

**ARMED INTERVENTION AND THE
CHALLENGES OF MARITIME SECURITY IN
THE GULF OF ADEN, 2008-2011**

BY

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DEDICATION

This work is dedicated to the memory of my best friend Ekere, James Sunny-Mark, who lost his life in the 26th August 2010 UN Building bombing in Abuja. May his soul rest in peace. Amen.

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LIST OF ABBREVIATIONS/ACRONYMS

ACT	= Aden Container Terminal
AIS	= Automatic Identification Systems
AFRICOM	= US Combat Command for Africa
AU	= African Union
BBC	= British Broadcasting Corporation
BMP	= Best Management Practice
BMP4s	= Best Management Practices for Protection against Somalia Based Piracy
C2	= Command and Control
C4ISR	= Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance
CENTCOM	= United States Central Command
CGPCS	= United Nation Contact Group on Piracy off The Coast of Somalia
CTF 150	= Combined Task Force 150
CTF 151	= Combined Task Force 151
DRC	= Democratic Republic of Congo
EEZ	= Exclusive Economic Zone
EU NAVFOR	= EU Combined Naval Force
EU	= European Union
FAO	= Food and Agricultural Organization
FBI	= Federal Bureau of Investigation
FLOSY	= Front for the Liberation of Occupied South Yemen
FM 10023	= US Army Peacekeeping Operations Field Manual
FSA	= Federation of South Arabia
GOA	= Gulf of Aden
HRA	= High Risk Area
ICCPR	= International Covenant on Civil and Political Rights
ICRC	= International Committee of the Red Cross
IFOR	= Implementation Force of NATO Intervention in Rwanda
IMB	= International Maritime Bureau
IMO	= International Maritime Organization
IRTC	= Internationally Recognized Transit Corridor
ITOPF	= International Tanker Owners Pollution Federation
MOU	= Memorandum of Understanding
MOWCA	= Maritime Organization of West and Central Africa
MSCHOA	= Maritime Security Center i Horn of Africa
MSPA	= Internationally Recognized Transit Corridor
MSPA	= Maritime Security Patrol Area
NATO	= North Atlantic Trade Organization
NGO	= Non-governmental Organization
NLF	= National Liberation Front
NSC	= NATO Shipping Center
NVCG	= National Volunteer Coast Guard
OAU	= Organization of African Unity
OCHA	= Office for the Coordination of Humanitarian Affairs
OIC	= Organization of the Islamic Conference
ONI	= U.S. Office of Naval Intelligence
PCS	= Parallel Command Structure

PDD25	= Clinton Administration's Policy on Reforming Multilateral Peace
PLAN	= People's Liberation Army Navy
PRC	= Peoples Republic of China
R2P	= Right to Protect
ReCAAP	= Regional Cooperation Agreement on Combating Piracy and Armed Reconnaissance Robbery against Ships in Asia
ROK	= Republic Of Korea
RPG	= Rocket-Propelled Grenade
SHADE	= Shared Awareness and De-confliction
SLOC	= Open Sea Lines Of Communication
SNM	= Somali National Movement
SPM	= Somali Patriotic Movement
SRC	= Supreme Revolutionary Council
SRSG	= Special Representative of the Secretary-General
SSA	= Somali Salvation Alliance
SSAS	= Ship Security Alert Systems
SSDF	= Somali Salvation Democratic Front
SSDM	= Somali Salvation Democratic Movement
SUA	= Convention for the Suppression of Unlawful Acts Against the Safety of Maritime
TFG	= Transitional Federal Government
UHI	= Unilateral Humanitarian Intervention
UK	= United Kingdom
UKMTO	= UK Maritime Trade Operations
UN	= United Nations
UNAMA	= UN Assistance Mission in Afghanistan
UNAMIR	= UN Military Intervention in Rwanda
UNCLOS	= UN Convention on the Law of the Sea
UNEF	= UN Emergency Force
UNGA	= United Nations General Assembly
UNITAF	= Unified Task Force
UNODC	= United Nations Office on Drugs and Crime
UNOSOM II	= United Nations Operation in Somalia
UNPROFOR	= UN Protection Force in the Former Yugoslavia
UNSC	= United Nations Security Council
UNSCR	= United Nations Security Council Resolution
UNTAC	= U.N. Transitional Authority in Cambodia
USC	= United Somali Congress
USD	= United States Dollar
USSR	= Union of Soviet Socialist Republic
WFP	= World Food Programme

ABSTRACT

The economic collapse and civil war that ensued in Somalia after President Siad Barre gave rise to piracy, armed robbery and dumping of toxic wastes in and around the Gulf of Aden. The attendant humanitarian crisis attracted the intervention of the international community. This study evaluated armed intervention and the challenges of maritime security in the Gulf of Aden between 2008 and 2011. The objectives were to: (i) determine whether the application of the principle of political neutrality by the international community enhanced the intervention; (ii) explore whether the divergence in the interests of members of the international community undermined the task of combating piracy and armed robbery in the Gulf, and (iii) ascertain whether the intervention improved maritime security in the Gulf. The study was based on the *ex-post-facto* research design, and adopted qualitative method of data collection and analysis, using the social production and reproduction variant of the Marxian political economy approach. The study found that the application of the principle of political neutrality by the interveners did not enhance the intervention as it worked only in traditional armed interventions where the role of the intervening force was to police existing truce or settlement arrangements agreed to by both parties. Conflict of interests of the international community undermined the armed intervention as it provided the pirates the opportunity to pick and choose who and when to attack because of the lack of collaboration amongst the intervening forces. Finally, the armed intervention did not improve maritime security in the Gulf as the decline in the number of successful pirate attacks were due to the application of the Best Management Practices for Protection against Somalia Based Piracy (BMP4s), the use of private armed security guards on ships, and routing of ships away from the Gulf of Aden.

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The Gulf of Aden is located in the Arabian Sea between Yemen on the south coast of the Arabian Peninsula and Somalia and Djibouti in the Horn of Africa. In the northwest, it connects with the Red Sea through the Bab-el-Mandeb strait. Geographically, the ocean type of the waters is ñGulfð. It covers an area of approximately 2,000,000 km² and is inhabited by about 90.2 million people (Onuoha, 2010).

Map 1.1: MAP OF THE GULF OF ADEN



Source: Gulf of Aden map.png: Wikipedia, the free encyclopedia
http://en.wikipedia.org/wiki/File:Gulf_of_Aden_map.png

The waterway is part of the ever busy Suez Canal shipping route between the Mediterranean Sea and the Arabian Sea in the Indian Ocean waters, which are home to busy shipping lanes for trade between Asia and East Africa, as well as for ships making longer voyages around South Africa's Cape of Good Hope (Ploch, *et al*, 2009). The Gulf provides transit for Persian Gulf oil, and also is a shortcut for trade ships from Europe to Africa, making it an important water way in the world, as far as global trade and commerce is concerned.

Approximately 11 percent of the world's seaborne petroleum passes through the Gulf of Aden on its way to the Suez Canal or to regional refineries. The Gulf plays host to a good number of ports, which include Port Aden in Yemen, Port Djibouti City in Djibouti, and Ports Zeila, Berbera, and Bosaso in Somalia. With her unique location in the Horn of Africa, and jutting out into the India Ocean, Somalia's harbours are naturally ports of call for ships and traders sailing the all important trade route (Ploch, *et al*, 2009).

Somalia, which is of particular interest in this study occupies a geographic area of 637,657 sq. km in the Gulf of Aden, with a population of about 9.9 million (2011 estimate: no census exists). Somalia used to have a robust economy that depended on aid. During the Mohamad Siad Barre's regime, countries like Denmark, Great Britain, Iraq, Japan, Sweden, USSR and West Germany provided Somalia with aid which was used to develop its fishing industry.

Prior to the Siad Barre regime, Somali fishing was very limited in returns due to low demand for seafood in Somalia and the absence of technologically improved fishing technology and export facilities. However, aid money improved fishing, shipping, and supported the construction of storage and maintenance facilities.

Unfortunately, the income from fishing declined, and the economy collapsed after the fall of the Siad Barre's regime, and the country degenerated into Civil War.

In the wake of the collapse of the Mohamad Said Barre-led Somali central government, the Somali Navy ceased to be functional in terms of protecting her maritime jurisdiction. Therefore foreign fishing trawlers, taking advantage of the civil war, plunged into the undefended Somali waters and began fishing in Somali waters illegally. Besides, Multinational Corporations from far and near began discharging toxic and even nuclear waste in Somalia waters. This led to the attrition of the fish stock, and compelled the local fishermen to band together to protect their maritime resources, and territory. This hitherto innocuous act of self-protection gradually spread from Somali territorial waters through to the entire length of the Gulf of Aden becoming full-scale piracy and armed robbery.

Subsequently, the resultant humanitarian situation in Somalia and the maritime security situation in the Gulf of Aden attracted the attention of the international community African Union (AU), North Atlantic Trade Organization (NATO), European Union (EU) member states, and the United Nations (UN) which responded by way of armed intervention on humanitarian grounds.

At the outset, the principal objective of the armed intervention was to arrest the humanitarian challenges in Somalia which included starvation, sickness, general sufferings, wanton killings and death, etc. However, as the crisis arising from the civil war extended to the waters of the Gulf of Aden, piracy and armed robbery against ships and other vessels plying the Gulf became rampant and brought about huge losses to the maritime world.

In view of the economic, strategic and security importance of the Gulf, the international community was compelled to extend her armed intervention to the

waters of the Gulf of Aden. The aim of the intervention was essentially to patrol and provide security, by fighting the upsurge in hijacking of vessels and crew plying the nearly 4,000-kilometer-long coastal water corridor off Somalia for ransom. To that effect, as from mid-2009, almost all of the world's most powerful navies and governments have been pinned down ñto contain the phenomenon caused by a rag-tag army of Somali youths, some barely in their teens, sailing in sometimes rusty 'motherships' and using skiffs and speedboats and armed with AK47s, hand and shoulder held rocket propelled grenades; the favourite pirate weapons' (Odeke, 2011:1-2).

These pirate attacks, armed robbery and the concomitant war against them have raised a lot of legal, policy, and strategic issues in international relations; top of which revolve around sovereignty, human rights, right to protect, self-determination, maritime security, development of template for humanitarian intervention, the place of the UN in the post-cold war era among others. On the economic side, it has resulted in escalation in prices of global commodities like oil; increase in maritime insurance, civilian vessels carrying arms, etc. Meanwhile, the fear of violence by Somalia pirates tops the agenda of maritime business meetings, and that of the international organizations like the UN.

It is against this background that this study set out to explore the impact of the armed intervention on maritime security in the Gulf of Aden region, from inception in 2008 through to 2011 when this research started.

1.2 STATEMENT OF THE PROBLEM

With more than 21,000 ships travelling every year through the Gulf of Aden, representing 10 percent of the international oil trade and 7 percent of global maritime trade Marchal (2011:11); the rise in the number of successful pirate attacks; increase

in the number of violent attacks; increase in overall use of arms; an increase in the level of violence towards the crews; and increased use of sophisticated weapons; the international community had good reasons to intervene in the internal armed conflict in Somalia. This is with a view to restoring law and order in Somalia, and consequently salvaging the maritime security situation in the Gulf of Aden occasioned by Somali youth pirates.

But there is an ongoing debate as to the relevance of armed intervention in settling disputes and or restoring law and order, peace and security in political situations where sovereignty is nonexistent particularly where the 'political neutrality' approach to armed intervention is the case. According to Dalton (1995), the prevailing policy in contemporary armed military intervention is 'to maintain absolute neutrality in the face of all provocations for fear of becoming unwilling participants in a civil war' (Dalton, 1995: A18). Interestingly, Clarke (1997:3) posited that the 'notions of external force neutrality, coupled with unquestioning respect for state sovereignty where clearly none exists, can effectively negate the potentially beneficial effects of multilateral armed humanitarian intervention'. He remarked that:

With the potential for more state breakdowns caused by ethnic and regional stresses, it must be recognized that cold war etiquette no longer provides the basis for relations with distressed states. International mandated political action, backed by military force, may be the sole formula to halt or blunt chaos and the endless cycle of violence brought on by complex mandate disasters (Clarke, 1997:3).

While it may be correct to argue that the international community was being politically neutral in the civil war in Somalia, the contributors to the armed intervention in the Gulf of Aden were not neutral; they had divergent objectives that negate their collective efforts. French interest in participating in the armed intervention principally was to showcase the utility of her hitherto dysfunctional

military base in Djibouti; and to allow President Nicolas Sarkozy to cast himself as a primary European leader, among others (Marchal, 2011). The interest of Japan was to assert her relevance in international affairs and redeem her image that was battered by her non-involvement in the 1991 Gulf War – which could not be cured by her huge financial contribution to the international coalition against Saddam Hussein (Marchal, 2011). Russia's involvement was highly instructive. It projected the condemnable reluctance of Kenya, Djibouti, and Yemen to prosecute the pirates and brought about a series of UN Security Council Resolutions (see in particular UNSC Resolution 1918 (2010), which reflected a number of Russian concerns).

The United States of America (U.S.), whose initial interest was the Gulf of Guinea, saw this venture as yet another opportunity to legitimize the newly created U.S. Africa Command (AFRICOM), which had fighting piracy as one of its five priorities (Ploch, 2010). It (piracy interdiction) also allowed the U.S. Navy to claim a greater role than the one it had assumed thus far in the war on terror (Ols, 2008). Again, when China joined the fray, the U.S. felt that this operation would provide an opportunity to start a fresh discussion on some military issues (*Economist*, 2009). More so a number of other nations that had citizens and ships hijacked by Somali pirates eagerly joined the international maritime coalition to rescue their citizens and ships, and safeguard their own maritime interest. It was the need to provide minimum coordination to avoid confrontation amongst participating countries that was the point of convergence of interests.

However, to complicate matters, the many UN Security Council Resolutions touching on Somalia apparently dealt with peripheral issues like the protection of ships involved in the transport and delivery of humanitarian aid to Somalia; the threat that acts of piracy and armed robbery posed to the safety of commercial maritime

routes and international navigation; the need to participate in the prosecution of piracy suspects and the imprisonment of convicted pirates apprehended off the Somali coast etc. In all the resolutions and consequent actions, the UN and the rest of the international community avoided/failed to consider and address the generality of the myriad of historical, political and economic issues that surrounded the civil war in Somalia and help sustain the present challenges in maritime security in the Gulf of Aden. These include lack of economic growth and good governance. They equally glossed over the secondary or consequential problems that gave rise to the state of affairs in the Gulf - which is dumping of toxic and hazardous wastes by international corporations, and illegal and destructive fishing methods by multinational fishing companies.

