

The consequences of a collapsed Somalia for the suppression of piracy

Collapsed Somalia and weak Indonesia compared



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Preface

This thesis was done in the context of my bachelor and is the final test of my bachelor study International development studies at the Wageningen University. In a previous course, the course Globalization and Governance, I wanted to address water rights in the paper I had to write for the course. When my boyfriend Johannes draw my attention to the problem of piracy off coast of Somalia, I was immediately interested. I found this issue so interesting that I decided that I would use it for my bachelor thesis. I wanted to go further into the collapse of Somalia and wanted to know which influences this has for the suppression of the pirates. To do so I have conducted a literature study in which I compared the states Somalia and Indonesia and their ability to suppress piracy.

First and foremost I would like to thank my first supervisor, Prof. Dr. Ir. Van Dijk for his guidance and advice. Sometimes inimitable but mostly very usable. Further I appreciate it that Dr. Hadiprayitno could stand in when my first supervisor became ill. I would like to thank her for her time and support. I would like to thank Johannes Bouma for his ideas, comments and support. Finally I would like to thank Anneke van den Berg for her critical reading of my report.

J.H. van den Berg

Summary

Piracy at sea off the coast of Somalia has become an international problem. The pirates attack international vessels and through this the busy navigational route in the gulf of Aden has become a dangerous and expensive route. This research has examined the consequences of the collapse of Somalia for the suppression of the piracy in its territorial waters. This is done through a comparison between Somalia and Indonesia. For this literature study a theoretical framework is developed based on the theory of Tilly about states and their monopoly on violence and from the concept institutional void from Hajer is used. Further is made a framework to assess the ability of the states to suppress piracy. This framework consist of two elements, the centre which is split up in the indicators; state history, government form, internal conflicts, law, measures, and international cooperation. The second element is the periphery which is split up in; area, reach of the government, security forces, law enforcement and corruption.

There are several differences between piracy in Somalia and in Indonesia. The Somali attacks are different from the Indonesia attacks, the Somali attacks have a much bigger and aggressive mode of operation. Were the Indonesian pirates use the geography for small and secretly attacks, the Somali pirates are bolder, they go further out the coast and use arms to attack steaming ships and they often take the crew in hostage.

The differences in the centre of the states are evident. After the regime of Siad Barre Somalia collapsed and has turned into chaos. Somalia now has no central government but three different governance forms which have split the country in three parts. There is no clear legal system and the measures that are taken to suppress piracy are taken by international actors. Indonesia is now a relatively stable democracy with only a view minor conflicts. It has a clear law but not many measures are taken against piracy and international cooperation is difficult. Thus Somalia has no central government, no law, no measures taken against piracy but a lot international interference. In the contrary Indonesia has a central government and a law, but not many measures are taken and cooperation with neighbour countries is difficult. The differences in the periphery are less evident. The area that the countries have to secure differ, the Indonesian territory is more difficult to secure than the waters of Somalia. The reach of the government is a factor that is less different for the countries, the reach of both countries is limited and both countries are also faced with corruption. Indonesian has better security forces and the enforcement of law is also better than in Somalia, but these differences follow from the difference in the central government. Thus Indonesia is strong in the centre and weaker in the periphery while Somalia is weak in the centre and weak in the periphery.

The main difference between Somalia and Indonesia for combating piracy is that Indonesia has a central government while Somalia lacks a central government. Somalia has no central government to suppress piracy, because of this an institutional void has appeared which is used through the pirates to attack and rob ships. Indonesia does have a central government and is much more able to suppress piracy but because of the limited reach of the government in combination with the difficult area, there are still pirates, international cooperation could solve this problem. This can also be seen as an institutional void, on a regional level, there is no regional cooperation to suppress piracy in Southeast Asia. This difference is reflected in the different attacks, in Somalia the attacks are openly and ambitious making use of the lacking central government while the attacks in Indonesia are small and secretly, using the shallow reefs and narrow waterways. The problems in Somalia and Indonesia are security problems which cannot be solved by deliberation alone. An authority which can deploy force and obtain the monopoly on violence and in this way can secure the area is necessary. Thus the solution that Hajer proposes for an institutional void, deliberation, is not suitable when this institutional void is also an security issue.

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List of abbreviations

CC	Control and Corruption Index
CPI	Corruption Perception Index
CTF	Combined Task Force
EU	European Union
ICRG	International Country Risk Guide
IMB	International Maritime Bureau
IMO	International Maritime Organization
JSC	Judicial Service Council
NATO	North Atlantic Treaty Organization
NPPO	National Procurement Policies Office
RDRD	Rehabilitation, Disarmament and Resettlement Directorate
RPG	Rocked Propelled Grenade
SNM	Somali National Movement
TFG	Transitional Federal Government
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNEP	United Nations Environmental Program
UNODC	United Nations Office on Drugs and Criminalization

1 Introduction

Piracy at sea off the coast of Somalia has become an international problem. The pirates attack international vessels and through this the busy navigational route in the gulf of Aden has become a dangerous and expensive route. Since the civil war in 1991 in Somalia, the area has become dangerous. But the activities of the pirates massively increased in 2000 and especially in 2006 (Treves, 2009). Capturing ships and holding their crews for ransom since the 1990s has been carried out by armed groups acting mostly in the territorial sea. They claimed to protect Somalia's fishing resources, which were in effect pillaged by foreign fishermen and the coastal waters, which were used as a dumping ground for waste in the absence of a government able to enforce the law (Treves, 2009). But taking advantage of the absence of a national government the number of pirates have risen and their activities have expanded now attacking ships at a much greater distance. It now has become an international problem because navigating from the Suez Canal and going through the Gulf of Aden to the area between the Horn of Africa and the Arabian peninsula has become a difficult and unsecure activity. In 2008, 42 vessels were seized and 815 mariners were held hostage by the pirates off the coast of Somalia (Kraska and Wilson, 2009). The unstable situation of this route has caused the involvement of different actors, states and non-state actors like the UN.

Because of the current condition of the government of Somalia the state is not able to intervene in the piracy. The state is instable and the government does not have enough authority, through this it has not been able to address the piracy properly. Because a government is lacking in Somalia and the country is tumultuous, Somalia is seen as a failed state. Which consequences has the situation of a country without a working government for the suppression of piracy? This question will be addressed through a literature study, Somalia will be compared with the situation of Indonesia; both countries with a lot of piracy in their territorial waters. Indonesia which also copes with a lot of piracy at sea off coast and has a relative weak state (He, 2009). To compare both situations an analysis will be made of both states and their ability to combat piracy to conduct what the consequence are of the lacking government for piracy and the suppression of piracy.

In the next section a theoretical framework will be established to conduct this research. The concepts for this research will be defined and a framework will be developed to assess the states and their ability to fight piracy. Then will be worked on the piracy in both the areas to see what the differences are. Then both the states will be examined to assess their ability to combat piracy. An analysis will follow and finally a conclusion. In this conclusion an answer will be given on the main question; What is the difference between a failed state Somalia and a weak Indonesia for combating piracy at sea off the coast.

2 Theoretical framework

The main question of this research is the question ‘What is the difference between a collapsed Somalia and a weak Indonesia for combating piracy at sea off the coast?’. To answer this question the research is divided in three parts. The first section will look at the difference between the piracy off coast of Somalia and the piracy off coast of Indonesia. To compare the piracy in the waters of these countries, piracy needs to be defined. Piracy is defined in article 101 of the United Nations Convention on the Law of the Sea (UNCLOS) as followed:

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 to: (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). (UNCLOS, 1982)

This definition has some problems when you apply it on the situation off coast of Somalia. (Berg, 2010). The most important problem of this definition is that it does not include piracy in territorial waters. This definition does not include the piracy that is happening in the territorial seas of a country. Another problem of the definition is identified by Treves (2009), the definition speaks about ‘a ship or a private aircraft’ while in the case of the Somalia pirates not always one or more ships are involved, sometimes they use very fast skiffs coming from the mainland or other mother ships at sea (Treves, 2009). The third problem this definition has is that it speaks about acts committed for private ends, which excludes piracy with political ends, while some of the pirates off the Somalia coast have political ends (Zou, 2009). Through this the acts of piracy off the Somalia coast and Indonesia coast are not included in the definition of the UNCLOS, with other words if you use this definition, you cannot call the acts in the waters of Somalia piracy.

The International Maritime Organization (IMO) has addressed this matter by defining both piracy and ‘armed robbery against ships’ (ICC, 2010). The IMO uses for piracy the definition of the UNCLOS and armed robbery against ships is defined as; *any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, directed against a ship or against persons or property on board such ship, within a state’s jurisdiction over such offences* (ICC, 2010).

The International Maritime Bureau (IMB), part of the Chamber of Commerce, uses a different definition for piracy. It defines Piracy and Armed Robbery 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'* (ICC, 2010, pp. 3). This definition differs from the definition of the IMO but is made for statistical purposes and defines piracy and armed robbery together. It makes no distinction between attacks in international or territorial waters, the requirement of two ships is left out, and the act does not have to be for private ends (Johnson and Pladdet, 2003). For this research the definition of the IMB will be used. Doing so the piracy that happens in territorial waters is included which would not be the case when the definition of the UNCLOS is used. It is important to keep in mind that piracy can have another meaning outside the western world. In Southeast Asia there has been piracy since 400. In Southeast Asia piracy traditionally had a social purpose, it was not outside civilization but incorporated into the laws of society (Young, 2005). This has changed in the 18th century with the coming of the Europeans. The western concept of piracy has pushed aside all the other discourses of piracy. Nevertheless, these definitions and understandings, as in the past, do not entirely fit the reality of piracy, they do not take into account the local context of piracy (Young, 2005, pp. 11).

To compare the piracy of Somalia and Indonesia this research will look at the number of attacks, which kind of acts of piracy, what the causes are of the piracy and where the piracy is taking place. This research will focus on the piracy that can be attributed to the responsibility of these states, Somalia and Indonesia. The states are responsible for the piracy that happens in their coastal waters. The area off coast in which a state has the sovereignty has been defined in the UNCLOS, because a lot of conflict has been over the borders of the territorial waters. A general rule has been developed to establish the border of the territorial waters in the UNCLOS. According to the UNCLOS (part two) the sovereignty of a coastal state extends beyond its land territory, its internal water and its archipelagic waters, to the territorial sea, the state has the right to establish the breadth of its territorial sea up to a limit of 12 nautical miles (UNCLOS part II, 1982). The UNCLOS has been ratified by Indonesia on 3 February 1986 and by Somalia on 24 July 1989 (Oceans and Law of the Sea, 2010). This means that they can both claim a territorial sea up to 12 miles off the coast, for Indonesia this also extends beyond its archipelagic waters. Thus the piracy that happens within 12 miles off coast falls under the jurisdiction of the states. But according to the IMB the attacks in the Gulf of Aden, Red Sea, Arabian Sea, Indian Ocean and Oman are attributed to Somalia pirates (ICC, 2010). These attacks do not fall under the responsibility of the Somali state because they do not happen in the territorial waters of Somalia but they are being conducted by pirates that come from Somalia. This is important because the numbers that will be used are about the piracy that happens in the territorial waters of

the countries. But the Somali pirates also attack beyond this area. For Indonesia no information is available about pirates that attack beyond the territorial waters.

The second section will look at the status of the state and its ability to suppress piracy. Modern states are tamed by politics, to direct their activities toward ends regarded as legitimate by the people it serves, and to regularize the exercise of power under a rule of law (Fukuyama, 2004, pp. 2). States seen in this sense are something new, and they did not exist in a large part of the world before the European colonization, after decolonization a period of state building took place which was sometimes successful but was often only in name (Fukuyama, 2004). Somalia and Indonesia are both states that have been colonized for a long time. This means that they have seen a period of state building in the last decades.

According to Hoffman (2004) the state is heterogeneous and complex, some authors have argued that it cannot be defined but because the state exist it needs to be defined. Max Weber has defined the state as an institution that claims a monopoly of legitimate force for a particular territory (Hoffman, 2004, pp. 21). In this understanding the state has a monopoly on violence. Thus the state can be seen as a relatively centralized, differentiated organizations the officials of which more or less successfully claim control over the chief concentrated means of violence within a population inhabiting a large contiguous territory (Tilly, 1985). State use their monopoly on violence to acquire authority and to gain legitimacy, because there is the probability that other authorities will act to confirm the state's authority (Tilly, 1985). The state seen in this way is important for this research. Because when acts of piracy take place in the territorial waters of a country this means that the state does not have the control over the area. With other words they miss the authority and do not have a monopoly on violence to secure that area. According to Tilly (1985,pp. 181) four different activities of state-controlled violence can be identified;

1. War making: Eliminating or neutralizing their rivals outside the territories in which they have clear and continuous priority as wielders of force.
2. State making: Eliminating or neutralizing their rivals inside those territories.
3. Protection: Eliminating or neutralizing the enemies of their clients.
4. Extraction: Acquiring the means of carrying out the first three activities.

