

Good Order at Sea: A Resource Focus

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Abstract

The pursuit of good order at sea is without doubt among the global challenges that are a concern not only for governments but also for the sea users. The persistent insecurity at sea has become a thorny issue that has sent heads rolling. Very noble strategies have been formulated and implemented but the results have not yielded the expected results especially in some of the world seas. As if these strategies are not enough, more strategies are being sought as more research work continues to be directed at this problem. In other words finding a suitable instrument continues to be the focus on ongoing work. It is therefore expected that papers in this conference will move towards this direction and identify additional instruments in addressing safety at sea.

Whereas I hold important instruments to address this challenge, I think that taking the route of producing more of them would practically be the same as doing business as usual. For this reason this paper has avoided this direction. On the contrary the paper will argue that the insecurity at sea requires an understanding beyond what is happening in the sea itself. By drawing from emerging discussions in coastal fisheries resource management, the paper will show that security at seas is a ‘wicked’ problem. Wicked not in the sense of evil but difficult to define and delineate from other and bigger problems and that they are not solved once and for all but tend to reappear. Moreover they have no technical solution. The paper will offer a governance framework, which could help us locate the wicked problems within the coastal insecurity, coastal resources and governance system, as well as examine their governability for developing marine resources, ensuring security of sea users among others.

Key words: Piracy, wicked problems, coastal resources, interactive governance

Introduction

“Piracy is an evil that is unambiguously and unanimously condemned” (Participants declaration in a workshop on the impacts of piracy on fisheries in the Indian Ocean, 2012)

Piracy is a condemned activity going by the declaration stated above. But it has remained a problem which has continued to bite over the years. As of August 2013, several incidences have been reported (Table 1). Historically, it is observed to have started over 4000 years ago with pirates hijacking ships to take goods that were carried onboard (Wombell, 2010; Royal Naval Museum, 2002). Pirates such as the Vikings used long thin ships driven either by sail and wind, or by slaves who rowed the boat quickly when they were chasing another ship. However, in the recent past, piracy has graduated into using modern boats driven by very high horse power engines and modern equipment and weapons.

Piracy is a problem which has not gone away. It has continued albeit in different forms, for instance pirates use powered boats or ships, they even go for human beings rather goods and in some areas they are controlled by organized criminals (Wilczynski, undated). A dominating perception about understanding and confronting piracy, as is the case with other problems, has been focused on what goes on within the problem (piracy) itself. For instance piracy continues to be understood and confronted as a problem requiring equal or higher force provided by security agents (Naval Forces), better technology to detect and deter the effects of the pirates among others. Whereas these solutions have to a large extent reduced the incidences of piracy and its impacts in areas where it has been reported, they have not eradicated it. Confronting piracy by this means has also implied higher costs in maintaining the presence of the forces in the sea. Such costs may be too high to be perpetually sustained.

Table 1: Information on Global Piracy and Armed Robbery as of August 2013

Location of incidence as at August 2013	Number
Worldwide	176 reported incidents
Somali related incidents	10 reported incidents
Current crew / vessels held by Somali pirates	hostages – 57
Nigeria related incidents	28 reported incidents

Source: (ICC Commercial Crime Services)

Although piracy has received a global attention, it is observable that its relationship to coastal resources governance has not been in equal measure. Efforts have been directed at understanding the strategies used by pirates, their routes and operation techniques. It is only since of late that its impact has been noticed to affect fisheries activities and incomes. It is the case therefore that understanding problems such as piracy has to a large extent concentrated on the problem itself.

There are also concerns that it could affect tourism sector, especially tourists travelling by boat as well as those who spend their time enjoying coastal resources.

The argument adopted in this paper does not go against what in most parts has constituted a domineering point of view, which understands piracy from a micro-view revolving around security, technology used and strategies employed by the pirates. On the contrary, I argue for a macro-view that encompasses threats posed to livelihoods by illegal fishing undertaken by ships not native to the piracy prone areas, economic challenges, erosion of religious tenets and moral values among others.