In view of these developments, the supposed Somali pirates saw it as their responsibility to protect themselves and their maritime domain interest. The result is that while the local militia are seen by the international community as pirates and robbers that are responsible for the maritime insecurity in the Gulf of Aden, the local Somali fishing communities (who sometimes are victimized by pirates) regarded the Pirates as ñgenuine nationalists, committed to taking revenge against numerous infringements on Somali sovereigntyò (Marchal, 2011:3). These activities and developments pose threats not only to maritime security in the Gulf of Aden (Onuoha & Ezirim, 2010) but also to the world economy (Odeke, 2011).

Existing scholarship in this area such as Ploch (2009), Dalton (1995), Ols (2008) Marchal (2011), Clarke (1997), Weiss (1997), Brown (1993), Gurr & Harff (1994), Gowing (1994), Adam (1994), Waal & Omaar (1994), Meddleson (1991), Weiss & Campbell (1991), Onuoha & Ezirim (2010), Odeke (2011), among others, revolve around analysis on legality, and otherwise of armed intervention, best

practices, failures, successes and challenges of armed intervention etc. However, these scholars did not empirically explore the impact of the application of the principle of political neutrality in the armed intervention, and the conflict in the interests of members of the international community on the armed intervention in the Gulf of Aden. Again, they failed to ascertain whether the armed intervention has improved maritime security in the Gulf of Aden between 2008 and 2011. This study shall therefore attempt to fill the gap within the context of the following research questions:

1. Has the application of the principle of political neutrality by the international community in their armed intervention enhanced security in the region?
2. Does the divergence in the interests of members of the international community to the armed intervention undermine the task of combating piracy and armed robbery in the Gulf of Aden?
3. Has the armed intervention improved maritime security in the Gulf of Aden?

1.3 OBJECTIVES OF THE STUDY

This study has both broad and specific objectives. The broad objective is to explore the relationship between armed intervention and maritime security in the Gulf of Aden. Again, the specific objectives as derived from the research questions are to:

1. Determine whether the application of the principle of political neutrality by the international community in the armed intervention has enhanced security in the region.
2. Explore whether the divergence in the interests of members of the international community to the armed intervention undermined the task of combating piracy and armed robbery in the Gulf of Aden.
3. Ascertain whether the armed intervention has improved maritime security in the Gulf of Aden.

1.4 SIGNIFICANCE OF THE STUDY

This study has theoretical and practical significance. Theoretically, this study will unravel the reality in the application of the principle of political neutrality in armed intervention in conflict situation, whether on humanitarian grounds or otherwise, highlighting its successes, failures, challenges, and best practices. The study shall contribute to the pool of existing literature on the principle of political neutrality in armed intervention (peace-keeping, peace-building, peace-enforcement etc), piracy and maritime security. Therefore the study will be significant to the academic community - students of international politics, development studies and researchers in piracy and maritime security. It will therefore serve as a secondary source of data for future researchers in the subject.

Practically, this study shall equip policy makers, international agencies, politicians, and humanitarian organizations to better appreciate and understand the intricacies surrounding and consequences of armed intervention; as well as the challenges associated with the use of force by way of armed intervention in states where sovereignty is not assured particularly as it concerns Somalia and the Gulf of Aden. It will also help social reformers to establish a suitable platform to re-evaluate peacekeeping or peace-building policies particularly as regards the questions of external force neutrality; the respect accorded to sovereignty; political passiveness during the period of armed intervention in failed states; and the need to incorporate in armed intervention plans measures to address pressing humanitarian crisis; and long term design to resolve the underlying political issues that may have brought about the conflict.

CHAPTER TWO

LITERATURE REVIEW

In this chapter, we reviewed relevant literature on armed intervention and challenges of maritime security in the Gulf of Aden. Using the research questions as our guide, the review was done according to the following sub-themes:

- (a) Political neutrality and security in the Gulf of Aden.
- (b) Divergence of interests, piracy and armed robbery in the Gulf of Aden.
- (c) Armed intervention and maritime security.

2.1. POLITICAL NEUTRALITY AND SECURITY IN THE GULF OF ADEN

The origin of the application of the principle of political neutrality in armed intervention in conflict situation has been traced to the UN Security Council's response to the Suez Canal crisis in 1956 (Mingst & Karns, 2007; Krasno, 2004). Tactically speaking, the UN had to exhibit high level neutrality and impartiality to be relevant in the management of that conflict. This is particularly so because it was obvious that some of the permanent members of the UN Security Council had interest in the Suez crisis conflict (Mingst & Karns, 2007; Boulden, 2005). Therefore, the principle of neutrality and impartiality was emphasized in the establishment of the UN Emergency Force (UNEF) in 1956 (Krasno, 2004). It was at that occasion that the then UN Secretary-General, Dag Hammarskjold, was reported to have said that the operation would not influence the military balance in the present conflict and thereby the political balance affecting the efforts to settle the conflict (Hammarskjold, 1956).

As opined by Mingst and Karns (2007), the principle of neutrality and impartiality during armed intervention was very important and functional and achieved its ends during the cold war in order to enlist the cooperation of the rival superpowers, the U.S. and Russia and reduce or control civil conflicts around the

world. However, the principle of neutrality in armed intervention appears to be one that has faulty foundation. This is particularly true when viewed in the light of the UN. Annan (2005) reiterated that the UN Charter did not envisage that in any armed intervention (peace-keeping, peace-enforcement, peace-building, etc) that the participants would be neutral to issues in the conflict that border on human rights, civilian rights, or grave human suffering including starvation. That is why the UN upholds agenda that relate to preventing war, protecting human rights, promoting justice, equality and social progress and demands respect for certain basic values and norms which are not essentially neutral (Kuhne, 2001; Annan, 1999).

Besides, the essence of establishing the UN categorically was not to be neutral in its armed or non-armed interventions, but to prevent or at worst curtail human rights abuses, violence, oppression, torture and genocide. When the UN wore the toga of neutrality in her intervention in Rwanda (UNAMIR), the result was the massacre of about one million innocent civilians, thereby making nonsense of the intervention and the supposed value of neutrality. Donald (2002) observed that the UN could not succeed with neutrality as its watch word in armed intervention as they are often operating in situations where they have to take political considerations and there is often a strong link between political and humanitarian parts of UN peacekeeping (Anderson, 2004).

As noted by Annan (1999) the UN's inability to prevent genocide in Rwanda, and passivity in the name of neutrality in some past interventions is unjustifiable error, and has emphasized the need for a more active UN peacekeeping. In a related analysis, Donald (2002) conceded that the principle of neutrality is not necessarily valuable in UN peacekeeping operations.

Presently, there is division in the opinion of writers, diplomats, academics, and policy makers as regards the relationship/interface between the application of the principle of political neutrality in armed intervention and the success of armed intervention in civil conflict. This division became more obvious in the post-cold war era where it is in contention whether or not there should be a departure from the old way international relations and diplomacy is conducted. Some scholars have argued that as a matter of expedience, there must be a paradigm shift. Clarke (1997:4) had posited that:

With the potential for more state breakdowns caused by ethnic and regional stress, it must be recognized that cold war etiquette no longer provides the basis for relations with distressed states. Internationally mandated political action, backed by military force, may be the sole formula to halt or blunt chaos and the endless cycle of violence brought on by complex mandate disasters.

Clarke (1997) in furtherance of his agitation for paradigm shift in the way international relations is conducted in the post-cold war era ĩ particularly as regards the principle of political neutrality in times of armed intervention posited that:

The first step in planning for humanitarian peace enforcement operations must be the articulation of an integrated humanitarian-political-military strategy that responds to the immediate humanitarian crisis while outlining a longer-term process designed to resolve the underlying political issues that may have brought on the crisis in the first place. These actions must be consistent with international values and standard of conduct. In failed-states situation, or when the functions of a state are sharply curtailed or neutralized, with accompanying wide-scale human suffering, the world must be prepared to offer political and military assistance in an imaginative, constructive, and decisive manner (Clarke, 1997:4).

Clarke (1997) dismissed the principles of political neutrality of intervening forces in conflict situation when he said: ĩobstinate notions of external force neutrality, coupled with unquestioning respect for state sovereignty where clearly

none exists, can effectively negate the potentially beneficial effects of multilateral armed humanitarian intervention (Clarke, 1997:3). In support of this position, he cited the experience of UN forces in Bosnia prior to the 1995 IFOR (Implementation Force of NATO intervention) where UN forces under fire or taken prisoner by Serbian forces were expected to turn the other cheek for fear of 'crossing the Mogadishu Line'.

To Darnton (1995:A18) this expression 'crossing the Mogadishu Line' (credited to Commander Lt. Gen. Sir Michael Rose of UNPROFOR (UN Protection Force in the Former Yugoslavia) is an expression used to describe the supposed need to maintain absolute neutrality in the face of all provocation for fear of becoming unwilling participants in a civil war.

Arguing in the same vein, Donald (2002), Weiss (1999), and Weller (1997) held the view that in the post-cold war era, the character of conflict, the availability of small arms and the rustic nature of parties involved has affected the applicability of the principles of political neutrality in armed intervention. The dilemma of the principle is increasingly being questioned. Accordingly O'Brien (2004), Annan (2005), Donini, Minear and Walker (2004), are of the opinion that there should be a shift in focus from a humanitarian based action following the principle of neutrality to a more human rights based action, which includes a broader agenda for peacekeeping operations.

Weiss (1997) conducted a survey of humanitarian military interventions under the auspices of the UN – the vigorous military intervention over turning sovereignty and supporting humane values in Northern Iraq in April 1991 – at one extreme and the passive response to the Rwandan bloodbath in April 1994 – at the other extreme; then Bosnia, Haiti, and Somalia. He observed that efforts of this sort fly in the face

of the military doctrines articulated by former Secretary of Defence Casper Weinberger and subsequently embroiled by former Chair of the Joint Chiefs of General Staff, General Colin Powell and others² (which is political neutrality)³ (Weiss, 1997:207-208).

In support of the dire need for military intervention in the affairs of sovereign states on humanitarian grounds, Weiss (1997) argued that "with 1 in every 15 people on earth forced into flight from war, humanitarian intervention may sometimes be the only way to halt massive abuses of human rights, starvation, and genocide" (Weiss, 1997:210; Ogata, 1995:90).

In his conclusion, Weiss (1997:224) noted that "limited and supposedly impartial interventions are likely to be counterproductive, to prevent peace rather than facilitate it. Omaar & de Waal (1994) agreed no less and concluded that "even in the face of genocide in Rwanda, the UN's "obsession for neutrality" actively impeded any attempts to address the crisis" (Omaar & de Waal, 1994:682).

In consonance with the position of Weiss (1997:224) that "impartial intervention is a delusion", Betts (1994) observed and advocated, as a minimum requirement, that military intervention should not be entirely neutral as was the case in Rwanda, rather, they should at least "do no harm" (Betts, 1994:20-23).

To Anderson (2004), political neutrality is "an assurance that humanitarian actors do not tilt their activities in favour of the military necessity of either side" of a conflict. He posited, in view of the attitudes of parties to conflict situation in places like Iraq (Radical Islamic Terrorist, Guerrilla Forces, and Belligerents) where terrorists found interveners as soft targets, up to the point of unleashing terrorist attacks on UN Headquarters in Bagdad, and against ICRC Bagdad Headquarters, that:

To act as an honest broker in such debates presupposes a commitment to far more basic things – to democracy, to

pluralism, to human rights, to a great many things. Neutrality of the kind required in the provision of narrow and immediate humanitarian aid, the rationally incontestable aid, is pernicious nonsense in circumstances of longer term social reconstruction – nation-building, if you will (Anderson, 2004:56).

Furthermore, Anderson (2004) offered explanation for his “fundamental objection” to the continued applicability of the principle of political neutrality in armed conflict thus:

- (i) There are good actors and bad actors, good regimes and bad regimes. A world of neutrals eventually surrenders to bad actors and evil regimes. It is not possible for everyone to stand aside as neutrals, even for the worthy purpose of treating evil’s victims humanely, lest evil be allowed to triumph. If the world is not to be run by bad regimes and bad actors, then neutrality as a moral position is necessarily a marginal one, never the primary one.
- (ii) “the moral critique of neutrality sounds stereotypically American; the heroic story of the Second World War, the importance of resisting tyranny and aggression then as now, and thinking that one is worthy to judge matters in which one so evidently has a passionate interest. But it is today a moral critique with far wider resonance, in Europe as well as the United States
- (iii) “humanitarian neutrality is not the only moral category in conflicts and post-conflict situations. Because neutrality involves a willful silence as to rights and wrongs of a conflict, and because, sometimes, there are right sides and wrong sides, neutrality cannot be the end of the moral discussion. Neutrality and impartiality are adjuncts to the main question of justice, because, in the name of the practical value of humanitarian relief, they refuse to address the question of justice (Anderson, 2004:69).

By the foregoing, Anderson (2004:69) had joined the league of those who have doubts as to the relevance of neutrality in armed intervention - such as Emma Bonino (European Commissioner for Humanitarian Affairs), who was said to have “wondered” in 1998 if being neutral is still at all possible, or indeed ethically just; and asked - should [humanitarian agencies] be unable to distinguish right from wrong, the

aggressor from the victim, the killers from the dead bodies? What absurd wisdom could call for this organized ethical confusion? (Amar, 1998; Minear, 1999).

This skepticism about putting neutrality at the apex of morality has a history, which, according to Anderson (2004) began:

With *Médecins Sans Frontières'* break with the ICRC's model of silence in the Biafra conflict in the late 1960s, adopting instead a model of delivering humanitarian aid while bearing witness publicly to what it saw. Yet this did not constitute a break with the ideal of neutrality as such; it was instead a break with the ideal of humanitarian silence in order to have access to suffering people over the value of publicizing human rights abuses (Anderson, 2004:68).

Both Sommaruga (1999) and Leader (1998) agreed with the contention of humanitarian aid workers and some policy makers that "reaffirming the traditional principles of independence, impartiality and neutrality and reinforcing them with a code of conduct will preserve the integrity of humanitarian action and help to avoid unintended consequences of such as feeding the war" (Sommaruga, 1999:23-28; Leader, 1998:288-308).