These different functions have all produced their own organizational forms, respectively armies, navies and supporting services; durable instruments of surveillance and control within territory; courts and representative assemblies; fiscal and accounting structures (Tilly, 1985).

Historically state making was first done in Europe and this Europe-based state-making process has

extended to the rest of the world, but this has not led to states that are identical to European states (Tilly, 1985). States that have recently come into being in the case of Somalia and Indonesia through decolonization, have acquired their military organization from outside without the same internal forging of mutual constraints between rulers and ruled (Tilly, 1985, pp. 186). When outside states guarantees the boundaries of a state there can develop a disproportion between the different organizations (Tilly, 1985). Thus when the institutions in a state are not developed internally, these organization can in some cases become unbalanced and one of the functions of a state can become overrepresented. A well-known example is the disproportional size of the military force in many countries. When the different organizations in a country are not in balance with each other this can lead to a state that is not functioning well.

This leads to the question, when is a state a failed state and when not. According to Zartman (1995) a state is a collapsed state when it is not able to perform its basic functions. With his book *Collapsed States* Zartman addressed the biggest crisis's in the 1990s and this was one of the first works in which the concept of failed states was introduced (Call, 2008). But since then the concept has been used in so many different ways that it has lost its usefulness (Call, 2008). According to Call (2008, pp. 1494-1500) the concept of failed states has been important for research, resources and policy attention for states that are not well functioning but nowadays the concept has become problematic for an analysis for a number of reasons;

1. The problem of the definition and more specifically of the aggregation of very diverse sorts of states and their problems under one concept.
2. It tends to lead to one prescription; more order.
3. It avoids the nature of regimes, it avoids issues like; democratization, representation, horizontal accountability and transparency.
4. Those concerned with peace building and peace keeping have increasingly come to see state building as the core task of peace building.
5. In the concept of state failure the state has become a value based notion.
6. The West's role in state failure.

To overcome these problems Call (2008, pp. 1501-1504) suggests a initial list of categories, to categorize failed states:

- Collapsed states: countries whose state apparatus ceases to exist for a period of several months.

- Weak states: places where informal networks – tribes, patron-client networks or ethnically based networks – rather than state ministries, are the main channels of services delivery and allocation of public resources.
- War-torn states.
- Authoritarian states/regimes.

This list is not complete there exist much more categories but it is a more differentiated approach to categorizing states (Call, 2008). Somalia as a failed state can be classified as a Collapsed state, after the rule of Siad Barre collapsed, chaos originated in Somalia and for a certain period no working government existed at all. Although Indonesia is not a strong state it has been able to fulfill the basic functions of a state and it is not necessary to categorize it as a failed state.

In a collapsed state a government apparatus has been absent and this can lead to an institutional void. We expect that the state failure of Somalia which has partly lead to the piracy at sea off the coast can be identified as an institutional void as described by Maarten Hajer (Berg, 2010). An institutional void is a place with no clear rules and norms according to which politics is to be conducted and policy measures are to be agreed upon (Hajer, 2009, pp. 175). Hajer (2003, pp 178-180) has identified five elements in the institutional void that challenge the classical-modernist institutions.

1. The new order of decision making is dispersed: the institutional powers of the national polity are limited.
2. A new spatiality of policy making and politics has come in to being: the new order is not simply about the need to communicate more and more effectively between governments at different level but there are also societal actors implicated in the new politics.
3. The standard view of participation and democratic governance might have to be rethought: participation in the forms that we have come accustomed may not be the most promising way of organizing citizen-involvement in policy deliberations.
4. The authority of classical expertise has been undermined: the commitment to 'first get the facts right,' to call on scientific investigation to try to resolve the complex problems of policy making, now often produces only more uncertainty.
5. The context of policy making is expansive: there are new fundamental themes being brought to the fore in the new politics of nature.

To look at the state's status and its ability to suppress piracy you need to study it. To assess a state you can ask questions like; is there a well-defined territory that is internationally recognized, is there a polity, how effective is the control exercised, are taxes collected and do they make their way into the state coffers (Gros, 1996)? But several methods exist to indicate the strength or weakness of a state. Gros (1996) has made a taxonomy of failed states which ranges from anarchic state to the aborted state. The Fund for Peace has developed the State Failure Index, a set indicators to measure the stability of a country (Fund for Peace, 2010). This index which contains 177 countries divides the countries in four categories, alert, warning moderate and sustainable. Somalia is number one in this list and is in the red area (alert), Indonesia is number 62 and is in the orange area (warning). To make this index several indicators are used, namely; Social, Economic and Political Indicators which are further subdivided. As said by Call (2008) the State Failure Index agglomerates different states with different problems under one concept. Also this index makes an analysis of the country as one unit, it makes no distinction between the centre and the outlying areas of the countries. The expectation is that the authority of a government is not of the same strength in every area, probably there will be less authority in the outlying areas. Therefore a distinction will be made between centre and periphery when assessing the state. The centre is the place of the power of the state and its resources while the periphery is place where the enforcement takes place.

To compare the states Somalia and Indonesia a framework will be established to assess their possibilities to combat piracy. This framework will be divided into two segments, namely the centre, where policy is developed and the authority is established, and the second segment is the periphery where policies are executed. A monopoly on violence means that no other actors than the state can deploy violence in the area without approval of the state. When pirate attacks happen other actors use violence without the approval of the state. So when piracy happens a state does not have the monopoly on violence in that area because they cannot eliminate or neutralize their rivals in their territory. Therefore the two elements, centre and periphery, are further divided in indicators that are important for the monopoly on violence and the security of a state or factors that influence this. When we subdivided the two elements this leads to the following indicators:

1. Centre
 - a. State History
 - b. Government form
 - c. Internal conflicts
 - d. law
 - e. Measures

- f. International cooperation
- 2. Periphery
 - g. Area
 - h. Reach of the government
 - i. Security forces
 - j. Law enforcement
 - k. Corruption

These indicators will be used to make an analysis of the state and to find out which consequences the status of the state has for combating piracy.

3 Piracy

3.1 Introduction

This chapter assesses the piracy off coast of Somalia and off coast of Indonesia. This will be done by looking at the number of pirates, where they attack, how they attack and what motives the pirates have. These questions are used to compare at the differences between the Somali and Indonesian pirates.

3.2 Number of attacks

Since 1992 the IMB has an IMB Piracy Reporting Centre. The Piracy Reporting Centre is a contact point to report an actual or attempted attack. The Piracy Reporting Centre makes reports of all these incidents and they also make an annual report of all acts of piracy and armed robbery every year. In these reports you can find information about the attacks. Table one shows the number of attacks per location from 2005 until 2009. It shows a significant decline in the number of attacks in Indonesia over the years, in 2009 the number has even decreased to 15 attacks.

Table 1 Locations of actual and attempted attacks 2005-2009 (ICC, 2010, adjusted)

Locations	2005	2006	2007	2008	2009
Indonesia	79	50	43	28	15
Somalia	35	10	31	19	80
Gulf of Aden*	10	10	13	92	116
Red Sea*	0	0	0	0	15
Arabian Sea*	2	2	4	0	1
Indian Ocean*	1	0	0	0	1
Oman*	0	0	3	0	4
World	276	239	263	293	406

* All of these attacks are attributed to Somali pirates

While the number of attacks in Indonesia has gone down the number of attacks in Somalia has grown considerably last year. While in 2008 just 19 attacks happened, this number has now grown to 80 attacks in 2009. And this are only the attacks in the territorial waters off Somalia while according to the IMB the attacks in the Gulf of Aden, Red Sea, Arabian Sea, Indian Ocean and Oman are all attributed to Somali pirates. The attacks in the Somali waters and the attacks outside the territorial waters that are also attributed to Somali pirates together count for 53% of all reported attacks all over the world in 2009, see figure 1.

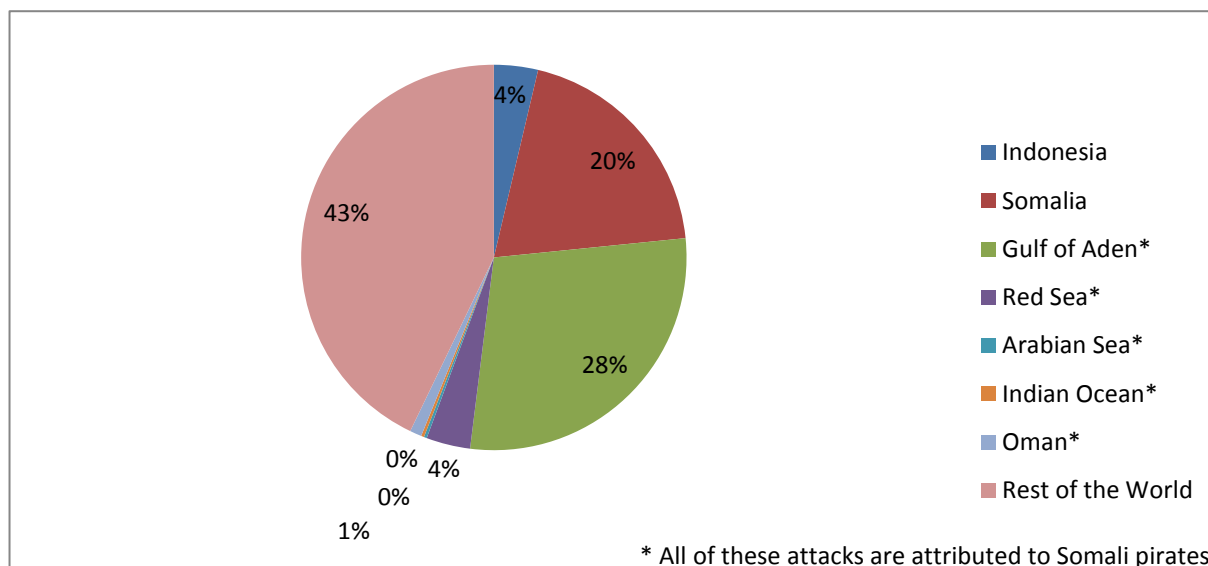


Figure 1 Attacks by location 2009 (ICC, 2010, adjusted)

In table two is made a difference between actual attacks and attempted attacks. Attempted attacks are attacks that pirates have attempted but did not succeed. Actual attacks are attempts that have succeeded. There is made no difference between the reasons why attempted attacks failed. In Indonesia 66% of the attacks are actual attacks, if this is compared with Somalia, Somalia has a lower percentage of actual attempt, this is only 34%. While the absolute number of attacks is higher, for Indonesia this is only 10 while the number of actual attacks in Somalia is 27. If you compare this with the percentage of the whole world, which is approximately 50%, the percentage of actual attacks of Indonesia is above the average number while Somalia is under it.

Table 2 Actual and attempted attacks by location 2009 (ICC, 2010, adjusted)

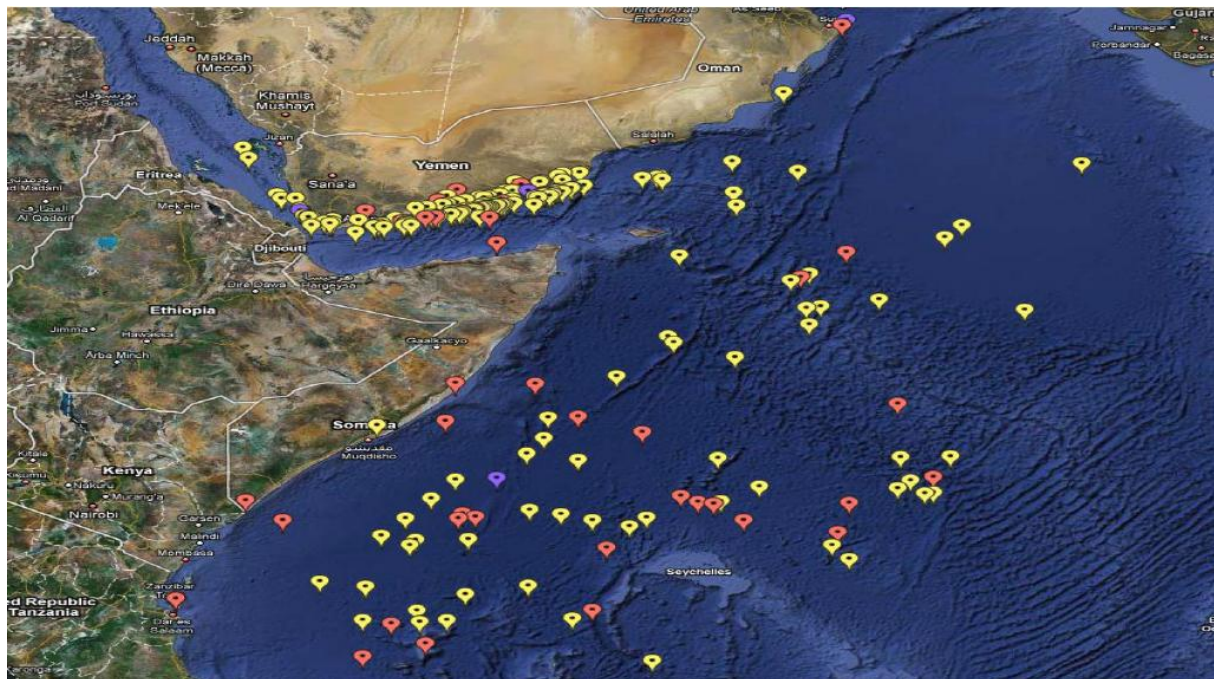
Location	Actual attacks	Percentage Actual Attacks	Attempted attacks	Attempted attacks %	Total
Indonesia	10	66%	5	33%	15
Somalia	27	34%	53	66%	80
Gulf of Aden*	20	17%	96	83%	116
Red Sea*	0	0%	15	100%	15
Arabian Sea*	0	0%	1	100%	1
Indian Ocean*	0	0%	1	100%	1
Oman*	1	25%	3	75%	4
World	202	50%	204	50%	406

* All of these attacks are attributed to Somali pirates

Thus the number of attacks of Somali pirates is much higher than the number of attacks of Indonesian pirates, the attacks attributed to Somali is more than half of all the reported attacks. But when we look at the number of actual attacks of Somalia and Indonesia then the difference is smaller, but Somalia still has more actual attacks.