In this paper I perceive piracy, whatever its causes, as problem requiring an understanding beyond its operations (that is what happens in the sea). I argue that piracy requires more than an inside or *emic* perspective but also an outside or *etic* perspective that also analyses the social, political, economic and ecological context within which piracy operates. This argument broadens Wombwell (2010) argument that ‘piracy is a land problem’ not a sea problem and therefore its solution could be sought where it is located.

“... a closer examination of piracy through ages reveals that piracy cannot be eliminated by sea-based operations alone. In the end, piracy is a land problem and must be solved ashore, whether by force or political means” (A former naval officer: Wombwell, 2010: page v).

I further argue that understanding piracy can also benefit greatly from how it piracy impacts upon coastal resources.

The paper begins by presentation a perception on characteristics of piracy. It discusses how piracy is understood and the solutions that have been proposed to confront it as well as the nature of the piracy problem. This is then followed by a discussion on the statue of East African resources. I argue here that just like in many other parts of the world, these resources have provided opportunities for the residents in this region with avenue for livelihoods, however with the decline in these resources many people have migrated into fishing, thus fishing although under pressure has been an important livelihood opportunity. I then discuss the consequences of the piracy on the coastal resources. Finally, I examine how piracy can be governed. I discusses a governance framework, which could be used analytically to understand the wicked problems within the coastal insecurity, as well as examine their governability for developing marine resources, ensuring security of sea users among others.

A Characterization of Piracy

Is piracy a straight forward security problem? If yes why has it not been wiped out through security-based solutions such as deployment of security agents in piracy prone areas? Why is it still prevalent? (Table 1 and 2). Why does it reoccur even with strict law enforcement? Why does it keep on changing and appears different from one area to another where incidences have

been reported? These questions raise concerns about the nature of the problem being dealt with. They point out that there are some problems which need to be looked at beyond the conventional pattern where solutions to a problem are inherent in the problem itself. In other words, addressing problems by defining the problem, setting the goal that one wants to reach when solving the problem, seeking and analyzing information about the problem which can help in addressing it, outlining the available alternative solutions, calculating their relative merits, making and implementing a decision, and finally evaluating outcomes and, if need be, and making modifications (Conklin, 2006; Gilmore and Camilius, 1996) is not the only way to address problems. There are other innovative means that could be explored.

In reality there are some problems which are difficult or tricky to solve because of incomplete, contradictory, and their changing requirements that are often not easy to recognize. These are problems whose meaning is understood differently by different categories of people. Moreover, because of their complex interdependencies, the effort to solve them or an aspect of them may reveal or create other problems (Conklin, 2006). These problems fall in the category which Rittel and Weber (1973), called wicked problems.

Table 2: Actual and attempted piracy attacks

Location	2007	2008	2009	2010	2011
Egypt	2			2	3
Eritrea	1				
Gulf of Aden	13	92	117	53	37
Kenya	4	2	1		1
Somalia	31	19	80	139	160
Tanzania	11	14	5	1	

Source: IMB 2012

These problems are not wicked in the sense of evil, bad, immoral, sinful, impious or depraved, but in the sense of being tricky or thorny, difficult to define and delineate from other and bigger problems. Their meaning is complex, elusive and problematic (Ibid.). Examples of problems in this group may include but not limited to poverty, climate change, HIV/ AIDS epidemic,

endemic influenza, international drug trafficking, internal security, crime and mental health just to mention but a few. In this list I add piracy or safety at sea. In deed the perception that piracy is evil attest to the fact that when problems also have a moral aspect to them, they become even more wicked, because the problem becomes more difficult to agree on how to define them and how to solve them.