However, another school of thought holds that "it is naïve and probably counterproductive for humanitarian organizations (including UN) to maintain the pretense of neutrality" (Taw, 2004:5-19; Seyboit, 1996). The argument of the forgoing school of thought is that - the decision to get involved in a war zone, which is where the worst humanitarian crisis occurs, is a political decision. That being the case, "a humanitarian intervention is more likely to succeed when an intervener has clearly identified political motives in addition to humanitarian ones" (as long as the political motives are not in conflict with the humanitarian motives) "than when the political interests are obscure or minor".

Attesting to the need for intervening forces to put in consideration other issues beyond the principles of political neutrality, Mandelbaum (1996) and Stedman (1993)

argued i that there are many states in the world that have needs for external military assistance/intervention than there are resources to offer any assistance. Therefore, it must be put into consideration before embarking on any armed intervention the relative level of political relevance of the state that needs assistance to the would be provider(s) of the needed military intervention. Where such consideration is available, humanitarian intervention would most likely succeed as intervening force provider would find enough courage to commit to the intervention, the needed resources, and also garner enough commitment to withstand any adversities that may attend to the armed intervention (Whitman, nd: 19-35; Betts, 1994:20-23; Stedman, 1993:1-16).

Betts (1994) observed that in the post-cold war era, the US and the UN have intervened in many civil conflicts around the world with some good measures of success in some cases, while in others ñthey have unwittingly prolonged suffering where they meant to relieve itò (Betts, 1994:20). He blamed this unfortunate situation on the application of the principles of political neutrality in military/humanitarian intervention in civil conflict, i.e. ñthat intervention should be both limited and impartialò. He opined that:

This Olympian presumption resonates with respect for law and international cooperation. It has the ring of prudence, fairness, and restraint. It makes sense in old-fashioned U.N. peacekeeping operations, where the outsidersòrole is not to make peace, but to bless and monitor a cease-fire that all parties have decided to accept. But it becomes a destructive misconception when carried over to the messier realm of ópeace enforcementò where the belligerents have yet to decide that they have nothing more to gain by fighting (Betts, 1994:20).

Betts (1994:21) further observed that:

Limited intervention may end a war if the intervener takes sides, tilts the local balance of power, and helps one of the rivals to win - that is, if it is not impartial. Impartial intervention may end a war if the outsiders take complete command of the situation, overawe all the local competitors, and impose a peace settlement - that is, if it is

not limited. Trying to have it both ways usually blocks peace by doing enough to keep either belligerent from defeating the other, but not enough to make them stop trying. And the attempt to have it both ways has brought the United Nations and the United States - and those whom they sought to help - to varying degrees of grief in Bosnia, Somalia, and Haiti.

Using Bosnia as an example, Betts further observed that:

The desire for impartiality and fairness led outside diplomats to promote territorial compromises that made no strategic sense. The Vance-Owen plan and later proposals mimicked the unrealistic 1947 U.N. partition plan for Palestine: geographic patchworks of noncontiguous territories, vulnerable corridors and supply lines, exposed communities, and indefensible borders. If ever accepted, such plans would create a territorial tinderbox and a perpetual temptation to renew the conflict. Yet the one case in which Washington said it was willing to thrust tens of thousands of American troops into the Bosnian tangle was to enforce just such an accord (Betts, 1994:21).

Betts (1994:30) concluded that "making peace means determining how the war ends", "that to make peace is to decide who rules": which to my mind suggests that the principles of political neutrality may be set aside. In their assessment of the U.S. intervention plans, Clarke and Gosende (1996:35-51) observed that the:

U.S. political military intervention doctrine appears based on international intervention dogma which developed during the course of the Cold War. During that long period, the Security Council refined strict principles of non-intervention - the better to keep the two global military hegemony under control - to the virtual exclusion of human rights interests. Various Potentates, large and small, buoyed by traditional respect for sovereignty, were free to misuse and persecute their populations. The lack of official international humanitarian enforcement structures during the Cold War facilitated the proliferation of a number of nongovernmental organizations (NGOs) which were able to bring assistance directly to emergency humanitarian situations without raising sovereignty issues. An early example was the role of such agencies in the Nigeria/Biafra conflict in the late 1960s.

They observed further that while "the balancing dynamics of the Cold War effectively kept the five permanent members of the Security Council out of the

peacekeeping business; that a number of states, including the Scandinavian countries, Canada, Argentina, Ireland, and others, developed specialized rules of engagement that emphasized absolute impartiality and neutrality in the application of narrowly drawn UN resolutions (Clarke & Gosende, 1996:37; Garigue, 1993:86).

However, Clarke and Gosende (1996) joined in the contention as did Weiss (1999), Donald (2002), and Thakur (1998) that the 'existing intervention doctrine as defined by UN experience is inadequate for responding to complex humanitarian emergencies, in part because of confusion regarding the definitions of 'impartiality' and 'neutrality' (Clarke & Gosende, 1996:41).

They also observed that the words 'neutrality and impartiality' are not always synonymous; that 'there is an important distinction between 'being neutral' and 'acting impartially'. Therefore, they agreed with the definition of neutrality and impartiality as offered by Weiss (1999) that 'neutrality usually means not taking sides with warring parties and impartiality refers to nondiscrimination and proportionality'; and also further agreed with Donald (2002) that 'neutrality' is often associated with passivity and inaction. They observed with dismay that it is unfortunate that 'these words are used casually and ambiguously in FM 10023, Peacekeeping Operations (an otherwise excellent field manual published by the US Army) (Clarke & Gosende, 1996:41; Department of the Army, Field Manual No 10023, 1994).

Clarke and Gosende (1996) concluded however that in failed states situation i.e. where no state exists or is disputed, ineffective or unclear, and where good offices has failed to mediate political solutions, or:

Peaceful efforts are unavailing, and it is perceived that substantial portions of the populations of the afflicted territories are suffering from inhumane behavior, common morality requires responsible states, preferably in a coalition, to mount a coordinated humanitarian political military intervention to create the conditions that can lead

to the restoration of civil order (Clarke & Gosende, 1996:42).

Armed intervention in conflict situation appears to be gaining prominence despite its short falls and arguments against it, provided however that such intervention is on humanitarian grounds and perhaps initiated under the UN propagated concept of responsibility to protect (R2P). R2P as a principle purports to recognize the authority and obligation of the international community to intervene if just humanitarian cause exists. According to Dinstein (2005), R2P provides that:

The core tenant of the [responsibility to protect] is that sovereignty entails responsibility. Each state has a responsibility to protect its citizens; if a state is unable or unwilling to carry out that function, the state abrogates its sovereignty, at which point both the right and the responsibility to remedy the situation falls on the international community (Dinstein, 2005:71-72).

Walzer (2004:68-69) (a just-war theorist) maintains that armed humanitarian intervention is morally justified, and even required, in response to situations that bring about "massacre, rape, ethnic cleansing, state terrorism [and] contemporary versions of bastard feudalism, complete with ruthless warlords and lawless bands of armed men". Irrespective of his view that armed intervention in another nation's internal affairs contravenes the concepts of anti-imperialism and self-determination, he holds the view that armed humanitarian intervention is "morally necessary whenever cruelty and suffering are extreme and no local forces seem capable of putting an end to them." Except however, where armed intervention is employed to promote "democracy ... or economic justice or ... other social practices and arrangements" that are known to be in existence in other countries, in which case armed intervention must be limited to ending conduct(s) that are shocking to the conscience of humanity.

In the same vein, Slater and Nardin (1986) argued that "intervention is justified, at least in principle, in many cases where governments are responsible for

substantial and systematic violations of human rights, even when such violations fall short of genocidal proportions.ò They contend that it is the seriousness of the human rights violation in issue that determines the degree of protection against intervention to which governments are entitled, and concluded that ñthe grosser the violation (of human rights), the weaker the claim to such protection (from intervention)ò (Slater & Nardin, 1986:92).

Similarly, Frank (2002), conceded that armed humanitarian intervention may be morally justified ñif the wrong perpetrated within a state against a part of its own population is of a kind specifically prohibited by an international agreement (e.g. the Convention on the Prevention and Punishment of the Crime of Genocide; Treaties regarding racial discrimination, torture, the rights of women and children; the International Covenant on Civil and Political Rights (ICCPR); and agreements on humanitarian law applicable in civil conflict) (Frank, 2002:135).

In his assessment of military intervention and the EU, Ortega (2001) observed that the reaction of EU member states that do not belong to either NATO or WEU (Austria, Finland, Ireland, and Sweden) and ñtheir unqualified support for NATOôs intervention in Kosovo, show that reformulation of their neutrality policy is well under wayò, and that ñit is obvious that those countries also accept military intervention for humanitarian purpose, even though some doubts remainò (Ortega, 2001:49). Such doubt was obvious when Austria closed its airspace to NATO aircraft (Gustav, 1999; Keohane, 2001).

Coady (2002) examined the ñrole and nature of the ideal of áneutralityô which many believe needs to be questioned for some sorts of peace operations.ò He observed that ñtraditional peacekeeping was understandably committed to a norm of neutrality because its role was to police existing truce or settlement arrangements that required

evenhandedness between the sides that had agreed to invite the United Nations to support the truce (Coady, 2002:33). He suggested that "even here, there may be need for some reinterpretation of 'neutrality' in the face of palpable brutality", and that "rules of engagement that require peacekeepers to turn a blind eye to atrocities are clearly inadequate" (Coady, 2002:33).

The conclusion by Diehl that "an essential component of the preventive diplomacy strategy is that the forces should not work to the benefit of either side" (Diehl, 2009:485-507), is the standard in armed intervention. But one wonders the continued relevance of such a principle, particularly based on the UN experience in Iraq in 2003. There, the UN operation in Iraq in 2003 faced the critical challenge of being involved in a highly political conflict and a humanitarian crisis. The UN faced the dilemma of standing in the middle of a conflict between the US occupying force and Iraqi belligerents. It faced the dilemma of needing to interact with the coalition forces whose intervention it regarded as illegitimate (Donini, Minear & Walker, 2004; O'Brien, 2004). The fact that the UN Peacekeeping Mission was working with the occupying power who was also its prime founder, caused trouble for the peacekeeping mission in being able to, as well as being perceived as, acting impartially (O'Brien, 2004).

Both in Afghanistan and in Iraq, UN peacekeeping operations did face problems due to a contested environment and security crisis. In those armed intervention experiences, Donini, Walker & Minear (2004) claimed that there was a lack of a clear UN mandate and the UN was regarded as taking sides. Therefore the UN peacekeeping operations in Afghanistan and Iraq had to face the dilemmas of whether to stay and deliver assistance and protection to the vulnerable civilians or to leave due to risk and security issues (Donini, Walker & Minear, 2004).

2.2. CONFLICT OF INTERESTS, PIRACY AND ARMED ROBBERY IN THE GULF OF ADEN

In part, the difference in the interpretations and or definitions ascribed to 'neutrality' and 'impartiality' is responsible for the divergence of interests in armed intervention in conflict situation. This is in tandem with the observations made by Clarke and Gosende (1996:41) that 'existing intervention doctrine as defined by UN experience is inadequate for responding to complex humanitarian emergencies', which they blamed on 'confusion regarding the definitions of 'impartiality' and 'neutrality'. They observed further that 'the two words are not always synonymous' by UN standards. That 'the responsibility of the local UN commander and his staff is to ensure that the UN mandate is applied in an impartial manner and, that his troops employ the rules of engagement in an impartial manner'. That 'in neither case does the word 'neutral' apply'.

This strain of interpretation and/or definition of the words neutrality and impartiality run through the whole gamut of armed intervention. As observed by Clarke & Gosende (1996) and unfortunately too, these words are used casually and ambiguously in FM 10023, Peacekeeping Operations, an otherwise excellent field manual recently published by the US Army (Clarke & Gosende, 1996:41; Department of the Army, Field Manual No 10023, Peace Operations (1994). They further asserted that 'we are not neutral about civil rights abuses by any groups. We should not be neutral in the face of repression, oppression, or acts of violence. Least of all can we be neutral about forces or individuals that actively oppose the implementation of the international mandates or take hostile action against our forces'.

The question begging for answer here is why should one intervene in a matter in which he is neutral?, i.e. if one is neutral about a course, why should he intervene, and if one finds a justification to intervene how does he prove that he is neutral? These unfortunately were the issues behind the unpleasant experience of UN forces in Iran in 2003, the unprovoked attack on UNOSOM II personnel by the Gen Aideed-led forces in Somalia in 1993, the Beirut Marine Barracks attack in 1983, and a host of others.

The contemporary (US) policy on armed intervention (which underlies most post-cold war armed interventions – since they are U.S.-led) is founded loosely on the Weinberger Doctrine, and balanced against the U.S. experience in armed intervention, e.g. the carnage left by a suicide bomber at the Marine Barracks in Beirut in October 1983. The debate has been centered on the use of U.S. military force in support of international political initiatives, and the need to define the interest to be pursued in any armed intervention.

Sabrosky and Sloane (1988) in their appraisal of the Weinberger Doctrine which forms a cardinal part of the U.S. intervention scheme identified about six tenets in the Weinberger Doctrine. They are namely, that:

- (i) The United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies.
- (ii) If we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all.
- (iii) If we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have, and send, the forces needed to do just that.

- (iv) The relationship between our objectives and the forces we have committed - their size, composition, and disposition-must be continually reassessed and adjusted if necessary.
- (v) Before the United States commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation.
- (vi) The commitment of US forces to combat should be a last resort.

In their examination of the "US intervention planning" which draws substantially from the "Weinberger Doctrine", Clarke and Gosende (1996:36) in agreement with Craig and George (1993) observed that "it sounds plausible when one articulates the need for 'clearly defined political and military objectives', in the face of 'complicated crises' based on Weinberger's doctrine (particularly 'third precondition') (Craig & George, 1993:266). As observed by Minear and Weiss (1995), Clarke and Gosende (1996) agreed that the presence of a well armed and professional military force is fundamental for success in many armed intervention operations, without disregard for "the nonmilitary political and humanitarian components" (Clarke & Gosende, 1996:36). Arguing in line with Richard Smith (1994), they noted that:

At the center of every case of state or societal failure or near failure, there is humanitarian disaster, political unraveling, and military conflict. There are clearly identifiable victims, and there usually are notorious victimizers. The first level of response involves humanitarian relief, but such operations must include substantial political and diplomatic components to facilitate the return to a just civil society to ensure that the humanitarian disaster is unlikely to be repeated. The logical role of the military in such situations is to support the lead elements in the intervention. In the modern era, the use or the threat of military force is a significant component of comprehensive humanitarian and political solutions,

although, as we shall discuss below, it does not need to be the lead element (Clarke & Gosende, 1996:36).