3.3 Locations of attacks

Somalia is located along the Gulf of Aden and the Indian Ocean. The coast line of Somalia is 3,025 km and the territorial sea is 200 nm (CIA, 2010). It is strategically located on the Horn of Africa along the transportation route through the Red Sea and the Suez Canal (CIA, 2010). The Somali pirates attack along the coast of Somalia but the attacks have spread and take place far out the coast. The attacks are now taking place very far reaching up to off Kenya, off Tanzania, off Seychelles, off Madagascar and in the Indian Ocean and Oman (ICC, 2010). This represents a shift in the area of attacks. In 2008 most of the attacks were in the Gulf of Aden while in 2009 the attacks also happened along the east coast of Somalia (ICC, 2010). Figure two shows the locations of the attacks in 2009 attributed to Somali pirates.



 = actual attack  = attempted attacks  = suspicious vessel

Figure 2 Locations of attacks in 2009 (ICC, 2010)

Indonesia is part of the Malay Archipelago, situated between the Indian and the Pacific Ocean. It is located along important sea lanes, like the Malacca strait and the South China sea. Indonesia has a coastline of 54,716 km, a territorial sea of 12 nm which is measured from the archipelagic straight baselines and it consists of 17,508 islands (CIA, 2010). All these islands make the area to an area that is appealing to pirates. The shallow reefs that slow down sea traffic, the getaway islands and the narrow waterways make it difficult to suppress piracy (Teo, 2007). The Anambas, Natuna and

Mangkai islands and the port city Belawan are areas with the most pirate attacks according to the IMB (ICC, 2010). Figure three shows the attacks in the area in 2009.



 = actual attack
  = attempted attacks
  = suspicious vessel

Figure 3 Locations of attacks in 2009 source IMB annual report 2009

While the Indonesian pirates take advantage of the geography of the area, the reefs, the narrow waterways and the many island, the Somali pirates expanse there operation area to the open ocean. The southeast waters are suitable for hit and run actions that happen in the area, but the area is not suitable for the operations done by the Somali pirates (Bateman and Ho, 2008). Thus the area off coast of Somalia is more suitable for bigger operations, with the use of mothers ships, while the area in the archipelago of Indonesia is much more suitable for small actions.

3.4 Kind of attacks

According to Beckman (2002) several factors are important to categorize the seriousness of the incidents. The most serious attack according to him is a major criminal hijack (Beckman, 2002).The factors Beckman (2002) mentions are; Types of weapons employed, Treatment of the Crew, Value of property stolen and Level of threat to safety of maritime navigation. The factors that need to be added are the kind of attacks that are done and the status of the ship. The IMB also looks at what kind of vessels are being attacked but no data is available for this per country. Table three shows the

different incidents that have occurred per location in 2009. In Indonesia were only incidents where ships were boarded or were the pirates tried to board the ship but did not succeed. In Somalia the attacks are much more serious, most of the actual attacks were hijackings and when an attack did not succeed the pirates mostly fired upon the ship. This is also true for the attacks in the Gulf of Aden.

Table 3 Actual and attempted attacks by location 2009 (ICC, 2010, adjusted)

	Actual attacks				Attempted attacks	
Location	Boarded	Hijacked	Detained	Missing	Fired Upon	Attempted boarding
Indonesia	10	0	0	0	0	5
Somalia	1	26	0	0	45	8
Gulf of Aden*	0	20	0	0	64	32
Red Sea	0	0	0	0	3	12
Arabian Sea*	0	0	0	0	0	1
Indian Ocean*	0	0	0	0	0	1
Oman*	0	1	0	0	2	1
World	153	49	0	0	120	84

* All of the above attacks are attributed to Somali pirates

When looked at the type of arms used per location the same pattern can be seen, table 4. Again the attacks of Somali pirates are more serious and more violence is used. In Indonesia is only once reported that guns were used by an attack, for Somali pirates this number is much higher. In the area off Somalia 76 attacks were reported where guns were used, if you also take in account the other areas of which the attacks are attributed to the Somali pirates then this number is 192, which is 80% of all the attacks with guns. According to the IMB the Somalia pirates are dangerous and when necessary they will use their automatic weapons and RPGs (Rocked Propelled Grenades) to stop vessels.

Table 4 Type of arms used by geographical location 2009 (ICC, 2010, adjusted)

Location	Guns	Knives	Other weapons	Not Stated
Indonesia	1	7	0	7
Somalia	76	0	0	4
Gulf of Aden*	105	0	0	11
Red Sea*	8	0	0	7
Arabian Sea*	0	0	0	1
Indian Ocean*	0	0	0	1
Oman*	3	0	0	0
World	240	70	6	90

*All of the above attacks are attributed to Somali pirates

A difference as well exists between the violence that is used by the pirates, table 5. In Indonesia there has been used violence against the crew only five times, in Somalia this was 513 times. Remarkable is the high numbers of hostages, in Somalia 506 times the crew was held hostage and in the Gulf of Aden 351 times while this only happened 3 times in Indonesia.

Table 5 Type of violence to crew by location 2009 (ICC, 2010, adjusted)

Location	Hostage	Threatened	Assault	Injured	Killed	Missing	Kidnap
Indonesia	3	1	0	1	0	0	0
Somalia	506	0	0	6	1	0	0
Gulf of Aden*	351	0	0	4	3	1	0
Red Sea*	0	0	0	0	0	0	0
Arabian Sea*	0	0	0	0	0	0	
Indian Ocean*	0	0	0	0	0	0	0
Oman*	10	0	0	0	0	0	0
World	1052	14	4	68	8	8	12

* All of the above attacks are attributed to Somali pirates

The last difference that can be noticed, is the difference in the status of the ships when they are attacked, table 6. In Indonesia the ships were always attacked when they were berthed or anchored and never when they were navigating. In Somalia it is the other way around, no ships were attacked when they were not navigating and 27 ships were attacked off coast of Somalia and 20 in the Gulf of Aden when they were steaming. This is an important difference because it is much easier to attack a vessel that is not navigating. To attack a ship that is steaming you need much more resources and contacts to succeed your action and to sell you catch.

Table 6 Status of ships during actual attacks per location 2009 (ICC, 2010, adjusted)

Location	Berthed	Anchored	Steaming	Not stated
Indonesia	2	8	0	0
Somalia	0	0	27	0
Gulf of Aden*	0	0	20	0
Red Sea*	0	0	0	0
Arabian Sea*	0	0	0	0
Indian Ocean*	0	0	0	0
Oman*	0	0	1	0
World	16	101	84	1

* All of the above attacks are attributed to Somali pirates

The Somali attacks are different from the Indonesia attacks, the Somali attacks have a bigger and aggressive mode of operation. Where the Indonesian pirates use the geography for small and undisclosed attacks, the Somali pirates are bolder, they go further out the coast and use arms to

attack steaming ships and they often take the crew in hostage. The Somali pirates are organized and armed with automatic weapons in contrary the pirates in Indonesia are mostly small-time robbers and petty criminals (Bateman and Ho, 2010).

3.5 Causes of piracy

The most obvious reason for piracy and armed robbery is financial gain. For people who live in poverty and have no chances it is a possibility to change their future and improve their situation. Piracy is already taking place in Southeast Asia since at least since the fifth century. In Southeast Asia piracy historically served a social purpose, it was incorporated in the laws of society (Young, 2005). While it is not legitimate, piracy is sometimes socially accepted in Indonesia. The main motives of pirates in Indonesia are financial gains.

For Somali pirates the financial aspect is important as well and it is the dominant motivation behind much of the piracy. But there are also other motives identified for the Somali pirates. Some of the Somali pirates claim to be motivated by redistributionary ethics, they claim to give a part of their catch to the poor people (Watkins according Lennox, 2008). Other pirates claim to protect their territorial waters. They claim to protect the fishing resources against illegal fishing and to act against illegal waste dumping (Treves, 2010, UN news, 2010 & Dagne, 2009). Especially the coastline of Puntland has rich fishing grounds, where foreign boats illegally fish, among which are Yemeni, Spanish and French Vessels (Hansen, 2008). And a report of the United Nations Environment Program (UNEP) documents the damage from the toxic waste dumping, according to a UNEP spokesman, “there’s uranium radioactive waste, there’s lead, there’s heavy metals like cadmium and mercury, there’s industrial waste, and there’s hospital wastes, chemical wastes, you name it” (Dagne, 2009). So the illegal fishing and dumping waste mentioned by the pirates are acts that indeed take place. Thus the Indonesian pirates mainly have financial reasons for their acts, they take advantage of the situation to benefit economically. This is not the case in Somalia, the Somali pirates initially claimed to protect their territorial waters against illegal fishing and waste dumping.

3.6 Conclusion

Several differences exist between piracy in Somalia and in Indonesia that can be identified. First of all the number of attacks is different. The number of attacks of Somali pirates is much higher than the number of attacks of Indonesian pirates, the attacks attributed to Somali is more than half of all the reported attacks in the world. But when we look at the number of actual attacks of Somalia and Indonesia then the difference is smaller, but Somalia still has more actual attacks. Another difference

is the locations of the attacks. Were the Indonesian pirates use the geography for small and secretly attacks, the Somali pirates are bolder, they go further out the coast and use arms to attack steaming ships and they often take the crew in hostage. The Somali pirates are organized and armed with automatic weapons in contrary the pirates in Indonesia are mostly small-time robbers and petty criminals (Bateman and Ho, 2009). The last difference that can be identified are the motives of the pirates. Whereas the Indonesia pirates not claim special reasons and they act on economic grounds, the Somali pirates initially claimed to protect their coastal grounds.

4 The state Somalia

4.1 Introduction

How to compare the states Somalia and Indonesia and their ability to combat piracy a framework is established in chapter 2. In this chapter Somalia will be studied with this framework. This framework is divided in to two segments, namely the center, where policy is developed and the authority is established, and the second segment is the periphery the area where policies are executed. When piracy happens a state does not have the monopoly on violence in that area because they cannot eliminate or neutralize their rivals in their territory. Therefore the two elements, centre and periphery, are further divided in indicators that are important for the monopoly on violence and the security of a state or factors that influence this. The centre split up in the factors; state history, internal conflicts, government form, law, measures, international cooperation. And the element periphery is divided in the factors; area, reach of the government, security forces, law enforcement and corruption.

4.2 Centre of the state

4.2.1 State history

When Britain withdrew from British Somaliland in 1960 it joined with Italian Somaliland and formed the new nation of Somalia. When Somalia became independent it was difficult to establish central governance, because of different languages, different monetary systems and governments styles (Powell, Ford and Nowrasteh, 2008). Already after less than ten years of self-governing the democracy was blurred and a military coup took place. The coup was headed by Mohamed Siad Barre, he established an authoritarian socialist rule that managed to impose a degree of stability in the country for more than two decades (CIA, 2010 & UN, 2010). The regime abolished democracy and Siad Barre became a dictator. In 1988 a civil war started in Somalia, which was the beginning of the end of the regime (Powell *et al.*, 2008). The regime collapsed in 1991 and the state turned into chaos. Hundreds of thousands refugees returned, two years of fighting started and Somali was hit by a severe drought (Powell *et al.*, 2008). In 1992 the UN started an operation to establish peace and to relieve the suffering, but this attempt has failed (Powell *et al.*, 2008). Since then there have been several attempts to resurrect central government in Somalia but these have all failed. In the late 1990s peace has been established in most parts of Somali.

