

Piracy in Guinea Golf: causes to appear the crime and the methods of confronting it

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Abstract

From ancient times, piracy has been known as an enemy of humanity and an international crime. One of the areas that has become the main center of piracy in recent years is the Gulf of Guinea in the West of Africa. Due to the discovery and exploitation of rich oil resources, and the high traffic of oil tanker, other fishing and cargo ships, this area has been considered by pirates and has made maritime security confronted with a serious threat. According to statistics, between 2009 and 2021, about 265 cases of pirate attacks on ships have been reported in this region, which is regarded as the highest figure in the whole. The main question is, what are the effective causes of the creation and expansion of piracy in the Gulf of Guinea? And what solutions are there to confront this phenomenon? The hypothesis is that regional differences and the political, economic and social situations of the coastal states are the most important reasons in the spread of piracy in this region, and regional and extra-regional measures to confront it are inevitable. But the weakness of the countries in the region in securing the sea fleet, widespread unemployment, conflicts between countries in delimiting the borders of the sea, have made it difficult to fight against piracy in this region. The findings of this research show that identifying and eliminating the various factors involved in the occurrence of this crime depends on efforts beyond diplomatic cooperation. The lack of similarity between criminal measures and especially the obvious difference in the political conditions of the countries of the region compared to other regions facing the phenomenon of piracy, such as the case of the Gulf of Aden, makes it impossible to apply a similar solution to the Gulf of Guinea.

Keywords: piracy, Gulf of Guinea, occurrence causes, international cooperation

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Introduction

Piracy has a very long history. This criminal phenomenon, along with the slave trade, has been known as the first examples of international crimes. Exercising the jurisdiction of governments in connection with the perpetrators of these crimes has been customary for a long time. But recently, a new approach has been taken by international crime.

Today, piracy continues in areas such as the coasts of Somalia, the Strait of Malacca, Singapore and the connecting waters of the Pacific Ocean and the Indian Ocean. It is one of the most important problems threatening the maritime sector, especially due to financial instability, and inadequate surveillance and inspection. Today, navigation has become risky in many areas where piracy events are frequent. Ships going to these areas take extra security measures or change their routes. Piracy adds extra costs, including ransom expenses, insurance expenses and military measures (Akan et al., 2022, p. 263).

Recently, with the actions of pirates near the coasts of Somalia and the Gulf of Aden, the countries of the world have increasingly realized the importance pirates are often concentrated in the waters of developing countries with small military fleets, as well as war-torn areas and internal conflicts that have important maritime trade routes. At a recent time, the crime of piracy in the Gulf of Guinea in the west of Africa has widely and violently developed and has drawn the attention of oil importers from that region.

Not paying attention to the specific features of the Gulf of Guinea, including the connection of the issue with the majority of countries in the region, the focus of piracy on the oil industry and oil tankers, and the severe impact of these crimes on the economy of the countries that buy oil and export goods, not only will not lead to the desired solution, but they will make the costs of such solutions to cause a crisis in the fragile economy of the region, adding to the deterioration of the situation.

The main question of this paper is to determine the effective reasons for the creation and spread of this criminal phenomenon in the Gulf of Guinea and the necessary measures to confront piracy in this region with the hypothesis that the issue of regional disputes in the coastal countries are the most



important causes of the spread of piracy in the Gulf of Guinea, and regional and extra-regional measures to deal with it are inevitable.

In this research, firstly, the definition and concept of piracy and its constituent elements will be presented; secondly, an image of the specific characteristics of the Gulf of Guinea region, especially the geographical location and sociopolitical economic development of its countries, will be made to reveal the relationships between crimes and the special conditions of the region. Then, the limitations and shortcomings of the solutions applied by the countries of the region are analyzed. In this way, not only the internal judicial and executive systems but also the conflicts in their foreign relations are considered. The combination of these factors with the complexity and multifaceted nature of piracy in the region reveals the reasons for the ineffectiveness of the made arrangements.

1. Definition and concept of piracy

The legal definition of piracy has fluctuated throughout the centuries. As Kelly notes, "the heinous nature of the act of piracy usually meant pirates were subject to universal jurisdiction, but what constitutes the act itself has ranged from straightforward robbery at sea to, recently, violence at sea that includes engaging in acts of political protest. The modern trend of employing an expansive violent attacks at sea` definition is appealing because of its ability to account for a wide variety of conduct in a wide variety of contexts. But the consequences of such an approach include a risk of returning to past experiences where political expediency was prioritized over due process (Wallner, Kokoszkiewicz,2019, p.29).

Piracy is defined according to Article 101 of the 1982 convention on the law of the sea and Article 15 of the 1958 convention on the high seas:

Piracy consists of any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

The global fight against this phenomenon is especially considered. Based on Article 100 of the 1982 convention on the law of the sea and Article 14 of the 1958 Geneva Convention on the high seas:

All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Regardless of paragraph B and C of Article 101 of the convention on the law of the sea, which deals with the elements of accessory to the crime of piracy, *actus reus* and *mens rea* of the crime of piracy, based on paragraph A of Article 101 of the convention on the law of the sea and the definition of the international maritime organization as under the title has been:

-*Actus reus*: Any illegal act of violence, arrest, looting and destruction of ship or aircraft property or against person and property in the ship or aircraft.

-*Mens rea*: The crime must be committed for personal purposes. This feature distinguishes piracy from maritime terrorism, which is related to political purposes.

Whether committing the aforementioned acts on the high sea or in an area that is not under the jurisdiction of any country, is a condition for the commission of this crime or not, it seems that this condition is not one of the main element of the commission of the mentioned crime, but it is related to the conditions for exercising the universal jurisdiction by a non-coastal state, and it is emphasizing the primacy of territorial jurisdiction, because:

A: the precedence of Article 100 of the convention (exercise of universal jurisdiction) over the definition of piracy in article 101 shows that the emphasis is on the occurrence of crimes on the high seas or in the areas outside the jurisdiction of countries in order to respect the principle of sovereignty and territorial jurisdiction of coastal states.