But that is not usually the case in armed intervention whether peacekeeping, peace-building or peace-enforcement. The Post-Cold War era has not been devoid of efforts to clarify and systematize U.S. foreign military policy. Curiously, neither the extensive "Bottom Up Review" nor the Clinton Administration's "Policy on Reforming Multilateral Peace Operations" (PDD25) defines the relationship between overseas political initiatives and the use of military force to support such initiatives (Clarke & Gosende, 1996:37; see also Les Aspin, 1994; and US State Department Publication 10161, 1994).

Furthermore, Clarke and Gosende (1996:37) observed that "while it appears fundamental that the political goal of intervention is to assist in the creation of a political dynamic that is more rewarding to the local population than continued war, the tendency remains to separate the political and military components of peace operations." They cited many examples including the case of Somalia, where the "UNITAF believed that it could avoid involvement in domestic Somali political activities by placating the local warlords in Mogadishu"; the case of Rwanda, where "fear of intruding in a civil war caused the United States, and the world, to hold back while hundreds of thousands were killed; the case of Bosnia, where "the Dayton accords created a rigid and awkward separation between the political and military tracks of that operation which may yet threaten its viability". They concluded that "the U.S. experience with non-combat interventions during the 1990s is sufficiently varied that we ought to be examining the assumptions on which their planning and execution have been based".

Clarke and Gosende (1996:37) pointed out that the divergence in interests as contained in the undefined political military intervention doctrine(s) was "based on

international intervention dogma which developed during the course of the Cold War. Then the Security Council's bid to avoid collision between two global military hegemony (super powers) to the virtual exclusion of human rights interests was supported by sticking to the strict principles of nonintervention (i.e. neutrality and impartiality), and by traditional respect for sovereignty. That accounted for the lack of official international humanitarian enforcement structures during the Cold War, which was the foundation for the proliferation of a number of nongovernmental organizations (NGOs) which were able to bring assistance directly to emergency humanitarian situations without raising sovereignty issues; and founded the idea of intervention without a generally agreed or acceptable definition of interests.

Anderson (2004:68) identified the existence of skepticism about putting neutrality at the apex of morality in interventions as was evident in the actions of NGO interveners. He traced the history of such skepticism to *Médecins Sans Frontières*' break with the ICRC's model of silence in the Biafra conflict in the late 1960s, adopting instead a model of delivering humanitarian aid while bearing witness publicly to what it saw. He observed that this did not constitute a break with the ideal of neutrality as such; it was instead a break with the ideal of humanitarian silence in order to have access to suffering people over the value of publicizing human rights abuses. According to him, that incidentally did not offend the principle of political neutrality in armed intervention. In the case of Iraq in April 1991, the Security Council set in to stop the persecution of Iraqi Kurds by Saddam Hussein which was deemed to have constituted a threat to international peace and security. The Security Council Resolution 688 authorized a United Nations Force (Operation Provide Comfort) to defend a minority people against the brutality of their own government (Clarke & Gosende, 1996:38; Weiss, Forsythe, & Coate 1994:72).

Clarke and Gosende (1996:38) also observed that "this outwardly humanitarian act was based, in part, on the desire to so embarrass Saddam Hussein that his military would throw him out", unfortunately this was not exactly the case, instead it was an all out war.

Clarke and Gosende (1996:39) contended that "the idea that a substantial military force can occupy portions of a country in anarchy without affecting the local political situation is a chimera". The contention was that "even among scholars of a conservative bent, it is recognized, as amplified by Mandelbaum (1994), that "intervention undertaken for purely humanitarian reasons leads inevitably to two quintessentially political tasks: guaranteeing the borders of countries under challenge, and constructing an apparatus of government in places where it is absent" (Mandelbaum, 1994:318).

Clarke and Gosende (1996:37) admitted that while the "balancing dynamics of the Cold War effectively kept the five permanent members of the Security Council out of the peacekeeping business. A number of states, including the Scandinavian countries, Canada, Argentina, Ireland, and others, developed specialized rules of engagement that emphasized absolute impartiality and neutrality in the application of narrowly drawn UN resolutions". They concluded however that "without clear rules for the application of these principles, the cynical warlords of the world have no particular reason to permit the restoration of civil society" (Clarke & Gosende, 1996:38).

Bassey (2011) showed a clear understanding of the existence of a divergence in the interests of participants in armed intervention the world over. In his work titled "Can the Defence of Human Rights Provide a Justification for Armed Intervention in the Affairs of a Nation State?", he decried "the absence of a well defined paradigm

clearly justifying intervention or interference in the internal affairs of another state. His reason was that the present paradigm enables any country with a level of military might to invade another country in the name of the promotion of human rights or the restoration of an international moral order. This may potentially not only create imbalances within the global arena, but build a momentum for possible third and fourth world wars (Bassey, 2011:4). He situated the authority to define, and assume the responsibility for maintenance of international peace and order by 'intervention or interference' without juxtaposing the balance of the international order on the UN. He drew our attention to Article 24 (1) of the United Nations Charter, which states that 'in order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf'.

Bassey (2011) observed that the inherent challenge with the UN discharge of this duty is in:

The complexity surrounding the Security Council's decision making processes, particularly when it involves an armed attack against another state. The veto power of each member state creates an impediment against an expeditious military intervention that could save thousands of lives, consequently rendering this provision redundant and unhelpful in the face of a crisis that requires urgent humanitarian intervention. The seeming inability to obtain a unanimous decision with regards armed intervention tacitly removes this authority from the United Nations Organisation. As a result, states may resort to self-help as the only functional solution (Bassey, 2011:5).

This incidentally is what played out in Libya, and is currently the case with Syria where the UN appear handicapped because of Russia's reluctance to partake in and or consent to a military intervention in Syria.

According to Teson (2008) if human beings are denied basic human rights and are, for that reason, deprived of their capacity to pursue their autonomous projects, then others have a *prima facie* duty to help them. The states that come to help would naturally do so in their own national interest. Bassey (2011:6) opined however, that while the above may help towards creating some modality for intervention, it has not addressed the question of where, when and how to intervene. He pointed out that others have argued:

It is and rightly so, that the various interventions carried out by western states particularly in Africa were underpinned by economic and political interests. Of note in this regard are the interventions in the Democratic Republic of Congo (DRC), Rwanda, Sierra Leone, Liberia and the Nigerian/Biafra civil wars. It has been argued that the crisis in the DRC has been exacerbated as a result of continuous intervention by the west particularly the Republic of Belgium, arguing that it is in the interest of Belgium's government for the crisis to continue particularly where huge deposits of minerals are concerned (Bassey, 2011:6).

Makau (1995) maintains that the attitude of the western powers in armed intervention in Africa has followed the same 'we know what is best for the natives' attitude that attended the 1884-1885 Berlin Conference for the purpose of partitioning Africa. This accounts for the perception that 'western states would not intervene unless there existed an underlying gain from such intervention' (Bassey, 2011:7). The 2004 Rwandan genocide has been used as a strong indicator of the western states' perception of humanitarian intervention, arguing that 'the reason for the untold human carnage in Rwanda was as a result of the fact that the west had nothing to gain from the small country either politically or economically, and hence no rationale for an humanitarian intervention' (Bassey, 2011:7). Power (2001) noted that western transgression in the situation prior to the genocide in Rwanda was made obvious by President Clinton in 1998 when he said 'we come here today partly in recognition

of the fact that we in the United States and the world community did not do as much as we could have and should have done to try and limit what occurred in Rwanda^ò (Power, 2001:1).

Goodman (2006:1) raised the controversial issue of Unilateral Humanitarian Intervention (UHI), and asked the question “should international law permit states to intervene militarily to stop a genocide or comparable atrocity without Security Council authorization?” That question has been and still remains relevant today. As opined by Goodman (2006:1) the question in issue “acquired even greater significance in the wake of military interventions in Kosovo and Iraq, and nonintervention in the Sudan^ò. He asserts however that “concerted deliberation on these issues has reached an impasse, and that the “key obstacle to legalizing Unilateral Humanitarian Intervention (UHI) is the overriding concern that states would use the pretext of humanitarian intervention to wage wars for ulterior motives^ò (Goodman, 2006:1).

Goodman (2006:111) observed further as did Greenwood (1999:141) that “since World War II, international law has prohibited states from threatening or using force except in self-defense or pursuant to Security Council authorization^ò; but acknowledged that there are persuasive arguments that “UHI is lawful^ò. It is acceptable to conclude as Goodman (2006:111) did that “international law forbids the unilateral use of force to rescue victims of a humanitarian catastrophe^ò, as a matter of treaty law, UN Charter, prominent General Assembly resolutions, customary international law, according to leading international law treatises, and the International Court of Justice pronouncement in *Nicaragua vs United States*; and perhaps, just as it is also acceptable to conclude with Goodman (2006:111) that these prohibition is “despite divergent state practices in the 1990s^ò. Suffice it to state that

the prohibition and allowable state practices in the 1990s is the foundation for the divergence in interest in the mode of operation as per underlying interest to be pursued in any given armed intervention.

The argument is that the framers of the UN Charter adopted that design to prohibit UHI partly in response to the perceived lessons of World War II, where it was recorded that Hitler used humanitarian justifications for military expansion. Hitler invoked the 'right of self-determination' of German nationals as a pretext for his incursions into Austria and Czechoslovakia; Hitler justified his military objectives in the Sudetenland on the grounds that 'Germans as well as the other various nationalities in Czechoslovakia have been maltreated in the unworthiest manner, tortured, . . . [and denied] the right of nations to self-determination', and that 'in a few weeks the number of refugees who have been driven out has risen to over 120,000'. Also that 'the security of more than 3,000,000 human beings was in jeopardy', therefore that the German government was 'determined by one means or another to terminate these attempts' (Goodman, 2006:113).

Even though one would understand the fear expressed here, it is important to note the times when the events took place and when the prohibitions on UHI were put in place and remained relevant. The Hitler's example and many others were the precursor to the formation of the UN; the prohibition placed on UHI was after the formation of the UN and continued during the cold war. The resurgence of the use of UHI is in the life time of the UN but after the end of the cold war. The matter is that these historical incidences all found the current practice particularly in a world of only a Hegemonic Power running the world and the UN, albeit not in its entirety.

The emergence of diversity in the interests to be pursued in armed conflict has some origin in the NGO activities in conflict zones in the cold war era; even though

the UN had some credit for it. Just like the states who felt that they had a right to intervene in the affairs of another state for their own strategic, contiguity, or other national interests, the NGOs such as *Médecins Sans Frontières*’ discarded the ICRC’s model of silence in the Biafra conflict in the late 1960s, adopting instead a model of delivering humanitarian aid while bearing witness publicly to what it saw (Anderson, 2004:68).

The debate over humanitarian neutrality, i.e. the divergence of interest (whether to be neutral, political, economical, strategic, or religious) in humanitarian interventions (whether armed or not) as opined by Anderson (2004) began with the Bosnia war and then continued with the Rwanda genocide and finally the Kosovo war. He observed that:

The ideal of neutrality was publicly challenged when, for example, moralists such as David Rieff pointed out that international aid NGOs provided humanitarian assistance to perpetrators of genocide in Rwanda and Zaire; that the horror of the Srebrenica Massacre and the siege of Sarajevo played crucial parts in convincing increasing numbers in the humanitarian NGO community that pure neutrality could not be taken as the highest moral value. Just as in the Second World War, the highest moral honor went to those who identified evil and fought it, and even more to those who identified evil and fought it when the odds of victory were abysmal (Anderson, 2004:68-69).

Anderson (2004) further observed, referring to Ignatieff (2001), that “today the highest moral position has to be fighting evil, not merely relieving the suffering of the victims. Experienced, prominent intellectuals in the NGO community, such as Ignatieff, unconstrained by institutional roles, actively called for intervention on human rights grounds in Kosovo; and that “by the late 1990s, not only was the issue of armed humanitarian intervention and its criteria on the table, the question of plainly identifying those who perpetrated atrocities and taking sides against them was a live question” (Anderson, 2004:69). Anderson further posited that:

The question is how to reconcile justice with neutrality. The best solution is that which has evolved in the field of humanitarian aid - to separate the groups which fundamentally serve one or the other value; to let certain humanitarian groups serve only the goal of humanitarianism without making judgments about rights and wrongs, and let others sort out the issues of justice if there are any in a given conflict. Different values are at stake. The longstanding practice of separating the groups that serve one or another value seems still the way to ensure none is lost (Anderson, 2004:70).

Furthermore, Anderson (2004) noted that:

This call for separating humanitarian and political roles expresses nothing more, of course, than the hard won practical wisdom of the ICRC. But it is no less important for that. And there are exceptions, where the needs of one value or the other, justice or humanitarianism, become overwhelming. Moral judgments about which to favor in such cases - for example, whether and what the ICRC should have done in the Second World War - are the hardest questions in this field (Anderson, 2004:70).

Anderson concluded that:

To be in the position of humanitarian neutrality means deliberately to suspend one's moral judgment about matters about which, all other things being equal, one ought to form judgments. One ought to be willing to learn the facts and judge the rights and wrongs of a conflict. But all things are not equal, because justice is not the only value at issue in a conflict - it seems to me, however, that humanitarianism is always both necessary and insufficient. One can avoid relativism while still preserving a space for a necessary but insufficient humanitarianism, by understanding humanitarianism as a suspension of judgment that has the effect of creating a sort of temporary relativism, or a public relativism, one that is deliberately artificial and shielded from having to answer to the full range of morality. This approach recognizes the moral necessity of neutral humanitarianism, yet acknowledges that humanitarianism does not exhaust the field of morality (Anderson, 2004:71).

2.3. ARMED INTERVENTION AND MARITIME SECURITY

The experience of the US military in Beirut (carnage left by a suicide bomber at the Marine Barracks in Beirut in October 1983) exacerbated the debate on the use of US military force in support of international political initiatives, that started in the

early years of the Reagan Administration. It added to the Vietnam era legacy of distrust of politicians by the US military (Clarke & Gosende, 1996:35). Also the experience of the UN in Iraq in 2003 (UN Bagdad Headquarters bombing) raised further concerns as to whether armed intervention brings about security. In that Iraqi incidence, the UN intervention had some issues that had to do with definition as to whether it was humanitarian, relief, reconstruction activities, and or occupation.