To understand the wicked problem concept, Rittel and Weber (1973) contrasted what they called ‘tame’ from ‘wicked’. They argued that tame problems are straight forward, for example a mathematical problem which is presented for solving such as $1 + 1$, the answer is a straight forward 2. To them, the solutions of tame problems are found in the problem itself. Tame problems are very clear in what they are and their causes. Solving them require a logical methodology typical of engineering or scientific inquiry. They belong to a group of problems that can be solved in a similar approach each time. Tame problems also have a definite stopping point, for instance it is known when the problem is solved, as in a chess game or with a math problem, and it is clear that the solution is either right or wrong. Important also is that how such a problem is solved at one point has no bearing on future options (Rittel and Weber, 1973 paraphrased by Jentoft and Chuenpagdee, 2009). The piracy/safety at sea problem does not fit perfectly well with this description although in many instances it has been deconstructed and transformed into a tame problem.

Piracy can be considered as a wicked problem. It is a problem that can be explained or understood by what happens in the sea (hijackings, robberies and theft) and the forces that have created these conditions (the structural forces at local, national and global levels). An examination of characteristics of piracy provides an insight into these structural issues and how this problem is wicked (Table 3).

Table 3: A perception on the characteristics of piracy

On	Piracy is	Aspect of characteristics
Definition	tricky or thorny causes that are difficult to identify contradictory	Unstructured
Solutions	no stopping rule – problem never solved once and for all not true or false but better or worse no one shot operation no set of potential solutions requires large set of stakeholders to change their mindset	Cross-cutting

On	Piracy is	Aspect of characteristics
Type/nature of problem	Unique can be symptoms of other problems can be explained in numerous ways very complex involves several trade-offs among competing values socially embedded public	Persistent

(Adapted from Rittel and Webber, 1973; Weber and Khademian, 2008 on wicked problems)

The meaning of piracy is not as clear as one may think but contradictory and depends on who is defining the problem. For example, the international community has a generally agreed definition by states (see UNCLOS), others do not perceive piracy in the same thinking (Hari 2009). To these others, what is considered as piracy is to a large extent protection of their coastal resources. Bueger (in this conference) also points out that piracy among others stems from cultural acceptance, he argues that “piracy is projected as a legitimate almost state-like practice of protecting coastal waters against outside threats such as illegal resource exploitation or environmental crime. Thus there is no universal consensus on the understanding of what the problem mean. In explaining what wicked problems are, Rittel and Webber (1973) argued

“Consider, for example, what would be necessary in identifying the nature of the poverty problem. Does poverty mean low income? Yes, in part. But what are the determinants of low income? Is it deficiency of the national and regional economies, or is it deficiencies of cognitive and occupational skills within the labour force? If the latter, the problem statement and the problem “solution” must encompass the educational processes. But, then, where within the educational system does the real problem lie? What then might it mean to “improve the educational system?” Or does the poverty problem reside in deficient physical and mental health? If so, we must add those etiologies to our information package, and search inside the health services for a plausible cause. Does it include cultural deprivation? spatial dislocation? problems of ego-identity? deficient and political social skills? – and so on. If we can formulate the problem by tracing it to some sort of sources – such that we can say “Aha! That’s the locus of the difficulty,” (Rittel and Webber 1973:161)

Secondly as a wicked problem, the several different causes of piracy which many writers have pointed out have equally many solutions. These solutions are neither true-or-false nor are they right or wrong but they are better or worse. For instance a military solution to piracy can either worsen or make better the situation. In the case of worsening, pirates may design counter attacks and or change their tactics while in the case of making the situation better, the military response could suppress the pirates leaving no room for piracy activities. There is also not one person, institution of government which can claim to be an expert in the understanding the piracy problem. Thus it is difficult to domesticate the problem into one discipline. It is also the case that finding a better solution may require changing the mindset or attitude of a number of stakeholders, something which is difficult if not impossible.

Third, as a wicked problem, piracy is contextual i.e. unique to a particular area. Analysis of piracy reveals that the manner in which this activity is undertaken in each location shows differences and similarities. For instance piracy in the Horn of Africa is about kidnapping for money, here pirates seize the ship and the crew for a ransom. In West Africa on the other hand, it is primarily about stealing. In this case, it is about oil theft – theft of hydrocarbons that is the target. In addition piracy is also a symptom of other bigger problems. Weak institutions have been listed as one problem that several authors have argued is responsible for piracy in certain areas. Poverty and poor performance of other sectors such as agriculture, industry, mining among other which can provide alternative livelihoods to those who get recruited into piracy are among the reasons why piracy persists.

