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Crime on the High Seas: What Conditions Are Necessary to Achieve Effective Maritime Governance Regime?

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CRIME ON THE HIGH SEAS: WHAT CONDITIONS ARE NECESSARY TO ACHIEVE AN EFFECTIVE MARITIME GOVERNANCE REGIME?

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Abstract

This thesis explores why international maritime governance regimes have inconsistent rates of success. The global community relies on the world's oceans for food, trade, and resources. Therefore, the regulation of these oceans is necessary to provide adequate passage through its waters and the management of all the resources they supply for the mutual benefit of all. Although there are international laws such as the United Nations Convention of the Law of the Seas (UNCLOS), many of these laws fail to address current global threats and have proven inadequate in forming proactive collective responses. It is particularly problematic addressing transnational criminal behavior. I argue that four criteria are absolutely necessary to determine whether any collective regimes will be successful. The first of these criteria includes states' political will to cooperate with one another to recognize and address shared concerns. Secondly, the structure of international law needs to be formulated in a way that clearly defines states' rights and obligations. Third, international law must be integrated into a state's domestic legal framework that would allow the court system to have effective jurisdiction to prosecute criminals. Lastly, states need to have the enforcement capacity to effectively deter criminal behavior and strengthen state sovereignty. All four of these criteria must be present in a successful maritime governance regime. I offer two case studies on this subject: The first case study discusses maritime piracy, international efforts to ensure the freedom of navigation, and protect international trade. The second examines illegal, unreported, and unregulated fishing which addresses the sustainable exploitation of the seas to ensure food security and market stability. The following cases demonstrate clear

evidence that international maritime governance currently lacks effective compliance and enforcement.

Chapter 1: Introduction

Under what conditions is effective international maritime governance achievable?

Maritime governance refers to the framework of internationally agreed upon rules, regulations, treaties, etc. that allow the international community to regulate international waterways, settle disagreements, and develop processes to address states' concerns. These rules create a regime that determines the balance between defining criminal behavior and what can be considered legitimate enterprise. This topic is important in the study of international relations due to its many implications on international peace and security, trade, states' rights to extract resources, environmental concerns, and a myriad of other issue areas that require collective action among states. As a result, there is a political necessity to establish rules, regulations, and other codes of conduct, as people are constantly traversing oceans to sell goods to other markets and extract resources that lay beneath the surface of our oceans. Governments with interests in the freedom of navigation and sovereign territorial rights, enforce these rules on other states, and in some cases, upon themselves to protect their national interests. The economic potential of our oceans can also come with major repercussions. Crime, war, and environmental degradation can lead to major problems that challenge governance of our oceans. This thesis will explore some of these challenges to maritime governance and what states do to preserve peace and security and maintain the freedom of navigation in international waters.

The United Nations Convention on the Law of the Sea (UNCLOS) is the most important treaty to legally regulate states' rights over the oceans and detail the responsibilities that states have to ensure global peace and prosperity. However, application of the law has been uneven. In certain policy areas, such as combating

piracy, states have shown they can work effectively with each other, providing much needed security to ensure the global economy continues to function without interruption. In other cases, collective governance can collapse completely, leaving a vacuum that can lead to balance of power scenarios, and with it, conflict that has political, military, and economic implications as states seek to gain control of key waterways. Environmental degradation and the depletion of the ocean's resources further enhance the possibility of conflict. This thesis seeks to understand how and why different states find it difficult to address certain issues over others and why there has been an uneven approach to addressing different policy areas.

Several key questions must be addressed to better understand the uneven implementation of international law and issues regarding state compliance under a regulatory maritime agreement such as UNCLOS. These questions include: What is the structure of the international system and how does the balance of power affect interstate relationships? What effects do international treaties have on state behavior? What does it mean to comply with international law, and what factors lead to noncompliance? Are there structures or systems in place to deal with dispute settlement between states? Can international law be enforceable, and if so, how? By analyzing these questions with regards to the international maritime governance regime, one can begin to understand the strengths, weaknesses, and potential areas of reform regarding international law.

This thesis argues that effective international maritime governance requires a combination of political will and cooperation among states, and that compliance requires states to accept their responsibilities to adhere to international law. I have developed a research design that seeks to understand state behavior, including when states decide to

comply and why states enforce certain rules upon themselves and on each other. I argue that when major powers are detrimentally affected by illegal actions, they work together to confront transgressions. But when major powers are not affected or involved, unregulated and illegal behavior is allowed to continue.

Furthermore, when illegal and unsustainable practices at sea directly affect the economies of major states, it will embolden them to act together in order to solve a collective action problem. I further argue that when international law, domestic law, and state power are working in conjunction with one another, maritime governance is most effective. When states can declare jurisdiction for violations in international waters, formally try criminals and violators in formal courts, and establish an enforcement mechanism that can deter future behavior, states will be better equipped to resolve collective action problems on the high seas. However, if political will and any of these other criteria fail to exist in an international collaborative framework, collective action problems such as piracy or illegal, unreported, and unregulated fishing (IUU fishing) will continue to go undeterred, presenting even greater problems for states in the future.

This thesis' research design is intended to explain and measure the effectiveness of maritime governance by exploring state behavior in two important policy areas. The first policy area discusses the international efforts to combat piracy to ensure the freedom of navigation. The second policy area discusses state behavior with regards to IUU fishing and its impact on sustainable extraction of resources from our oceans. In examining these policy areas I seek to explain why states are able to, in some cases, coordinate together and provide effective governance, while in other cases, states fall short of their goals or cannot effectively work with one another. All case study analyses are qualitative

in nature and will provide an in-depth analysis into why some situations that fall within the scope of maritime governance were successful, while others were not. I intend to explain the reasons why the efforts to combat piracy have been mostly successful, but the efforts to curb illegal, unreported, and unregulated fishing have been unsuccessful and continue to erode our ability to sustainably harvest resources in the ocean.

Chapter 2: Background and Literature Review

Anarchy and the Balance of Power

To begin understanding the international maritime governance regime, it is important to acknowledge how the international system is structured, the role that power has on the treaty-making process, and whether states comply with the law once they have ratified it. The international system is often described as anarchical because states do not empower a world government to provide security to conduct foreign policy. The anarchic nature of this system enables states to conduct their own social relationships with other states by seeking enough power to preserve its existence and to negotiate or challenge other states when necessary. Power is often defined as the production of effects that shape state behavior through its social interactions with other state actors (Barnett and Duvall, 2005, 42). Power in this sense is a finite resource that all states seek to preserve and possibly gain. The structure of international institutions reflects the asymmetrical power between states. Power can be exercised in a number of different ways; this includes controlling the actions of another state or creating international institutions and establishing rules and operating procedures (Barnett and Duvall, 2005, 50-51). Power can also relate to the capacity that a state has available to be able to provide resources towards a common purpose. Asymmetry of power often leads states to work together to ensure global governance on various subject matters; institutions are established to coordinate states' policies and the writing of international law is a construct of the spread of power throughout the system (Barnett and Duvall, 2005, 57-58).

When piracy became increasingly prevalent in the early 2000s off the coast of Somalia, states took unprecedented measures to work with each other to combat this

criminal activity. Piracy was allowed to prosper in Somalia due to its poor economic conditions leading people to resort to holding boats ransom, severely disrupting trade flow in the region (Levin, 2015, 261-262). In order to better address the issue, developed countries worked with developing countries in the region to build their legal capacity to try pirates in formal courts and develop national strategies that would proactively go after pirates in order to undermine their networks (Beekarry, 2013, 164; Hodgkinson, 2013, 153-154). Due to this unprecedented level of cooperation among states, pirate networks have been undermined and the freedom of navigation has been preserved (Yurika, 2014, 347). This case is often seen as an example of how to better address piracy in other parts of the world, including West Africa, where piracy has increased in recent years (Hodgkinson, 2013, 155-156).

It is generally viewed that balancing power in order to prevent the dominance of a hegemonic power is essential to stability in a multi-state international system (Claude, 1989, 78). Claude further argues that balancing relative power among states also allows for promoting expectations of moderate behavior that allow for stability and security of the international system (Claude, 1989, 80). This runs in direct contrast with collective security regimes, since collective security requires states to put international peace and security ahead of national interest which puts tremendous costs on states to preserve this system (Claude, 1989, 83). Balance of power scenarios allow states to act rationally while pursuing their own national interests but it also allows for treaty regimes to develop. Although power is distributed unevenly throughout the international system, actions such as sharing intelligence and capabilities among one another have the ability to allow states to pursue common interests and close gaps in uncertainty that often prevents

states from cooperating with one another or complying with agreements (Nye, 2004, 261). When states adhere to certain norms and treaty obligations they can both enhance their ability to exert influence while also retaining a reputation as a helpful partner in promoting peace and security.

How Norms Become International Law

The United Nations Convention on the Law of the Sea originally began as customary international law, or a law that is unwritten but widely recognized throughout the international community. These unwritten laws are derived from international norms, which constrain state behavior based on “shared ideas, expectations, and beliefs about appropriate behavior” which is meant to give the international order more structure and stability (Finnemore and Sikkink, 1998, 894). The beginnings of UNCLOS could be traced back to the 17th century, when states determined that sovereign territory be defined by the cannon-shot rule, which determined that territorial waters would be decided by how far from the coast a state’s cannons were able to fire (Vignocchi, 2015, 792-793). Norms are considered successful if they become widely recognized models of successful diplomacy, or diffuse in states’ recognition (Finnemore and Sikkink, 1998, 906); norms recognizing maritime boundaries fit this criteria and had been enforced long before UNCLOS, thus proving the strength of international norms recognizing sovereignty of territorial waters (Finnemore and Sikkink, 1998, 906-907).

