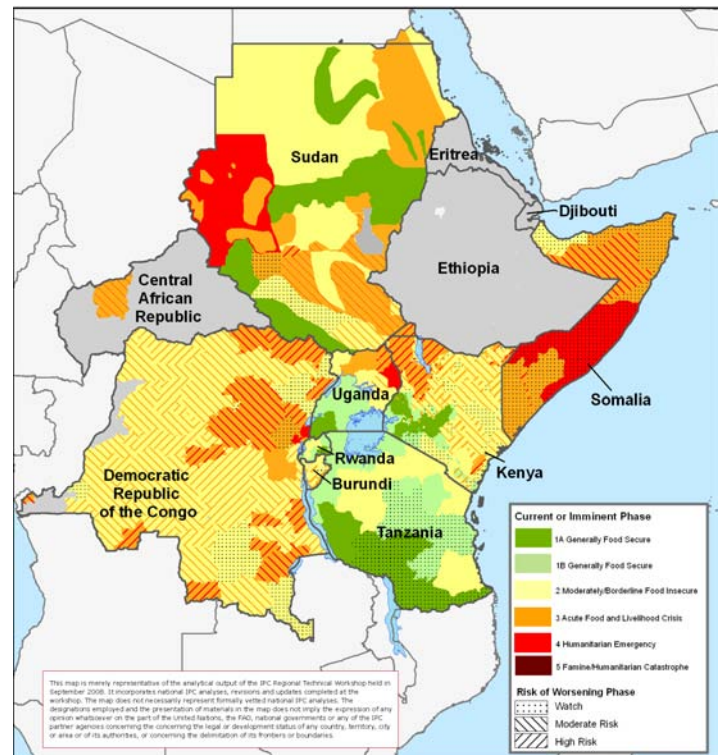
By and large, functional or strong states control their territories and deliver a high order of political goods to their citizens, including a) high levels of security and safety from political and criminal violence; b) surety of political freedom and civil liberties; and c) creation of environments that are conducive for economic growth. In this regard, various analyses have indicated that these states generally exhibit three structural indicators - authority, legitimacy and capacity. Weaknesses in one or more of these dimensions can result in an impact on the overall stability of the state. These structural indicators have been utilized by Country Indicators for Foreign Policy (CIFP) to provide an overall picture of a country's fragility and trend lines as these indicators also offer the foundation from which to assess failed and failing states. **Weak states** are basically strong, but temporarily or situationally weak and may be characterized by a broad range of geographical, physical, or economic constraints. Some of these states display various tensions (ethnic, religious, linguistic, or inter-communal) that have not yet become violent. In other instances, high and increasing level of urban crime; deteriorating infrastructures, schools, hospitals etc. as well as diminishing political good and public services are also characteristics of weak states. To some extent, weak states are still capable of providing security and other critical infrastructure such as transportation and communication networks as well as commodities markets. In other cases, such as Indonesia, even though functioning fairly effectively, but probably not efficiently, state failure has been avoided despite widespread insecurity, high levels of corruption, crime, and social problems. In general, **failed and failing states** fundamentally lack the authority, legitimacy and capacity to control both people and territory. In addition, these countries may also be dominated by criminal and drug-related violence and other forms of civil and international conflict. Some authors also draw the conclusion that failed states are *inherently violent*, where the rulers or the government does

not have the will, ability or capacity to provide and maintain safety and security infrastructures for their people. Others have inferred that a central government may exist primarily for the security of its rulers, where its citizens and even other government officials are left to provide for themselves; and that these states lack the institutional architecture and legal systems to support contractual relationships, property rights and respect for human rights. This makes them unable to enforce laws within their own boundaries and ceasing to be a legitimate government.

Characteristic Differences of	
Weak States	Failed States
Strong, but temporarily or situationally weak	Ineffective central government
Ethnic, religious, linguistic, or other tensions; increasing level of urban crime	Ethnic or other inter-communal hostility; criminal violence
Limited ability to deliver political goods. Diminishing public services	Loss of practical control over territory. Non-provision of public services
Corruption is common	Widespread corruption and criminality
GDP per capita has fallen or falling	Sharp economic decline; and uneven economic development along group lines. Refugees and involuntary movement of populations

For the last four years, the Failed States Index (*a collaboration of Foreign Policy and The Fund for Peace*) has maintained its rankings that Somalia, Chad, Sudan, Congo, Afghanistan and Zimbabwe are prime examples of state failure. It also contends that in each of these cases (a) the central government ceased to function, and has been unable to provide for the well-being of its population or protect it from internal and external threats; (b) the weakened state of their economies resulted in the total ruin of education and health care services and a breakdown in physical infrastructure; (c) the escalation in crime and violence have allowed opposition protests and civil conflicts etc. resulting in armed uprising and in some instances, the utilization of a variety of small arms, light weapons and explosives; and (d) huge population shifts and refugee crises, long-term food shortages, and the death of large numbers of civilians (*disease, starvation, direct fighting*) were a culmination of the conflicts and failed economies. In examining the indicators utilized by the Failed States Index, it can be argued that there is a relationship between global pirate attacks and the said failed state indicators, which led to the conclusion that state failure, even though not a sufficient condition for maritime piracy, may be a necessary condition – the importance of which became more pronounced when analysing the countries within the East and West Africa regions. The **East Africa Region** (*predominantly surrounding the Gulf of Aden/Horn of Africa*) provides an ample illustration of how the conditions within and surrounding failed states may have allowed piracy to take root and flourish as the countries in this region suffer from a combination of: widespread lawlessness, ineffective govern-

