

REGIONAL
ETHICS BOWL
CASES

PROTECTING PIRATES

FALL 2008

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Case 4: Protecting Pirates

Piracy may seem like a thing of the past, but in the waters surrounding Somalia, including the Gulf of Aden, Arabian Sea and Indian Ocean, piracy still runs strong.¹ A U.S. Department of State travel advisory for Somalia warns, “Merchant vessels, fishing boats, and recreational craft all risk seizure by pirates and having their crews held for ransom.... There have been numerous such incidents, highlighting the continuing danger of maritime travel near the Horn of Africa.” While piracy poses problems for individuals, governments are also faced with a difficulty in dealing with the piracy problem.

The waters off Somalia appear to be the most dangerous in the world. Last year, there were 31 attacks there and so far this year there have been 23 attacks by Somali pirates. Experts worry not only about the frequency of attacks but also about the skill and daring of the pirates, some of whom claim to be protecting the country's maritime resources from foreign exploitation.²

U.N. food shipments have been jeopardized by the attacks.³ However, the United States, France, and Great Britain have worked on a U.N. Security Council resolution to increase member state patrols of the area, which was approved in June.⁴ This measure has yet to prove effective, however. Britain has thus found itself in the midst of an ethical dilemma with regard to how to treat the pirates. According to author John S. Burnett, if British soldiers capture the pirates, this may violate their human rights. If they return the pirates to Somalia, the pirates may face death or having their hands chopped off for theft under Islamic law.⁵ And if the British fail to capture the pirates, the pirates may continue to endanger travelers.⁶ Even bringing the pirates to Britain may unfairly enable the pirates to claim asylum.

However, one way to decrease the Somali pirate attacks might be as simple as to comply with international law. “There is some truth in the pirates' claim that they are acting as a coastguard. Under international law, a country's ‘exclusive economic zone’ - where it has sole rights over marine and mineral resources - extends 200 nautical miles

¹ “Map of Gulf of Aden (gulf), Indian Ocean,” *MSN Encarta World Atlas*, last accessed July 30, 2008. <http://encarta.msn.com/encnet/features/mapcenter/map.aspx?refid=701512823>; “Travel Warning: Somalia,” United States Department of State, Bureau of Consular Affairs, May 20, 2008. http://travel.state.gov/travel/cis_pa_tw/tw/tw_933.html.

² Xan, Rice, “How Savage Pirates Reign on the World Seas,” *The Guardian*, April 27, 2008. Sec. World News. <http://www.guardian.co.uk/world/2008/apr/27/somalia1>

³ “U.N. Warns of Somalia Pirate Threat,” *BBC News*, June 26, 2008. <http://news.bbc.co.uk/2/hi/africa/7474877.stm>.

⁴ Charbonneau, Louis, “France, U.S. Draft Somalia Piracy Resolution,” *Reuters*, April 23, 2008. <http://www.alertnet.org/thenews/newsdesk/N22324123.htm>; Kihu, Miano, “Somalia: U.N. Sanctions Action Against Pirates,” *allafrica.com*, July 1, 2008. <http://allafrica.com/stories/200807011184.html>.

⁵ Burnett, John S., “Captain Kidd, Human Rights Victim,” *The New York Times*, April 20, 2008. Sec. Op-Ed. <http://www.nytimes.com/2008/04/20/opinion/20burnett.html>.

⁶ Woolf, Marie, “Pirates Can Claim UK Asylum,” *Times Online*, April 13, 2008. <http://www.timesonline.co.uk/tol/news/uk/article3736239.ece>.

out to sea. Foreign ships are allowed to pass through these waters, but not to fish without a permit.”⁷

Despite this property right, many foreign fishing vessels end up off the coast of Somalia, taking advantage of its “rich waters.”⁸ Due to the fact that almost all of the foreign fishing boats are fishing illegally, many pirate attacks go unreported. In fact, often “the ransoms paid are regarded as legitimate fines, both by the pirates and the ship-owners.”⁹

⁷ Xan, *supra* n. 2.

⁸ *Ibid.* (citing a statement by the Seafarers' Assistance Programme)

⁹ *Ibid.*