As noted by Anderson (2004:52):

If you genuinely believe, however, that your humanitarian, relief, and reconstruction activities are indeed separate from the occupation, whether because you believe the occupation was illegal while your relief operations are legal, or simply because you are not part of the occupying forces, then horror and outrage at the August 19 attack must be accompanied by a certain amount of consternation.

Till today, it is still doubtful that that intervention brought about security for the oppressed Kurds, and Iraq; but certainly it ended the reign of Saddam Hussein and US fears about his capability.

Anderson (2004) admitted, referring to the Report of the Independent Panel on the Safety and Security of UN Personnel in Iraq, that the problems of the UN in Iraq were blamable on the US; and a failure in tactic and judgment. He observed that:

the UN assumed that it was not a target, leading it to ignore the most basic matters of physical security such as putting blast film on the windows, operating from a second floor office with a window literally visible from the streets. Coalition security forces providing outside protection for the building were constrained, by UN request, to a platoon that provided limited security, often with limited hours (Anderson, 2004:50-51).

He further observed, still referring to the Report of the Independent Panel on the Safety and Security of UN Personnel in Iraq, that the damage done to the UN forces in Iraq was because the U.N. saw itself as a benevolent agency, supported and respected by all parties, it was unable to comprehend the view from the ground

in Iraq, that the long history of the U.N. in the Iraqi sanctions regime would emerge as a liability as the Organization [the U.N.] is redefining its role in the country (Anderson, 2004:52; Report of the Independent Panel on the Safety and Security of UN Personnel in Iraq, 2003:23).

Anderson (2004:52) also remarked that:

Iraqis did not necessarily see it as benevolent, neutral, or separate from the occupation. Of course, the question of violence against the U.N. is different. Whether ordinary Iraqis see the U.N. as part of the occupation is less important, at this juncture, than what those Iraqis engaged in violence and terrorism against the occupation think, and whether they think of it as part of the occupation is less important than simply whether they regard it, and other aid agencies, as a target which will inevitably influence world public opinion over the value of occupying Iraq. It does not follow from the view of ordinary Iraqis, whether they see the U.N. as separate or as part of the occupation, that the U.N. will be targeted for violence; those calculations are quite different and made by a different set of actors.

In their contribution, Clarke and Gosende (1996) noted that while it appears fundamental that the political goal of intervention is to assist in the creation of a political dynamic that is more rewarding to the local population than continued war, the tendency remains to separate the political and military components of peace operations. They cited the example of Somalia, where the UNITAFs believe that it could avoid involvement in domestic Somali political activities by placating the local warlords in Mogadishu ruined the exercise; the case of Rwanda, where fear of intruding in a civil war caused the United States, and the world, to hold back while hundreds of thousands were killed; and the case of Bosnia, where the Dayton accords created a rigid and awkward separation between the political and military tracks of that operation which may yet threaten its viability (Clarke & Gosende, 1996:37).

In their assessment of the armed intervention in Somalia, Clarke and Gosende (1996:39) noted that:

The ultimate goal of the intervention in Somalia—a state in extremis if there ever was one—should have been to create a safe political space in which civil society might have the opportunity to implement traditional Somali problem solving procedures. Had the intervening force been able to develop a comprehensive plan, one that interpreted humanitarian, political, and military activities based on accepted international doctrine and reflected the norms of the local culture, badly needed coherence might have been provided to the various elements of the intervention. The political system could have been opened to the normal people of Somalia; the charade of foreign conferences which soaked up so much of UNOSOM's resources (and which ensured that the machinations of the warlords were carried out beyond earshot of most Somalis) could have been avoided. With UNITAF's support, the international political authority could have developed and maintained a political initiative to ease the transfer of authority from UNITAF to UNOSOM II on 4 May 1993. Instead, UNOSOM II inherited a ticking time bomb. The absence of an agreed political plan for the restoration of Somali society during the early months of the Somalia intervention left the political-military initiative in the hands of people who had nothing to gain, and much to lose, by the continued international presence.

Clarke and Gosende (1996:39- 40) traced the failure of the initial US strategic political vision in ensuring security in Somali to lack of or too little experience available to US and foreign civilian and military planners upon which to build such an elaborate operation. They observed, with the benefit of hindsight, that:

When traditional peacekeeping doctrine is applied in complex humanitarian emergencies, it provides more opportunities for bandits than it does for victims. Besides providing opportunities to local thugs to steal or extort humanitarian supplies and to profit from contracts with the occupying force, an intervention force brings with it the credibility provided by its Security Council mandate. Nevertheless, as the warlords in Mogadishu were successfully wresting political credibility from UNOSOM and UNITAF, some UNITAF military units adopted proactive political-military programs which stimulated widespread disarmament and the restoration of local

security in their assigned sectors of the country. Most notable among these were the Australians in Baidoa, and the French units operating in the fundamentalist stronghold of Luuq; their operations were subsequently extended to Baidoa after the Australian departure. We can conclude only that the ready acceptance of the warlord status quo ante in Mogadishu by the US diplomatic mission early in the UNITAF period was based on the goal of avoiding confrontations with the heavily armed contenders in Mogadishu (Clarke & Gosende, 1996:40).

Clarke and Gosende (1996) deemed as counterproductive the establishment of time limits for U.S. presence in support of complex humanitarian emergency to securing meaningful political agreements. They observed that it was the understanding that UNITAF's mission in Somalia was time bound that generated the impression that the mission was restoring peace and security to Somalia, whereas indeed the warlords, especially Aideed, were patiently waiting for the departure of the US-led force, which time was near; and also felt that "there was little to be gained in attacking openly a military force that had announced at the outset its desire for an early and clean departure". The supposed peace and security was tested barely one month after UNITAF returned home, when "the armed faction led by Aideed launched its unprovoked attacks on UNOSOM II personnel", which "prompted a series of military confrontations which ultimately led to decisions to abandon the Somali operation" (Clarke & Gosende, 1996:40).

Waal (1995) while sharing his mind on the armed intervention in Somalia observed that Somalia was a guinea-pig for post-Cold War humanitarianism. It was the first time that the International Committee of the Red Cross hired armed guards. It was the first time relief agencies such as the Save the Children Fund took such publicly outspoken positions criticizing the absence of the United Nations. And finally, it was the first time that international agencies successfully called for Western

military intervention. The agency most responsible for the call for intervention was CARE-US.

Waal (1995) further observed that 'most accounts of 'Operation Restore Hope' in Somalia argue that the intervention was sound in its early, US-led and 'purely humanitarian' phase, and went wrong later on when the UN (at US bidding) sought to confront General Mohamed Farah Aideed. This is not correct. Operation Restore Hope was flawed in its conception; it was aimed at supplying massive food aid to a region that no longer needed massive food aid. Meanwhile it neglected the most pressing relief needs: a program against malaria and effective measles vaccination'.

Waal (1995) further stated that 'there is in fact no evidence that the intervention had any impact on mortality rates at all. It is quite possible that Operation Restore Hope did save hundreds of thousands of lives. But no one can be sure. Such is the absence of systematic accountability in the famine relief business that no proper investigations have been done. What has been researched and written are internal analyses that look at the logistics of food movement, inter-agency co-ordination and the provision of security. None of the reports investigated whether lives were saved, rehabilitation facilitated, or a sense of hope restored. They simply claim that it was so. Humanitarianism, it seems, is its own justification'.

Waal (1995) concluded that 'the guinea-pig, of course, bit back, discrediting military humanitarian intervention for some time to come. But rather than examining the shameful indifference to Somalia in the prolonged gestation of the crisis, when both the UN and the USA turned their backs on the country, the lesson learned seems to be one of further disengagement'. This examination of the armed intervention in Somalia by Waal (1995) is instructive to this study but centered more on the

intervention inside Somalia and ever before the war moved to the waters of the Gulf of Aden to breach maritime security.

In his analysis of sea piracy and maritime security in the Horn of Africa, Onuoha (2009) noted that "the nexus between sea piracy and maritime security is interfacial". That is that "the state of maritime security and piracy are interfacial and integrally related" (Onuoha & Ezirim, 2010:46). In which case an increase in piracy brings about a corresponding decrease in maritime security and vice versa. To that end, Onuoha & Ezirim (2010) explained that maritime security "refers to freedom from or absence of those acts which could negatively impact on the natural integrity and resilience of any navigable waterway or undermine the safety of persons, infrastructure, cargo, vessels and other conveyances legitimately existing in, conducting lawful transactions on, or transiting through territorial and international waterways" (Onuoha & Ezirim, 2010:45). They identified two prongs for maritime security:

The first is the intrinsic dimension, which is concerned with the natural integrity of all elements that form the basic and essential features of the maritime domain, such as the pristine quality of the waters and the quantity of fish and other marine resources. The second is dimension, the extrinsic dimension of maritime security, covers the safety of all "foreign" objects, which do not form part of the basic and essential features of the marine ecosystem but exist or make use of the maritime domain (Onuoha & Ezirim, 2010:45).

Onuoha and Ezirim (2010:45) therefore concluded however, that the degree of manifestation of piracy "in a particular location is usually a function of the nature of measures adopted to achieve maritime security". The measures used in achieving maritime security in the Gulf of Aden, of course, included armed intervention (the deployment of foreign navies to patrol the Gulf of Aden to guarantee the security of merchant shipping along the waterways). Unfortunately the authors' examination of

maritime security was just from the point of view of piracy, and did not examine whether the armed intervention in the Gulf of Aden in itself has been useful in ensuring maritime security.

In her assessment of China's participation in maritime security in the Gulf of Aden, Christoffersen (2009) contended that - China's official policy on Somali piracy was "closely parallels the UN's position, and reflects an emphasis on comprehensive security instead of the use of warships" (Christoffersen, 2009:2). Her understanding was that unlike the UN's kind of comprehensive security approach to Somalia (the model of dispatching warships on counter-piracy missions), "a comprehensive security approach to the problem of Somalian piracy would address the root causes of piracy - poverty, lack of economic development, and threats to environmental security by commercial overfishing that has forced Somalian fishermen into piracy".

She narrated the crisis China ran into in that mission, which was as a result of the UN's approach to the maritime security in the Gulf of Aden. According to her, when on October 19, 2009 Somali pirates hijacked a Chinese ship "the *De Xin Hai*", China by itself could not mount a rescue and was facing a long stand-off that would be a definite loss of face and loss of legitimacy domestically, that a successful rescue would be possible if all the nations involved in the anti-piracy operations off of Somali worked in concert. Following that event Major General *Qian Lihua*, Director of the Foreign Affairs Office, Chinese Ministry of Defense, stated that China would organize a meeting of all nations operating off Somalia in order to clarify areas of responsibility and arrange better coordination (Christoffersen, 2009:16; Buckley, 2009).

The purpose of the proposal was to coordinate escort missions of Russia, Japan, the EU and NATO to assign them responsibility for different geographic areas

in the Gulf of Aden, rather than each nation escorting only its own ships, and also to consider the possibility of having joint patrols. The understanding was that ñgreater coordination would require a sharing of intelligence codes which was too sensitive a political/military issueò. Unfortunately this author's examination of maritime security was just from the point of view of China's experience in her intervention in the waters of the Gulf of Aden. She failed to examine whether the armed intervention in Somalia in itself has been useful in ensuring maritime security.

In his critique of the current practice in the armed intervention in the Gulf of Aden, Kraska (2009) observed, agreeing to an extent with Christoffersen (2009) and Buckley (2009), that until regional and bilateral agreements are executed, along with more structured coordination, disposition and logistics issues associated with persons picked up during counter piracy operations will persist. Kraska (2009:207) in his argument insists that:

Piracy prosecutions involve cases with suspects from one country and witnesses and victims from others. The vessel likely is registered in yet another state, and is transporting cargo owned by corporations from one or more additional countries. In addition, the flag state of the warship that conducts the interdiction could be from a distant state and on a deployment in the region. In the past, coordination on Somali piracy disposition and logistics issues was ad hoc, but the Security Council provides the ideal opportunity to institutionalize collaboration. Particularly with the large numbers of warships operating in the area, the international community should work to develop a single regional counter piracy center that can coordinate and de-conflict naval operations.

2.4. GAP IN THE LITERATURE

A cursory look at the literature reveals that enormous work has been done in the area of piracy, conflict, armed intervention and maritime security. Some of the literatures have Somalia and the Gulf of Aden as its area of interest. However a critical look at the textbooks and journal articles reviewed points to the fact that the

discussions dealt with only some aspects of piracy, armed intervention or maritime security. These therefore did not cover a reasonable scope of the study at hand. The implication is that most of their conclusions do not reflect the exact state of maritime security in the Gulf of Aden within the period under review.

For example the study conducted by Waal (1995) was incidentally a study before the deployment of the world's security forces to the Gulf of Aden, naturally, his conclusions have limited relevance to the issues at hand in this study. Same also is the case with Christoffersen (2009) which dwelt on China's experience in the armed intervention. Similarly, Clarke and Gosende (1996) was a study before the challenges in the Gulf of Aden became pronounced. Recently, the challenges of armed intervention in the Gulf has gone beyond the indicators adduced by these authors, hence necessitating the current efforts of this study to assess how the armed intervention has impacted on maritime security in the Gulf of Aden. From the foregoing review, we deduced that scholars have not satisfactorily addressed the current *problematique* in the existing literature and it is this gap that this study seeks to fill.

CHAPTER THREE

METHODOLOGY

3.0. INTRODUCTION

In this chapter, we shall explore the method of research adopted for this study. The methodology used in conducting this study starts with the theoretical framework for analysis which is the social production and reproduction of material values variant of the Marxian political economy approach. It contains the three hypotheses designed to be tested by the study, the method of data collection which is the qualitative method of data collection, and the research design which is the single case design or the *ex-post facto* research design. It also contains the method of data analysis which is qualitative method of data analysis. The chapter ends with the table of logical data framework for the study.

3.1. THEORETICAL FRAMEWORK

Many theories are useful in this kind of study. Such theories may include the theory of post-colonial state, liberal and neo-liberal framework of analysis, dependency persuasion or the elite decision making explanatory model, and the Marxian political economy approach. While these theories may be helpful in exploring the dynamic interactions and parallel existence between the state and the economy in the advanced economies, it does offer little help when the subject matter is a developing state. The theories are deemed unfit more so because Somalia did not attain the high stage of production Marx and the other theorists may have had in mind when they formulated the theories for analysis.