Although the law of the sea norms persisted for centuries, there was a strong push after World War II towards codifying these norms into legally binding treaties. Treaties by nature are meant to constrain state behavior and place reputational costs onto a state that breaks treaty obligations (Simmons and Hopkins, 2005, 623). By signing a treaty, a

state has committed to a certain policy position and stakes its own reputation by complying to the terms of that particular treaty; this is due to the fact that there are usually domestic reforms that may need to take place and there are major consequences for renegeing on an agreement (Simmons, 2000, 819; Simmons and Hopkins, 2005, 624). Most every country has either signed and ratified UNCLOS or has complied with its basic tenants. However, noncompliance is still a major area of concern.

Treaty Compliance

The most difficult challenges regarding compliance are encountered when international law is in the process of implementation. Treaty compliance is one of the basic principles of international norms (Chayes and Chayes, 1993, 185). However, treaties are often viewed as an endogenous behavior; states are more willing to ratify treaties that they are already likely to comply with and will shy away from treaties that they are more likely to violate. Additionally, negotiating more favorable terms often has costs associated with it (Downs, Rocke, and Barsoom, 1996, 383). The Law of the Sea negotiations revealed that there were many divergent national interests. Some states were not able to obtain all their objectives and settle for a more satisfying deal was more palatable for the international community at large (Chayes and Chayes, 1993, 183). Evidence has shown that international agreements are mostly complied with because states generally do not have to make considerable reforms, even in the absence of a treaty, to be in compliance to the terms dictated in the agreement (Downs, Rocke, and Barsoom, 1996. 379-380). Treaties are voluntary, so if a state does not wish to enter into an agreement that is linked to its national interests, it will not become a party to that agreement (Chayes and Chayes, 1993, 179).

However, some scholars believe that international agreements actually have the ability to alter state behavior, relationships, and expectations among parties to the agreement (Chayes and Chayes, 1993, 176). This is due to the fact that the terms of any treaty are often debated at the intergovernmental level for many years; UNCLOS took ten years to negotiate and included multiple committees and working groups to discuss a variety of related topics that would shape the final agreement (Chayes and Chayes, 1993, 182). Once a final deal is reached, it is considered a comprehensive conformation of varying national interests.

Although an international treaty represents the conforming of national interests and expectations among states, that does not guarantee that a treaty will be complied with, or complied with at all times. International treaties are held to a standard of what is considered “acceptable” behavior under its guidelines, meaning that strict compliance is not always necessary in order for the treaty to remain relevant (Chayes and Chayes, 1993, 176). Certain factors may hamper a state’s ability to comply with a treaty, such as 1) ambiguity of treaty language, 2) state’s capacity limitations, and 3) social and economic changes that are outside the control of the treaty (Chayes and Chayes, 1993, 188; Downs, Locke, and Barsom, 1996, 380-381). What determines whether a state is still within compliance of an international treaty is based upon what other parties to the treaty believe is acceptable (Chayes and Chayes, 1993, 202).

A state’s ability to comply with a treaty can be improved over time because a treaty may have certain mechanisms in place that may help induce a state’s overall compliance. Some strategies that can be utilized to induce compliance include “(1) improving dispute resolution procedures, (2) technical and financial assistance, and (3)

increasing transparency” (Downs, Rocke, and Barsoom, 1996, 381). The Law of the Sea in particular allows states to settle disputes through the International Tribunal for the Law of the Sea, a court generally viewed as impartial, fair, and legally binding on all the involved parties (Tzeng, 2016, 246). However, these mechanisms may not guarantee that a party will continue to frequently renege on the agreement or disavow any legally-binding mechanism to compel the party to comply with its treaty obligations.

Enforcement of International Law

The next challenge that states face is how to enforce obligations under a treaty; the Law of the Sea and other treaties defining acceptable behavior at sea are no exceptions. The enforcement of any international agreement falls within the scope of the Prisoners’ Dilemma, whereby one party may have incentive to renege in the short term while other parties may be in compliance with the treaty. In the long run, agreements will work when parties are continuously playing this game until a favorable outcome is achieved (Fearon, 1998, 276-277). One variable that determines the success of an agreement is the length of time the treaty is expected to remain in place. For treaties with a long-term commitment, such as UNCLOS, states do not expect random shocks that undermine the strength of the agreement. The ability to negotiate such an agreement in the first place is relatively low (Fearon, 1998, 294). If noncompliance is the norm of a particular treaty arrangement, the problem may lie in the original design of the treaty, which inadequately addresses the issues it is meant to resolve (Chayes and Chayes, 1993, 183; Fearon, 1998, 274). If this is the case, it may be necessary for the parties to renegotiate the terms of the treaty or strengthen enforcement and compliance mechanisms to achieve a favorable outcome to all the involved parties.

The research presented in this thesis will demonstrate the extent to which international law can be enforced. Whenever an issue is considered a priority and vital to national interest, states will align with other likeminded powers to create regimes that can be used to effectively channel resources towards achieving a common purpose. The regimes or institutions that states create as a result can be highly complex but highly effective at addressing vital state interests. However, those issues that are lower priority, are often neglected. Institutions or regimes that may exist to address these lower priority issues may not have the necessary resources to effectively tackle those problems.

Much of the research that focuses on enforcement issues within international institutions or organizations discuss how formal dispute resolution measures are an effective way to ensure compliance to international treaties and regime rules. However, the case studies that will be presented later on in this thesis deal with institutions or agreements that do not possess formal dispute settlement resolutions. Issues dealing with piracy are often through bilateral agreements that may authorize the use of force, while illegal, unreported, and unregulated fishing has a number of institutions whose responsibilities overlap and requires states to enforce measures upon themselves. I wish to provide new research on how enforcement can be achieved in these regimes in the absence of dispute settlement mechanisms and whether these agreements have an enforcement gap as a result of not having formal dispute settlement mechanisms.

Chapter 3: The Rule of Law: The Political Incentive to Act, International and Domestic Law, and State Capacity

Effective maritime governance requires that certain criteria be met. The first step of the process is whether states have the political will to contribute towards a particular regime. States will conduct international relations based on their most important self-interests; they create a hierarchy of these interests and conduct business based on what's most practical within that time and space. When states have aligned their interests they will contract with one another to create regimes or institutions, based on laws that will bind each other and enhance their mutual national interests. International law is meant to limit state behavior, which can have the overall effect of enhancing state security, limiting the necessity for renewing contracts, and promoting stability in an international system that is characterized by its anarchic nature (Henkin, 1979, 29). International law can have an array of characteristics that shape how it is implemented and enforced, such as whether treaties are bilateral or multilateral, or whether flexibility is allowed for convenience (Henkin, 1979, 30).

Institutions and regimes are usually created through international law which delegates how authority is distributed and reduces transaction costs across all the involved parties to ensure that commitments remain credible (Abbott and Snidal, 2009, 21-22). These institutions can be a construct of customary law and norms, also known as soft law, while others can be built around binding rules that are made to keep all parties within check. Binding agreements between states provide stronger legal protections than those that are only non-binding. Legally binding law also ensures that renegeing on commitments is minimized and allows for better enforcement of state responsibilities

(Abbott and Snidal, 2009, 24). This also increases the legitimacy of international law (Abbott and Snidal, 2009, 24). Non-binding agreements can be diluted to a point where all parties disregard their obligations and cheat the system. These are often described as free-rider problems, where one state shoulders the burden of maintaining the system, while other states do not take on any of risk.

Since these interests are of mutual importance, states agree to provide the necessary resources to resolve and secure them. The resources that states contribute towards certain issues are measurable which can be monetary, labor, or technology related. Binding agreements in international law come with high contracting costs, which are the costs a state must incur in order to implement the law (Abbott and Snidal, 2009, 31). Laws that delegate enforcement or dispute settlement authority limit state sovereignty in enforcing agreements, and is primarily the reason why some countries like the United States have not ratified the United Nations Convention on the Law of the Sea (UNCLOS) (Abbott and Snidal, 2009, 33-34). Regimes have the power to enhance cooperation among states, primarily by providing and sharing information with each other, they can better coordinate their efforts.

The second step is to establish jurisdiction for violations and crimes that take place in international waters. UNCLOS establishes state territorial waters that lie within 12 nautical miles of a nation's coastline. Within territorial waters, the state has the ability to enforce its domestic laws under its national jurisdiction (Oxman, 2009, 405). Under UNCLOS, states also have the ability to claim 200 nautical miles from their coast as an exclusive economic zone (EEZ). Within an EEZ, the state has the power to exploit resources and restrict access to other states who also wish to extract resources (Oxman,

2009, 405). This means that beyond 200 nautical miles from a nation's shoreline, and outside of the EEZ, is considered international waters, and states are obligated by conventional norms and customary law to protect the freedom of navigation. This implies that whatever takes place in international waters is generally beyond a state's sovereign territory, and therefore, beyond that state's traditional jurisdiction, unless that infraction incurred within a state's EEZ.

The idea behind UNCLOS was to prevent any one state from establishing hegemony over the oceans and it has been abided by even among those states with powerful navies, including those states that have not ratified the treaty (Henkin, 1979, 35). States are given certain rights to be able to deploy enforcement resources wherever needed to protect their national interests on the seas (Oxman, 2009, 408). A ship sailing in the seas will fly a national flag, which identifies which state has the jurisdiction over that ship; this state is known as the flag state and is responsible for enforcing its national laws over that ship (Oxman, 2009, 410). This has allowed states to have the ability to enforce laws upon those individuals who may be involved in criminal activity by establishing state jurisdiction (Henkin, 1979, 35). Under UNCLOS, states are given the responsibilities to manage resources responsibly and protect the environment, which includes issues such as fisheries management (Oxman, 2009, 412-413). These responsibilities include issuing fishing licenses to foreign vessels and setting total allowable catch limits (Oxman, 2009, 412-413). The law also provides for delegating to states which ships have access to ports and markets, these states are called port states (Oxman, 2009, 410).