State and performance of East African resources

East Africa with a population of about 225 million people belonging to several ethnic communities is a region which can be divided into three sub-regions namely: the Great lakes regions comprising Kenya, Uganda, Tanzania, Rwanda and Burundi; The horn of Africa which includes Ethiopia, Eritrea, Sudan, Djibouti and Somalia and; the Indian Ocean islands of Comoros and Seychelles. Physically, East Africa is famous for its magnificent geographical features such as rivers, lakes, mountains and numerous national parks.

The region is also a hub of gold, Tanzanite, Uranium and mining of other minerals. Coffee, tea and other agricultural crops are also grown here. Other activities undertaken include livestock keeping, industrial production and various services. Agriculture however is the main source of activity for the greater population of these countries.

These physical features and other notable factors have made East Africa to be known for among others: its value of the natural resources which has seen large areas demarcated as national and game parks, its fertile soils which have enabled local communities to depend on for agricultural purposes, its fisheries resources located in its lakes, rivers, dams as well as the Indian ocean which have supported a substantial population of fishers. East Africa has been a popular tourist destination. In general the resources in this part of the world have remained the backbone of the local communities' life line.

However, changes have been observed in the above named areas. For instance the index of total agricultural production, which has been the main employment avenue for a greater population and a major contributor to the Gross Domestic Product (GDP), rose from an average of 47 in the 1960s to 73 in the 1980s, and to 110 during the period after 2000. However the index of per capita agricultural production fell from an average of 128 in the 1960s to 112 in the 1980s, and to 100 after 2000 representing a 21% decrease. This expectations in the per-capita contribution for this sector has not reached where it could have (Jones,Tambi and Odularu, 2011). Coffee and Tea from the area have not been very competitive in the global market, cotton which was ones a good agricultural produce has not only reduced but almost died. Secondly there has been an

increase in food prices across the region. This has seen changes in lifestyles. For instance in Kenya there has been an outcry on the cost of *unga* – maize floor, in Tanzania the government has strict control on food exports so as to meet national food demands. In Ethiopia and Somalia food has become so expensive for many people and so they have had to exclusively depend on supplies from the World Food Program. Third, the fishing sector has not been spared. Many people realized that fishing provided ready food as opposed to agriculture from which there is a long waiting time to harvest. This has led many people into fishing as a means of sustaining themselves and their families. Fishing has therefore been seen as absorbing surplus labor. This has increased fishing effort and subsequently affected fish stocks.

Piracy Consequences on Coastal Resources

The conditions reported above in the East African hinterland led to limited income sources, increase in unemployment and dependency of a greater percentage of the population. The situation has been worsened by the recent trends in global economy and the increase in oil prices. These conditions have aggravated rural poverty, both vertical and horizontal migrations between and within sectors as well as led to a number of people who are displaced from these sectors to finding piracy an alternative activity. This has therefore created two contrasting scenarios in the perceptions and exploitation of coastal resources in the Western Indian Ocean (WIO) .

On the one hand pirates, especially in the Horn of Africa have in a number of cases claimed that they are volunteers out to protect their resources. That they are not pirates as others call them, they are volunteer coast guard of Somali. Their motive is captured by one participant who noted that

“our motive is to stop illegal fishing and dumping in our waters. . . . We don’t consider ourselves sea bandits. We consider sea bandits [to be] those who illegally fish, and dump waste, and carry weapons in our seas.” (Hari 2011)

To them the already worse conditions hinterland had led them into, this goldmine, the fishery. They have observed positive performance in their participation in the fishery and so they are doing everything possible to protect fisheries resources for their livelihoods (Huffington 2009; Aljazeera, 2008). This is evidenced by a Somalia report published on April, 30, 2012 which provided information that Somalia people ate more fish than they did previously. The report further indicates that as of December 2011, one kilogram of fish was bought at about \$4.50 but the cost was between \$ 2.70 and \$ 3.64 in April of 2012. Fish was less expensive and so more Somalis could afford more fish. Moreover women could be sported roasting fish at night in Mogadishu roads. In addition, a decade ago about 32 fish species were reported in the Somalia territorial waters, but as of 2012 an unknown number of species were available (<http://www.somaliareport.com>). Piracy has therefore been culturally accepted among the communities which practice it (Bueger, in this conference).