B: the aforementioned definition is included in this convention without any change from the 1958 convention on the high sea and regardless of the new jurisdictional limits of the seas in the 1982 convention.

C. in the recent cases in the Gulf of Aden, although the consent of the Somali government was considered necessary in the exercise of international jurisdiction and the security council resolutions were issued based on the consent, the location of these never prevented them from being called piracy. It was not considered as threat to world peace and security based on the seventh chapter of the United Nations chapter.

However, the international maritime organization, in order to avoid the limitations of the definition of Piracy as an obstacle to the efforts of the international community to deal with this phenomenon, in Resolution No: A26/ 1025 approved in 2010, while accepting the definition of article 102 of the term of piracy (Armed Robbery against Ships) is used to cover certain acts that do not fall within the definition of the 1982 Convention. According to this resolution, armed piracy against ships means any of the following acts:

1. Any unlawful act of violence or detention or any act of plunder or threat thereof, committed for private purposes against a ship or the persons and property of such ship within the internal waters, archipelagic waters or territorial sea of a state.
2. Any international incitement or facilitation of any of the above acts (A26/ re 1025 para 2.2).

Many believe that the definition of Article 110 of the 1982 Convention on the Law of the Sea expresses customary international law (Tanaka 2015 p. 551) It should be noted that the coastal state has traditionally been given the opportunity to judge a pirate- if only it could catch him: " The original rationale for universal jurisdiction over pirates sprang from the locus of the crime- the high seas. No state had jurisdiction extending from its coastal waters in to the common area of the high seas, and so every state was granted jurisdiction over pirates if it could catch them" (Kelly, 2013, p.27).

1-1. The Private Ends Definition

The definition of piracy has been the source of much controversy. The major point of contention is the meaning of the phrase "private ends" in subsection (a) of article 101 of the UNCLOS. This debate hinges on

whether the phrase simply excludes acts conducted with state sponsorship or whether *animus furandi* is still a required element of crime, thus denying acts done with a politically motivated as piracy. The ILC drafts have been used to argue that acts done with a political motivation cannot constitute piracy, but also to argue that *animus furandi* is no longer necessary and that private ends were used so that acts of hatred and vengeance were also covered by the definition" (Paige, 2013, pp.145-146). Thus, the UNCLOS definition which specifies that must be seeking private ends, ignore potential piracy with other objectives, such as political agendas or terrorism (Dowdle, 2015, p. 629).

1-2.Exclusive features of the Gulf of Guinea

The maritime area of the Gulf of Guinea starts from the Bissagos islands in Guinea – Bissau and extends to Cape Lopez in Gabon, and the length of the coast of this region is about 600 Km. With a more detailed opinion, this region can be called a composition of the exclusive economic zone of 15 countries; Angola, Benin, Cameroon, Congo, Equatorial Guinea, Gabon, Ghana, Guinea, Guinea – Bissau, Liberia, Nigeria, Sao Tome and Principe, Ivory Coast, Sierra Leone and Togo.

The Gulf of Guinea is a very important shipping area and daily about 1500 fishing vessels, oil tankers and cargo ships pass through this area. However, this area is one of the most unsafe sea areas for shipping in the world. According to the report of the international maritime Bureau in 2020, 84 cases of pirate attacks on ships were reported in this region, during which 135 sailors were taken hostage for ransom. Between 2018 and 2019, the number of seafarers being kidnapped for ransom by pirates increased by 50% and this number increased by 10% in 2020. Currently, 95% of seafarers are held hostage throughout the Gulf of Guinea region (EU maritime security fact sheet: The Gulf of Guinea).

The amount of oil production in this region reaches about 4.5 million barrels per day, which is equivalent to the total import of the United States in 2008. Angola with 34% and Nigeria with 47% of the total production of the region are the largest oil producers in the region. To the extent that, in the field of oil production competition, West African countries are considered important players in this field. The oil of this region of the world is considered one of the best types of oil in the world due to its low



sulfur content, low viscosity, low amount of vanadium element and low density.

The Gulf of Guinea is currently facing a new problem called "Petroleum Curse of African States." The investing in the oil industry, the attack of greedy investors in the region and the absolute dependence of these countries on oil income (which constitutes more than 50% of the GDP) has caused so that these countries face problems such as unfair oil contracts, extensive administrative corruption, oil-related crimes, and internal and regional disputes. Due to the lack of financial resources and necessary technical capacity, the countries of the region have entered into contracts with reputable European, American and Asian oil companies for the exploration of continental shelf oil.

Among the most important threats in the region are illegal fishing, oil bunkering (theft of oil by drilling oil pipes, removing the caps of wells, or transferring more oil than the specified capacity by manipulating relevant documents), economic corruption, terrorism and piracy. Since piracy in the Gulf of Guinea has characteristics such as extent, violence and international effects, attention to crime is of particular importance. This region has about 5000 miles of navigable coasts, natural anchorages and special climatic conditions. Being rich in hydrocarbons, fish and other resources has made it an important destination for maritime trade, resource extraction and shipping (**Infrastructure Country Diagnostic Project, June 2008, Africa**). The Gulf of Guinea shows an economic growth of about 7% since 2021. This bay is also known as one of the most important centers for energy supply for Europe, North America and Asia with its rich hydrocarbon resources (Anyimadu, July 2013, p. 16).