In order to successfully prosecute violations or crimes in international waters, states must make agreements that establish jurisdiction in areas beyond a state's territory, such as establishing universal jurisdiction, or making commitments to impose jurisdiction onto individuals entering within its territorial waters. Establishing jurisdiction under the law is necessary to provide states with the authority to prosecute criminals and other transgressors in formal courts. International law will determine which states or institutions that have the responsibility and the capacity to establish jurisdiction in order to best coordinate their efforts. States have the ability to either incorporate international law within its domestic framework in order to prosecute violators in national courts, or they can delegate that authority to international tribunals (Higgins, 2010, 205). States that lack the capacity to try criminals in national courts can defer to alternative measures in order to ensure justice against unlawful acts. In other words, states may make arrangements to prosecute criminals in another state's court system.

Since enforcement in cases like piracy and IUU fishing are collective action problems, states must determine where to try criminals. Without the ability to declare jurisdiction, states do not have the rights or necessarily the means to prosecute those individuals who are responsible for crimes and other violations in international waters, which allows for noncompliance with international agreements to continue. States will generally not ratify international agreements with which they do not intend to comply. Treaties themselves allow states to make minor adjustments to their national policies in order to better enforce compliance (Downs, Rocke, and Barsoom, 1996, 380; Simmons and Hopkins, 2005, 624). States are more willing to comply with international law if the law has the following measures: "(1) improving dispute resolution procedures, (2)

technical and financial assistance, and (3) increasing transparency” (Downs, Rocke, and Barsoom, 1996, 381). Noncompliance to a treaty can have great costs to a state, therefore a state would be more reluctant to join a treaty if they anticipate noncompliance at a future point (Simmons and Hopkins, 2005, 624).

The third necessary criterion is to have strong domestic institutions that that can effectively impose the rule of law. This means that states must possess the court and penal systems and laws necessary to effectively prosecute transgressors for crimes and/or violations that take place on the high seas. Strong institutions themselves can act as a deterrent to violators for fear that they may be imprisoned or severely fined for illegal activity. Establishing effective penalties such as prison sentences, can be effective in preventing criminal activity. The research presented later in this thesis will demonstrate that states with capable domestic institutions can effectively mitigate illegitimate behavior and strengthen the international community’s ability to seek progress on collective action.

Weak institutions do not have the ability to exact punishment on violators; therefore, illegal activity would continue to persist, despite the law. Criminals have the natural tendency to exploit weaknesses in state and international enforcement to further their interests and pose the greatest challenge to international governance (Williams, 2002, 106). This has the effect of interrupting trade flows and unsustainable practices related to resource extraction. Weak domestic institutions also present compliance problems. If a state cannot effectively prosecute bad actors it cannot achieve compliance under the law, therefore undermining the whole treaty regime. Weak capacity allows criminal behavior to thrive. The increasingly global economy also allows criminals to

hide assets and move finances quickly and provides them with the ability to penetrate state institutions in order to erode the enforcement capacity that would be needed to neutralize their behavior (Williams, 2002, 106-107).

And lastly, the final requirement is the ability of states to project power and the political will to use it. Power is not only the ability to pressure states to do something they would not have ordinarily done, but also the capacity to contribute to resolving collective action problems. States actively use whatever power and resources available to them to protect their national interests, and they will use these to protect themselves from states as well as non-state actors (Barnett and Duvall, 2005, 40). In other words, governance along the high seas requires a formidable navy to not only protect sovereign territory, but also to be deployed to ensure the freedom of navigation. Some countries with a strong navy, such as the United States use their capabilities to pressure states to accept their interests (Barnett and Duvall, 2005, 41).

This ability to project power is only possessed by a few states, however, states all have a vested interest in maintaining global trade flows to continue and to remain uninterrupted. The ability to project force, or the threat to use force, in international waters acts as a deterrent to those who would inhibit the rights of people to move freely. States that do not possess this power to enforce laws effectively severely hamper international efforts to combat transnational crimes. These states even provide some level of sanctuary to criminals as a result of their inability to enact law enforcement (Williams, 2002, 140). However, this can be prevented if states work with one another to build capacity to better monitor what occurs within their national jurisdictions (Williams, 2002, 142).

The enforcement part of this regime also includes ways in which states punish criminals and violators. For example, this includes if states can extract fines for unsustainable fishing practices or if they can incarcerate pirates. This capacity acts as a deterrent for future behavior; individuals who would normally have contributed to the problem now have legitimate fear that their activities can lead to arrest, economic loss, or incarceration. The EEZs established under UNCLOS have allowed for better resource management and enforcement of fisheries. Prior to UNCLOS, the state neither had the political will nor the authority to punish fishermen for over fishing (Downs, Roche, and Barsoom, 1996, 395). By establishing the 200 nautical mile of jurisdiction over the seas, states were given increased capacity to enforce the rule of law and the management of resources (Downs, Roche, and Barsoom, 1996, 395).

An effective maritime governance regime requires that all four criteria are present. Without the collective political will, states cannot reach an agreement to address any international issue. Legally binding agreements tend to allow states to affirm and challenge each other's commitments towards reaching their shared goals. States must also fuse international agreements and obligations into domestic policy objectives and laws, otherwise they lack the resources necessary to uphold international agreements. Finally, states must possess and apply imposition resources effectively, to enforce the rule of law within their own territories and wherever their strongest national interests arise.

Chapter 4: Piracy as a Case Study

Maritime piracy and armed robbery at sea have been issues since the beginning of recorded history. New technology and methods have transformed this criminal act over time, making it much more sophisticated and lucrative than ever before. In a globalized world where goods are constantly traversing the oceans, piracy has the capacity to severely disrupt trade, increase prices for consumer goods, and fund terrorist organizations. In the golden age of piracy in the sixteenth and seventeenth centuries, pirates often targeted merchant ships within strategic waterways to plunder cargo. Today's maritime piracy has followed this trend, but has also incorporated ransom hijacking of cargo ships as a tactic and then ransoming the crew and the ships for enormous sums of money (Levin, 2015, 261-262). What has complicated matters in the modern age is the ownership. The East India Trading Company for example previously had full ownership of their ships, crew, and cargo (Levin, 2015, 263; Youngs, 2014, 820-821). Today however, the ships, cargo, and crew are all from different countries, making matters much more complex in terms of jurisdiction and more international by nature (Levin, 2015, 263; Youngs, 2014, 820-821). For the purposes of this thesis, instances of piracy and armed robbery at sea will be called piracy, unless otherwise noted. The International Maritime Bureau (IMB) defines piracy as "an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act" (Onuoha, 2013, 274).

Nature of Maritime Piracy: Causes and Effects

The recent scourge of piracy and armed robbery at sea began in the 1990s with the end of the Cold War. This was a result of political and economic instability in the

developing world and the decrease of strong naval presences along important trading routes (Yurika, 2014, 336). By 2000, piracy has been predominant in three areas of the world: the Somalian Coast, the Gulf of Guinea, and the Strait of Malacca. In each case the causes and nature of piracy are different which presents individual challenges for the international community to consider. Piracy and armed robbery at sea can be considered rational criminal actions if the likelihood of arrest and prosecution remain low. And if the government is unable to crackdown on criminal activities, the chances that piracy occurs only increases, becoming an international threat (Daxecker and Prins, 2015, 701). Geography also plays an important factor. Inlet waterways and long coast lines provide safe haven for many pirate groups and make it difficult for policing (Daxecker, and Prins, 2015, 701). Aside from the lack of enforcement capabilities, piracy is fostered through specific narratives of economic and cultural marginalization, where communities operate in a more informal economy based on clan ties and are mostly left out of the more “legitimate” formal economy and therefore are not prospering in a globalized market (Hastings and Phillips, 2015, 556). This narrative often includes feelings of injustice, where more powerful actors are responsible for maintaining a system were poorer communities continue to be marginalized, a sense that only pirates can protect the community from outside threats, a de facto coast guard, and strong feelings of nationalism and the desire to regain control of one’s territory (Hastings and Phillips, 2015, 564). Additionally, sovereignty prevents navies from pursuing pirates within the jurisdiction of another state and allows them to evade capture and organize future attacks (Daxecker and Prins, 2015, 701-702).