In 1991, the northern portion of the country declared its independence as Somaliland; although de facto independent and relatively stable compared to the tumultuous south, Somaliland has not been recognized by any foreign government (UN, 2010). The regions of Bari, Nugaal, and northern Mudug comprised a neighbour semi-autonomous state of Puntland, which has been self-governing since 1998 but does not aim at independence (CIA, 2010). Puntland does not aim at independence but at a peace and at a peaceful united Somalia.

4.2.2 Internal conflicts

Since the collapse of the regime of Siad Barre a central government has been absent in Somalia. According to Hagmann and Hoehne (2009) Somalia is divided in three parts, Somaliland, Puntland and the Southern part, see figure 4 . Somaliland claims to be an independent state but is not internationally recognized as such. Puntland is an autonomic region of Somalia, according to the constitution it is still part of the Republic of Somalia (Höhne, 2006). In the Southern part of Somalia is the Transitional Federal Government (TFG) located, which claims to represent the whole country but which outreach is limited (Hagman and Hoehne, 2009).

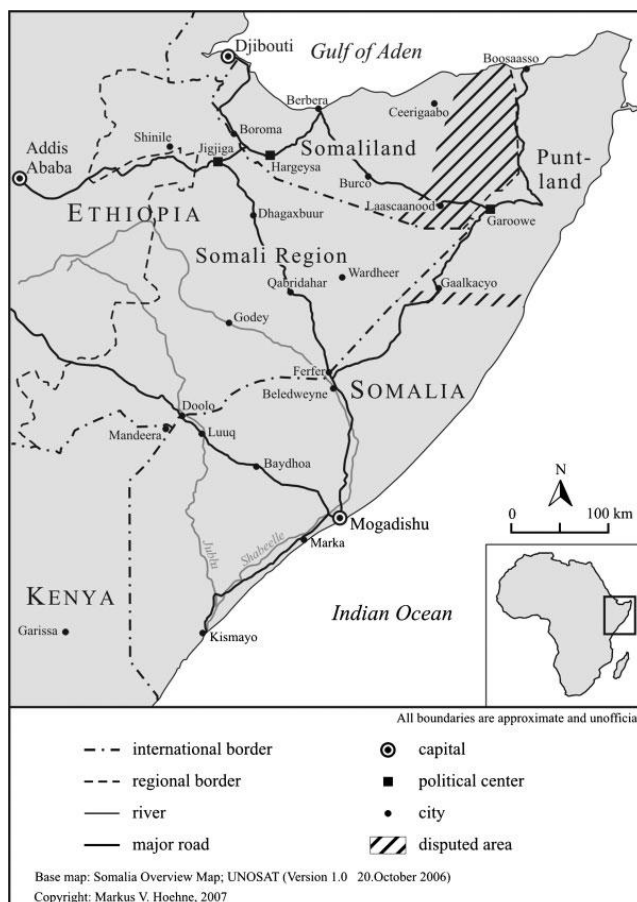


Figure 4 Map of Somalia 2007 (Hagmann and Hoehne, 2009)

The population of Somalia is mainly Somalis which are divided in several clans. The Somalis do not only live in Somalia but are dispersed over Somalia, Ethiopia, Kenya and Djibouti. They were united for a short time in World War II when the British took over control of the Italian colonies of Somalia and Ethiopia and the French Djibouti and added this to the areas British Kenya and Somaliland (Englehart, 2007).

Somaliland is situated in the northwest of Somalia. Its inhabitants belong to the different clan families, Isaaq, Dir and Darood/Harti (Höhne, 2006). In January 1991 the Somali National Movement (SNM) took over control in Somaliland, after that the SNM and Isaaq clan leaders started peace negotiations with the other clan leaders which led to the declaration of Somaliland as an independent republic in May 1991 (Hagmann and Hoehne, 2009). In 2001 the Somaliland constitution was adopted and this was the beginning of the transition from a clan democratic system to a multi-party democracy (Hagmann and Hoehne, 2009).

There is a dispute between Somaliland and Puntland about their border, figure 4 shows the land that is disputed. Puntland was established at a clan conference in 1998, most of its political support comes from the Majeerteen, Dhulbahante and Warsangeeli clans (Hagmann and Hoehne, 2009). Puntland has its own government but does not want to be independent. Therefore it is working towards the unification of Somalia. According to Hagmann and Hoehne (2009) Puntland has developed into a clan dictatorship and needs political reform but this has not yet happened. While the regions Somaliland and Puntland are now relatively peaceful, some clashes happen between them over the control of the areas Sool and Sanaag (Hagmann and Hoehne, 2009).

Southern Somalia is the most turbulent area of Somalia. But after the state collapse some political order was created by warlords (Bakonyi and Stuvøy according to Hagmann and Hoehne, 2009). In 2004 the Transitional Federal Government was created, which is internationally recognized as the government of Somalia. The warlords have received important positions in the TFG, at the same time the Islamic courts expanded their power (Hagmann and Hoehne, 2009). In 2006 this led to a clash between warlords backed up by the US and the Union of Islamic Courts, with the help of Ethiopian troops the Islamist were defeated (Hagmann and Hoehne, 2009).

4.2.3 Government form

In the absence of a central government Somalis have fashioned a range of governance systems (Group according to Bradbury, Abokor and Yusuf, 2003), including warlord chiefdoms, long distance trading enterprises, Islamic-based organizations and nascent state-like polities (Bradbury *et al.*, 2003, pp. 456). The state is now divided in three regions, Somaliland, Puntland and Southern Somalia,

which all three have their own form of governance. Somaliland and Puntland both claim to have their own government and in the southern part is the TFG located which claims to represent whole Somalia.

As said before Somaliland claims to be an independent state but is internationally not recognized as such. In 2001 the constitution of Somaliland was adopted through a referendum (Hagmann and Hoehne, 2009) and in 2002 the first elections have taken place in Somaliland for years. Because Somaliland is not internationally recognized the political reform has mainly been an internal affair (Bradburry *et al.*, 2003). This governance is now changing from a clan democratic system to a multi-party democracy (Hagmann and Hoehne, 2009) but issues of representation still exist, equity and decentralization (Bradburry *et al.*, 2003). Somaliland now has many dimension of a state, besides a constitution, a parliament and ministries it also has an army, a police force and an judiciary (Bradburry *et al.*, 2003). Although many households still possess weapons and some parts of the security forces are more loyal to their clan than to the governance the Somaliland has established a certain monopoly on violence (Bryden and Brickhill, 2010). Of the four different activities of state controlled activities it has accomplished the second, state making, and partly also the third, protection.

The situation in Puntland is comparable with the situation of Somaliland. In July 1998, after three months of deliberations, the leaders of north-eastern Somalia declared the formation of the Puntland State of Somalia, and also a constitution was adopted, a president and prime minister were appointed (Doornbos, 2002). Although Puntland now functions as an autonomous region it does not aim at independency but wants to rebuild the Republic. After the establishment of the state it started with the recruitments for the army, police force and other state organs (Bryden and Brickhill, 2010). The Rehabilitation, Disarmament and Resettlement Directorate was formed for demobilization of the area (Bryden and Brickhill, 2010). According to Bryden and Brickhill (2010) a relative internal peace exists but Puntland's security forces remain weak and organized crime of various sorts have flourished, like arms trafficking, human trafficking and piracy. Thus in Puntland is also a form of governance which has partly got a monopoly on violence, it has the ability to state building and also to some degree of protection.

The Southern part of Somalia is the part that is the turbulent area. In 2004 the TFG is established. This is a transitional government which is supported by the international community. But in the beginning of 2009 still no permanent government was established thus the mandate of the TFG was extended until 2011 (CIA, 2010). The TFG can also be seen as a form of governance. It claims to represent the whole country but is not recognized through everyone. Also it has only control over

some parts in Southern Somalia (Hagmann and Hoehne, 2009 & Bradbury *et al.*, 2003). But since the late 2009 the TFG has started a more decentralized approach to security and is cooperating with local militias (Bryden and Brickhill, 2010). The TFG has not been able or only with the support of the international community to accomplish one of the state-based monopoly on violence.

Hagmann and Hoehne (2009) have done research on the different governance forms in Somalia, table 7 represents their findings.

Table 7 Trajectories of Somali political orders, 1991–2007 (Hagmann and Hoehne, 2009)

Entity	Judicial Statehood	Empirical Statehood	Master state-building process	Master political processes
Somaliland	Self-declared independent republic with internationally contested legal status	Multi-party clan democracy; with exception of eastern border area most of the territory pacified; very limited state taxation and service delivery	Inclusive bottom-up institution building and democratization shouldered by clan elders and politicians	Establishment of democratic institutions combining moderns politics and clan; creation of public sphere based on media and civil society organizations
Puntland	Self-declared 'autonomous region 'belonging to the Somali Democratic Republic	Single clan dictatorship; instable security situation; very limited state taxation and service delivery	Parochial bottom-up state-building driven by clan elders, warlords and politicians	Establishment of some representative institutions; limited democratization combined with clan dictatorship
Southern Somalia	Somalia Democratic Republic	Strongly contested, internationally recognized transitional government; continuum of volatile local security situations including large scale fighting between government and insurgents; no state taxation and	Externally sponsored attempts to restore central government on the basis of proportional clan participation and inclusion of warlords	Economy of plunder and clan fighting; radical decentralization of politics and security in the hand of local businessmen, warlords and Islamic courts; occupation of Ethiopian troops

		service delivery		
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Thus three different governments exist in Somalia. Two of these governments have certain control and have brought stability in their region but they have only partly monopoly on violence. The third government, the TFG claims to represent the whole country but has only control over most of the southern region and is strongly contested and is the only government that is recognized through the international community.

4.2.4 Law

In Somalia law is provided in different forms, a plurality of law exists. The governments of Somaliland and Puntland are not the main providers of law and law enforcement (Powell *et al.* , 2008). According to the Somali needs assessment of the United Nations and the World Bank (2006, pp 16. and 17) three main sources of law can be identified;

1. *Customary law* (xeer), the set of rules and obligations developed by traditional elders to mediate peaceful relations between the Somali clans.
2. *Shari'a law* is the basis for all national legislation but can officially not be applied in criminal matters but is used more and more through the establishment of the shari'a courts since the 1990s.
3. The formal secular legal framework is based on colonial law and framework (Italian and British) as well as on post-independence developments.

The three different governances all have a different framework for the Rule of Law. Somaliland has a constitution, which is adopted through a referendum, with judiciary that is operating in a legal vacuum (United Nations & the World Bank, 2006). The judicial system in Puntland is based on the system in place after the independence and in the TFG is the Judicial Service Council (JSC) created (United Nations & the World Bank, 2006). The JSC will be responsible for the general policy and administration of the judiciary but is not yet fully operational (United Nations & the World Bank, 2006).

Because Somalia lacks a functioning state the current situation of the judicial system is precarious. It is doubtful that the three different governments can protect the fundamental rights of the Somali people (United Nations & the World Bank, 2006). Somaliland and Puntland both try to integrate fundamental rights in to the Rule of law (United Nations & the World Bank, 2006). Because the three different governments are still not fully functioning, their judicial system are still very basic, a supreme court exists but no extended legal framework with facilities like written legal information

are in place. Because of this no special laws exist to prevent piracy or to prosecute pirates. Because a functioning state is missing and none of the governments have a legal framework to combat piracy, a legal basis to suppress piracy or to prosecute captured pirates is not present.

4.2.5 Measures

The current situation of Somalia, three different forms of governance of which none are fully functioning, have caused that no measure can be taken against piracy through the country itself. An institutional void has developed. An institutional void is a place with no clear rules and norms according to which politics have to be conducted and policy measures are to be agreed upon (Hajer, 2009, pp. 175). This is clearly the case with the piracy at sea off the coast of Somalia, the Somalia state, if you can even speak of such, has not the power to intervene and no permanent legal framework exists for international intervention. Because the pirates are not only a problem Somalia but also for other actors several actions are undertaken by international organisations against the pirates (Berg, 2010). Most of these actions are established through the resolutions of the Security Council. The first force that was present was the Combined Task Force 150 (CTF150) (Ho, 2009). This is a multinational coalition led by the US which pursues the War on Terrorism in the Horn of Africa region. This CTF150 does not have an anti-piracy mandate but some of the ships have been involved in anti-piracy operations on a basis of national commitment, not as part of the Task force (Ho, 2009). To address the limitations of CTF150 a new Combined Task Force 151 (CTF151) has been created on January 8th 2009 (Ho, 2009). This structure allows ships to do antipiracy operations and it is also possible to join for countries that are not willing to fight terrorism through CTF 150 (Ho, 2009). This force regularly operates against piracy and to conduct the law of the sea.