ment, terrorism, insurgency, crime, and abysmal development. More specifically, earlier analyses have shown that Somalia, after years of neglect by the international community, is considered as the world's most comprehensively failed state - perhaps a collapsed state - representing a threat to itself, the Horn of Africa region and the wider world. The Horn of Africa is characterized by porous borders, weak governments and ineffectual national security systems, all of which have sustained the illegal market in the illicit use and high circulation of, small arms and light weapons. In the seven years of the Failed States Index, Somalia has occupied the worst spot (#1) for the past four years straight. In Somaliland for example, there is little or no piracy because the Province is considered too stable to support this type of organised crime, and acted early to suppress it. The response by Somaliland against rumoured pirate groups by catching them when they are in the process of organizing suggests that piracy can be curtailed at a local level despite poverty problems and a weak police force. Further research by the DMPP has indicated that the strength of Somaliland is not its offshore capacities, but the efficiency of local law enforcement, including popular militias, in curtailing piracy. Its strength lies in local ownership and control over relevant areas by means of local popularity. In February 2012, the Somaliland government further strengthened this position by passing new anti-piracy legislation which defines piracy as a crime in Somaliland, allowing authorities to charge pirates. In addition to Somalia, a closer examination of the surrounding and bordering States such as Yemen, Eritrea, Sudan and Ethiopia - also at the top of the Failed States Index - demonstrates the prevalence of many fragility indicators. None of these countries have the means of enforcing laws within their own borders, let alone attempting to work together to stem the tide of Somali pirates.



East Africa Region. (Source: Britannica)

Further comparisons may also be made with some states in the West African Region, such as the Democratic Republic of Congo, Guinea and the Ivory Coast. According to the Failed State Index 2011, these countries are ranked in “critical” danger of failure with all of the remaining countries as being in “danger” of failure, except for Ghana and Benin, assessed to be within the more stable category of “borderline”.



**Sudan:** Post Cards From Hell, June 2012 (Source: Foreign Policy)

The **West African Region**, according to the United Nations Office on Drugs and Crime (UNODC) Regional Programme, was considered as one of the least stable regions in the world, with “no adequate legislative framework and enforcement capacities to address the issue of piracy, where legal obstacles abound and action requires important logistics and specialized know-how”. The United Nations Economic Commission for Africa (UNECA) pointed out that corruption remains the single most important challenge to the eradication of poverty, the creation of a predictable and favorable investment environment and their general socioeconomic development.

**STATE FAILURE AS A KEY DRIVER OF MARITIME PIRACY OPERATIONS**

Much of the literature on state failure has focused on the causes or indicators that seek to identify states that are failing or weak and in some instances have also sought to distinguish between failed states and weak states. However, as previously noted, this article seeks to highlight those research findings that point to linkages between failed and weak states to piracy operations/activities. In essence, the ensuing discussions and considerations beg the question of whether it is possible to distinguish the ways in which states have related to piracy: States which cannot do anything against the piracy situation OR States which allow or encourage piracy. Many authors have pointed to the stability of a State as a very important factor in creating opportunities for piracy to flourish. Simply put, they infer that piracy activities are more likely to exist in or surrounding failed and failing States than in stable States and in this regard, one may understand why Somalia and Nigeria have become the epicenters of global piracy. With regard to failed states, particular analysis is drawn using the East Africa Region where possible causes

of maritime piracy in this region indicate that being a failed state is a necessary, though not sufficient condition for maritime piracy. In addition to the geographical, economic and political conditions that were conducive to outbreaks of piracy, the effective cessation of Somalia as a State in 1991 also created a legal loophole for Somali pirates. While the 1982 United Nations Convention on the Law of the Seas (UNCLOS) restricts piratical activities to the high seas, criminal acts within territorial waters of Somalia were literally left unchallenged. According to the DMPP’s report on a Preliminary Survey of Piracy in The Western Indian Ocean, Gulf Of Aden And Bay Of Bengal, the prevalence of piracy in the Gulf of Aden was deemed possible because of the poor governance along much of Somalia’s coast. The study also describes Somalia as providing the pirates with many options for places to hold the captured vessels until they are released, usually following payment of a ransom. Preliminary analysis finds support in Percy and Shortland’s (2011) analysis which stated that Somalia represents the perfect collision of means (extensive small arms), motive (poverty) and opportunity (lack of governmental authority and proximity to shipping) for effective pirate operations.