In 2012, the amount of piracy in the Gulf of Guinea surpassed that of the Gulf of Aden. These robberies have gradually become violent. Due to the low security of the West African coast, South American drug dealers also consider this place as a back center for drug trade to Europe. Finally, oil theft and illegal businesses have turned this area into a "Crime Island". Nigeria alone loses between 40,000 to 100,000 barrels of oil per day to piracy. About 40% of the region's income comes from illegal activities. The largest amount of illegal fishing is also related to this region of the world. About 1002 billion-dollars' worth of trade with England was exposed to

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

piracy in 2013 ("How the lack of security in the Gulf of Guinea affects the UK's economy, UK chamber of shipping, July 2014). Due to the high risk of shipping in the region, insurance companies refuse to insure ships and goods at normal prices. As a result, commercial companies have to spend a lot of money on supplying their goods.

Some of the ship-owning companies that send their commercial ships to the Gulf of Guinea have decided to use armed forces on these ships, but most of the countries that accept commercial ships, especially the countries in this region of the world, have unpleasant experience with military forces. They do not have private and mercenary companies in Africa and refuse to accept such ships. On the other hand, although the use of private coastal security companies, especially European and American companies, has been accepted in the countries of the region, because these armed people are under the supervision and superior authority of the coastal states, they are part of the armed forces stationed on them and such permission cannot be extended to armed forces stationed on commercial ships.

The annual cost of piracy in the Gulf of Guinea is estimated to be between 565 million and 2 billion dollars. Considering the connection of the global economy to the continuous network of shipping and energy resources, the threats in this region will involve all the countries that somehow have benefits from this region (Moudouma, July 2014, p. 29).

Piracy in the Gulf of Guinea accounted for five major maritime incidents in 2013. Of course, many countries and business men refuse to announce many criminal events in order to protect their business reputation. Anchorage areas and access passages to the ports of Nigeria (Boni and Lagos), Benin (Cotonou), Togo (Lome), Ghana (Tema) and Ivory Coast (Abijan) where ships are waiting to dock are very vulnerable. Even at the ports, ships wait for several days to unload and load, which is due to the low volume of west and central African ports for unloading and loading.

When a ship is captured by thieves, its equipment and goods are stolen and some of the crew are also kidnapped as hostages. Usually the ship is also moved to another place to transfer its cargo. This type of theft is more common on the transportation axis from Ghana to Angola and Nigeria to the Ivory Coast. For example, 18 days after being hijacked near Luanda on



January 28, 2014, the MTCA ship was found in the waters near the port of Tema in Ghana with its oil cargo emptied.

The Gulf of Guinea robberies have gradually been accompanied by more violent attacks and hostage-taking. Even the amount of resistance against the navy has increased significantly. In 2013, in a conflict, around 6 pirates were killed by military forces while exchanging stolen cargo. In another incident, about a week ago, pirates tried to attack the oil tanker "MT" off the coast of Nigeria while 8 ships of the Nigerian navy surrounded them, and two of the ship's crew were killed by pirates when they hijacked the "SP" ship off the coast of Nigeria. Interestingly, the same ship was attacked by pirates 18 months ago, 40 miles from the Nigeria Delta, and its 5 crew members taken hostage.

Oil theft is often the result of the cooperation of organized crime groups with ties to elements of the oil industry and security agencies. Their operational range extends from Eastern Europe to Asia (Oyadongha, 2014, p. 12). Among the arrested pirates, Nigerian citizens dominate, but there are also people from other countries in the region, Eastern Europe and the Philippines. Even in March 2014, two British crew members of a British maritime security company along with 12 Nigerians were arrested for allegedly trying to unload oil from a hijacked ship.

Since 2009, the Gulf of Guinea region has always been one of the most dangerous and unsafe sea areas in the world in terms of pirate attacks. In 2010, a total of 17 pirate attacks on ships were reported on the coasts of six countries; Togo, Nigeria, Ghana, Gambia, Cameroon and Benin, and the number has increased to 50 in 2018.

2. Effective factors in the occurrence and spread of piracy in the Gulf of Guinea

Dealing with piracy in the Gulf of Guinea region requires investigating and recognizing the factors that have contributed to the emergence and increase of piracy in the Gulf of Guinea region, some of which will be mentioned below.

2-1. Dispute between the countries of the region on determining maritime borders

The continent of Africa has 31 coastal states and 8 island countries. Border disputes on the African continent due to the emergence of these countries

and the colonial borders that have been made without regard to the national will of those countries. Both in the field of land borders and sea borders are very high compared to other parts of the world.

The existence of ethnic, religious, political and military disputes between the neighboring countries in the Gulf of Guinea, terrorism, human trafficking and the discovery of oil and gas resources in the maritime areas of this area, in addition to the complexities of delimiting maritime borders, have made it difficult to reach an agreement on the maritime borders of the countries. The lack of clear jurisdictional limits and maritime border disputes among the countries of the Gulf of Guinea make cooperation among the governments of this region difficult to deal with and suppress pirates.

However, in this region, some disputes, such as the Cameroon-Nigeria in 2002, were referred to the international court of justice, and some were resolved by concluding bilateral agreements, such as additional exploration agreements between Nigeria and Sao Tome or the agreement between Nigeria and Equatorial Guinea has done.

2.1.1. the case of Cameroon-Nigeria

Of the 8000 KM long coast of Nigeria, only 150 KM has an exclusive economic zone and a vast continental shelf. Nigeria signed the convention on the law of the sea in 1958. In determining the maritime border of that country with the maritime border of that country with Cameroon, Nigeria first accepted the middle line, but in 1998 it deviated from it again, and this caused conflicts between this country and Cameroon was raised in the international court of justice in 2002 (Dzurek, 1999, p.100).