On the other hand, piracy has led to devastating conditions especially on countries which depend on fisheries. Piracy has

- (a) negatively impacted upon the social and economic sectors of fishery dependent countries. For example Seychelles has experienced about 4% decline in their GDP which is highly dependent on fisheries (EBCD, 2012),
- (b) undermined fish business development for instance, there has been an observed price inflation of inputs into the seafood processing industry
- (c) generated implication for the assessment and management of fisheries. For instance, piracy has shifted purse seining to the eastern areas of the Indian Ocean from the traditional fishing areas near Somalia. It also led to a 30% decline in gross tonnage of purse seine landings this was in part because of reduction in fishing licenses issued.
- (d) lost opportunity for fisheries research and management. For instance, it has created 'no-go zone' areas for marine and fisheries research. An example has been the effect it has had in authorization for the use of the Nansen Research Vessel to undertake stock monitoring above 10° S which includes waters of Somalia, Kenya and Tanzania (FAO, 2010).

These have posed serious challenges to coastal resources management, development, affected employment and income and led to increased poverty in the fishing dependent countries such as Seychelles, Comoros country. Piracy

The changes that have been noted in the coastal resources have generated concerns on the best way to reverse the situation but more importantly on how to address these conditions that aggravate piracy. These conditions have also brought awareness on certain crises namely:-

- a) *Production crisis* which may be caused by overfishing, resource scarcity and regulation
- b) *Science crisis* where extreme systems of uncertainties are sometimes overlooked
- c) *Property rights crisis* where the access nature to the coastal resources have to be taken into consideration.
- d) *Market crisis* where changes in the balance of power in the food chain may lead to reduced first hand sale prices and subsequently reduced catch levels which cannot be compensated by raising these prices.
- e) *Management crisis* where traditional management by fishermen is not taken into consideration but management becomes solely centralized and bureaucratic

Governing Piracy -

As Jentoft and Chuenpagdee (2009) have argued for fisheries, it is similarly argued in this paper that managing piracy does not require a one way approach. This is because in many instances problems, such as piracy, are not what they appear at first to be. Whereas it appears to be an insecurity problem at sea, this may only be a symptom of it. At best piracy problems can be seen as 'wicked' implying that the means of solving it as well as the end results of it are uncertain. In this paper i questions whether the piracy problem is ever traced from the source or just its symptoms.

Moreover wicked and other complex problems, such as piracy, are subject to implementation deficits—where the policy as implemented does not lead to the results as expected when the policy was formulated. Policy analysts most of the time wonder why implementation deficits appear so often. Similarly many of us wonder why efforts directed at addressing piracy have only created more crises including resource crisis.

Piracy is not only a security issue at sea or it is neither about weak law enforcement nor weak institutions, piracy involve people who have a history, identity and a face. They are not pirates as others look at them but they are people who are protecting their only safety valve which is crucial for their life line. This should not be misunderstood as a justification of this vice, on the contrary, piracy remains a thorn that affects communities and nations. The argument advanced in this paper is that the focus or over emphasis on piracy at sea greatly misses the point. This emphasis on piracy at sea could explain why the efforts that have been designed to address it have not achieved the desired results. An important question to ask is whether confronting piracy should be insensitive to recognize that pirates have identity, face and history. Piracy has not gone away may be because pirates do not let go off their roots lightly.

In this paper, I argue that piracy requires an approach that goes beyond law enforcement, it requires broader analytical perspectives that address issues such as legitimacy, justice, power relationships, freedom, choice, safety and security. To capture this broader perspective i argue that piracy governors should think towards adopting an interactive governance which actually provides an alternative way of perceiving piracy and its implications on coastal resources.