**Somalia:** Postcards from Hell, June 2012 (Source: Foreign Policy)

The political landscape of Failed States encourages kidnappings for ransom, especially those that require time for negotiation and ransom payments rather than seizure of ship’s cargoes. Consequently Somali pirates do not seize ships and cargoes for their intrinsic value but rather, seize ships and cargoes in order to extort ransoms. This pattern of operations finds further support in the argument that seizing ships and cargoes would require functioning ports to offload stolen goods and the development of networks to fence them. In addition, disposing of the cargo is significantly more complicated than simply demanding ransom money. Further, the economic landscape of failed states provides the easy and unregulated access to goods necessary for piracy to thrive, such as explosives and firearms. However, the lack of infrastructure for the transport and resale of stolen cargoes imposes a constraint – one that discourages operations that require the movement of goods or people on land or the use of commodities markets or functioning port facilities. This inference finds

particular support in other research studies that suggest that piracy is not primarily a problem of state failure, the absence of infrastructure and in some instances, a complete lack of order, since these conditions increase the risks and the operational costs of piracy. It would appear that secure refuge is best provided by a state, more so, a failed state, where dire economic situations and non-existent governance of that State, make piracy desirable and allowable.

**CORRELATION BETWEEN WEAK STATES AND MARINE PIRACY OPERATIONS**

Previous discussions on weak states suggest that both the political and economic landscapes of these states differ from those of failed states. In contrast to piracy operations in the Horn of Africa, it is worthy to note that, in analyzing the maps of piratical activities, no clear linkages are indicated between the failed State of Somalia and the emergence and/or prevalence of piracy in that area, as these activities primarily cluster off the coast of Somaliland which is comparatively more stable and functioning.



**Piracy and Kidnapping in Somalia, Jan 2012 (Source: CNN)**

Therefore, one may question whether weak states are actually better breeding grounds for sophisticated pirates than failed states, since the latter is generally associated with less logistically sophisticated hijackings, such as kidnappings for ransom. For example, both Indonesia and Malaysia enjoy a much greater level of stability than Somalia and a number of the West African states that are dealing with piracy. Even so, they are still home to pirates, suggesting that even stable states may be unable (or unwilling) to enforce the rule of law. Narrowing the view to a national one, even though Puntland in Somalia is the source of most of the acts of piracy, neighbouring Somaliland has been successful in all but eradicating the crime and is assessed as being relatively stable. More sophisticated forms of piracy need at least one safe port, from where it can seek refuge, refit, and, most importantly, unload and trade/sell the loot – therefore requiring markets and supply networks to support these activities.

Many of the piratical activities in Southeast Asia are localized and opportunistic, analogous to the routine crime experienced ashore, with an enabling cultural and social environment that permits criminal groups or sub-cultures to flourish. Earlier analyses note that piracy is more likely to occur where the geographical layout (close to

large ports or a coastal fishing community) provides camouflage for both pirates and their targets; and of course, where ships are present (greater shipping density). Further, piracy is more likely to flourish where there is local acceptance of the pirates – especially when respect for the state authority is low or non-existent.

**CONCLUSION**

The physical, political, social and economic conditions vary significantly between and, importantly, within the regions that have experienced piracy. Globally, these variations also highlight that the problem may not be limited to weak, failed and failing states albeit that the definitions of such states and the continuum from “failed” to “stable” are the subject of ongoing debate. From the preceding discussions, the stability of a state is a very important factor in creating opportunities for piracy to flourish. Access to a state is especially important for pirates whose reliance on extortion requires a place where they can conduct negotiations without interruption. In addition, the absence of infrastructure and a complete lack of order can be considered as contributing to the increase in risks and operational costs of more sophisticated forms of piracy. Piracy may not correlate with state failure but more with the lack of effective external responses to deal with the deteriorating governance mechanisms. As such, piracy activities are more likely to exist in or surrounding weak states, as a certain level of state weakness is necessary to provide a friendly environment for more than a minimal level of pirate attacks.

States, individually and collectively, determine whether piracy flourishes or fails, as piracy can thrive where there is the means, motive and opportunity, or more specifically: when coastal regions are troubled by war or civil conflicts/disturbances, or their aftermath; in lawless land and sea spaces; where coastal communities are either too weak or isolated to defend themselves; in jurisdictions that are corrupt enough to provide sanctuary/safe havens and/or open markets for stolen good. In essence, as an economic crime, piracy occurs where opportunity, motive and means combine to the extent that the potential financial gains outweigh the risk and fear of capture, injury or death. Opportunity arises from a flawed maritime security environment, weak rule of law on land, and the availability of potential targets. However, simply identifying states that are struggling to maintain control over their physical territory is unlikely to stem the tide of piracy. Even so, one may seek to determine the likelihood of this variable (state failure or state weakness) in predicting growth trends and likely “hot spots” for piracy that have not yet been identified.

This document is based on research undertaken by the **Dalhousie Marine Piracy Project**. A full Report is available as **Marine Affairs Program Technical Report #2** at Dalhousie University Libraries: <http://libraries.dal.ca>; and may also be accessed from the DMPP website at <http://dmpp.management.dal.ca>. Contact [marine.affairs@dal.ca](mailto:marine.affairs@dal.ca) for more information.