2-1-2) Equatorial Guinea

Due to the conflict between Cameroon and Nigeria and pressure from oil companies, Equatorial Guinea was inevitably included in the negotiations between this country and Nigeria in 2000. The two countries managed to determine a maritime border. The only disputed area is the Ikanga-Zafiro oil field. Zafiro is the largest oil field in Equatorial Guinea- Nigeria claims in this area will affect a large part of Equatorial Guinea's oil resources. On the other hand, the proposed border of Equatorial Guinea, which is called Ikana, will also deprive Nigeria of a large part of the oil resources that have been explored under this country's license (Klett et al: 1997, p. 463). In the



negotiations of 2000, two countries came to the conclusion that each of them should get maximum benefits from the region of Island (Equatorial Guinea: Act No.15/1984). But Nigeria believes that this island cannot have an important effect on demarcation between the two countries. Abon, Equatorial Guinea has maritime borders with Cameroon, Gabon, Nigeria, and Sao Tome, but none of them have been precisely determined. This country claims a 12- mile territorial sea and a 200 - mile exclusive, economic zone (Equatorial Guinea: Decree-law 1/1999). And with its claim, it has reduced a part of Gabon`s coast at the entrance of Corisco Bay and has disputes with Gabon about the islands in this bay.

2-1-3. Sao Tome and Princip

The country of Sao Tome and Princip signed the 1982 convention on the law of the sea in 1987 and has maritime borders with Gabon, Equatorial Guinea and Nigeria. This country refers to the median line to delimit the maritime boundaries and has defined its border with Equatorial Guinea in the same way (Sao Tome and Princip:Decree law 48/82; Revoked by law No.1/98;1998). the 200 mile area claimed by Nigeria overlaps considerably with the area claimed by Sao Tome the country`s negotiations with Nigeria started around 1999, but quickly reached a dead end. The visit of the president of Nigeria to Sao Tome in 2001 caused the two countries to overlap area.

2-1-4. Benin

Although the drawn border of Nigeria with Equatorial Guinea and the northern limit of this country`s overlapping area with Sao Tome has created a large overlapping area with Sao Tome and has created a large economic exclusive zone for Nigeria, there is still a need to draw a line in the western part to delimit the maritime borders of this country with Benin, there are good incentives to start negotiations between the two countries, but the achievement of this depends on the agreement reached in the negotiation between Benin and Nigeria and how Togo reacts in this regard.

2-2. Social, economic and political factors

The development of infrastructure, the fight against poverty and unemployment and the protection of natural resources in the region, especially on the coast of the Nigeria Delta, are inevitable. The average age of the 205 million population of Nigeria is 19 years and 30 % of the

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

population of 30 million people living on the banks of the Niger Delta are unemployed, and 70% of the population of this country lives below the poverty line. Other countries in the Gulf of Guinea region have a similar situation.

The region is at a low level in terms of economic development. This causes young people to be tempted to turn to opportunities to earn money through criminal activities. Unfavorable governance practices by governments, which result from inefficient legal institutions, weak law enforcement and widespread corruption, have caused low security in the region. The government structure and political leaders are tied to the oil industry and the government regime (Rosenstein, October 2005, p.33) and government officials are responsible for direct or indirect collusion or criminal networks. These networks have a hierarchy and operate parallel to the official government structure. "Andrew Mwangura" Kenya, sailors' union Director, calls these people as "the Enablers". These networks dedicate their activities to the transportation of oil and drugs and money laundering and have coherent organizations to find suitable shelters beyond the borders of countries in the region and even in Europe (Rosenstein, October 2005, p.4).

The countries of the region have experienced many instabilities and this instability has fueled their internal insecurity and is rapidly spreading throughout the region. For example, in recent years, Nigeria has witnessed bloody armed conflicts between Muslims or Christians and the security forces of that country, and the conflict between Christians and Muslims has clearly focused on the issue of ownership of land and its resources. Also, armed groups such as the movement for the liberation of the Niger Delta blow up oil hub pipelines or kidnap family members of oil company employees to put pressure on the government.

In Angola, the Cabinda liberation front and its related branches demand political power and a greater share of the country's oil income for the people of the region. The Angolan civil war between 1975 and 2002 between the government and Unita group over diamond resources was one of the most important of these conflicts, which ended in 2002 when the government obtained oil income on the one hand and the leader of Unita group was killed on the other hand.



Congo also went into disintegration with the start of the civil war in 1990 and was divided into two separate political parties.

Since 1997, with the support of France, the previous government's regional power and won over the opposition, the Ivory coast experienced its internal conflicts in 1980 due to changes in the price of Coca, which was the country's main income - generating product. This unrest continental until 2002. Among the countries in the region, only Equatorial Guinea and Gabon have not experienced severe internal conflicts. It seems that these countries are relying on the new oil income and its unpredictable changes will experience new unrest again.

3. Regional and extra-regional measures to combat piracy in the Gulf of Guinea region

3-1. Regional measures

The attack on ships in the Gulf of Guinea, which is a sign of the vulnerability of this Gulf, led to the acceleration of regional reactions. The government of Guinea has realized that economic growth and investment attraction require security, especially maritime security, and regional cooperation is a vital mechanism to deal with maritime crimes, especially piracy and armed robbery at the sea.

In 2013, 25 member states of the Economic community of Central African States (EECCAS) and the Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission signed a document called the Yaounde code of Conduct. According to this document, the relevant governments agreed to cooperate in the field of suppression of transboundary maritime organized crimes, including maritime terrorism, piracy and illegal fishing.

This cooperation is organized through the Central African maritime security regional center (CRESMAC), which was established in 2009 by the Economic community of West African States. In addition, in 2016, The African Union approved the African Charter on Maritime Security and African Development, known as the Lome Charter to pursue the cooperation of the entire African continent to protect 18,950 miles of coast line through a binding legal treaty (Eric Pichon on 2020, p.3).

In addition to organizational cooperation, regional governments have cooperated with each other internally or in the form of bilateral agreement.