Piracy originating from Somalia's coast began around 2005; these attacks were primarily focused in the waterways of the Red Sea, the Arabian Sea, and the Indian Ocean (Affi et al, 2016, 934). The threat of piracy from Somalia had major global implications. Around 40% of global trade goes around the Horn of Africa; and, in 2011 alone, piracy cost the global economy around \$6.6-6.9 billion with major liabilities paid by the shipping industry (Youngs, 2014, 810). Overall, the costs to ship goods through this part of the world cost the global economy an additional \$18 billion (Youngs, 2014, 810). Insurance premiums for cargo ships traversing through the waters around Somalia have cost the shipping industry an additional \$423 million to \$437 million in 2012 (Onuoha, 2013, 286). Somali piracy is characterized by the highjacking and ransom of cargo vessels and their crew (Hastings and Phillips, 2015, 558). Pirates operating off the coast of Somalia use a team of small ships led by a mother ship as a command-and-control center. Pirates have access to modern technology such as GPS, and are financed by powerful warlords who have turned ransom into a profitable enterprise (Hodgkinson, 2013, 148). At its peak in 2011, Somalia's piracy operations included a handful of financiers distributing money to approximately 50 main pirate leaders who led 300 attack groups comprising of about 2,000 foot soldiers (Hodgkinson, 2013, 148). Their operations were successful enough to cause \$25 billion worth of damages and ransoms greatly fed these criminal organizations (Hodgkinson, 2013, 148). Somalia has weak domestic and economic institutions that have allowed this form piracy to thrive. Those who highjack cargo ships are not necessarily interested in selling the goods they capture. But, the lack of enforcement by Somali officials and the lack of proper infrastructure allow for the sell pirated goods. In most cases, pirates to seize ships and hold them

hostage for long periods of time awaiting ransom payments (Hastings and Phillips, 2015, 558). Hostage negotiations are often carried out on the ship that was seized (Hastings and Phillips, 2015, 562-563). Somalia's pirates have demonstrated highly sophisticated logistical support for ransom negotiations, using payments as a constant source for funding future operations which is emblematic of a highly organized criminal enterprise. Negotiators use cell phones to liaise between pirate bosses and ship owners and possess foreign language skills that allow them to effectively negotiate payments (Youngs, 2014, 811-812). In 2011, thirty-one ransom payments totaling close to \$160 million, with an average payment of nearly \$5 million, were paid by ship owners to pirate groups and payments were used to purchase arms and facilitate future attacks (Youngs, 2014, 812; Onuoha, 2013, 284). Ransoms are believed to finance extremist groups, particularly Al-Shabaab in their war with the United States and the internationally-recognized Somali government (Beekarry, 2013, 163). As a result of piracy off Somalia's coast, aid deliveries to the region have been riskier and more costly (Beekarry, 2013, 163).

In recent years, the Gulf of Guinea in Western Africa has increasingly become a hotbed of piracy. Piracy in this region is of a vastly different nature than piracy in the Horn of Africa. In contrast to Somalia, piracy in this part of the world does not generally take place in international waters, but within territorial waters of the states in that region. Although these acts technically constitute "armed robbery at sea" as opposed to "piracy" under international law, they still pose a threat to global shipping and have many of the same underlying causes as piracy that takes place in international waters (Kamal-Deen, 2015, 94). The western coast of Africa produces about 70% of the continent's oil production and includes a number of countries including: Angola, Benin, Cameroon,

Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo (DRC), Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Nigeria, Republic of Congo, São Tomé and Príncipe, Senegal, Sierra Leone, and Togo. Mineral resources and large fishery reserves are also threatened as a result of piracy in the region (Onuoha, 2013, 269). However, oil and mineral wealth have rarely translated into economic gain for populations within those countries, many of which deal with socioeconomic problems as a result of corruption and lack of good governance, often leading to political instability (Otto, 2014, 316). Nigeria has been at the center of this conflict, accounting for about 80% of all piracy-related cases (Kamal-Deen, 2015, 97). A number of armed militant groups, collectively known as The Movement for the Emancipation of the Niger Delta (MEND), have emerged demanding a greater share of the oil profits from the Nigerian government and oil producers (Onuoha, 2013, 268; Kamal-Deen, 2015, 97; Otto, 2014, 318). Pirates in the Gulf of Guinea have adopted similar methods to their Somali counterparts, including the use of the mother-ship whereby pirates use this ship as the command-and-control center and use smaller vessels as a means to get close to cargo ships (Kamal-Deen, 2015, 101). However, instead of holding ships or crew for ransom, these pirate groups specifically target vessels with refined oil. The oil they steal is sold illegally throughout the region (Hodgkinson, 2013, 149; Kamal-Deen, 2015, 101). Piracy in the Delta region has been allowed to thrive due to lack of effective domestic governance. Countries in this region lack the institutions to alleviate poverty and lack the enforcement capabilities to protect their coasts and internal waters from pirate attacks (Kamal-Deen, 2015, 106). In Nigeria in particular, high levels of corruption and ongoing conflict with armed extremist groups in the region has

exacerbated the threat of piracy throughout the Delta region (Onuoha, 2013, 271; Otto, 2014, 314). This has allowed pirates to extend their attacks beyond territorial waters and become an international problem with an increasing number of attacks taking place in international waters (Otto, 2014, 314; Kamal-Deen, 2015, 104). Additionally, the international effort to combat piracy in this part of the world has been limited due to the territorial nature of piracy in the Delta region. International law, which will be discussed in further detail later on, states that action against piracy must take place outside of territorial waters (Otto, 2014, 314). Most attacks occur within the 12-mile territorial boundary outlined in UNCLOS (Onuoha, 2013, 273).

The Strait of Malacca is the third region with some of the highest levels of piracy throughout the world. This is a crucial waterway, that runs between Indonesia to the west and Malaysia and Singapore to the East, and roughly one-third of all cargo ships travel through this narrow passage as a means to transport goods between East Asia and Europe and the Middle East (McGahan and Lee, 2015, 532). Around 60,000 ships traverse the Strait of Malacca annually, constituting about 30% of all global trade and 50% of oil supplies. Piracy in this area threatens to slow down trade throughout the region and can potentially damage the environment if an oil tanker is damaged as a result (Baird, 2012, 502). This waterway is crucial for energy imports to East Asia through which 90% of Japan's energy imports and 70-80% of China's energy imports traverse (McGahan and Lee, 2015, 532). Piracy around the Strait has resulted from poverty, particularly after the 1997 Asian financial crisis. Many people in this area rely on fishing as a source of income and have been mostly left out of the economic gains that Southeast Asia has experienced since the 1997 financial crisis. Many of these populations see piracy as a

means to make quick money with relatively low risk (Baird, 2012, 504). Pirates in the region had been known to board ships at night and grab whatever loose goods that they could find; however, this has shifted to a more Somali-style attack where pirates hold vessels and crew for ransom (Baird, 2012, 505).

International Law: International Action and Universal Jurisdiction

The international law concerning piracy began as international customary law, or law that is unwritten but widely acknowledged as normal state behavior. International law and prosecution of pirates can be credited to Hugo Grotius, who defined piracy as *hostis humanis generis*, meaning that piracy is a crime against all of humanity (Beekarry, 2013, 162; Youngs, 2014, 820). The legal theory behind Grotius' argument is that commerce and, by extension, trade are necessary for the preservation of humankind and all individuals can exercise these rights; thus, no nation can prohibit trade or access to markets nor are they capable of claiming jurisdiction of the high seas (Garrod, 2014, 203). Under Grotius' argument, the freedom to navigate and trade is a human right therefore piracy, which wishes to harm that right, is an egregious act that all nations are responsible to suppress (Grotius, 2014, 38). As a result, all nations were given the jurisdiction to protect the freedom of navigation and trade on the high seas, using force when necessary to protect important trade routes from criminals as well as other states (Garrod, 2014, 207). This legal framework defined the "golden age of piracy" as the seventeenth and eighteenth centuries.

Among some of the issues that make combating piracy a challenge is the way it is defined in international law. The 1982 United Nations Convention on the Law of the Sea (UNCLOS), within Articles 101-107, defines piracy as "(1) an act of violence, detention

or depredation; (2) on the high seas; (3) committed for private ends; and (4) by the crew or passengers of one private vessel against those of another vessel” (Beekarry, 2013, 162; Affi et al, 2016, 934). As a result of piracy off the coast of Somalia, the United Nations Security Council invoked Chapter VII of the UN Charter which obligated states to use whatever resources necessary to suppress piracy in the waters around Somalia, including the use of force (Affi et al, 2016, 934). The international community implemented a multi-pronged strategy that effectively suppressed piracy around Somalia. Under UN Security Council Resolution 1851, the Council authorized the use of force against pirates within Somali territory (Obert, 2014, 205). Part of this strategy involved the elimination of pirate safe havens within Somalia such as the 2012 raid of a pirate safe haven in Haradheere conducted by the European Union Naval Forces (EUNAVFOR). The raid destroyed many of the skiffs that the pirates had used to hijack cargo ships (Obert, 2014, 198; Hodgkinson, 2013, 150). By attacking pirates’ onshore command centers, EUNAVFOR was able to damage pirate logistics and the ability to sustain their attack operations (Obert, 2014, 202-203). EUNAVFOR was given further legal authorization to suppress piracy on Somalia’s coast as a result of the Somali government’s consent to the use of force on its land (Obert, 2014, 203-204). As a sovereign state, Somalia ultimately grants the final authority on whether the international community (NATO and EUNAVFOR) can conduct independent military operations within its borders (Obert, 2014, 210; Hodgkinson, 2013, 151).

The North Atlantic Treaty Organization (NATO) also increased naval patrols around Somalia called Operation Allied Provider to escort World Food Program vessels, which was later followed by Operation Allied Protector and Operation Allied Shield

which made a significant impact on curbing piracy around Somalia (Hodgkinson, 2013, 150). The naval patrols operating in the waters around the Horn of Africa have established a comprehensive rule of engagement that allows them to “board vessels, arrest and detain persons suspected of taking part in piracy, and use force to stop a pirate vessel or intervene in a hijacking “(Blank, 2013, 406). Enhanced cooperation among these navies has produced better enforcement capacity in Somalia’s waters (Blank, 2013, 406). The international community also coordinated efforts to establish the cargo industry’s best management practices (BMPs) which included registration and reporting to regional organizations such as the EU and practices for protecting ships (Madsen and Kane Hartnett, 2014, 69). The coalition group working around the Horn of Africa was known as the Contact Group on Piracy off the Coast of Somalia (CGPCS). The group coordinated antipiracy measures among all stakeholders in the region, including the Somali government, European naval patrols, maritime regulatory agencies, and the shipping industry (Madsen and Hartnett, 2014, 68). This later developed into the Djibouti Code of Conduct, which is a nonbinding group of stakeholders interested in combatting piracy. Its code addresses issues such as the arrest and prosecution of pirates, investigation, rescue of hostages and ships, and coordination among naval patrols and national governments to evaluate antipiracy laws (Madsen and Kane-Hartnett, 2014, 71-72).