Therefore, the study shall be predicated on some basic propositions emanating from the Marxian political economy approach. Specifically, we shall align our thought process within the ambit of social production and reproduction of material

values. This social production model is considered the most useful and is adopted as the theoretical framework for analysis in this study. This theory, which is similar to what Marxian scholars refer to as socio-economic system (Abalkin, Dzarasov & Kulijov, 1983) is considered suitable in this work, because it establishes the conceptual structure, which provides historical explanation for the relationship between the Gulf of Aden, Somalia, United States, Britain, France, Italy, Ethiopia and the rest of the world. The aim of this theory principally is to identify and to explain the objective conditions on which the production of social life is based, and, secondly, to determine whether the social relations established in and between societies exploit, hide or alienate the social subject (Castro, 1998).

The initial premise of this framework is that any type of social life requires the existence of three objective conditions: men, women and the material objects, which are used by them and which imply a socialization of certain parts of the physical world. The material expression of these three objective conditions forms the social matter. All social matter has to be produced, which implies that men, women, and material goods are social subjects, as well as social objects. They operate as subjects in the moment they allow and decide, as social agents, the reproduction of society. They operate as objects in terms of their own production and in the relationships they establish between themselves. Thus men, women and material objects participate in an ambivalent way in the transformation of the physical world (Castro, 1998).

Ogban-Iyam (2005) noted, among other things, that social production and reproduction is:

- The fundamental concern of human beings, and perhaps of other living things, is survival and security.

- For the human being to survive and have security he/she must produce and reproduce human needs, including the production and reproduction of the humankind.
- Every social relation (interpersonal relation) tends to be a full or partial social production and reproduction relation in full and/or in part of tangibles and intangibles such as food, shelter, medicine, weapon, new human being, pain, pleasure, sorrow, joy, security, insecurity, violence, offence, defence, etc.
- These tangible and intangible values and interests revolve around life processes such as respiration, nutrition, excretion, locomotion, sensitivity to stimuli, reproduction, growth, repair and decay. These vary in their perceived importance to various people at various points in time.
- Complete social production and reproduction of any value often entails political, economic, sociological, religious, psychological, physical and technical factors and dimensions almost at the same time or sequentially. For example, people may pray, be polite/rude, friendly/hostile to one another, educate or confuse/deceive others, find efficient ways and means, employ physical strength, marry, divorce, have some entertainment and relaxation, etc, in order to produce and reproduce their needs. This means that a social production and reproduction system involves virtually every aspect of life. It is only for purposes of emphasis and brevity that an analyst tries to enumerate only the main factors of production.
- Each human being endeavors/struggles to attain and remain in a favourable position in the social production process so that his needs can be met.

- It is in this struggle for survival and security that human beings find and/or define allies and opponents, be it within or outside their family, clan, tribe, nation, class or profession, etc. It is in the course of the struggle for personal interests that clashes or conflicts of interests occur in a social relationship.
- This struggle to change/improve or retain/preserve ones position in the scheme of things is the direct and indirect basis of virtually all social behaviour such as co-operation, conflicts, violence, allies and alliances, friendships, enmities, within, between and across classes, families, clans, tribes, nations, ethnic groups, race, religions, and occupational groups, in fact, in all social groups.
- In this struggle for acceptable/preferred positions in the social production system tangible and intangible, violent and non-violent means of all kinds are directly and/or indirectly employed. These tangible and intangible, violent and non-violent means include, among others: bare hands, sticks, bows and arrows, boomerangs, machetes, axes, guns, jet fighters, thermonuclear weapons, force, persuasion, manipulation, blackmail, ideology, propaganda, creed, ideas, truth, lies, discrimination, recognition, distortion, and misrepresentation; all kinds of qualifications such as, age, height, education, merit, geographical locations such as continent, region, country, province, county, town, village, ward, north, south, east, west, etc, are used in the struggle. Other means evolved and deployed in the struggle are social structures, associations, organizations, institutions based on language, sex, religion, class, occupation, profession, identities and kinship of all sorts such as family, clan, tribe, ethnic group, nation, and race.

Similarly, Okolie (2011) remarked that in every social production process there must be someone that makes binding decisions; those who make decisions also use it to their favour. Again, he noted that every man struggles to remain in a favourable position in social production and reproduction process; those who are satisfied with the production system struggle to retain the system while those that are not satisfied struggle to alter the system.

Capitalism and its attendant dominance of other systems of social production, generation of massive wealth, disparity, inequality, human suffering and misery and the concomitant conflict it brings exemplifies this struggle for production and reproduction in contemporary society. Okolie (2011) gave credit to capitalist system of social production and redistribution which has a dominant position in the global economy, generating conflicts and poverty because only a few control the production process leaving out the majority of the working people poor unlike the pre-capitalist communal system of production where the majority controlled the production process. Unlike any other system of social production hitherto known to man, it has also generated greater disparity, inequality, human suffering and misery as wealth and power are increasingly privatized.

This explanatory matrix, extracted from the Marxian social production of material values and in particular the emphasis that 'the fundamental concern of human beings, and perhaps of other living things, is survival and security' among others clearly identifies the political trajectories and conflict indicators that created and sustains the conflict in Somalia and consequently the Gulf of Aden.

Based on the foregoing, we state as follows: that

- Social production and reproduction considerations are responsible for the divergence in the interest of contributors to the armed intervention in the

Gulf of Aden.

- Indeed, it is the concern for survival and security that is at the heart of the armed intervention in the Gulf of Aden.
- The relationship between Somalia, Ethiopia, Britain, France, Italy, U.S., China and the rest of the world in the Gulf of Aden is defined by the struggle to control the means of social production and reproduction and this is responsible for proliferation and ready availability of arms and the conflict in the region.
- The rival Somali clans are continuously struggling to capture, control and dominate the means of social production and reproduction in the post-Siad Barre Somali State.
- This struggle between these Clans and their respective War Lords discourages the resolution of the internal conflict in Somalia and sustains the piracy in the Gulf of Aden.
- The foreign military presence in the region which facilitates arms proliferation is a social production and reproduction activity aimed at securing the maritime gateway that connects Europe, Africa and Asia for free movement of goods and oil from the Arab world.
- The arms imported by foreign military base that occupy the Gulf of Aden over the decades is arguably the major source of insecurity in the region.
- Since 1991, Somalia has been ravaged by an unending war as a result of arms proliferation in the region. As the war rages, countries like China, Philippines, Japan, etc turned to the un-manned Somali coast in the Gulf of Aden for unlawful fishing and dumping of toxic waste. In response to this practice, local Somali fishermen turned to police the Somali waters to

check unlawful fishing and dumping of toxic waste. It is patriotic Somalis defending their national coast that the international community refers to as pirates.

- Another interest of the international community in the Gulf of Aden which derives from their material satisfaction has been to cut cost of transportation of goods. Hence the security of this region is vital for tackling the challenge of piracy in the area.
- British, French, Italian, Ethiopian, and the US interests in the Gulf of Aden are to attain and remain in a favourable position in the global production process in that region so that their continued material reproduction can be guaranteed.
- It is in this struggle for survival and security that countries like Britain, France, Italy, Russia, China, and the U.S. find and/or define allies and opponents in the armed intervention in the Gulf of Aden.
- It is in the struggle for personal social production and reproduction interests that is responsible for the absence of cooperation of security agencies and sustains the maritime insecurity in the Gulf of Aden even in the face of the armed intervention.
- The armed intervention in the region was part of the struggle to attain and remain in favourable position in the social production and reproduction process in the Gulf of Aden, and so is responsible for the failure to improve the maritime security in the Gulf of Aden.

The above factors combined to explain the difficulty in the management of the internal armed conflict in Somalia and the consequent maritime security challenges in the Gulf of Aden, and the entire region.

3.2. HYPOTHESES

The study interrogates the following hypotheses, that:

1. The application of the principle of political neutrality by the international community in the armed intervention has not enhanced security in the region.
2. Divergence in the interest of members of the international community to the armed intervention has undermined the task of combating piracy and armed robbery in the Gulf of Aden.
3. The armed intervention has not improved maritime security in the Gulf of Aden.

3.3. METHODS OF DATA COLLECTION

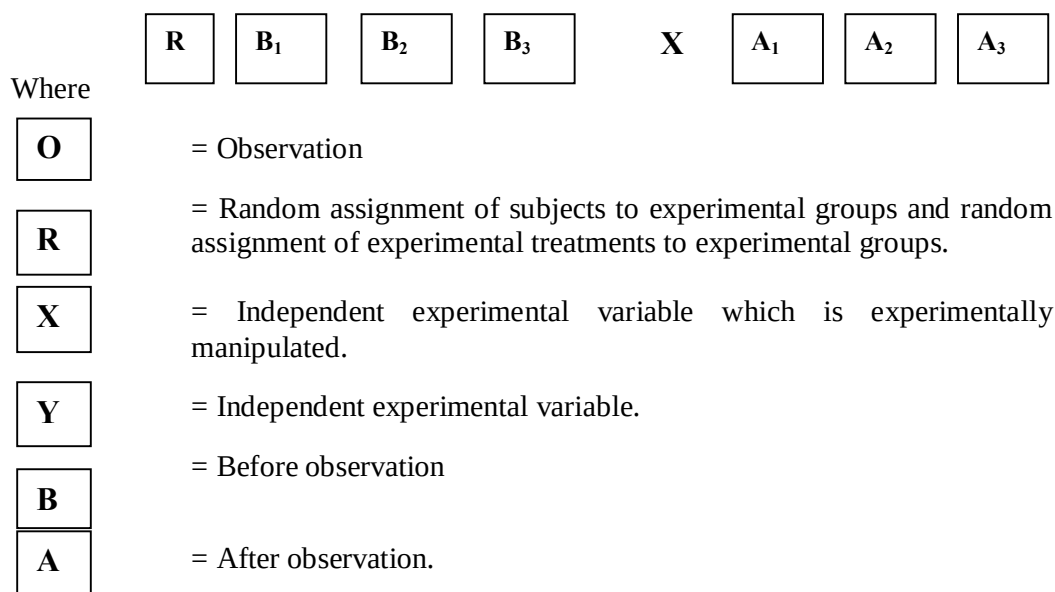
The method of data collection applied here is the qualitative method of data collection. Cohen and Manion (1980) defined qualitative research method as a set of non-statistical inquiry techniques and processes used to gather data about social phenomena. Unlike quantitative research, there is no overarching framework on how qualitative research should be conducted. Qualitative research is a method of inquiry employed in many different academic disciplines, traditionally in the social sciences. Qualitative method is a non-numerical data collection. The method aims to gather an in-depth understanding of human behaviour and the reasons that govern such behaviour. The qualitative method investigates the *why* and *how* of decision-making, not just *what*, *where*, *when*. Hence, smaller but focused samples are more often needed, rather than large samples. The qualitative method produces information only on the particular cases studied. Qualitative research reflects on the role of the researcher in the research process and makes this clear in the analysis. Burnham *et al.* (2004:31) see the qualitative method as very attractive in that it involves collecting information in depth but from a relatively small number of cases. He goes on to state

that ñanalytic induction is often used by qualitative researchers in their efforts to generalize about social behaviour. Concepts are developed intuitively from the data, and are then defined, refined and their implications deduced from the dataò (Burnham *et al.*, 2004:41).

We generated data through primary and secondary sources from written descriptions. This included textbooks, journals, magazines, official documents and reports and maps on armed intervention, maritime security, piracy and armed robbery, Somalia and the Gulf of Aden. These provided in-depth knowledge of the security situation in the maritime belt of the region of the Gulf of Aden.

3.4. RESEARCH DESIGN

A research design is like a blue print that tells us how to reach the plausible answers to research problems. Babbie (2007:112) noted that ñresearch design involves a set of decisions regarding what topic to be studied among which population with what research method and purposeò. This research is basically qualitative and non-experimental; therefore, it is based on the single case *ex-post facto* design. The researcher starts by specifying a dependent variable and then tries to identify possible reasons for its occurrence. This type of study is very useful when using human subjects in real-world situations and the investigator comes in ñafter the factò. That is why the researcher needs to establish a plausible reason (research hypothesis) for why there might be a relationship between two variables before conducting a study.

Figure 3.4.1: Single Case Design or the *Ex-Post-Facto* Research Design

Source: Asika (1991:35).

Ex-post-facto analysis of the independent variable (X) and the dependent variable (Y) is based on concomitant variation. Hence, when (X) occurs there is likelihood that (Y) will follow at some point later. Applying the *ex-post-facto* design to our study, the test of the hypothesis I, involves observing the X (application of the principle of political neutrality by the international community in the in the Gulf of Aden) and Y (security in the region); hypothesis II, involves observing X (divergence in the interests of contributors to the armed intervention) and Y (the task of combating piracy and armed robbery in the Gulf of Aden) and hypothesis III, involves observing X (The armed intervention in Somalia) and Y (Maritime security in the Gulf of Aden).

3.5. METHODS OF DATA ANALYSIS

This study basically adopted the qualitative method of data analysis. According to Burnham *et al.* (2004), data analysis refers to the use of relevant techniques, tools, strategies and procedures for exploiting relationships among key variables gathered in the course of research. This implies that data collection naturally leads up to data analysis such that in the course of the analysis, the collected data are

broken and given appropriate treatment so as to read meaning out of the data that have been generated, presented, tested and interpreted. Obasi (1999:178), for instance, has emphasized that "the need for clarity in the presentation of data can only be fully appreciated when one recognizes that a properly generated data which is free from the common problems of unreliability and inaccuracy, can still not serve a useful purpose if not properly analyzed and presented." In other words, analysis "is the breaking down and ordering of the quantitative information gathered through research" (Asika, 1991:11).

Specifically, we provided a well-documented description of piracy and armed robbery attacks on ships and other sea going vessels, the activities of the various Navies at work in the Gulf of Aden, the political and historical development of the civil war in Somalia. Furthermore, we adopted analytical method in the assessment of the impact of the armed intervention on the maritime security in the Gulf of Aden. Also used are tables, charts and simple percentages to further buttress our analysis in this study.

The purpose of analysis, therefore, is to understand and explain how the constitutive elements of a complex whole are related in order to gain a better knowledge of the unit or subject being studied. Therefore, the data used in this study were analyzed qualitatively and critically, in order to arrive at a valid argument and make valuable deductions. Table 3.5.1 below contains the Logical Data Framework wherein the major variables of the hypotheses and main indicators for this study were presented.