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

For example, cooperation between the Nigerian Navy and the maritime Safety Agency of that country significantly reduces attacks on ships around the coast of Lagos. This operation was carried out with the cooperation of military ships with regular patrols and equipped with electronic monitoring devices on the territorial sea access routes of the ports. However, as a result of these precautions, piracy was transferred to the waters of the neighboring country (Benin). While according to the reports of the country of Benin, which did not face any piracy in 2010, it faced 20 cases of piracy in 2011, which caused a 15% decrease in loading and unloading in the port of Kotonu and finally, the income of its country decreased by 81 million dollars (United Nations Report, 2011,3). This caused Benin to request Nigerians to cooperate in solving the said problem. As a result, ships of the Nigerian Navy and the Nigerian Maritime Security Agency, along with the security forces of Benin, have patrolled and guarded the coastal waters of Benin since 2011. As a result of this action, piracy or attempted piracy decreased from 20 cases in 2011 to 2 cases in 2012.

Due to the interconnectedness of these threats in the region, piracy has increased since 2012 in the waters of the neighboring country, Togo. It was found that the number of sea robberies reached 27 and the number of hostage - taking reached 61%. Now, more than 80% of the attacks are carried out outside the Niger, Delta, where the power of patrolling and applying the joint operation law of the Navy and the maritime Security Agency is limited.

To overcome this problem, in May 2013, two private maritime security companies began their cooperation with the Nigerian Navy to establish a secure anchorage area adjacent to the ports of Lagos. This safe zone provides armed protection for ships waiting to dock or ship-to-ship exchange off the coast. In 2014, a satellite monitoring center was established with the trilateral cooperation of the Navy, Air Force and maritime Safety Agency of Nigeria. This center monitors all ships in the waters under the jurisdiction of Nigeria and has the ability to detect ships with the international code of the world maritime organization by installing an array of special sensors along the coast of Nigeria and under the local marine warning program that supported by the United States and the United



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Kingdom, the European Union and the G8 group have also declared their support for this program in several statements.

After experience gained from the Gulf of Aden, the international shipping industry established a commercial maritime information sharing center (MTSC-GOG) in the Gulf of Guinea and acquired a dedicated center for incident reporting, information sharing section and the latest maritime safety guidelines. Its pilot work in it started in 2014. It is located in the city of Accra in Ghana and it provides round-the-clock security reports to the ships participating in the project and is labeled to provide information needed by the national maritime operations center and the international police.

In response to the increase in threats in the region, since 2008, the European Community of Central African States (ECCAS) has prepared a coordinated and comprehensive strategy for maritime security in the region (ISMS), which includes a regional network to regulate maritime activities among Central African countries. In 2009, the community activated the Regional Maritime Security Coordination Center for Central Africa, which is headquartered in Pointe-Novaf in the Republic of Congo (CRESMAC). Under the comprehensive strategic plan for maritime security, this center is responsible for commanding three multinational cooperation centers, each of which is responsible for a specific area of Central African (A, B, D) waters. (CMCs)

The value of this initiative is to create connections and share information and the authority to carry out the necessary formalities to track down the suspected ships crossing the sea borders. Multinational cooperation Area D has been operating since 2009 with coordinated anti-piracy operations by the navies of Cameroon, Equatorial Guinea, Sao Tome and Principe. In addition to reducing maritime crimes and hostage-taking, this cooperation has led to dealing with at least 17 cases of illegal fishing in Cameroonian waters alone, which also involved serious crimes by the perpetrators. A serious effort is being made in the economic community of West African countries. The Economic Community of Central Africa intends to form a comprehensive and coordinated maritime strategy program in West Africa, which includes the West African Maritime Security Coordination Center and will be responsible for coordinating the multinational coordination

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

centers and the West African Joint Maritime cooperation. The range of these areas is the waters of Benin, Nigeria and Togo. The geographical displacement of maritime threats led to the Yaounde Declaration in June 2013, in which the heads of the Economic Community of West Africa and the Economic Community of Central Africa agreed to establish an interregional coordination center in Yaounde, Cameroon (Declaration of June 2013.Yaounde).

A guideline code was also prepared on the subject of suppression of piracy, armed robbery of ships and illegal maritime activities in Central and West Africa to accelerate collective efforts in sharing information, preventing and prosecuting crimes and supporting victims. Unfortunately, the implementation of the provisions of this non-mandatory guidance code is moving slowly and there is a need for stronger cooperation among countries in the region. The solutions adopted by one country only bring small and short-term benefits and lack the ability to interrupt the adaptive strategies of piracy networks. Therefore, the management of the marine environment and the removal of the motivations of pirates in committing this crime and their supporting structures on land should be examined more and more carefully. Even though the Gulf of Guinea provides a suitable area for shipping and fishing, the ease with which a pirate can hide and disappear after carrying out his operation on the coast reveals another unfavorable aspect, namely the lack of supervision, security and public control. For example, In the Niger Delta, the government's amnesty program for militants in 2009 resulted in a significant reduction in crimes against shipping. The resurgence of this type of crime in 2013 can be attributed to new employment opportunities and the presence of young people in this area, who unfortunately did not get jobs and were attracted to criminal groups. (Abell, January, 2014, p.14)

Unfortunately, large illegal markets for the sale of stolen goods, including oil, are scattered around the world and remain immune from legal action. On the other hand, the application of inter-organizational and inter-national political requirements to fight piracy in the waters of the Gulf of Guinea requires the establishment of strong and efficient capacities for monitoring, response and implementation. The countries of Benin, Ghana, Liberia, Nigeria and Senegal have improved their coastal surveillance with the help



of their powerful partners, such as the United States and England. Unfortunately, the independent monitoring at a distance outside the radar (30 to 40 nautical miles) is an important problem for countries in the region.

Also, access to wide bandwidth and technical ability to maintain and repair equipment to facilitate proper communication and patrolling are also some of the implementation limitations of these plans (Vogel, July, 2011, p. 10).