A similar framework has developed in the Strait of Malacca between Indonesia, Malaysia, and Singapore, but has had limited success in combatting piracy. In 2004, these three countries formed a naval patrol task force called MALSINDO (incorporating the names of the three states) which later became the Malacca Strait Patrols, and

incorporated a mechanism which allowed for some “hot pursuit” rights, which allowed for states to pursue pirates in another state’s jurisdiction (McGahan and Lee, 2015, 530). Indonesia is an archipelago state comprised of 17,000 islands which would require it to spend extraordinary amounts of money to patrol its waters. Therefore, this regime also allows the parties involved to share the costs and capabilities (McGahan and Lee, 2015, 534). As members of the Association of Southeast Asian Nations (ASEAN), they insist that sovereignty and non-interference in domestic policies must remain the core principles of this anti-piracy campaign (McGahan and Lee, 2015, 540).

The makeup of the anti-piracy regime in Southeast Asia can be classified as norm subsidiary, whereby weaker states band together to protect their autonomy from more powerful actors, particularly the Western powers, and regulate the rules and responsibilities among themselves. This is developed as a means to protect themselves from outside influences emanating from more dominant actors that might exploit the vulnerabilities of weaker individual states (McGahan and Lee, 2015, 536-537). However, the efforts of this regime have not resulted in any significant decrease in piracy-related incidents in the Strait of Malacca. In recent years, however, these countries have worked with other regional partners, including China, to increase naval patrols in international waters (Manjiao, 2013, 115). As a major global market power, China is highly vulnerable to piracy issues, which harms its ability to conduct trade (Manjiao, 2013, 113). Although China is involved through its obligations through the 2006 Regional Cooperation Agreement on Combatting Piracy and Armed Robbery Against Ships (ReCAPP), which has enhanced regional cooperation (Manjiao, 2013,

114), it still lacks the domestic laws necessary to prosecute pirates effectively (Manjiao, 2013, 117-118).

Weaknesses related to an international response can also be seen in the Gulf of Guinea, where the UN Security Council has not directed any resolutions towards the matter and has resulted in “catch and release” policies, where captured pirates are sent back to their country of origin (Kamal-Deen, 2015, 108). These pirates are unlikely to face prosecution or serve prison sentences upon their return (Kamal-Deen, 2015, 108). The United States and European Union have directed resources towards the area to combat piracy, but their operations are limited to incidents in international waters (Kamal-Deen, 2015, 109). The states along the Gulf of Guinea have formed a group called the Maritime Organization of West and Central Africa (MOWA), which also has support from non-littoral states, but it has not fully implemented any concrete programs to mitigate the piracy epidemic in the region (Otto, 2014, 323). It is important to note that many piracy-related incidents in the Gulf of Guinea take place within territorial waters and are therefore not subject to the jurisdiction of another state’s courts.

A second tactic that helped to deter pirates in Somalia was the employment of private maritime security companies (PMSCs) to protect cargo vessels traveling through the area; the justification being that cargo ships from the United States and United Kingdom that have had PMSCs aboard have not been hijacked by pirates and the practice has been highly encouraged throughout the shipping industry (Affi et al, 2016, 934). The responsibilities of PMSCs are two-fold; first, PMSCs are tasked with protecting cargo ships around the Horn of Africa by preventing hijackings and pirate attacks (Affi et al, 2016, 935). The second task involved working with the Somali government to protect its

coastal waters from illegal activities including cracking down on illegal fishing and training the Somali Coast Guard (Affi et al, 2016, 935). The hiring of PMSCs has had some drawbacks. PMSCs can pose challenges to human rights since PMSCs operate outside the jurisdiction of international law. The freedom of navigation can be disrupted if a PMSC does allow commercial ships to pass through areas freely, and they can produce confusion over the chain of command of a ship (Affi et al, 2016, 935). PMSCs found to be violating international law are often not held accountable (Affi et al, 2016, 940). There have been many problems with PMSCs operating within Somalia that have resulted in high turnover (Affi et al, 2016, 937). The issues resulted from funding issues, profit sharing, and changes in Somali leadership (Affi et al, 2016, 937). Another issue with hiring PMSCs is their cost on the shipping industry. A shipping company will hire a team of four guards to protect a ship travelling through a high-risk area that can cost about \$45,000 per trip and has driven up insurance costs throughout the industry (Hodgkinson, 2013, 153). In 2012, 25%-40% of cargo ships travelling around the Horn of Africa had armed security personnel aboard at an additional cost of \$1.1 to \$1.5 billion (Affi et al, 2016, 937).

A third approach that the international community took to combat piracy off the coast of Somalia was to organize regional prosecution networks, where pirates captured in international waters can be brought to a criminal court in another country with a stronger rule of law in order to prosecute them for piracy. These networks have largely been incredibly effective in seeing that criminals go through a formal court and serve jail time. It has also been responsible for deterring piracy around Somalia. These networks were a two-step process. First, a state that had captured pirates at sea would make a

formal agreement with another state to transfer detainees to face a court that was willing to prosecute pirates (Beekarry, 2013, 168). Second, another transfer agreement would be established to move those convicted of piracy to serve sentences in a state that was willing to hold them (Beekarry, 2013, 168). This second agreement was necessary because many of the states that prosecuted pirates often lacked the capacity to detain prisoners or were overburdened with the number of criminals they were prosecuting (Beekarry, 2013, 168). For example, the regional governments within Somalia established formal agreements with the Seychelles and Mauritius in 2011 and 2012 respectively; both countries would prosecute pirates in their courts, but had limited capacity to detain prisoners, and agreed to transfer prisoners back to Somalia to serve their sentences as long as the treatment of prisoners was respected and complied with international human rights law (Beekarry, 2013, 169-170). These legal regimes have resulted in the prosecution and sentencing of over 1,000 pirates, who are now serving time in 20 countries (Youngs, 2014, 811).

State Capacity and Effective Domestic Institutions

The idea that all nations have a responsibility to prosecute crimes that occur outside the territorial jurisdictions of any state is the principle behind universal jurisdiction. UNCLOS provides states with the ability to declare universal jurisdiction to try pirates and suppress their activity through prosecution and cooperation with other states (Beekarry, 2013, 164-165). Particularly in the case of Somali piracy, universal jurisdiction was used as the basis to prosecute pirates outside of their native countries for crimes in international waters. The UN Convention on the Law of the Sea is difficult to implement due to its limits on jurisdiction (Otto, 2014, 315). Under UNCLOS, states are

first responsible for suppressing piracy within their territories, and secondly, states are obligated to work with other states at the regional and international level through information sharing and joint patrols (Kamal-Deen, 2015, 108). Obviously there are parts of the world which lack such structures, which has allowed piracy to become more prominent. There are only a handful of agreements that allow for ship-riding, pursuit, boarding, and capture within territorial waters. There is no centralized court that can process piracy cases, and jurisdiction between sovereign states and regional bodies often lack the clear definitions or rules to process cases of piracy. There is also a lack of political will among governments and the shipping industry on best practices and costs (Otto, 2014, 315-316). But, if a naval vessel is attacked by pirates, the ship that has been attacked can use force to defend itself as a right under international law (Obert, 2014, 211).

In practice, the prosecution of pirates falls within the umbrella of state jurisdiction. UNCLOS does not obligate states to prosecute pirates for their crimes, but the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) does require that states take the necessary steps to prosecute pirates (Kiss, 2015, 362). Piracy is not considered to be an international crime, but treated as a violation of international law, thus states exercise their municipal laws to prosecute pirates which have varying levels of effectiveness (Kiss, 2015, 363). The number of laws and the divergent definitions that exist within the antipiracy regime have created a legal structure that is difficult for states to navigate the rules, the hierarchy of certain laws is confusing as well as how to make enforcement legitimate without violating the law. There is also the costs to implement international agreements (Struett,

2013, 95). In many cases, judges have not faced any piracy trials and national laws regarding piracy vary from state to state, lacking the uniformity that may be necessary to enhance the ability to prosecute pirates (Kiss, 2015, 361). Many states have often relied on establishing normal jurisdiction, thus only a handful of states have successfully prosecuted pirates (Beekarry, 2013, 164-165). In combatting Somali piracy, as stated, many other states have taken up the burden of prosecuting piracy, either by declaring universal jurisdiction or trying pirates under their domestic laws (Hodgkinson, 2013, 153). These countries have also worked with the UN Office of Drugs and Crime (UNODC) to increase capacity by training judges, offering legal assistance, mitigate issues of overcrowded prisons, and training prison personnel (Hodgkinson, 2013, 153-154). However, international action against piracy has not been perfect. In many cases, pirates that are captured are not effectively prosecuted and are often released (Knorr, 2015, 672). Patrolling international waters is also very costly for those states that contribute resources (Knorr, 2015 672). Additionally, many acts that may be considered piracy now take place within territorial waters, like the case of piracy in the Niger River Delta region. These instances are defined as “armed robbery” and jurisdiction falls onto the state in which the infraction occurred (Affi et al, 2016, 934).