Table 3.5.1: LOGICAL DATA FRAMEWORK

Research Questions	Hypotheses	Variables	Main Indicators	Data Sources	Method of Data Collection	Method of Analysis
1) Has the application of the principle of political neutrality by the international community in the Gulf of Aden enhanced the security in the region?	The application of the principle of political neutrality by the international community in the Gulf of Aden has not enhanced the security in the region	(X) The application of the principle of political neutrality by the international community in the Gulf of Aden	❖ Non participation of the international community in the combat ❖ International community not making political speeches, attending rallies or campaigns in favor of any warring party	❖ Text books and journal publications; ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference
		(Y) The security in the region	❖ Protected from dumping of toxic waste ❖ Protected from illegal fishing in the region ❖ Protected from armed robbery in the region	❖ Text books and journal publications; ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference
(2). Does the divergence in the interest of contributors to the armed intervention undermined the task of combating piracy and armed robbery in the Gulf of Aden?	The divergence in the interest of contributors to the armed intervention has undermined the task of combating piracy and armed robbery in the Gulf of Aden	(X) The divergence in the interest of contributors to the armed intervention	❖ Presence of naval platforms from different nations of the world ❖ Non cooperation of the naval platforms in the gulf	❖ Text books and journal publications; ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference
		(Y) The task of combating piracy and armed robbery in the Gulf of Aden	❖ Arrest of Pirates in the Gulf ❖ Arrest of Armed robbers in the Gulf ❖ Rescuing of hostages from the pirates ❖ Prosecution of pirates in courts	❖ Text books and journal publications ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference

(3). Has the armed intervention in Somalia improved maritime security in the Gulf of Aden?	The armed intervention in Somalia has not improved maritime security in the Gulf of Aden	(X) The armed intervention in Somalia	❖ Foreign military presence ❖ Transportation and protection of humanitarian aid workers and relief materials like food and drugs ❖ Initiation of ceasefire negotiations; ❖ Monitoring of ceasefire	❖ Text books and journal publications; ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference
		(Y) Maritime security in the Gulf of Aden	❖ .Protected from dumping of toxic waste in the gulf ❖ Protected from illegal fishing in the gulf Protected from armed robbery in the gulf	❖ Text books and journal publications; ❖ Conference Proceedings; ❖ Internet sources	Qualitative method	Ex-post facto design; social production theory; Qualitative descriptive analysis; inductive inference

CHAPTER FOUR

HISTORICAL SURVEY OF SOMALIA AND THE GULF OF ADEN

This chapter provides an in-depth survey of the study area, cascading the socio-economic landscape of Somalia from early recorded history through her trials up to the time of the armed intervention owing to the activities of Somali pirates. It also captured the events leading to the internal armed conflict and the resultant security situation in the Somali coasts and the extended maritime belt. Furthermore, it undertook a historical survey of the Gulf of Aden, including the activities and events leading to the insecurity of the water course up to the armed intervention and deployments of the world's navies to patrol the ever busy Gulf. The chapter ends with an inventory of the UN's action in response to the internal conflict in Somalia and the pirate induced maritime insecurity in the Gulf of Aden.

4.1. SOCIO-ECONOMIC AND POLITICAL HISTORY OF SOMALIA

Somalia is of strategic importance to the African continent because of her affinity (historical and religious) with the Arab and Islamic world which offers her a seat in the Organization of African Unity (OAU) now African Union (AU) and the Arab League (Wyllie, 1993:71).

Stretching over 3,330 kilometers, Somalia has the longest coastline of continental Africa and is part of one of the most important large marine ecosystems in the Indian Ocean. Somali climate is semi-arid with dry savannah plains and streams that flow only after rains. The temperature ranges from 17°C to 45°C for most of the year, with mean daily temperatures put at between 30°C and 40°C (Report of the Somalia Commission of Inquiry, 1997).

Map 4.1: MAP OF SOMALIA

Source: <http://www.infoplease.com/atlas/country/somalia.html>

Somalia depends on her semi-arid climate that witness localized rainfall and occasional drought to sustain her economy that thrives on livestock - cattle, goats, sheep and camel which (camel) is regarded as the ñmost noble Somali callingò (Laitin, 1977:21). According to Lewis (1980:7), ñit is only in the southern region of Somalia, where the rate of rainfall is higher some river water is available that mixed farming and agropastoralismò is possible. So naturally competition for water wells and grazing land formed the bases for conflict.

Somalis are presumed to be descendants of herdsmen who settled in the Horn of Africa about two million years ago (Report of the Somalia Commission of Inquiry,

1997). The pastoral clan-families constitute about 85 per cent of the population (Barnes & Boddy, 1994:295). Clan-families, tracing their genealogy back 30 generations to a common ancestor, form a federation of kinship groups, yet these clan-families rarely operate as a unit. Common interests and mutual aid occur among smaller kin groups such as the clan (whose members trace their membership back 20 generations) or groups united by lineage (6 to 10 generations) (Barnes & Boddy, 1994:295).

Inside Somalia, the most significant sub-unit is a *manâs diya* ' group (usually referred to as *ñblood moneyò* and measured in camels). According to Ridout (2012:140):

The most important lineage-based social and political unit is the diya-paying group. Diya is an Arabic term meaning *ñblood moneyò*. Diya-paying groups are bound to each other by a social contract, known as *xeer*. Through *xeer*, they are committed to paying restitution to other diya-paying groups in the event that physical harm or death is inflicted by a member of one group against a member of another. If a member of one group murders someone, it is the responsibility of the murderer's diya-paying group to collectively pay restitution to the diya-paying group of the victim. These groups number between a few hundred and a few thousand members, and they are typically larger among the southern clans. Though enforced by custom and not written law, the *xeer* system has been widely followed throughout Somalia.

It is *ña* corporate group of a few small lineages reckoning descent from four to eight generations to the common founder, and having a membership of from a few hundred to a few thousand menò (Barnes & Boddy, 1994:295; Lewis, 1961:6). A '*diya*' group is sworn to avenge injustice against one of its own member if no exchange of camels is agreed upon, and to defend each other materially or aggressively when members of that group themselves do wrong (Barnes & Boddy, 1994:295).

Traditionally, kinship passes from a father to his sons and daughters. This is such that a woman remains a lifelong member of her father's *ádiya* ' group even after getting married. This tradition is so strong that at marriage, a woman does not adopt her husband's name, she retains her father's. Bonds of blood are permanent and supersede those of conjugal relationships which can terminate with divorce. To Somalis, non-Somalis and foreigners are inferiors and subject to suspicion because they are not bound by Somali descent and kinship (Barnes & Boddy, 1994:300).

Clan identity in Somalia is very strong and complex and often times highlighted or suppressed as circumstances permit to meet political needs of a given moment. Accordingly, clan elders played a precarious role in mediating and adjudicating disputes using Somali customary law called *óeer* ' (Menkhaus, 1995) to the extent that settlements reached without Clan elders' input and or ratification are regarded as illegitimate and of no value to the resolution of a given conflict thus, peace conferences held at a distance (in Nairobi, Addis Ababa, or Mogadishu) that were not vetted by the local populations were not considered binding (Report of the Somalia Commission of Inquiry, 1997).

The Clan relationships as practiced in Somalia vests primary obligations on every Somali to look after the interests of his clan members before other people including fellow Somalis - a reality that would find expression in the famine relief efforts and see Somalis involved in the exercise seeking greater attention for their own clan members instead of the relief organization's commitment to distribute aid evenly to every famine victim.

Somalia's large and expansive coastline stretches out into the Indian Ocean. Consequently the coastline is endowed with the capacity to carry a good number of harbours and the opportunity to host ships, merchandise, and merchants (mainly

foreigners, British, French, Arabs and Persians) who call on the ports on their way from India, and the Middle East.

British interest in the region can be traced back to late 1839 when she joined other sea faring nations who found the Somali coast in the Gulf of Aden as a veritable coaling station for their ships on the sea route to India. France and Italy later established similar coaling stations and facilities for their own ships in the northern Somali regions i Djibouti and Aseb (in Eritrea) respectively (History World).

During the reign of Emperor Menelik II, in the 1880s, Britain, France, Italy, and later on Ethiopia showed great interest in maintaining a presence in Somali territory. To avoid the possibility of having an armed altercation in the struggle for portions of Somalia, France and Britain agreed in 1888 on:

é a demarcation line between their relatively minor shares of the coast. The French region around Djibouti becomes formally known as the Côte Française des Somalis (French Coast of the Somalis, commonly referred to in English as French Somaliland). This remains a French colony until becoming independent as the republic of Djibouti in 1977. British influence in the coastal area around Zeila and Berbera is formalized during the 1880s in a series of treaties promising protection to the chieftains of various local Somali clans. The region becomes a protectorate under the title of British Somaliland (History World, undated).

Before then, Italy had carved out some territories for herself along the Somali coastline outside the portion apportioned to British, and had her companies acquire leases on the eastern part of Somali coast belonging to the Sultan of Zanzibar. However, in 1884 Italy and Britain agreed on the border between British Somaliland and Italian Somalia just west of Bender Cassim. Following series of confrontations and agreements reached in 1889 - the treaty of Uccialli, and a new settlement agreed between the powers in 1896-7 were drawn up. Ethiopia is granted the Ogaden (a large Somali region, which lies between Ethiopia and the coastal part of Somalia where the

Italians are active) and is ceded the southern strip of British Somaliland, a region known as the Haudò (History World, undated).

When World War II broke out, engaging Britain, Italy renamed Italian Eritrea, Somalia and Ethiopia ñItalian East Africaò. But that was overturned in 1941 when British forces recovered the whole area from the Italians and, with the exception of French Somaliland which retained allegiance with France, placed the whole of Somalia under British rule. Circumstances forced a reversal to the 1897 colonial boundaries such that Ethiopia retained the Ogaden and the Haud; French and British Somaliland continued as before. However, in 1950 Somalia was returned to Italy under a UN trusteeship that imposed on Italy a commitment to bring the colony to independence before the expiration of ten years. In 1960 between June and July, the British and Italian colonies were granted independence, they merged to form the Somali Republic simply known as Somalia, whereas in 1977 the French Somalia colony became independent as Djibouti (History World, undated).

Somalia is not new to the changing dynamics of international politics having had very early access to great civilizations and developments including being close to Sheba ñ the home of the biblical Queen of Sheba (History World, undated); and having had a fair share of the machination of the west ñ Britain, France, Italy, and lately the Soviet Union, and the US at different times in her sociopolitical development.

The state is but a victim of counterfeit diplomacy which the region and the entire African continent has been exposed to by the west. The failure of Somalia's romance with these civilizations and giants to produce positive transformation for the Somalis is the reason for the calamity experienced inside Somalia and the present maritime security situation in the Gulf of Aden. The above political history of

Somalia indicates that Somalia has been raped repeatedly over the years by very many civilizations and abandoned immediately after the romance ceased.

Historically, Somalia was in a pristine state (a pastoral and nomadic society, herders of Camels, Cattle, and Sheep (Hirsch & Oakley, 1995:3); a world of ñegalitarian anarchyò (Samatar, 1991:6) until the opening of the Suez Canal made the hitherto remote state attractive because of its natural harbours that were found excellent for mid-sea breaks and refueling. It took the ñcompetition among Britain, Italy, and France for the control of the horn of Africa to bring Somalia into the modern worldò (Hirsch & Oakley, 1995:4).

That scramble for Somalia gave rise to the partitioning of this hitherto homogenous land into lots in the 1880s between Britain, France, and Italy and later on Ethiopia. The effect of this partitioning was that Somalia lost its homogeneity ñ with some Somalis compelled to domicile in Djibouti (formerly French Somalia) and others domiciled in Ogden Ethiopia ñthe vast central region through which Somali camel and cattle herders had moved for centuries to Ethiopiaò (Hirsch & Oakley, 1995:4). It is this same partitioning that ñset the stage for latter conflict in the hornò (Hirsch & Oakley, 1995:5) as Somalia never recovered from that exercise.

At independence, Somalia had no cohesive, trained civil service and, no accepted political norms because no colonial power that ever colonized Somalia had prepared or attempted to prepare the country for self-rule. Therefore at independence, the civil administration in the north and south had inherited different European languages, culture, and administrative structure. These gave rise to individual rivalries for power, dissatisfaction with perceived western parsimony and led Somalia to frustration over limited economic development (Hirsch & Oakley, 1995:5).

This laid the foundation for the assassination, by a policeman, of the then Somali President, Muhammad Egal in October 1969, and provided opportunity for Mohamed Siad Barre (hereinafter referred to as Siad Barre or Barre), the then commander of the Army, to seize the reins of power and showcase his imprudent love for and interest in 'Comrade Marx', and 'Comrade Lenin' (History World, undated).

Without any visible and genuine assistance for her sustenance and survival from her former colonial masters particularly Britain, Siad Barre forged a relationship with the Soviet Union which paved way for the introduction of drastic changes in Somalia. At first Somalia embraced Socialism; Siad Barre became authoritarian; pursued aggressive unification and initiated 'nationalism and irredentism', introduced massive literacy campaign coupled with the development of Somali as an official language and dropped colonial languages i.e. Italian and English; and pushed for the supply of arms and military equipment from USSR.

This scramble for arms to prosecute her unification agenda at independence - to recover territories like Ogaden and Djibouti in which it had an ethnic Somali majority led to the deterioration of Somalia relationship with the west i.e. particularly 'when Somali-flagged Merchant Ships were discovered delivering arms to north Vietnam', and 'President Nixon cut off residual economic assistance to Somalia' (Hirsch & Oakley, 1995:6).

It was this US reaction to the arms supply to Vietnam using Somali flagged Merchant Ships that excited Siad Barre, exaggerated his sense of military strength and potential soviet support and encouraged him to launch 'war against Ethiopia in October 1979 in an effort to regain the Ogaden' (Hirsch & Oakley, 1995:6). When Moscow reversed alliances by throwing her military support to the Marxist regime of Mengistu Haile Mariam' (Hirsch & Oakley, 1995:6), Siad Bare ejected the Soviet

including his Soviet Military Advisors from Somalia (The Soviet Military Advisers and Troops and their Cuban counterparts moved into Ethiopia). The result was that the Somali Army became disorganized due largely to the non-availability of military equipment and support from the Soviet Union or from anywhere for that matter. More so, the Somalia economy that had been run during the Said Barre regime in the Soviet-styled collective agriculture system collapsed. Consequently, the private sector became discouraged; companies, businesses, establishments and businessmen formed clan alliances – all added to the already bad situation and eventually brought Somalia to its knees.