The ability of the navy and coastal protection of West and Central African countries is limited. Even if all the existing forces of these countries are prepared to do this, due to the lack of number of ships, it is impossible to create a support patrol program that requires the presence of one ship every 250 nautical miles. Due to the variety of ship equipment suppliers, the problem of keeping the fleet ready also creates an important obstacle. The life of the regional fleet is more than 25 years. While maintaining the quality of these ships is vital to achieving the goal. At the beginning of 2014, statistics were presented showing a 60% decrease in crude oil theft (from 100,000 barrels per day to 40,000 barrels per day). This was considered to be affected by the use of new patrol boats, which made it possible to access the waters of the Niger Delta. In addition to these boats, increasing coastal patrol skills and maritime defense boats, have been effective in this success (Ezugwu, January, 2014, p. 27).

Sterility of activities due to the lack of effective prosecution of pirates and other criminals is common in West and Central African countries. This issue is caused by the lack of proper and effective laws for prosecuting pirates, as well as ineffective punishments and the long judicial process of these cases. In most of these countries, the navy, coast guard and maritime security agencies lack the power to pursue criminals and for this they need to use the police force. As an article in the country of Nigeria, the trial of convicted criminals is done months after the arrest and due to the weakness of the judicial officers in studying and preserving the documents and obtaining the necessary information, this problem leads to the benefit of the accused and even to his release.

An increase in criminal acts against ships in the Gulf of Guinea has accelerated private sector countermeasures. In Nigeria, oil companies have hired private military forces and contracts with security contractors

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

(PMSCs) to ensure the security of their ships. The increase in the number of these contractors in 2015 is a sign that their activities are profitable for oil companies. But on the other hand, the increase in the number of these military security companies questions the power and authority of the governments of the countries in the region.

The fight against piracy and armed attacks on ships in the Gulf of Guinea requires more effective measures against the full cycle of this type of crime, which includes the internal causes, coastal water transport, and the markets for the sale of stolen goods. More than that, it needs strong and efficient marine environmental management. West and Central African countries should create safe and secure corridors and anchorages to prevent ships from being delayed in their territorial sea and exclusive economic zones, which are less monitored. This solution is similar to the solution that was used to create a transportation corridor for the Gulf of Aden and was implemented well in practice. These measures require joint cooperation between the countries of the region and its facilitation by the inter-regional coordination center. Applying punishment to crimes against ships is the most important action in this field. Such a process will increase the security of ships and facilitate patrolling and monitoring to obtain maritime authority (Osinowo, July 2011, p. 60).

In order to advance marine management, it is necessary to speed up the formation process of the maritime inter-regional coordination center and the mechanisms for the formation of the

E-leadership region as much as possible. This will facilitate the exchange of information between law enforcement agencies, maritime trading partners and global allies. In particular, the establishment of national naval operations centers can solve the problems in inter-organizational cooperation between naval forces and coastal and flag-owing countries.

Due to the lack of judicial rulings issued related to piracy in these countries, there is no single legal procedure, both legislative and judicial. This importance was emphasized in the memorandum of understanding between the Gulf of Guinea Commission and the Economic Community of Central African countries and the Economic Community of West African countries. Therefore, a general review of the legal system of the countries of the region is necessary so that they can legally and punish the



perpetrators of piracy. Also, coordination in the extradition of criminals and the type and severity of punishments for these crimes make these criminals disappointed in the hope of enjoying a milder punishment in the neighboring country. The judicial officers responsible for the investigation and collection of crime evidence must also be trained to the necessary standards.

The establishment of a permanent entity for region E at the helm of naval forces by the West African Economic Community through the Committee of the Chiefs of Defense Staff (CCDS) will provide the necessary synergies for the coordinated efforts of regional navies. This link should be repeated for other maritime areas under the supervision of the economic community of West African countries. A multilayered deterrence mechanism, including air patrols, maritime patrols, and ground and satellite surveillance, is needed to ensure security in the Gulf of Guinea. According to the International Code to Facilitate the Security of Patrols and Ports, continuous surveillance requires at least a 100-mile radar coverage along with a 250-mile patrol radius.

Also, the number of ships is sufficient for when a ship needs repairs. According to the length of 3000 miles of the coast of this bay, at least 90 ships will be needed, which compared to the existing number (32 ships), it is still a long way and a large investment is needed to reach the target. Breaking the chains of piracy is a costly and time-consuming process that requires the ability and authority and information sharing among regional partners. This authority needs to monitor the ships in these waters, their employees and the owners of these ships in order to identify suspicious people and ships. Also, centralized coordination between countries in the region with global partners to identify and suppress criminal networks in order to prevent money laundering resulting from the sale of stolen goods, along with sanctioning ship owners and organizations that benefit from trade with thieves, will be very effective (Osinowo, 2015, p.60).

3-2. Extra-regional measures

3-2-1. EU measures in the region

The International Maritime Organization's Piracy Information Center recorded more than 58 cases of piracy in the Gulf of Guinea in 2012. Among the countries in the region, Nigeria has the highest number of

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

reported cases with 27 cases. This figure is 3 times of the figure for 2011. Only in the first three months of 2013, 11 similar cases were reported. While from 2003 to 2011, all attacks in the waters adjacent to the African continent, in 2010, it reached 39 cases. The extent of these attacks is a threat to the international community and especially to the countries that use the waters of the region for transportation.

The European Union has paid special attention to this issue and has determined its strategy(JAES) in the Gulf of Guinea under the influence of this issue. So the European-Africa joint strategy meeting in 2014 caused. European commercial companies have faced an increase in the Gulf of Guinea, and with these conditions, they are taking some kind of risk by doing commercial shipping in this area. As stated by the European Ship Owners' Association(ECSA), Europe is doubly affected by these attacks. The ships at risk include EU ships that sail in the region with EU flags and may carry goods belonging to this Union. The increase in attacks and the subsequent increase in the cost of European goods for customers as a result, fail in economic competition. More than 90% of the costs of security and travel operations are consumed in the shipping industry. In addition, the human cost of piracy has also increased due to the need for professional groups (Barrios; May 2013, p.2).