Ultimately, tackling the domestic causes, such as poverty, that lead to piracy is the only way to curb these crimes. In 2012, UNODC worked with officials in Somalia to promote an awareness campaign to change public opinion on piracy (Gilmer, 2016, 765). Awareness campaigns are a form of onshore counter-piracy measures aimed at deterring individuals from engaging in piracy-related activities (Gilmer, 2016, 766). The campaign targeted individuals who were considered potential recruits (Gilmer, 2016, 773). The

awareness campaign focused on increasing the perceived risk of engaging in piracy and encouraged public dialogue that allowed the Somali people to engage those within their own communities about the dangers of becoming involved in piracy (Gilmer, 2016, 775). Religious leaders became involved in the anti-piracy message, labeling such activity as “haram” under Islamic law (Gilmer, 2016, 776). Shopkeepers also assisted by refusing to accept cash from known pirates, making it difficult for pirates to spend money within their local communities (Gilmer, 2016, 776). The most prominent example of anti-piracy campaigns took place in the city of Eyl, in the Puntland region of Somalia. The campaign was successful due to input from the local community; the city has shown a higher level of governance compared to the rest of Somalia as a result of the anti-piracy campaign (Madsen and Kane-Hartnett, 2014, 75).

States must also have the capacity to project power over their territorial waters. This means, states must have the naval capability to deter attacks on their shores. For example, the Gulf of Guinea states do not have the capacity to procure a large enough navy or coast guard to protect their shores, which has allowed piracy to thrive in the region (Onuoha, 2013, 285). States in a cooperative agreement have not established rules for a ship-rider capability which would allow police forces of one state to assist in investigating pirate attacks within another state (Yurika, 2014, 341). And it was not until recently that Somalia’s neighbors have developed their own coast guards that can conduct their own investigative work. The lack of financial resources throughout the region means that antipiracy initiatives are costly and makes policies difficult to implement (Yurika, 2014, 342). Pirates generally understand the limits of government enforcement

and the limits of its jurisdiction, and they tend to exploit these weaknesses to their benefit (Daxecker and Prins, 2015, 700).

Improving governance on land is seen as the most important step towards combatting piracy. By increasing the state's capacity to tackle the conditions that often lead to piracy, the harder it becomes for pirate groups to establish a base of operation (Levin, 2015, 265). One way to increase state capacity is to target government corruption. Government corruption allows pirate groups and other criminal enterprises to access information and infrastructure which can be used to carry out attacks. Corruption also allows pirates to use the formal economy as the mechanism to facilitate attacks (Hastings and Phillips, 2015, 571). In Nigeria's case, political and business elites own the oil production networks in the Niger Delta and regulate the oil traded from their country (Hastings and Phillips, 2015, 573). Government corruption has emboldened pirates to carry out attacks without fear of detention or prosecution under the law. Nigeria's oil wealth has not been properly distributed throughout the country, which has made economic conditions in many communities dire. In addition, politicians serve the for-profit oil industry which has led to a cycle of poverty and a deterioration of the rule of law (Otto, 2014, 320).

Chapter 5: Illegal, Unreported, and Unregulated Fishing (IUU Fishing) as a Case Study

Over fishing of our ocean's fisheries is a growing concern among the international community due to its impact on food security, biodiversity of the oceans, and the economic impacts on those who rely on this trade for their livelihood. Illegal, unreported, and unregulated fishing (IUU fishing) in particular has had a significant impact on states' ability to sustain the ocean's major fisheries and ensure that people can continue to rely on our oceans for a source of food and economic development. Illegal fishing refers to fishing by vessels that operate outside the laws of fisheries. These vessels may be operating without proper licenses or may be using equipment that is not allowed (Liddick, 2014, 292). Unreported fishing refers to fish caught but not reported or misreported to the governing authority of a fishery (Liddick, 2014, 292). Unregulated fishing refers to vessels operating in a fishery where the vessels are either not flying a national flag or flying a nation's flag that is not a party to the regional governing body, or it could refer to vessels operating outside the conservation or management resources (Liddick, 2014, 292).

Scope of IUU Fishing and its Impact on Fishery Sustainability

The global population has grown considerably over the last few decades, and with it, a higher demand for food and a heightened emphasis on food security. The increase in food has also affected the market for fish, which is considered a healthy source of protein, but it has also had a damaging effect on the sustainability of fish stocks (Riddle, 2006, 265). By 2006, one out of ten of the world's fish stocks have been exploited to unsustainable levels and the international community has been slow to respond (Riddle, 2006, 265-266). As any other finite resource, the maintenance of fish stocks is a

collective action problem that is susceptible to free-riders, or actors that take advantage of a common pool resource without suffering the costs that other actors face in the system (Telesetsky, 2014, 941). As the supply of fish decreases, due to increased demand and overfishing, the prices for those fish has increased, and is likely to further increase as the world's fish stocks are further depleted. Essentially, the greater price also increases the demand to fish for a high value species (Riddle, 2006, 268-269). IUU fishing has played a major contributing factor to the unsustainability of the world's fish stocks. IUU fishing is primarily driven by the expected economic benefits, which can be highly lucrative, and the perceived lack of punishment for engaging in such activity (Schmidt, 2005, 482). IUU fishing includes practices such as fishing without proper permits, noncompliance to fishery rules, catching prohibited species, catching beyond the allowable quota, and use of improper gear (Riddle, 2006, 266). Approximately 15-30% of the fish sold on the market, about 11-26 million tons, is caught through IUU related activities (Liddick, 2014, 291-292; Kao, 2015, 3). This has resulted in not only a major loss to the world's fish stocks, but has led to the near collapse of certain stocks, and a has become an economic drain on those who fish legally and rely on fishing to make a living, severely undermining the legal fishing industry (Schmidt, 2005, 481). Coastal populations that rely heavily on the fishing industry face an annual loss of \$11-\$23.5 billion annually (Liddick, 2014, 292). The global nature of IUU fishing means that depletion of fish stocks from one part of the world can increase food insecurity in other parts of the world that import fish and threatens the global food supply (Tsamenyi, 2010, 7).

Only recently has IUU fishing turned from a resource management problem to a criminal problem. IUU fishing generally takes one of three forms: 1) opportunistic

fishing interests that generally comply with the law but occasionally underreport their catches, 2) overfishing by vessels that are unaware of the law, and 3) overfishing by premeditated business interests (Telesetsky, 2014, 943-944). Vessels involved in IUU fishing activities often have hazardous working conditions and fishermen are poorly compensated, making this line of work extremely dangerous (Schmidt, 2005, 481-482). IUU fishing has also been associated with organized crime networks. Many vessels involved in IUU fishing target high value resources such as abalone or Caspian Sea sturgeon, many of which are sold in the black market (Liddick, 2014, 295). In 2004, Japan imported \$1 billion worth of seafood from Russia (Liddick, 2014, 295). Official Russian documents indicated that fish exported to Japan was significantly less, indicating that much of the imported seafood had been illegally caught and sold to Japanese markets (Liddick, 2014, 295). Caviar is another example where IUU fishing is seen. As a high value resource, caviar can sell for as much as \$500 per kilogram and its high demand and low legally allowable supply make it a strong commodity for organized crime syndicates to make major profits (Liddick, 2014, 295). IUU fishing vessels have also been associated with drug and human trafficking and slavery (Liddick, 2015, 296).

International Fisheries Law and Regional Fisheries Management Organizations

The foundations for the legal fishing regime have been established through UNCLOS, which went into effect November 1994 and lists states' rights over exclusive economic zones (EEZs) (Henricksen and Hoel, 2011, 68). Within a state's EEZ, which is determined as 200 nautical miles from a state's coastline, it has the sovereign rights to explore and exploit resources as well as manage and protect marine ecosystems. The state can regulate which foreign vessels can operate within their EEZ, and states are

obligated to maintain fish stocks that can accommodate a sustainable but maximizing yield (Henricksen and Hoel, 2011, 68). The international community has adopted a number of measures to combat IUU fishing, including: 1) the 2001 International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA-IUU), 2) the 2005 Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing, 3) the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Flag State Performance (PSMA), and 4) the 2010 FFA Regional Monitoring, Control, and Surveillance Strategy (Kao, 2015, 3-6). Under the PSMA, the flag state, is responsible to ensure that all vessels flying its flag are complying with international law. This can be done by allowing port states to inspect a flag state's ships believed to be involved in IUU fishing, taking authoritative measures to deter IUU fishing, and reporting enforcement action to port states (Erickstein and Swan, 2014, 127-128). Port states have responsibilities under PSMA as well, including inviting a flag state to inspect a vessel involved in IUU fishing, reporting findings to regional fishery management organizations, and denying port access to vessels believed to be engaging in IUU fishing (Erickstein and Swan, 2014, 128-129).

High global demand for fish has already placed considerable pressure on fish stocks within EEZs to the point where stocks are nearly depleted, exploited, and unsustainable. Vessels increasingly must catch their supply in international waters and many of these fish stocks have been fully exploited as well, making IUU fishing more prevalent (Sodik, 2008, 134). Governments often give the fishing industry subsidies that provide incentive to vessels to overfish, meaning much of the overfishing and

unsustainability of the world's fisheries has resulted from legal fishing (Sodik, 2008, 135).