The North Atlantic Treaty Organization (NATO) has also sent ships to the coast of Somalia. The NATO has send five warships from the Standing NATO Maritime group two to operate against pirates. These ships had to protect the World Food Program ships and have patrolled routes which were the most dangerous. It was a temporary operation on the request of the Secretary General of the UN. This mission is now replaced by the European Union (EU) mission (Ho, 2009).

The EU has also undertaken action. It has started the military operation EUNAVFOR (operation “Atalanta”) this operation started in 2008. This operation is in support of the UN Security Council Resolutions 1814, 1816, 1838, 1846 and 1897 (Council, 2010). This operation has two goals, first the protection of vessels of the World Food Program delivering food aid to displaced persons in Somalia and second the protection of vulnerable vessels cruising off the Somalia coast, and the deterrence, prevention and repression of acts of piracy and armed robbery off the Somalia coast (Council, 2010).

Kenya and the Republic of Seychelles are both taking up suspected pirates apprehended by Atalanta. The mandate for this operation has been extended for another year until 12 December 2010.

Besides the EU, CTF 150 and 151 and the NATO other operations have been undertaken. These were independent national missions which were there primarily to protect their national shipping. There are also countries which are deciding to join one of the international missions (Ho, 2009).

4.2.6 International cooperation

Next to the measures taken by the international actors several agreements are established to fight piracy (Berg, 2010). To address the situation in Somalia the Security Council of the UN has taken several resolutions. Most important were the resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1844 (2008), 1846 (2008), and 1851 (2008) (Resolution 1897, 2009). The first resolution addresses the unstable situation of the country and states that the UN states have to support the country. The resolutions that followed address the piracy problems. These resolutions give authorization to some countries to enter the Somali waters to fight piracy, and to fight pirates that obstruct the humanitarian aid for Somalia. The latest resolution about piracy in Somalia is resolution 1897(2009). This resolution is a prolongation of previous resolutions 1846 (2008) and 1851 (2008). It reaffirms the willingness of the TFG to work with other states and regional organizations to combat piracy and armed robbery at sea off the coast of Somalia (Resolution 1897, 2009). The resolution starts with the statement that it respects the sovereignty of Somalia including its offshore resources. Remarkable is that this resolution is given with the authorization of the TFG and that Somaliland and Puntland are not mentioned in the resolutions of the Security Council, they are completely ignored although they both try to provide the Rule of Law in parts of Somalia. Although these actions are done with the authorization of the TFG they can rather be seen as an intervention than as cooperation.

Another initiative for international cooperation was established on January the 14th of 2009, the Contact Group on Piracy off the Coast of Somalia. It is formed as an international cooperation mechanism against piracy according to the UN Security Council Resolution 1851 (America.gov, 2009). It deals with the impact of piracy on commercial shipping, humanitarian aid, and regional trade in the Horn of Africa. Currently 28 nations participate in the Contact group, also six international organizations have joined the group, namely; the African Union, the Arab League, the European Union, the international Maritime Organization, the North Atlantic Treaty Organization, and the United Nations Secretariat. The Contact group has four working groups;

1. Military and Operational Coordination, Information Sharing, and Capacity Building
2. Judicial Issues

3. Commercial Industry Coordination
4. Public Information (America.gov, 2009)

4. 3 Periphery of the state

4.3.1 Area

Somalia is located along the Gulf of Aden and the Indian Ocean. The coast line of Somalia is 3,025 km and the territorial sea is 200 nm (CIA, 2010). It is strategically located on the Horn of Africa along the transportation route through the Red Sea and the Suez Canal (CIA, 2010). The Somali pirates attack along the coast of Somalia but the attacks have spread and take place far out the coast. The attacks are now taking place very far reaching up to off Kenya, off Tanzania, off Seychelles, off Madagascar and in the Indian Ocean and Oman (ICC, 2010). This represents a shift in the area of attacks. In 2008 most of the attacks were in the Gulf of Aden while in 2009 the attacks also happened along the east coast of Somalia (ICC, 2010). Remarkable is that most of the attacks take place off coast of Somaliland and Puntland while these are the areas of Somalia that are most stable. But these areas are also near busy sea lanes.

4.3.2 Reach of the government

The reach of the government in Somalia is very limited. None of the three governance forms have a full monopoly on violence and due to this they cannot enforce authority. Especially the TFG has a minor outreach, it claims to represent the whole country but it only controls a small part of southern Somalia (Hagmann and Hoehne, 2009). In table 7 (Hagmann and Hoehne, 2009) the reach of the government is also discussed in the last column of the table. In table 7 the master political processes of the three governance forms are discussed. The governance of Somaliland is the most developed governance. It has established democratic institutions which combine modern politics with clan politics. The governance in Puntland has also established a certain authority but its reach not so big. It has developed some representative institutions and limited democratization combined with clan dictatorship. In the Southern part of Somalia where the TFG has the authority, the situation is less controlled. There is decentralization and politics and security is in the hands of the local businessmen, warlords and Islamic courts. Somaliland and Puntland do not have full authority but they have a certain monopoly on violence which gives them some power. Although their power is partly based on clan support, their authority reaches further than of the TFG.

4.3.3 Security forces

All three governances have started to set up their own security forces to establish and maintain peace and stability. The establishment of a state needs a military force, a police force and the demobilization and disarming of the militia (Bryden and Brickhill, 2010). Politics can use their forces to establish their authority and to execute their policy.

In Somaliland the Security Charter is established in 1993, a national security framework (Bryden and Brickhill, 2010). Soon after this the formation of a national army began and military representation was soon realized in several areas (Bryden and Brick, 2010). But the authority of the government is still undermined because some military units are still more loyal to their clan and despite the demobilization efforts that have been made a lot of people still possess weapons in Somaliland (Bryden and Brickhill, 2010). Thus although the government of Somaliland has created a military force it does not have a full monopoly on violence yet but has created stability.

In Puntland the state established an army and a police force but it has also established a Rehabilitation, Disarmament and Resettlement Directorate (RDRD) which got the responsibility for the demobilization of the area (Bryden and Brickhill, 2010). Presently a police force is deployed in the major cities that contains 1,500 men and a paramilitary security force of 5,000 troops (Bryden and Brickhill, 2010). In practice a relatively internal peace can be maintained but the security forces remain weak and are not capable of establishing the rule of law (Bryden and Brickhill, 2010)

The TFG has also established security forces, with the support of international donors, these forces only control some areas in Southern Somalia and are still not well organized (Bryden and Brickhill, 2010). The TFG forces are assisted by forces of the African Union as authorized by the UN Security Council (Resolution 1910, 2010). The resolution gives authorization to the African Union to deploy 8,000 troops and to assist the TFG in the development of a Somali police force and a National Security Force (Resolution 1910, 2010). But in 2007 only 2550 troops have been deployed of the 8,000 troops (AMISOM, 2010)

4.3.4 Law enforcement

The enforcement of law depends on the authority of the state, does it have enough power to let its people obey the law. Therefore security forces are important for the enforcement of the law, when your security forces obtain a monopoly on violence you can establish authority. Because none of the actors in Somalia have a full monopoly on violence law enforcement is difficult. Especially the TFG has no monopoly on violence but in Somaliland and Puntland the situation is different. They both

have partly obtained a monopoly on violence and should be able to enforce the law to some extent. Security forces are of course not the only factors that are important for enforcement of the law, you also need a judicial system. The plurality of the judicial systems in Somalia is a challenge for the law enforcement (United Nations & the World Bank, 2006). In South Central Somalia is a form of shari'a courts that have been established, these courts maintain a certain local legitimacy but are not integrated in an official judicial system (United Nations & the World Bank, 2006). These courts organize militia, pass legal decisions and are responsible for the incarceration of convicted people (United Nations & the World Bank, 2006). The TFG is taking steps to establish a federal Supreme Court while Somaliland and Puntland already have functional courts and they both have High Judicial Councils (United Nations & the World Bank, 2006). But these councils are not independent yet because there is no body which defines the jurisdiction and the competence of the different courts (United Nations & the World Bank, 2006). Thus the enforcement of law is very difficult in Somalia because there is a plural judicial system in which has no clear rules on piracy.

4.3.5 Corruption

Corruption is a well known phenomenon in Somalia. After the independency declaration followed years in which the government was corrupt (Leeson, 2007). After the state collapse came the warlords which were corrupt, they took government positions and received money from the United States (Shank, 2007). Because Somalia is a country with a not fully functioning and accepted central government it is difficult to assess the corruption of the government of Somalia. But Svenson (2005) has made a list of the most corruption countries (table 8). Although this list is made from a western viewpoint about corruption and it will not be identical with the Somali view, it can give an idea about the corruption in Somalia. It consists of four different indexes, the Control and Corruption Index (CC) for 2002, the Corruption Perception Index (CPI) for 2003, the International Country Risk Guide's corruption indicator (ICRG) for 2001 and ICVS is the incidence of bribes in 2002. Somalia is not included in the CPI and the ICVS but for the other two indexes it belongs to the bottom 10 percent of most corrupt countries. This means that, from a western viewpoint, Somalia can be seen as corrupt.

Table 8 The most corrupt countries (the bottom 10 percent most corrupt countries of each data set) (Svenson, 2005)

<i>Country</i>	<i>CC</i>	<i>Country</i>	<i>CPI</i>	<i>Country</i>	<i>ICRG</i>	<i>Country</i>	<i>ICVS</i>
Equatorial Guinea	1.9 ^{c,i,v}	Bangladesh	8.7 ^v	Zimbabwe	5.8 ^v	Albania	0.75
Haiti	1.7 ^v	Nigeria	8.6	China	5 ^v	Uganda	0.36
Iraq	1.4 ^v	Haiti	8.5 ^v	Gabon	5 ^{c,v}	Mozambique	0.31
Congo, Dem. Rep.	1.4 ^{c,v}	Myanmar	8.4 ^v	Indonesia	5 ^v	Nigeria	0.30
Myanmar	1.4 ^v	Paraguay	8.4 ^v	Iraq	5 ^v	Lithuania	0.24
Afghanistan	1.4 ^{c,i,v}	Angola	8.2 ^v	Lebanon	5 ^v		
Nigeria	1.4	Azerbaijan	8.2	Myanmar	5 ^v		
Laos	1.3 ^{c,i,v}	Cameroon	8.2 ^v	Niger	5 ^{c,v}		
Paraguay	1.2 ^v	Georgia	8.2 ⁱ	Nigeria	5		
Turkmenistan	1.2 ^{c,i,v}	Tajikistan	8.2 ^{i,v}	Russia	5		
Somalia	1.2 ^{c,v}	Indonesia	8.2 ^v	Sudan	5 ^v		
Korea, North	1.2 ^{c,v}	Kenya	8.1 ^v	Somalia	5 ^{c,v}		
Zimbabwe	1.2 ^v	Cote d'Ivoire	7.9 ^v	Congo, Dem. Rep.	5 ^{c,v}		
Indonesia	1.2 ^v	Kyrgyzstan	7.9 ^{i,v}	Serbia and Montenegro	5 ^v		
Angola	1.1 ^v	Libya	7.9 ^v	Haiti	4.8 ^v		
Bangladesh	1.1 ^v	Papua New Guinea	7.9 ^v	Papua New Guinea	4.8 ^v		
Cameroon	1.1 ^v						
Niger	1.1 ^{c,v}						
Sudan	1.1 ^v						
Azerbaijan	1.1						
Tajikistan	1.1 ^{i,v}						
Sample size	195		133		140		44

Notes: CC is the Control of Corruption Index for 2002 from Kaufmann, Kraay and Mastruzzi (2003). The index takes values between -2.5 to 2.5, with a higher score indicating higher corruption (rescaled). CPI is the Corruption Perception Index for 2003 from Transparency International. The index takes values between 0 to 10, with a higher score indicating higher corruption (rescaled). ICRG is the International Country Risk Guide's corruption indicator for 2001 (average over 12 months). The index takes values between 0 to 6, with a higher score indicating higher corruption (rescaled). ICVS is the incidence of bribes in 2000 (share of households responding they need or are expected to pay bribes in 2000) from the International Crime Victim Surveys.

^c indicates that the country is not included in the Corruption Perception Index ranking.

ⁱ indicates that the country is not included in the ICRG ranking.

^v indicates that the country is not included in the ICVS survey.