Interactive governance captures the dynamics and complexity with which piracy thrives and the broader societal systems in which it is embedded.

Governance, especially the interactive governance theory, illustrates and critically examines how various governors in society can interact as they seek to address societal problems that are inherently wicked such as piracy among others. It also explores building of governing

institutions and guiding behavior. In fact the challenge coastal resources faces from the impacts of piracy are best analyzed from a governance approach. Piracy causes are complex and must be analyzed in particular contexts and scale. Piracy is complex, dynamic and operates at various scales and involves several stakeholders. It presents various challenges, concerns and hard choices. There is no single person or institution which has the knowledge, information and sufficient overview to design effective instruments for them. Governing piracy requires the efforts of several actors and many minds. The interactive governance approach provides ideas of a mechanism to capture contributions from these several governors. Moreover it provides ideas on how to navigate about hard choices at both macro-level which fisheries management is presented with.

The relevance of interactive governance in governing piracy rests with the fact that this framework is grounded on the assumption that societies and or communities are governed by an arrangement involving efforts of several people (see Torfing et al. 2012). There is no single unit or department or institution which can on its own claim to have the mandate to govern. Even the government on its own recognizes that it cannot govern by itself. Kooiman and Bavinck (2013) argue that these governing mixes respond to the dynamic, complex and diverse set of problems, such as piracy, that affect society. The interactive governance concept emphasizes interactions. It is governing the interactions i.e. exchanges between actors that is crucial for solving societal problems such as piracy.

The interactive governance operates on what Chuenpagdee and Jentoft (2009), Jentoft and Chuenpagdee (2009) and Bavinck (2005) have termed a) systems-to-be-governed, b) governing system and c) governing interactions. The systems-to-be-governed, in respect to piracy, would comprise of the pirates, their leaders and network, while the governing system comprises the government, civil society institutions including donor agencies and private sector involved in curbing the piracy problem. The governing interactions are the exchanges that contribute to addressing societal problems and opportunities (Kooiman and Bavinck 2013). The interaction between these two systems is important in understanding how piracy comes about in the first place and how effective efforts directed at addressing it are and can possibly be governable. The two systems and their interactions are within this interactive governance framework seen as inherently diverse, dynamic, and complex and operate at different scales (Chuenpagdee and Jentoft, 2009; Bavinck et al. 2005; Jentoft and Chuenpagdee, 2009; Kooiman et al. 2005; Kooiman, 2003).

In my view piracy I argue that if there is a weak or ineffective interaction between the systems-to-be-governed and the governing system then the result would be piracy and in addition this will make piracy to continue. Such an interaction would mainly revolve around power and power relations, representation, participation and learning. I further argue that the inadequacy and ineffectiveness in interactions between the system-to-be-governed and governing system is an issue that can partly be traced from the values that the actors within the two systems hold. This is because values determine how governors view piracy and how they prefer to deal with it and

how pirates respond. It is within the values that I see piracy as an issue that is beyond the sea. That finding a solution to it requires strategies that are not only concentrated in the sea but also outside the sea.

As already argued, the problem of piracy is not solely confined in the sea, neither its solutions to be found there. The implications it has for coastal resources must be sought outside the sea. Finding a solution to its implications is complicated by the numerous causes that have been documented such as weak institutions, geographical location among others of where it occurs. To practically govern piracy, the following measures could be explored

- a) Strengthening the interactions between the systems-to-be-governed and the governing systems through enhancing capacity of local people and governments
- b) Incorporating pirates as part of the solution rather than clients in the fight against piracy. Opportunity should be created for them to participate in confronting problem. Their side of the story needs to be given an ear without necessarily encouraging their activity.
- c) Offering an assortment of training, education and awareness to young people who could be recruited into piracy. A good example is what the United Arab Emirates (UEA) is doing in Somali (see Lowe (2013))
- d)

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