The principles laid out in UNCLOS also obligate states to regulate transboundary fish stocks, or those fish stocks upon which several states rely for resources (Henricksen and Hoel, 2011, 68). Regional Fisheries Management Organizations (RFMOs) are the principal governance mechanisms overseeing the management and sustainability of fisheries. Participating states can create the rules and regulate foreign fishing vessels similar to how states enforce trade-related sanctions (Riddle, 2006, 266; Muir, 2010, 373; Liddick, 2014, 304). Through RFMOs, fish stocks are considered a common pool of resources which is susceptible to the "tragedy of the commons," meaning that these resources can be severely depleted if steps are not taken to manage the resource (Henricksen and Hoel, 2011, 66-67). The RFMO is responsible for managing this resources and ensuring sustainability for all its parties. The RFMO has the ability to determine the allocation and restrictions on all parties to the organization (Henricksen and Hoel, 2011, 66-67). Overall, state compliance through RFMOs still remains the largest problem hindering the international community's ability to combat IUU fishing, but states have adopted stronger measures and been more effective at coordinating their efforts (Erickstein and Swan, 2014, 129; Telesetsky, 2014, 947). Many of the most important RFMOs include: 1) the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), 2) The Northwest Atlantic Fisheries Organization (NAFO), 3) the Northeast Atlantic Fisheries Commission (NEAFC), 4) the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), 5) the Indian Ocean Tuna Commission (IOTC), 6) the Inter-American Tropical Tuna Commission (IATTC),

7) the Western and Central Pacific Fisheries Commission (WCPFC), and 8) the International Commission for the Conservation of Atlantic Tunas (ICCAT) (Liddick, 2014, 304-305).

In 1999, the FAO agreed on an International Plan of Action to combat IUU fishing (IPOA-IUU) (Riddle, 2006, 269). The IPOA-IUU is a non-legally binding agreement that recommends that states take necessary steps to implement better fishery maintenance at the national level (Sodik, 2008, 131). The IPOA-IUU tasked nations to implement national plans of action to combat IUU fishing to allow better management of global fisheries and to enforce those national laws on fishing operations taking place within their national jurisdictions (Riddle, 2006, 271-272). National plans of action are needed to implement effective enforcement mechanisms in order to deter IUU fishing within their national boundaries and develop monitoring, control, and surveillance mechanisms to ensure sustainable fish populations within their national boundaries and within EEZs (Riddle, 2006, 273). States are also recommended to coordinate these tasks with each other, either bilaterally or through RFMOs, to enhance capabilities of all states to effectively manage fisheries (Riddle, 2006, 274). The most important task states need to implement are port state measures that require fishing vessels to document where their catches originated and provide verifiable documentation of this. States would be authorized to deny entry of vessels involved in IUU fishing activities which would ensure that illegally caught fish would not enter the market (Riddle, 2006, 281).

Properly managing fish stocks remains one of the most difficult challenges facing RFMOs and there are three conditions that account for this. One of these challenges includes the migratory nature of many fish species; many RFMOs do not correspond with

the jurisdictional boundaries of states outlined by UNCLOS (Henricksen and Hoel, 2011, 67). Second, many fish stocks are subject to volatile fluctuations in size and number of species which may be a result of poor management of the fishery or breeding habits of certain species (Henricksen and Hoel, 2011, 67). Finally, some species may be subject to even more restrictive regulations based on a certain species' importance in the balance and longevity of the ecosystem. By fishing for these types of species, the entire ecosystem can die out (Henricksen and Hoel, 2011, 67).

In the 1990s, the Patagonian Toothfish, known as Chilean Seabass in US markets, was a common target for IUU fishing activities due to its high market value and lax enforcement in that part of the world (Riddle, 2006, 267). The high market rate per pound made the Patagonian Toothfish a valuable target of fishermen almost overnight. The regional fishery management organization with jurisdiction over that portion of the sea was overwhelmed and concerned about the future sustainability of fish stocks (Riddle, 2006, 267). IUU fishing in these waters threatened the species' existence as well as the management capacity of the fishery tasked to maintain fish stocks (Riddle, 2006, 267). The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) implemented a catch documentation scheme; the RFMO retained a "white list," or RFMO-approved list, of vessels that were granted the right to fish for the toothfish in those waters (Liddick, 2014, 306). As a result, CCAMLR reported a significant drop in illegal toothfish catches from 33,000 tons in 1997 to 3,600 tons in 2004 (Liddick, 2014, 306).

In another location, the states along the Mediterranean Sea faced a severe overfishing problem, including IUU fishing, which was leading to severe environmental

degradation that hampered the sustainability of fishing along these transboundary waters (Ozturk, 2015, 68). As a result, INTERPOL led an effort called Project Scale to coordinate with the states along the Mediterranean Sea to combat IUU fishing (Ozturk, 2015, 81). Mediterranean Sea fish stocks were over 65% depleted and led to other major problems such as loss of tax revenue, loss of income, job insecurity, loss of biodiversity, and the emergence of ghost fisheries (resulting from abandoned nets) (Ozturk, 2015, 81). Ghost fisheries, which are created by fishermen abandoning their nets at sea when coast guard patrols are nearby, have presented a unique challenge for the region. Abandoned nets cause environmental disaster as they sink and float the waters, catching many species of fish unintentionally and getting caught in ship's propellers, making travel through the Mediterranean much more difficult (Ozturk, 2015, 82). Most states in this region are members of the European Union, therefore have similar fishing regulations, but states outside of the EU have also adopted similar measures to enhance cooperation and information sharing in order to provide better enforcement of regional fishing standards (Ozturk, 2015, 70). However, cooperation has mostly been coordinated among EU member states which have issued regulations in 2010 specifically coordinated to "to prevent, deter and eliminate illegal, unreported and unregulated fishing" (Ozturk, 2015, 82-83).

A similar RFMO has been established in the waters of Southeast Asia. In 2007, 11 countries in the region, including Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Timor-Leste and Vietnam, established a Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices with the goal to manage the region's fish stocks and deter IUU fishing (Johns,

2013, 112). Indonesia in particular are one of the most biodiverse waters in the entire world, comprising 3000 species of fish within its territorial waters but lack of enforcement capabilities has rendered the country helpless to IUU fishing (Dirhamsyah, 2012, 44). Southeast Asia's IUU fishing problem has been driven from population growth, higher market demand for fish globally, and poverty among communities that rely on fishing for income. The countries that are a party to the RPOA represent 17% of fish caught globally, or 14 million tons of fish, in an industry estimated at around \$10 billion (Johns, 2013, 113). Approximately 4 million tons of fish are caught as a result of IUU fishing (Johns, 2013, 113). These amounts could be much higher due the pervasiveness of IUU fishing in Southeast Asia's waters (Dirhamsyah, 2012, 45). Much of the IUU fishing activity in the region within coral reefs as vessels seek to capture live reef fish due their high demand and expensive price (Dirhamsyah, 2012, 45).

Fishing vessels may also employ prohibited methods of capturing fish such as the use of cyanide or dynamite, the use of which is illegal in most countries for commercial fishing (Dirhamsyah, 2012. 46). The RPOA focuses on three main objectives "(i) strengthening legal, administrative and policy frameworks, (ii) strengthening regional/international cooperation, and (iii) enhancing capacity building and training. Countries report annually to the Coordination Committee on progress" (Johns, 2013, 114). This includes a monitoring, control, and surveillance program as a means of gathering intelligence from the catching sector to monitor the fishery's health and sustainability, making sure that all vessels operating within the region are complying with the fishery's management policies (Johns, 2013, 114). However, this RPOA has its limitations and has been mostly unsuccessful in its efforts. A 2008 study concluded that

the RPOA was in danger due to lack of planning and management at both the internal and regional levels, lack of investment for capacity building and strengthening institutions, a reluctance to exchange information among members, and high costs of surveillance (Johns, 2013, 115). The lack of enforcement in these waters and the lack of regulations governing the entire supply chain of live reef fish have allowed the fishing industry to remain unregulated (Dirhamsyah, 2012, 48).

These RFMO arrangements also allow consumers to know where they are buying their fish from. Labeling schemes have been utilized as a means to identify which catches have been caught legally; such methods include product labeling and trade documentation to certify that the consumer is buying fish that has been caught legally (Schmidt, 2005, 482-483). The European Union, for example, has adopted catch certification requirements that limit port access to third country ships and has compiled a list of ships known to be involved in IUU fishing (Liddick, 2014, 304). However, not all member states have successfully implemented these requirements and IUU fishing is a persistent problem in Europe (Liddick, 2014, 304). Part of the problem rests on improper product labeling, which may be unintentional because a particular catch may include similar species of fish and those that are responsible for mislabeling products are small-scale retailers (Heylar, 2014, 2). Studies in the UK identified that a significant portion of Atlantic cod products were actually Pacific cod, which makes it more difficult to maintain fish stocks globally and erodes consumer confidence in the industry (Heylar, 2014, 4).

Domestic laws and State Capacity

Under UNCLOS, the flag state is responsible for exercising jurisdiction over ships flying its flag, while coastal states have the right to exercise jurisdiction over their EEZ and fishing resources. Many of the problems regarding IUU fishing are due to the ineffectiveness of flag states to responsibly regulate ships flying their flag, which leaves coastal states, many of which lack enforcement capacity, with the burden to better control their waters (Elvestad and Kvalvik, 2015, 242-243). In order to address these gaps between flag state and coastal state responsibilities to deal with IUU fishing, some states have adopted port state measures, which are regulations states can adopt to control which vessels have access to its ports. This is widely seen as an effective way to deny market access to vessels believed to be involved in IUU activity (Elvestad and Kvalvik, 2015, 241-242). Port states retain the exclusive rights to regulate which foreign vessels can enter their ports, where vessels can be subject to inspection, enforcement, and where they can be reported and monitored by the port state for accurate records (Evelstad and Kvalvik, 2015, 243). Individual states and regional organizations have also adopted market-based approaches to combat IUU fishing by denying market access to vessels or states believed to be undermining the fishing industry and conservation from IUU fishing activities. These measures are meant to dissuade profits obtained from IUU fishing (Evelstad and Kvalvik, 2015, 243).