4.4 Conclusion

After the colonization Somalia has been under the regime of Siad Barre for decades. When the regime of Siad Barre in 1991 collapsed, Somalia turned into chaos and was hit by civil war and famine. Since then the country has split up in three parts, Somaliland, Puntland and the Southern part of Somalia. Somaliland and Puntland have both established their own form of governance, with the difference that Somaliland claims independency and Puntland want to be a autonomous region of Somalia. In the Southern part of Somalia is the TFG with international support established. In Somalia is a plurality of law, there is the customary law, the Shari'a law and the formal secular legal

framework but the legal system is very precarious. These different forms of law make it difficult to enforce law and as a consequence of this to suppress piracy. All three forms of governance have their own security forces but none of them have established a complete monopoly on violence although Somaliland and Puntland have come very far. Somalia has not taken measures against the pirates but several international actors are taking action. This is done with the approval of the TFG. Somalia is located near important sea lanes and this makes the piracy such a major problem. Remarkable is that most of the attacks take place off coast of Somaliland and Puntland. The plurality of law and the limited power of the security forces makes it difficult to fight piracy. Another factor that is important is the corruption which happens often in Somalia. The authority of the TFG is very limited but Somaliland and Puntland have both established authority with the support of clans in their area . Although in case of Somaliland and Puntland you can pose the question if they are not able to suppress piracy or that they are they not willing to do that? Because Somaliland and Puntland are the areas with the most stability you would expect that less ships are attacked than in the south but this is not the case. Somaliland and Puntland are the areas with the most piracy off coast.

5 The state Indonesia

5.1 Introduction

In this chapter Indonesia, like Somalia, will be studied with the framework established in chapter 2. This framework is divided in two segments, namely the centre, where policy is developed and the authority is established, and the second segment is the periphery the area where policies are executed. When piracy happens a state does not have the monopoly on violence in that area because they cannot eliminate or neutralize their rivals in their territory. Therefore the two elements, centre and periphery, are further divided in indicators that are important for the monopoly on violence and the security of a state or factors that influence this. The centre split up in the factors; state history, internal conflicts, government form, law, measures, international cooperation. And the element periphery is divided in the factors; area, reach of the government, security forces, law enforcement and corruption.

5.2 Centre of the state

5.2. 1 State history

Until 1945 Indonesia has been colonized by the Netherlands. Soon after the independency Sukarno took over and established an authoritarian rule. Indonesia's parliamentary election after decades of repressive rule took place in 1999, Indonesia is now the world's third-largest democracy (CIA, 2010). For long it has been a multi-tiered unitary state, with provinces below the centre, and local governments as the third tier (Alm, Aten and Bahl, 2001). Since the overthrow of Sukarno, Indonesia's political environment has changed in a weakened, democratic, corrupt state (Aswicahyono, Bird and Hill, 2009). In 2001 the implementation of a major decentralization plan has begun, regencies and municipalities have become the most important administrative units responsible for providing most government services (CIA, 2010).

5.2.2 Internal conflicts

Indonesia has a population of more than 200 million people. The populations consist of approximately 1000 ethnic groups, Indonesia is ethnically very diverse (Mancini, 2005). The main ethnic groups according to the census of 2000 are Javanese (40,6%), Sundanese (15%), Madurese (3,3%), Minangkabau (2,7%), Betawi (2,4%), Bugis (2,4%), Banten (2%) and Banjar (1,7%) (CIA, 2010). The Colonization has had a strong influence on the formation of ethnic identities in Indonesia (Mancini, 2005). After independence many internal conflicts have been in Indonesia. In the late 50s a

rebellion by the outer islands was aggressively stopped by president Sukarno (Mancini, 2005). The regime of Suharto was also full with internal conflicts. The annexation and occupation of West Papua, the invasion of East Timor, the repression in Aceh are all recent conflicts in Indonesia (Mancini, 2005). According to Varshey *et al.* the most dominant type of conflicts in Indonesia are the Muslim-Christian conflicts, anti-Chinese conflicts and the Dayak-Mandurese conflicts (Varshey according to Mancini, 2005). Thus the conflicts in Indonesia are mostly ethnic or religious conflicts.

5.2.3 Government formation

The republic of Indonesia has been one of the most centralized countries of the world but after the fall of Suharto a decentralization program has been made. The government of Indonesia has seen major changes since the decentralization program started in 2001. The different regions in Indonesian have become autonomous and are now responsible for public services on the local level, a new intergovernmental fiscal framework has been implemented and natural resource producing regions are getting a share of the resource revenues (World Bank, 2003). Several laws have been implemented to give the local governments more financial and decision making powers (Casson and Obidsinski, 2002). Because the decentralization is soon implemented there are still several conflicts but regional autonomy is getting established more and more firmly (World Bank, 2003). The regions have received much autonomy but some tasks are still the responsibility of the central government, namely; defense, security, justice foreign affairs, fiscal affairs, and religion (World Bank, 2003) Thus the central government is responsible for the defense and security and therefore it is responsible for the suppression of piracy but the local authorities are also involved. They now have the authority up to 12 nautical miles of sea and regencies have the authority up to 3 nautical miles (Teo, 2007).

5.2.4 Law

Indonesian law is a complex legal system which reflects its history (Lindsey and Santosa, 2008). Indonesian law belongs to the civil law (Lindsey and Santosa, 2008). Civil law is a legal system that is based on the Roman law which is mainly based on written laws. The Indonesian legal system is partly based on the system of its colonial ruler, the Dutch model, but it is not simply a replication of the Dutch system (Lindsey and Santosa, 2008). It consists of several different legal systems, mainly because the Colonial system was a plural legal model that consisted of adat (traditional customary law, syariah (Islamic law) and partly a duplication of the legal system of the Netherlands (Lindsey and Santosa, 2008). During the decentralization some laws have changed, new criminal procedures and election codes have been implemented (CIA, 2010).

5.2.5 Measures taken

Indonesia has taken measures to combat piracy but piracy is not one of the priorities of the Indonesian government and the politicians are not concerned about maritime security (Teo, 2007). With its long list of internal problems - poverty, shimmering ethnic and national divisions, precarious economy, widespread corruption - Indonesia has, arguably, more important fires to fight before it can afford to put out the threat of maritime terrorism (Teo, 2007, pp 550). But the issue of maritime security is getting more attention. The Navy has upgraded its budget to suppress piracy (Teo, 2007). The efforts made by Indonesia to combat piracy have had effect (ICC, 2010). In 2005 Jakarta started a maritime operation, named Gurita, which has lowered the pirate attacks significantly (Teo, 2007). The government has also taken preventive measures and has started dissuasion projects on the local level (Teo, 2007).

5.2.6 International cooperation

There are not many international measures taken in Southeast Asia because international cooperation is difficult. The countries in Southeast Asia are not willing to work together. This is because of the geography of the area, because it is an archipelago the countries are not dependent on each other. The influence they have on each other is much smaller than for instances countries in the European Union have because these countries share a border. So the necessity to work together is much smaller. The political cooperation of asean countries is based on the five principles of peaceful coexistence. These principles are:

1. Mutual respect for sovereignty and territorial integrity
2. Mutual non-aggression
3. Non-interference in each other's internal affairs
4. Equality and mutual benefit
5. Peaceful coexistence

And according to He (2009) 'sovereignty sensitivities' are also a reason for the unwillingness to cooperate. Countries are afraid that they will lose their authority in their coastal waters when they will work together. But several bilateral cooperation's and also some multilateral organizations exist (Teo, 2007). In 2004 Indonesian started the operation MALSINDO with Malaysia and Singapore, an operation in which patrols of the different navies were coordinated together (He, 2009). In 2005 Indonesia and China signed a strategic partnership that also included the fighting of piracy and in 2006 Indonesian signed a defense treaty with Australian (Teo, 2007). Western countries only give

suggestions and money to fight piracy (Teitler, 2002). For example the US has given between 6.7 and 8 million dollar over several years to train the Indonesian Marine Police (Teo, 2007). Although international cooperation is difficult there have been some improvements in the cooperation between the countries in South East Aisa. A centrally led program to suppress piracy is not yet established.

5.3 Periphery of the state

5.3.1 Area

Indonesia is part of the Malay Archipelago, situated between the Indian and the Pacific Ocean. It is located along important sea lanes, like the Malacca strait and the South China sea. Indonesia has a coastline of 54,716 km, a territorial sea of 12 nm which is measured from the archipelagic straight baselines. Since Indonesia can claim a territorial sea of 12 nm and also an exclusive zone its maritime territorial waters has extended greatly and with this its responsibilities (Morgan, 1982). The archipelagic of Indonesia consists of 17,508 islands (CIA, 2010). All these islands make the area to an area that is appealing to pirates. The shallow reefs that slow down sea traffic, the getaway islands and the narrow waterways make it difficult to suppress piracy (Teo, 2007). The Anambas, Natuna and Mangkai islands and the port city Belawan are areas with the most pirate attacks according to the IMB (ICC, 2010). Another problem in this area is that Indonesia is not the only country which is responsible for the security of the sea lanes, also it neighbours are responsible for the security of the sea lanes.

5.3.2 Reach of the government

With the change of the government system from centralized to decentralized the reach of the government has also changed. Because the regions have gained more authority the central government has lost some of its authority. The decentralization in 2001 has led to a decrease in the authority the central state has on the border regions (Potter, 2009). Lawlessness has increased in these regions, activities like smuggling and trafficking of women and children are taking place more often (Tagliacozzo and Wadley and Eilenberg according to Potter, 2009). The border regions have even been described as 'no man's land' (Kompas according to Potter, 2009). A big difference between the authority of the government in the centre and in the periphery exists. The government has more power in the centre than it has in the outer regions.

5.3.3 Security forces

The security forces of Indonesia are much further developed than the forces of Somalia, already soon after its independency Indonesia established a navy. The Indonesian navy is the largest navy in Southeast Asia but despite its size the Indonesian navy is weak and lacks the capacity to secure its sea lanes (Teo, 2007). The fleet is outdated and the defense budget is not sufficient (Teo, 2007). But the navy is not the only organization in Indonesia that is involved in the security of the territorial waters. The security of its waters is a complicated and decentralized network, which consist of nine agencies among others the Navy, the Sea Communications Directorate and the Marine Police (Teo, 2007). The Sea Communications Directorate is responsible for the port security and is the main point of contact for the report of piracy, the Marine Police and the Navy are in charge of the maritime law enforcement duties (Teo, 2007). Besides this the local authorities are also involved in the security of the waters because provinces now have the authority up to 12 nautical miles of sea and regencies have the authority up to 3 nautical miles (Teo, 2007). So many numbers of actors are involved in securing the area that it is not clear who is responsible, it is difficult to coordinate action and the communication is blurred. Because of this complex network of actors which are responsible for the security of the coastal it is difficult to cover the whole area

5.3.4 Law enforcement

The United Nations Office on Drugs and Criminalization (UNODC) in cooperation with the Indonesian government has made a study of the judicial systems of two regions, South Sumatera and South East Sulawesi. According to this study the performance of the courts have improved in time but worrying is the extend of the corruption in the legal system (UNODC, 2006). The status of the judicial system of Indonesia is very different from that in Somalia. The system in Indonesia is much further developed. Indonesia has a legal body which defines the jurisdiction and competence of the different courts. But the judicial system is far from perfect. According to the UNODC (2006) there is still a lot to improve. The access to justice needs to improved especially for people with a lower income (UNODC, 2006). Also the timeliness and the quality of justice can be improved (UNODC, 2006). The biggest problem the system in Indonesia has is corruption and in relationship with this the independency of the judicial system (UNODC, 2006). The people think that there is a widespread corruption in the justice system which has a negative effect on the whole system (UNODC, 2006). Law enforcement in Indonesia is obstructed through a number of flaws in the judicial systems the main flaw is corruption in the system and the accessibility of justice which is interconnected with the quality and the timeliness of justice.

5.3.5 Corruption

Corruption is not only a problem for the judicial system in Indonesia but it effects the whole government. On the Corruption Perception Index Indonesia is number 126th out 180 countries, which means that only 54 countries are more corrupt (Transparency International, 2009). So corruption is a big problem in Indonesian, but recently there have been some reforms before the elections in 2009 (Transparency International, 2009). New laws have been made, which were necessary to clarify the election and political party regulations but there are some concerns because there is a loophole in the political parties financing that can lead to corruption (Transparency International, 2009). And in 2008 the law on freedom for information has been ratified, this law is a beginning towards more transparency and it has an important role for complementing the existing anti-corruption laws (Transparency International, 2009). Another reform that has been made is the establishment of the National Procurement Policies Office (NPPO) which has to regulate public procurement and has to address inefficiency (Transparency International, 2009).