The world's major oil consumers supply about 20% of their needs from the Gulf of Guinea. Meanwhile, new companies have recently started their own drilling in the waters of the Ivory coast, Nigeria and Ghana. The European Union alone supplies 13% of its gas consumption from this region. In addition to supplying oil, the European Union cooperates with the countries of the Gulf in matters such as the protection of the marine environment and the development of the region. These cooperations will be totally dependent on the region's security and stability. Due to the lack of statistics and necessary information about piracy in the region, it is not possible to draw a suitable, comprehensive and consistent plan to create security in the region (Barrios; May 2013, p.13).

Compared to other international shipping routes, there is limited information on safety in the Gulf of Guinea. Persecution of hostages is practiced by pirates and the number of hostages killed has increased. Ship captains feel more dangerous and are afraid to work on these unsafe routes.



If ships slow down or stop for unloading and loading operations in distant ports, the risk of encountering attacks increases. Unfortunately, the coastal protection services of the countries of the region are insufficient and they use untrained citizens for this purpose and lack sufficient manpower and equipment to operate on the deck of ships.

The quick reaction and appropriate policies of the European Union against piracy in the Gulf of Aden and Somalia led to the reduction of this crime in that region. The neighboring countries of the Gulf of Aden, along with the international communities, adopted a coherent and multi-dimensional response that combined the development and reform of the internal structure with maritime surveillance and international diplomacy. But it is doubtful that this method will be effective in the Gulf of Guinea. Because the conditions of East and West Africa are completely different.

The European Commission has started evaluating several projects for maritime security in the Gulf of Guinea. The Joint Research Center has launched a Maritime Awareness and Risks Project in order to obtain information and share it for policy makers to solve one of the most pressing problems ahead, i.e. the lack of accurate and sufficient information. The European Development Fund (EDF) also supported the legislative coordination project, rapid response and increasing the efficiency of ports at the beginning of the Economic Community of Central African States to speed up the Gulf of Guinea maritime Emitting Strategy. Also, a sustainability document was used to finance a new project in the crisis sea routes program (CRIMGO). Based on this, with a budget of 4.5 million Euros, the crisis sea routes program will be carried out by a consortium of 7 European Union countries over three years. With capabilities such as participation in executive operations, coastal defense strike missions, inter-organizational work and regional security mapping, this program is considered a special and exceptional program. But more important than the validity of this program is maintaining its stability and durability. International activities also require participation in the exchange of information with local governments and improvement in the rule of law. Of course, the incompatibility of intra-regional structures with security problems shows the need for extra-regional goals from interested countries. The Economic Community of West African Countries, the and Gulf of

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

Guinea Commission are all important players in providing security in this Gulf. These three regional institutions should cooperate with each other in accordance with the UN proposals and also according to the code of conduct established in the Djibouti document for the Gulf of Aden in order to improve the security of the region. Unfortunately, in the meeting of the regional countries, exaggeration of the importance of some countries in the region such as Nigeria and the fronting of the French-speaking and English-speaking countries against each other led to the failure to reach a binding result ("EU Strategy on the Gulf of Guinea, "press release from the Council of the European Union, March 17, 2014).

Despite the lack of sufficient authority of the neighboring countries of the Gulf of Guinea to ensure shipping is the use of trained armed forces on ships. Of course, currently the use of armed forces on ships faces legal obstacles. Many African and European countries do not allow the deployment of armed forces on ships under their jurisdiction. Because they believe that safe harbors with an effective coast guard and navy are much more appropriate than using armed forces on merchant ships. Of course, the need for coordination between the captains of the warships, who lack experience in commanding and supervising the operations of armed groups, may have a negative effect on the paper and timely detection and performance of these forces.

3-2-2. Establishing a maritime security conference

This conference was held on December 6, 2012 under the title of security of the marine environment of the Gulf of Guinea. This meeting was a continuation of the issue raised in June of the same year in Luanda, which led to the issuance of a statement on the issue of peace and security in the Gulf of Guinea. Although the topic of this conference was broader and included such things as: terrorism, disarmament, immigration. But paying attention to joint cooperation to solve these problems is also effective in fighting piracy. This conference was held with the presence of the deputy CEO of the Gulf of Guinea Commission, Mrs. Florentina Adenike Okunga. The purpose of the conference was the closeness of views and the exchange of views, especially focused on piracy and illegal fishing in the Gulf of Guinea. Representatives from the International Maritime Organization, Interpol, the Nigerian Navy, the United Nations Department



of Political Affairs and the British Foreign Office participated in the conference, which was organized by the Center for African Studies at Coventry University.

At this conference, Mr. "Tony Ata" from shell Oil Company, with his experience in social business, considered the problem of the region to be caused by a relationship between parallel industries and a vast resource chain with skill growth. He announced; Due to the lack of industrial development and lack of equipped refineries, almost all the oil extracted from the region is exported. At least in the case of Shell, which has installed about 6000 kilometers of oil pipelines. Shell Company has also mixed the oil produced by itself with a traceable substance that can be identified at any stage of illegal transfer or sale.

Mr. Yaron Gottlieb, the representative of Interpol at this conference, while explaining the activities of this organization in establishing regional anti-piracy offices since 2008 in the two cities of Abidjan and Yaounde. Said that these offices perform their duties based on the reports received. The reports received were only related to the cases of piracy in the Gulf of Aden, and no reports from the Gulf of Guinea were presented to them to start the investigation. (Policing Interpol, Chatham House RoundTable Summary, December 2012) Of course, according to the investigations carried out in the region by Interpol, there was no connection between the pirates of the Gulf of Guinea and terrorist group active in Africa, including Boko Haram, and it ruled out the terrorist activities. Of course, the lack of sufficient monitoring of the area makes any kind of illegal activity possible, such as drug, human, or arms trafficking. This can be effective in facilitating or strengthening terrorist activities and other international crimes. Using and joining the Palermo Convention in the criminalization of organized crimes can result in the prosecution and punishment of these crimes with greater strength and speed.