Europe produces and imports about \$1.25 billion worth of fish annually and has created a robust system to combat IUU fishing that is far more encompassing than measures directed under international law through the FAO recommendations and the International Plan of Action on IUU fishing of 2001 (IPOA-IUU) (Stanciu and Feher,

2010, 62). The EU has developed a regulatory framework based on the IPOA-IUU and addresses IUU fishing that occurs in the European Community's waters, EEZs and waters covered by RFMOs, and fishing that occurs in international waters in breach of international law regarding flag state responsibilities (Muir, 2010, 376-377). The measures above have been adopted by the European Union which requires that all fish products be accompanied by a catch certificate provided by the flag state to trace the origin of the catch, where it is processed, and the quantity of the total catch of any foreign fishing vessel operating within EU territory (Evelstad and Kvalvik, 2015, 244; Tsamenyi, 2010, 6; Stanciu and Feher, 2010, 63-64). Foreign fishing vessels are required to abide by EU laws on fishing and comply with the terms applicable for a proper catch certificate, which includes provisions that the flag state must certify that the catch was made with accordance to EU laws and include all documents related to the transshipment of products. Flag states that do not comply with EU law can be censured and their licenses revoked and exporters must request catch certificates from the flag state for all catches that are sent to the EU and other European countries (Evelstad and Kvalvik, 2015, 244-245; Stanciu and Feher, 2010, 63). The system adopted by the EU is designed to increase communications between states, coordinate with each other for better monitoring and ensuring sustainability of Europe's fisheries, restore consumer trust, and make market conditions fairer for commercial fishermen (Stanciu and Feher, 2010, 62-63). This system requires effective communication among member states, the EU Commission, and authorities in third countries, but transparency has been generally weak and the full implementation of EU requirements has not been achieved. Records are not made public and there lacks a central database to record information on infractions, catch

totals, or other relevant information which would increase the success of a RFMO (Evelstad and Kvalvik, 2015, 248-249).

Accounting for 7% of all fish captured within and beyond a state's EEZ, tuna are an important part of the fishing export business (Yann-huei, 2009, 107). Tuna are also highly migratory and consist of seven main species subject to international agreements (Yann-huei, 2009, 107). Japan, which is one of the largest consumers and importers of tuna, had been importing vast quantities of IUU caught tuna from Taiwan (Yann-huei, 2009, 122-123). In 1999, both countries entered into a joint agreement to limit the number of large-scale tuna long-line fishing vessels (LSTLVs) in operation as a means to combat IUU fishing. Japan would limit the number of licenses issued to LSTLVs and Taiwan had agreed to repatriate 60 of their ships (Yann-huei, 2009, 132-133). Many of these ships were able to escape these arrangements (Yann-huei, 2009, 132-133). The system developed by the Atlantic Tuna RFMO, ICCAAT, which oversees tuna catches globally, has been criticized for not strengthening its rules on tuna catches, which has resulted in increased catches of smaller, younger fish and restricted species including sea turtles (Yann-huei, 2009, 138).

This case study on IUU fishing demonstrates that despite the prevalence of international institutions, the great powers are not coordinated and the lack of resources provided to combat IUU fishing has created a dismal response. To the great powers, combatting IUU fishing may be important, but not as important as other national interests. States are therefore unaligned and the responses are uneven. There will come a point when the world's major fisheries can no longer feed the world and oceanic ecosystems will be so unbalanced that future recovery would never be possible.

Chapter 6: Evidence, Conclusion, and Recommendations

The case studies presented earlier in this thesis demonstrate that good governance over the oceans will vary depending on: 1) states' political will to work with each other, 2) the way that international law structures regimes and institutions, 3) the degree in which states have adopted international law into their own domestic framework, and 4) the capability that states have to enforce the rule of law.

States which lack enforcement capabilities provide the conditions that allow piracy to thrive. Somalia in particular had a serious piracy problem and the international community coordinated with one another in order to combat the threat. The waterways around Somalia are of global strategic importance for trade and the great powers were particularly affected by the scale in which pirates were suffocating trade routes. The members of the Security Council invoked Chapter VII of the UN Charter which authorized the use of force in Somalia to fight piracy. The five permanent members of the Security Council demonstrated that they all had a vested interest in securing trade routes and they all provided the necessary resources towards this end. The great powers then worked with smaller states around Somalia to increase judicial and penal capacity to prosecute pirates and incarcerate them. To this day, the international community still patrols the waters off Somalia's coast to deter piracy, which has significantly decreased in recent years.

Combatting piracy in other parts of the world has not been as successful as the campaign in Somalia. The fundamental problem is the lack of political will to combat piracy in other areas. In the Strait of Malacca, Indonesia and Malaysia have been reluctant to work with other states who can provide naval resources to fight piracy for fear that they may lose their sovereignty. Piracy in the Gulf of Guinea is likely to

continue to thrive because the great powers do not have a vested interest to commit resources in an area that does not have important trade routes. The second problem that the international community faces in fighting piracy in these parts of the world is due to state sovereignty and UNCLOS. Piracy in these areas mostly takes place within territorial waters so the international community does not have the jurisdiction to intervene unless an incident is in international waters or if the Security Council authorizes the use of force. States that offer sanctuary to pirates also do not have the judicial or enforcement resources necessary to deter piracy and must rely on other states to increase these capabilities.

Management of the world's fisheries is a classic common pool resources problem. Many of the world's most important fisheries have already reached unsustainable levels. States have demonstrated some political will in managing fisheries through the creation of numerous RFMOs. Regional fisheries management organizations set the rules on who can fish, catch limits, and the rules governing how to deal with vessels or states that are not in compliance. However, these arrangements are nonbinding on the parties and are subject to numerous enforcement problems. Illegal, unreported, and unregulated fishing has only exaggerated the severity in which global fisheries can be maintained at sustainable levels. There is very little effort among states to enforce RFMO regimes; states may have diverging or competing interests to make sure they can continue to catch fish and sell it to domestic markets at as little cost as possible.

Despite the international laws in effect that allow states to issue licenses or limit access to ports, weaker states lack the capacity to police their shorelines. Weaker states also have not implemented RFMO frameworks fully in order to be in compliance. Large

scale fishing operations exploit these weaknesses to meet market demands for their domestic customers. States with more enforcement capacity are not faced with this dilemma since they have the domestic laws, courts, and incarceration capacity to prevent IUU fishing within their territorial waters or EEZs. In order to provide a more comprehensive approach to combat IUU fishing, stronger states would have to shoulder a much greater burden in order to protect fisheries that they share with weaker states.

In order to fight crime on the seas there are four necessary criteria that must be met in order to provide an environment where good governance can be ensured. First, states must have the political will to align their interests and be willing to provide resources towards these shared goals. In the case of piracy this means recognizing which bodies of water are most important to global trade and understanding how a limited ability to navigate international waters hinders trade and increases prices on goods. In IUU fishing, the political will is demonstrated by understanding that the world's fisheries are at unsustainable levels and knowing that in order to solve a common pool resources problem, collective action is necessary. Secondly, the international law that exists to deal with these issues must address how to combat crime and must recognize that state sovereignty issues may hinder a more robust strategy. International law must be designed to include responsibilities of great powers and weaker states and develop a cohesive strategy that allows the parties to increase overall capacity. Third, states must have the domestic legal and judicial resources to implement international law at the domestic level. In many cases, this requires that weaker states coordinate with stronger states to enhance their resources and capabilities. Tackling corruption is also necessary to provide weaker states with the capacity to enhance their law enforcement capacity. Finally, states

must have the law enforcement or military capacity to deter criminal activity to protect themselves from non-state actors which threaten stability and to ensure that their citizens are in compliance to the law.

I would like to provide a few recommendations for the international community to consider in support of better governing practices in both case studies. Regional approaches to combatting piracy and IUU fishing can provide a solid foundation that would enhance states' capabilities. The states that are most affected by these activities can pool their resources to reduce the costs and burdens and it would provide the space in which information and intelligence can be shared among a regional group's members. By distributing these costs, states would have the ability to tackle corruption and strengthen domestic institutions and laws that address these problems. Endemic corruption and weak state law enforcement capacity allows piracy and IUU fishing to flourish.

Additionally regional frameworks can also provide the ability to engage strong partners which may have the resources to aid in tackling criminal activity. Weaker states plagued by corruption and poorly functioning institutions may not have the ability to effectively enforce their coasts for criminal activity. However, regional frameworks that allow these states to coordinate their efforts by teaming up with stronger states may offer the ability to fill these enforcement gaps without necessarily infringing on sovereignty or undermining a government. Regionally organized frameworks can allow for cross-border enforcement capabilities and provide the means to for cooperation that allows for weaker states to access the resources and technology necessary to strengthen their own

enforcement capabilities. By working regionally to address these problems, states will be able to improve conditions globally.

These arrangements can also be strengthened by inviting the developed world as partners. Developed countries already have the capabilities to protect their coasts and manage their resources more effectively. If the developed world can be included in regional groups that address piracy and IUU fishing, it can enhance the regional group's overall capacity to enforce international and domestic laws more effectively. Technology and insight on addressing these issues can also be transferred from stronger states to developing states to allow for better policing of international waters. Bringing in the developed world to address these issues is necessary because they have a vested interest in the freedom of navigation and the sustainable management of resources.

The developed world does have an indirect interest in curbing piracy and IUU fishing. Weak countries that suffer as victims for these crimes find themselves in unsustainable economic conditions, which in turn are forcing their citizens to migrate to the more economically developed countries of Europe and North America. As we have seen, massive migration has strained their economies as well. We live in a global community now where cooperation and political will must be shared for the common, sustainable health of the whole.

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