Returning to the list of most corrupt countries of Svensson (2005), table 8, Indonesia is included in three of the four corruption indexes. In all these three indexes Indonesia is seen as one of the 10 percent most corrupt countries (Svensson, 2005). Noticeable here is that when looked at the data of Svensson and the Corruption Perception Index of Transparency 2009 Indonesia's ranking has improved. This can be an effect of the government's efforts. President Yudhoyono said in his inaugural that he had assigned the highest priority to combating corruption and enforcing the rule of law (Hainsworth, 2007).

For combating piracy corruption is also a problem. Some officials of the Indonesian law enforcement agencies are suspected to be working with pirates (He, 2009). According to Teo (2007) the pirates know the patrols schedules of the navy and can obtain false identity papers for crew and vessels and they even have access to networks to sell the stolen goods.

5.4 Conclusion

Indonesia has been colonized by the Netherlands until 1945. Soon after it became independent Sukarno established an authoritarian rule. But in 1999 the first elections took place and Indonesia became a democracy. In 2001 a decentralization program has been started which gives local authorities more financial and decision making power. Indonesia has a lot of ethnic and religious minorities which has caused many conflicts in the past. Indonesia has clear legal system which is based on the traditional customary law, the Islamic law and partly on the Dutch legal system. Indonesia has not taken many measures to stop piracy because it has other priorities. Also

internationally not much is done to prevent piracy. Countries in the region are afraid that they will lose their sovereignty, which makes cooperation difficult. While cooperation is actually necessary in the area. It is a large area with many islands and narrow routes and is impossible to secure through one country. Especially because the Indonesian Navy is not sufficient enough to secure the area, and what makes it even harder is that are several organizations involved in the security of the coastal waters. The government reach is limited in the borderlands what is also a problem to combat piracy. And although law enforcement is perceived as good it can still be improved and especially corruption is a big problem.

6 Analysis

6.1 Introduction

In this section the results of the previous chapters will be analyzed. This chapter will use the results of the different indicators used to assess the ability of Somalia and Indonesia to combat piracy, it will compare this information of both countries. Also it will link this information with the difference of the piracy in Somalia and the piracy in Indonesia. Finally this information will be used to give an answer on the main question of this research, What is the difference between a stateless Somalia and a weak Indonesia for combating piracy at sea off the coast?

6.2 Analysis

6. 2.1. Pirate attacks

Several differences between piracy in Somalia and in Indonesia can be identified. First of all the number of attacks is different. The number of attacks of Somali pirates is much higher than the number of attacks of Indonesian pirates, the attacks attributed to Somali is more than half of all the reported attacks in the world. But when we look at the number of actual attacks of Somalia and Indonesia then the difference is smaller, but Somalia still has more actual attacks. Another difference is the locations of the attacks. Were the Indonesian pirates use the geography for small and secretly attacks, the Somali pirates are bolder, they go further out the coast and use arms to attack steaming ships and they often take the crew in hostage. The Somali pirates are organized and armed with automatic weapons in contrary the pirates in Indonesia are mostly small-time robbers and petty criminals (Bateman and Ho, 2009). The last difference that can be identified are the motives of the pirates. Whereas the Indonesia pirates do not claim special reasons and they act on economic grounds, the Somali pirates initially claimed to protect their coastal grounds.

6.2.2 Assessment of the states

Now these difference between the attacks will be linked to the assessments that are made of the Somali state and the Indonesian state. When the results of these previous chapters are compared, some differences can be identified. Especially in the centre of the state the differences are evident. After the regime of Siad Barre Somalia collapsed and has turned into chaos. It now has no central government but three different governance forms which have split the country in three parts. There is no clear legal system and the measures that are taken to suppress piracy are taken by international actors. Indonesia is now a relatively stable democracy with only a view minor conflicts. It has a clear

law but there are not many measures taken against piracy and international cooperation is difficult. Thus Somalia has no central government, no law, no measures taken against piracy but a lot of international interference while Indonesia has a central government and a law, but not many measures are taken and cooperation with neighbour countries is difficult. The differences in the periphery are less evident. The area that the countries have to secure do differ, the Indonesian territory is much more difficult to secure than the waters of Somalia. The reach of the government is a factor that is less different for the two countries, the reach of both countries is limited and both countries are also faced with corruption. Indonesian has better security forces and the enforcement of law is also better than in Somalia, but these differences follow from the difference in central government. Thus Indonesia is strong in the centre and weaker in the periphery while Somalia is weak in the centre and in the periphery.

The main difference between Somalia and Indonesia is that Somalia has no central government were Indonesia does have a central government. Because a central government is lacking in Somalia it is difficult to establish law and to enforce law which makes it hard to address piracy. Somalia and Indonesia are both countries that have been colonized and have recently seen a period of state building. States which have been colonized in the past, like Somalia and Indonesia, are in contrast to the European states, not developed through internal conflict and struggle (Tilly, 1985). When a state has acquired its military organization from the outside and has not witnessed internal conflict this could lead to state organizations that are disproportional. This could result in a state that is not functioning well or with other words to state failure. This is what happened in Somalia. Soon after the decolonization Siad Barre established an authoritarian rule which lasted several decades but in 1991 the regime collapsed and Somalia turned into chaos. Somalia can be classified as a Collapsed state, after the rule of Siad Barre collapsed, chaos originated in Somalia and for a certain period there was no working government at all and since the collapse there is no central government anymore in Somalia.

6.2.3 Institutional void

In Somalia, a collapsed state, a central government has been absent and this can lead to an institutional void. The state failure of Somalia which has partly led to the piracy at sea off the coast can be identified as an institutional void as described by Maarten Hajer. (Berg, 2010). An institutional void is a place where there are no clear rules and norms according to which politics is to be conducted and policy measures are to be agreed upon (Hajer, 2009, pp. 175). This is clearly the case with the piracy at sea off the coast of Somalia, the Somalia state, if you can even speak of such, does not have the power to intervene and there is no permanent legal framework for international

intervention. An institutional void can take different forms, is it that there are no rules at all about piracy or is it that the execution of the rules is not done properly because the government is lacking the authority to do so.

Hajer (2003) has identified five elements in the institutional void that challenge the classical-modernist institutions. The first element is the dispersion of the new order of decision making. This element is present in the case of Somalia. Several actors are involved, but who is responsible for taking decisions. The Somalia state, enterprises, the region, the international community, the UN, who is taking the decisions? Or are it the countries that are currently supporting the UN mission with their forces. This questions shows that it is not clear what the new order is that is taking decisions. The next point is linked with the first point, is the new spatiality of policy making and politics. The problem of the piracy needs to be addressed on different levels. On the national level has to be dealt for example with the causes of piracy and the hiding places. The regional level needs to deal with the security and the instability of the whole region and on international level has to be dealt with the consequences of the piracy and the absence of an international law on this topic. The third issue that is distinguished is that the view of participation and democratic governance has to be rethought. This is not so easily identified in the case of Somalia because it is a problem with an international dimension, it does not only happen on the national level. Many international actors are involved, other countries and the UN. Because it is not a national problem you cannot use a citizen-involvement design. But you can think of a design that involves all the different actors. The fourth matter is the authority of classical expertise that has been undermined. The idea of first getting the facts right is abandoned. While a international framework to address the piracy is not yet established, measures have already been taken to combat the pirates. The last element brought forward by Hajer is that the context of policy making is expansive. New fundamental themes are brought forward in new politics, which broadens the area of policy making. Here, the sovereignty of the state is questioned, the territorial borders are questioned and also the topic of terrorism is touched in this theme. So the policy has become broader and now includes essential questions.

Three governance forms have now developed which try to fill the institutional void. In Somaliland and Puntland is formed a governance and in the Southern part of Somalia the TFG is established with international support. Where the reach of the TFG is very limited Somaliland and Puntland have established more authority and both have acquired a certain degree of monopoly on violence. But the pirates attacks occur much more often off in waters of Somaliland and Puntland, which contain busy sea lanes, than in the waters of the TFG. So are Somaliland and Puntland, despite the authority they have established, still not able to fight the pirates? Or are they not willing to fight the pirates? This is a questions that needs further research. It also leads to other questions like; 'Why would the

Somaliland governance and Puntland governance have the intention to fight an international problem when they are not internationally recognized?', 'Which influence has the piracy on the economy in Somalia?' and 'Do the rulers and politicians in Somaliland and Puntland benefit from the piracy?'.

The institutional void is also visible at the sea off coast of Somalia. The institutional void is filled in different ways. First of all the pirates misuse the void. They make advantage of the law and law enforcement that is absent through attacking and robbing ships on sea. And these attacks are very serious, these pirates are highly aware of the fact that no authority is present which will stop them. This is reflected in the attacks, the number of attacks have grown, the attacks are far out of the coast and the pirates use heavy armory. According to the pirates people are also illegally fishing or dumping waste in the territorial waters of Somalia, these people also take advantage of the institutional void that exists. And the international community has tried to fill this institutional void. They have taken several measures and actions to suppress the piracy. Interesting is that they have taken measures against the piracy but they have not reacted at the reasons that the pirates give for their acts. According to the pirates illegally fishing and dumping waste is taking place in the territorial waters of Somalia but this is not addressed through the international measures. This is probably because the countries that are involved with the illegally fishing and dumping are also involved with the measures that are taken. Most of the international actions are from the UN Security Council but with the approval of the TFG. Remarkable is that only the TFG is recognized internationally because this is the governance with the most limited power and situated in the area with the fewest pirates which makes it even more difficult to suppress piracy. But it is of course easier to work with a weak government when it comes to issues that are related to sovereignty, because when you do not recognize Somaliland and Puntland you do not need their permission to enter their territory. But this are of course speculations that need further research.

According to Hajer (2003) an institutional void needs to be filled with deliberation. But in this situation the void cannot be filled through deliberation but it has to be filled with a power entity. An entity that has the power to establish law and enforce law. This entity can be one state, or three states, a state with a government which has the full monopoly on violence and through this the authority and the possibilities to suppress piracy.

Were Somalia lacks a central government to coordinate the suppression of piracy, Indonesia does have a central government. Indonesia has a well established government with the institutions that are necessary to suppress piracy This is reflected in the number and type of pirates attacks. The attacks in the waters of Indonesia are mostly small and secretly. In Indonesia is clearly no

institutional void. The state has a working government which has the institutions to fight pirates. The problem in Indonesian is not situated in the centre but in the periphery. Where the state is strong in the centre it lacks the power in the periphery. One of the reasons of the difficulty to fight piracy for the government is the complex framework of agencies responsible for the security of the territorial water. This complex framework makes it difficult to secure the whole area. Further corruption is a well known phenomenon in Indonesian and makes it difficult to combat piracy. The complex framework of security forces also creates the possibilities for corruption. Some authors suggest that the pirates sometimes cooperate with the security agencies. The limited reach of the Indonesian government in combination with the area, many islands, shallow reefs and narrow waterways, makes it difficult to combat the piracy completely. The number of attacks has gone down but still too many attacks happen in this area. The area is so enormous and has such difficult geography that it is almost impossible to secure the entire country. More cooperation in this area could solve this problem. Through cooperation it would be easier to cover the whole area and to secure the sea lanes. Currently cooperation between neighbour countries is difficult because they are afraid to lose their sovereignty in their area. Here can also be identified an institutional void, not on the national level, but on the regional level. There is no central organization in Southeast Asia which coordinate the fight against pirates. And this void is used through some people to attack and rob ships. From the five elements that Hajer (2003) identified are the first; the new order of decision making is dispersed; the second; there is a new spatiality of policy making and politics; and the fifth; the context of policy making is expansive. Hajer says that an institutional void needs to be filled with deliberation, this is also difficult in this situation. The problems in Somalia and Indonesia are security problems which cannot be solved by deliberation alone. An authority which can deploy force and obtain the monopoly on violence and in this way can secure the area is necessary. Thus the solution that Hajer proposes for an institutional void is not suitable when this institutional void is also an security issue.

6.3 Conclusion

The main difference between Somalia and Indonesia for combating piracy is that Indonesia has a central government while Somalia lacks a central government to combat piracy. Somalia has no central government to suppress piracy, which consequently influences the authority of the state, law and law enforcement. Because of this an institutional void has appeared which is used through the pirates to attack and rob ships. Indonesia does have a central government and is much more able to suppress piracy. But because of the limited reach of the government in combination with the difficult area pirates are still present in the area, international cooperation could solve this problem. This can also be seen as an institutional void, on a regional level, no regional cooperation does exist to suppress piracy in Southeast Asia. Both the institutional void in Somalia and the institutional void in Indonesia are security problems that cannot be filled with deliberation as Hajer suggests. Concluding Indonesia is strong in the centre and weaker in the periphery while Somalia is weak in the centre and

weak in the periphery. This differences are reflected in the different attacks, in Somalia the attacks are openly and ambitious making use of the lacking central government while the attacks in Indonesia are small and secretly, using the shallow reefs and narrow waterways.