Since 2008, the United Nations Security Council has considered piracy as a threat to international peace and security by passing Resolution 1816, and has taken this issue into consideration under the seventh chapter of the Charter. Also, in 2011, the Security Council, by passing Resolution 2018, condemned piracy and armed robbery at sea in the Gulf of Guinea region and urgently requests all regional actors to take strong steps against the

perpetrators of these crimes. Following this, institutions such as the International Criminal Police Organization (Interpol) and the piracy Reporting Center of the International Maritime Bureau (IMBPRC), in cooperation with regional institutions, have expanded their activities in the field of informing and helping ships passing through the Gulf of Guinea.

4. Comparison of how to fight piracy in the Gulfs of Guinea and Aden

Article 105 of the Convention on the Law of the Sea indicates an action that can be taken against a pirate ship. These measures will not include forceful operations in the territorial sea. According to the point in Article 101 of the Convention on the Law of the Sea, piracy is basically defined in the territory beyond the territorial sea. Therefore, there is a prevailing option that criminal actions of the same level as piracy within this area under the title of armed robbery against ships are definable. But according to the recent cases in the waters under the sovereignty of Somalia, although the consent of that country to exercise the international jurisdiction of other countries was deemed necessary by the resolutions of the Security Council, this issue caused the non-application of the word "piracy" to the crimes committed in this region. Do not see it as a threat to global security and peace (Resolutions:1816 Dated January 2008, 1848 Dated 2 December, 1851 Dated 18 December 2008 Security Council of United Nations). In this way, beyond 12 miles, piracy is an international crime and all countries have the authority to intervene and arrest the thieves, but inside the territorial sea, the territorial jurisdiction of the coastal country prevails. In fact, the term armed robbery is mostly used by the International Shipping Organization and it is related to cases where the criminal operation in question has been carried out in the waters under the jurisdiction of a country. The difference between the two is important in the license to employ private security companies and private armed individuals.

One of these differences is the connection between piracy in the Gulf of Guinea and the issue of oil and its transportation. While in the Gulf of Aden, the focus of the attacks was mainly on taking hostages to get money. On the other hand, attacks in the Gulf of Guinea are carried out with greater intensity and by more professional people. So that they even know how to prepare and fire rockets. The attacks carried out in the Gulf of Guinea are



significantly focused on ships carrying oil and valuable goods. This shows that they have prior knowledge of the ships' cargoes.

In the Gulf of Aden, due to the concentration of attacks in the waters outside the territorial jurisdiction, the law of the country that owns the flag prevails. As a result, this law is applied to arresting thieves. This action confirms the role and competence of international naval forces such as NATO and the European Union outside Somali waters. In this operation, the forces of about 20 countries, led by the United States, as well as the joint action of the European Union Council in the form of the Atlanta Operation, were present.

On the other hand, the expansion of the naval war front in the Gulf of Guinea is unreliable and much more expensive in terms of finances due to the diversity of the crime area and its movement from coastal waters to open waters. So that during the 10 years leading to 2012, the number of attacks in the open waters of the region was 108 attacks, 173 attacks in the territorial sea, and 270 in ports (www.gisis.imo.org, December, 2014).

On the other hand, in Somalia, due to the existence of a powerless government that was unable to exercise jurisdiction in the regions under its jurisdiction, following the issuance of Security Council Resolution 1816 in 2008, the interim government of that country issued permission for the presence and intervention of other countries. Of course, there is a belief that the aforementioned resolution was issued based on the seventh chapter of the United Nations Charter and Somalia's permission was not necessary. Ibn Katznameh, first: it was valid for 6 months and was extended for 12 months in 2008 by Resolution 1846. Secondly: He called this situation a special case and only limited to the country of Somalia. Thirdly: it emphasizes respecting the legal rights of other countries in the waters in question. While in the West of Africa, all countries have full authority and are responsible for applying the law in the waters under their jurisdiction. Because the legal system and judicial procedure of the Gulf of Guinea countries are very different, there is a need for regional communication and coordination between these countries.

5. Conclusion

Piracy in Guinea Golf: Causes Appear the Crime ...
Mahdi Momeni

The countries of the Gulf of Guinea in the west of the African continent, after a long period of enduring poverty and facing internal conflicts, have faced the discovery of oil on their continental plateau since 2000. These countries still lack the necessary economic, political and social infrastructure. Corrupt governments do not use the financial resources obtained from the sale of oil for the promotion and development of their countries. As a result, the massive young population, without job opportunities and minimum standards of human life, attracts criminal groups and loots commercial fleets and oil tankers.

On the other hand, the lack of powerful governments and sufficient facilities and necessary technical resources, along with the shortcomings of the legislative and law enforcement systems in these countries, has made the fight against these thieves a serious problem. In this situation, the entry of other countries, especially European countries, will reduce the problems caused by technical deficiencies, but it will not eliminate the main causes of this international crime. Therefore, the only solution to eliminate or at least reduce the extent of this crime- as the most important and influential criminal act in the region- is internal reforms in the political and economic system and the judicial system of the countries of the region along with all round cooperation after resolving the existing dispute, especially there will be border disputes. The universal criminalization of governments and their comprehensive accession to international documents fighting piracy, including the conventions of 1979, 1982 and 1988, and applying the jurisdiction of governments to the perpetrators of this crime, can have a significant impact on reducing the criminal statistics of this phenomenon.

Although the use of armed forces on commercial ships was abandoned for a long time with justifications such as the lack of practical examples of piracy, but now, on the one hand, due to the re-emergence and spread of this crime and, on the other hand, the possession of weapons by pirates. New weapons especially heavy weapons, the insistence on not using weapons on commercial ships should be re-examined and the possible problems caused by it should be solved with proving legal solutions.



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Mahdi Momeni

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Mahdi Momeni

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