7 Conclusions, discussion and recommendations

7.1 Conclusions

The main difference between Somalia and Indonesia for combating piracy is that Indonesia has a central government while Somalia lacks a central government to combat piracy. Somalia has no central government to suppress piracy, which consequently influences the authority of the state, law and law enforcement. Because of this an institutional void has appeared which is used through the pirates to attack and rob ships. Indonesia does have a central government and is much more able to suppress piracy but because of the limited reach of the government in combination with the difficult area pirates are still present, international cooperation could solve this problem. This can also be seen as an institutional void, on a regional level, there is no regional cooperation to suppress piracy in Southeast Asia. Both the institutional void in Somalia and the institutional void in Indonesia are security problems that cannot be filled with deliberation as Hajer suggests. Concluding Indonesia is strong in the centre and weaker in the periphery while Somalia is weak in the centre and weak in the periphery. These differences are reflected in the different attacks, in Somalia the attacks are openly and ambitious making use of the lacking central government while the attacks in Indonesia are small and secretly, using the shallow reefs and narrow waterways.

7.2 Discussion

The theoretical framework of this research is based on western concept and theories as a consequence of this it has a limited range. For example the concept of piracy, in the west this is seen as an illegal act while this in Asia has a different meaning, it has been socially accepted for a long period in the past. This research concerns a literature study and thus the information is only secondary which restricts the research. So is the information about Somalia on certain areas limited because its government is collapsed and there are no information services any more. For example information about the military expenditures is hard to find. And also the causes of piracy when you have no information on the motives of the pirates it would be easy to get it first handed. And there is of course also information on issues which the countries do not want to make publicly, like the strength of their security sector or the degree of corruption in their country. These are all factors that have influenced the research.

7.3 Recommendations

In further research could be attempted to break down the limitations of the information flow. This

can be done by tapping other sources or primary research. Further information could be gathered on the military budgets of the countries and the military spending on the suppression of piracy. Also information about the economic loss of piracy could be valuable. This report has also raised some questions which could be useful for further research. These are questions about the intention of Somaliland and Puntland to fight piracy and about the international recognition of the TFG. The following questions have emerged during this research;

- Are Somaliland and Puntland, despite the authority they have established, still not able to fight the piracy?
- Or are they not willing to fight the piracy?
- Why would the Somaliland governance and Puntland governance have the intention to fight an international problem when they are not internationally recognized?
- Which influence has the piracy on the economy in Somalia?
- What is the economic loss of piracy? And for who?
- Do the rulers and politicians in Somaliland and Puntland benefit from the piracy?
- Why is the TFG internationally recognized and Somaliland and Puntland not?
- What would be the consequences for interventions of the international community when Somaliland and Puntland would be recognized?
- What could be done to stimulate regional cooperation to combat piracy in Southeast Asia?

References

- Alm, J., Aten, R.H. and Bahl, R. (2001) Can Indonesia decentralize successfully? Plans, problems and prospects, *Bulletin of Indonesian economic studies* 37 (1), pp 83-102
- America.gov, U.S. Department of State, Contact Group on Piracy Off the Coast of Somalia, 18-05-2009 <http://www.america.gov/st/texttrans-english/2009/May/20090518175245xjsnommis0.5672266.html>
- AMISOM, African Union Mission in Somalia, 09-06-2010
http://www.africa-union.org/root/au/auc/departments/psc/amisom/AMISOM_MILITARY_COMPONENT.htm
- Aswicahyono, H., Bird, k. and Hill, H. (2009) Making Economic Policy in Weak Democratic, Post-crisis States: An Indonesian Case Study, *World development* 37 (2), pp 354-370
- Bateman, S. and Ho, J. (2008) Somalia-type Piracy: Why it will not happen in Southeast Asia
<http://www.rsis.edu.sg/publications/Perspective/RSIS1232008.pdf>
- BBC news (14-03-2005) Pirates storm Indonesian tanker
<http://news.bbc.co.uk/2/hi/asia-pacific/4347167.stm>
- BBC news (26-11-2008) Somalia's pirates seize 33 tanks,
<http://news.bbc.co.uk/2/hi/africa/7637257.stm>
- BBC news (05-02-2009) Somali pirates 'free arms ship'
<http://news.bbc.co.uk/2/hi/africa/7871510.stm>
- Bradbury, M., Abokor, A.Y. and Yusuf, H. A. (2003) 'Somaliland: choosing politics over violence'. *Review of African Political Economy*, 30: 97, 455-478
- Berg, J.H. van den (2010) Piracy at sea off coast the coast of Somalia
- Bryden, Matt and Brickhill, Jeremy(2010) 'Disarming Somalia: lessons in stabilisation from a collapsed state', *Conflict, Security & Development*, 10: 2, 239 — 262
- Call, C.T. (2008) The Fallcy of the "Failed State" *Third World Quarterly* 29 (8), pp 1491-1507
- Casson, A. and Obidzinski, K. (2002) From New Order to Regional Autonomy: Shifting Dynamics of "Illegal" Logging in Kalimantan, Indonesia *World Development* 30 (12), pp. 2133-2151

Charter of the United Nations, 1945

<http://www.un.org/en/documents/charter/chapter7.shtml>

CIA, the world factbook, 21-04-2010

<https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>

Council of the European Union, EUNAFVOR Somalia, 18-04-2010

<http://www.consilium.europa.eu/showPage.aspx?id=1518&lang=en>

Dagne, T. (2009) Somalia: Current Conditions and Prospects for a Lasting Peace, Congressional Research Service.

<http://ftp.fas.org/sgp/crs/row/RL33911.pdf>

Englehart, N.A. (2007) Governments against states: The logic of self-destructive despotism *International Political Science Review*, 28 (2), pp. 133-153.

Fukumyama, F. (2004), *State building, Governance and World Order in the 21st century*, Ithaca, Cornell University Press

Fund for Peace, 06-05-2010, Failed State Index

http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=99&Itemid=323

Gros, J. G. (1996) 'Towards a taxonomy of failed states in the New World Order: decaying Somalia, Liberia, Rwanda and Haiti', *Third World Quarterly*, 17: 3, 455-472

Hagmann, T., Hoehne, M.V.(2009) Failures of the state failure debate: Evidence from the Somali territories *Journal of International Development*, 21 (1), pp. 42-57.

Hainsworth, G. (2007) Rule of law, anti-corruption, anti-terrorism and militant Islam: Coping with threats to democratic pluralism and national unity in Indonesia *Asia Pacific Viewpoint*, 48 (1), pp. 128-144

Hajer, M. (2003) Policy without polity? Policy analysis and the institutional void. *Policy Sciences*, 36 pp. 175-195

Hansen, S. J. (2008) Private Security & Local Politics in Somalia *Review of African Political Economy*, 35 (118), pp. 585-98

He, R., 2009 Coast guards and maritime piracy: sailing past the impediments to cooperation in Asia, *Pacific review* 22 (5), pp. 667-689

Ho, J.H. (2009) Piracy around the horn of Africa. *Korean Journal of Defense Analysis*, 21 (4), pp. 501-518

Hoffman, J. (2004), *Citizenship beyond the state*, London, Sage

Höhne, M.V. (2006) Political identity, emerging state structures and conflict in northern Somalia *Journal of Modern African Studies*, 44 (3), pp. 397-414

ICC International Maritime Bureau (2010) Piracy and armed robbery against ships, Annual report 1 January - 31 December, S.L.

Johnson, D. and Pladdet, E. (2003) An Overview of Current Concerns in Piracy Studies and New Directions for Research, Position Paper for the Piracy Panels and Roundtable at the conference: People and the Sea II: Conflicts, Threats and Opportunities, International Institute for Asian Studies and the Centre for Maritime Research, S.L.

Leeson, P.,T. (2007) Better off stateless: Somalia before and after government collapse *Journal of Comparative Economics*, 35 (4), pp. 689-710.

Lennox, P. (2008) Contemporary Piracy off the Horn of Africa, Canadian Defense & Foreign Affairs Institute

http://www.bosasomedia.com/images/right_side_ads/Contemporary%20Piracy%20off%20the%20Horn%20of%20Africa.pdf

Lindsey, T. and Santosa, M.A. (2008) The trajectory of law reform in Indonesia: a short overview of legal systems and change in Indonesia, In: T. Lindsey (ed.) *Indonesia law and society* Sydney, The federation press

Mancini, L. (2005) Horizontal Inequality and Communal Violence: Evidence from Indonesian Districts *CRISE Working Paper* No. 22

<http://www.crise.ox.ac.uk/pubs/workingpaper22%5Bold%5D.pdf>

Morgan, J.R. (1982) ASEAN navies: new missions and old problem *Marine Policy* 6 (3), pp. 236-237

Oceans and Law of the Sea (2010) Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements as at march 2010

http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm

Powell, B., Ford, R., Nowrasteh, A. (2008) Somalia after state collapse: Chaos or improvement? *Journal of Economic Behavior and Organization*, 67 (3-4), pp. 657-670.

- Potter, L. (2009) Resource periphery, corridor, heartland: Contesting land use in the Kalimantan/Malaysia borderlands *Asia Pacific Viewpoint*, 50 (1), pp. 88-106
- Resolution 1897, UN Security Council, 2009
http://www.un.org/Docs/sc/unsc_resolutions09.htm
- Resolution 1910, UN Security Council, 2010
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/222/59/PDF/N1022259.pdf?OpenElement>
- Shank, M. (2007) Understanding political Islam in Somalia *Contemporary Islam*, 1 (1), pp. 89-103.
- Svensson, J. (2005) Eight Questions about Corruption *Journal of Economic Perspectives*, 19 (3), pp 19-42
- Teitler, G. (2002) Piracy in Southeast Asia. A Historical Comparison *Mast*, 1 (1), pp 67-38
- Teo, Y. Y. (2007) Target Malacca Straits: Maritime terrorism in Southeast Asia *Studies in Conflict and Terrorism* 30 (6), pp. 541-561
- The New York Times (26-09-2010) Somalia pirates capture tanks and global notice
<http://www.nytimes.com/2008/09/27/world/africa/27pirates.html>
- Tilly, C. (1985) War Making and State making as organized crime, In: P. Evans, D. Rueschemeyer, and T. Skocpol (ed.) *Bringing the state back in*, Cambridge, Cambridge University Press
- Transparency International (2009) Global Corruption Report 2009, Corruption and the private sector
http://www.transparency.org/publications/publications/global_corruption_report/gcr2009
- Treves, T. (2009) Piracy, law of the sea, and use of force: Developments off the coast of Somalia, *European Journal of International Law*, 20 (2), pp. 399-414.
- UN, Permanent mission of the Somalia Republic to the United Nations, Country Facts, 13-04-2010
<http://www.un.int/wcm/content/site/somalia/cache/offonce/pid/3238;jsessionid=CBC7DD9077545E7317AB9C29B2ACC59E>
- UNCLOS, (1982) United Nations Convention on the Law of the Sea,
http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm
- UNCLOS part II (1982) United Nations convention the Law of the Sea,
http://www.un.org/Depts/los/convention_agreements/texts/unclos/part2.htm

UNODC (2006) Assessment of justice sector integrity and capacity in two Indonesian provinces,
http://www.unodc.org/pdf/corruption/publications_indonesia_e_assessment.pdf

UN News, 14-05-2010, Secretary-General Calls for Broader Cooperation, New Push for Stability in Somalia, to Combat Resurgence of Piracy as General Assembly Meets to Examine Global Scourge
<http://www.un.org/News/Press/docs/2010/ga10940.doc.htm>

United Nations & the World Bank (2006) Somalia Joint Needs Assessment, Governance, Security, and the Rule of Law
http://www.somali-jna.org/downloads/vol5_1.pdf

World Bank (2003) Decentralizing Indonesia, A regional Public Expenditure Review Overview Report
<http://www1.worldbank.org/publicsector/LearningProgram/Decentralization/Hofman.pdf>

Young, A., J. (2005) Roots of maritime piracy in southeast Asia pp. 1-33, In: D. Johnson and M. Valencia (ed.) *Piracy in southeast Asia: status, issues, and responses*, Singapore, ISEAS publications

Zartman, I.W. (1995) Introduction: Posing the Problem of State Collapse, pp. 1-14, In: I.W. Zartman (ed.) *Collapsed states, The disintegration and restoration of legitimate authority*, London, Lynne Rienner Publishers, Inc.

Zou, K. (2009) New developments in the international law of piracy *Chinese Journal of International Law*, 8 (2), pp. 323-345