In a swift reaction to the collapse of the Somali economy and pending anarchy, Siad Barre quickly returned to Washington for assistance. The return was deemed an advantage to Washington who alongside Moscow had viewed the war between Somalia and Ethiopia as an extension of the cold war. But Siad Barre's return did not offer much advantage to Somalia owing to lots of happenstance, the –dramatic developments in the middle east, the Persian Gulf, and South Asia, the fall of the Shah in Iran in 1979 and the rise of Ayatollah Khomeini, as well as the Soviet invasion of Afghanistan– (Hirsch & Oakley, 1995:6). However, the need to safeguard the sea-lanes of the entire region because of Washington's perception that the –threats of Soviet expansion and of Islamic extremism – could lead to Soviet control of the Persian Gulf– (Hirsch & Oakley, 1995:6), saw Somalia acquire new strategic relevance. By virtue of a new policy termed the –Carter doctrine– the new strategically relevant Somalia obtained only strategic and economic assistance from the many US Military Bases and Support Facilities around Somalia, and a –limited military program to rebuild Somalia's basic infrastructure without giving it the capacity to renew hostilities against her neighbours– (Hirsch & Oakley, 1995:7).

Devastating droughts in the 1980s, drought induced rise in refugees (Africa South of the Sahara, 1993), and the Ogaden War with Ethiopia threw Somalis ailing economy into ruins such that by the 1990s, with external debt estimated to be \$1.9 billion, and repayments estimated to be between 120 and 130 per cent of export earnings, and inflation rate that exceeded 80 per cent (The Somalia Handbook, undated: 9) the UN classified Somalia as 'least developed country' (Makinda, 1992:34).

Unchecked corruption in the late 1980s (Hirsch & Oakley, 1995:6) and Clan based insurgency saw the overthrow of Siad Barre in 1991. He withdraws to the safety of his own clan, becoming one warlord among many in this increasingly chaotic nation' (History World, undated). His escape got the country to descend into a prolonged civil war.

The severity of the famine by December 1992 prompted the UN to intervene on humanitarian grounds by sending a force of 35,000 troops in Operation Restore Hope' during which time the UN briefly calmed the situation after persuading fifteen warring groups to convene in Addis Ababa in January 1993 for peace and disarmament talks. Unfortunately, in March 1994 the American and European units in the UN force withdrew, on the guise that the casualty level was unacceptable. Troops from African countries and the Indian subcontinent remain *in situ* (History World, undated).

But most unfortunately, that intervention did not do much to ensure that peace and order were restored (the principle of neutrality in armed intervention, and respect for sovereignty was still intact then), and perhaps assist in composing a new Somali Central Government that will be acceptable to the warring parties.

This mismanagement of the conflict in Somalia was unfortunate. Some writers have however argued that the non-successful armed intervention by the international community in Somalia was as a result of the fact that it was the first of its kind after the end of the cold war.

The US could have turned deaf ear to the conflict like it did in the Rwanda Genocide of 1984; or have been clinical in her intervention and effect leadership change as was the case in Iraq, Bosnia, Panama, etc. Besides the US, no other country of the world was willing to send its men and materials to help save the situation in Somalia. But today almost all major maritime nations of the world have their Navies stationed in the Gulf of Aden – a beneficiary of the chaos in Somalia – to protect their respective private interests.

4.2. HISTORY OF THE GULF OF ADEN

Historically the Gulf of Aden was known as ‘the Gulf of Berbera’ – a name derived from the ancient Somali port city of Berbera on the south-side of the Gulf (Dumper & Stanley, 2006:90; Houtsma, 1993:364). However, as the city of Aden grew larger during the colonial era, the name ‘Gulf of Aden’ was popularized and replaced the name ‘the Gulf of Berbera’.

The Gulf is located in the Arabian Sea between Yemen on the south coast of the Arabian Peninsula and Somalia and Djibouti in the Horn of Africa. In the northwest, it connects with the Red Sea through the Bab-el-Mandeb strait. It covers an area of approximately 2,000,000 km² and is inhabited by about 90.2 million people (Onuoha & Ezirim, 2010:47).

The hydrographic limits of the Gulf of Aden were defined by the International Hydrographic Organization: ‘on the Northwest: the Southern limit of the Red Sea (a line joining Husn Murad (12°40'N, 43°30'E) and Ras Siyyan (12°29'N, 43°20'E)), and on

the East, the meridian of Cape Guardafui (Ras Asir, 51°16'E) (International Hydrographic Organization, 1953). The Gulf of Aden has a temperature range of between 15°C (59°F) and 28°C (82°F), depending on the season and the appearance of monsoons (Food and Agriculture Organization, 1975). Monsoon winds in the Gulf are known to:

Blow from the southwest from May to September and from the northeast from November to April. The Gulf is strongly influenced by the upwelling of cool, nutrient-rich waters during the southwest and northeast monsoons and is characterized by a prevailing high-energy climate. These pose major constraints on coral reef development; hence, only five percent of the Yemeni coast is lined with fringing reefs. Rocky cliffs alternating with long stretches of sand along coastal plains dominate the coastline. Some of the sandy beaches form major nesting sites for green turtles in the region (New World Encyclopedia, 2012).

The Gulf of Aden is home to about 130 species of coral reef. The extensive root system of the coastal mangrove vegetation in the Gulf of Aden stabilizes sediments and protects the coastline. They also provide shelter for an array of marine animals and birds enhancing overall biodiversity and the juveniles of commercially important fish and crustaceans (New World Encyclopedia, 2012).

Environmental rights groups have expressed concern that the absence of a coordinated effort at controlling pollution in the gulf may jeopardize the gulf's rich ecological diversity ecosphere that has benefited from a relative lack of pollution during the history of human habitation around the Gulf (United Nations Environment Programme, 2005).

In the New World Encyclopedia (2012:1) it was stated that:

The Gulf of Aden is an arm of the Indian Ocean that runs in a west-east direction. It is located in the Indian Ocean between Yemen on the south coast of the Arabian Peninsula and Somalia and Djibouti in Africa. In the northwest it connects with the red sea through the narrow Bab-el-Mandeb strait. In the northwest it connects with the

red sea through the Bab-el-Mandeb straits, making it strategically important. The port city of Aden at the tip of the Arabian Peninsula lies on a major world trading route through the Suez Canal. It is one of the largest natural harbors in the world with an area of about 70 sq. km of sheltered water.

Furthermore,

The Gulf of Aden has been a part of world trade since ancient times when Arabs, Greeks, and Romans used it to travel to Asia. Arab and Indian sailors had taken advantage of seasonal monsoon winds, and ancient Greeks also made the trip. Roman sailors started using the Red Sea route to Asia following the conquest of Egypt and expanded the quantity of trade involved; enough to justify a handbook of trade routes entitled *Periphus maris Erythraei*. The Erythraean Sea, as it was known then, encompassed the Gulf of Aden and Indian Ocean, in addition to the Red Sea. The port's convenient position on the sea route between India and Europe has made Aden desirable to rulers who sought to possess it at various times throughout history (New World Encyclopedia).

The New World Encyclopedia (2012:1) also stated that:

In 1838, Sultan Muhsin bin Fadl of the nearby state of Lahej ceded 75 square miles (194 km²), including Aden, to the British. The following year, the British East Indian Company landed Royal Marines at Aden to occupy the territory and stop attacks by pirates against British shipping to India. The port lies about equidistant from the Suez Canal, Bombay (Mumbai), and Zanzibar, which were all important former British possessions. Aden had been an entrepôt and a way-station for seamen in the ancient world where supplies, particularly water, were replenished. In the mid-nineteenth century, it became necessary to replenish coal and boiler water. Thus, Aden acquired a coaling station at Steamer Point. Aden was ruled as part of British India and was known as the Aden Settlement and remained under British control until 1967.

According to the New World Encyclopedia (2012:1):

In the 1800s, Aden grew as a ship fueling port, holding stocks of coal and water supplies for the early steamers. Port services expanded after the Suez Canal opened in 1869, and Aden grew to become one of the busiest ship bunkering and tax-free-shopping and trading ports in the world by the 1950s. Barges took cargo between ships

berthed in the Inner Harbor and the wharves. Coastal vessels and dhows carried cargoes to and from regional ports.

New quays were urgently established in the late 1980s at Aden to serve modern cargo demands almost after 150 years of commercial activity. Aden developed the capacity and equipment to handle all types of dry cargo at deep alongside berths served by modern container cranes. To handle the world's largest container vessels, the Aden Container Terminal (ACT) at the North Shore of Aden's Inner Harbor was designed, built, and commissioned in March 1999 (New World Encyclopedia, 2012).

In a bid to stabilize Aden, which became the British main base in the region after Britain lost the Suez Canal in 1956, and the surrounding Protectorates, the British initiated an aggressive unification of the incongruent semi-independent states of the region. In 1963, against the wishes of much of the city's populace, Britain merged the colony of Aden into the Federation of Arab Emirates of the South and renamed it the Federation of South Arabia (FSA) (New World Encyclopedia, 2012).

A grenade attack by the National Liberation Front (NLF) on the British High Commissioner as part of insurgency against British rule compelled Britain to declare in 1964 that she intended to grant independence to the FSA in 1968 under the supervision of the British military. However, following January 1967 mass riots by the NLF and the Front for the Liberation of Occupied South Yemen (FLOSY) the British pulled out on November 30, 1967, leaving Aden and the rest of the FSA under NLF control. At independence, Aden became the capital of the new People's Republic of South Yemen, which was renamed the People's Democratic Republic of Yemen in 1970 until the 1990 unification of northern and southern Yemen (New World Encyclopedia, 2012).

Aden was popular for Artisanal fishing which had gone on in a sustainable manner for thousands of years under an established traditional method of resources management which included the rotation of fishing activities among reefs to prevent over-fishing and decline of stocks (New World Encyclopedia, 2012).

Supertankers cruising this historical trading route, transporting oil and other dangerous cargoes around the world, with the potential for accidents that might release oil or other toxic chemicals into the marine environment threaten the region's richness and biodiversity. Biodiversity in the Gulf of Aden is further threatened by humans - fishermen catching turtles for their meat and eggs; Local recreational use of beaches disturbing or even killing nesting turtles; heavy shark fishing. Lack of effective control, surveillance, and enforcement of regulations has resulted in widespread poaching and habitat destruction by foreign and national vessels. Industrial activities and urban development (industrial and urban pollution, waste disposal, surface and ground water usage, and saltwater intrusion to aquifers, pesticides and fertilizer residues, removal of coral for the tourist trade, and physical damage caused by tourist divers). Uncontrolled national shark fisheries and illegal fishing by fishermen who also catch sharks using gill nets and long-lines are causing more damage to coral reefs and is encouraging stock depletion (New World Encyclopedia, 2012).

The naval armada pursuing in a gangster manner a bunch of angry and hungry boys tagged 'pirates' (a bunch of rag-tag army of Somali youths, some barely in their teens, sailing in sometimes rusty mother ships and using skiffs and speed boats and armed with AK47s, hand and shoulder held rocket propelled grenades) (Odeke, 2001:135). They pollute the environment, turn deaf ear to the unlawful fishing and dumping of hazardous waste by their allies.

With her unique location in the Horn of Africa, and jutting out into the Indian Ocean, Somalia's harbours are naturally ports of call for ships and traders sailing the all-important trade route (Ploch *et al*, 2009). Invariably, this trade route links majority of oil exporting world with the oil consuming world therefore a necessary link between the US, China and Saudi Arabia, Iran, Iraq, Kuwait etc. That also explains the interest of both friends and foes in protecting this single water route. That is why we find the US hugging China, and pretending to be at peace with Iran, as well as hobnobbing with the rest of the world that have reasonable interest in the safety of the maritime lane. The waterway is part of the important Suez Canal shipping route between the Mediterranean Sea and the Arabian Sea in the Indian Ocean with 21,000 ships crossing the gulf annually.

The Gulf of Aden is a vital waterway for shipping, especially for Persian Gulf oil, making it an integral waterway in the world economy (European Space Agency, 2005; New World Encyclopedia, 2012). Approximately, 11 percent of the world's seaborne petroleum passes through the Gulf of Aden on its way to the Suez Canal or to regional refineries (International Tanker Owners Pollution Federation (ITOPF, 2003). The main ports along the gulf are Aden in Yemen, Djibouti City in Djibouti, and Zeila, Berbera, and Bosaso in Somalia (New World Encyclopedia, 2012).

4.3. BACKGROUND OF THE CONFLICT IN SOMALIA

History has it that "Somali society has been organized around mobile lineage units averse to centralized authority" (Report of the Somalia Commission of Inquiry, 1979:4). Available records of identifiable "Somali" clan-families date back to the fourteenth century whereas "Somali" as a word did not appear in Arabic documents until the sixteenth century (Barnes & Boddy, 1994:295). This aberration finds relevance in the events that characterized Somalia since World War II.

The political history of Somalia indicates that Somalia has had unhealthy intercourse for decades with very many civilizations and nations leading to the partitioning of this hitherto homogenous land into lots in the 1880s between Britain, France, and Italy and later on Ethiopia. Britain secured most of the northern littoral; France took the north-west headland that is now Djibouti, whereas Italy, in addition to her established interest in the Red Sea in Eritrea, acquired control over most of Somalia's Indian Ocean shore. The southernmost part of Somali territory, much of it now in Kenya, also went to the British. Ethiopia, in her search for an outlet to the sea, moved east to seize the important Somali pastureland of the Ogaden steppe (Barnes & Boddy, 1994:292).

By this exercise, Colonial rule had divided the Somalis into five entities namely - Italian Somaliland in the south, British Somaliland in the north, some Somali communities in Djibouti, a large number of communities in the Ogaden under the rule of Ethiopia, and another large group in northeastern Kenya (Report of the Somalia Commission of Inquiry, 1997). The effect of this partitioning was that Somalia lost its homogeneity with some Somalis domiciled in Djibouti (formerly French Somalia), in Kenya, and others domiciled in Ogaden Ethiopia after Britain ceded (Ogaden).

Somalia never recovered from that partitioning exercise and did not seem to have benefited much from its many rapist colonial masters who did not lay any foundation for eventual self-government of Somalia.

Politically, Mogadishu was established as Somali capital by the Italian Fascists regime and saw the population doubled between 1930 and 1940. As an Italian colony, the Italian Fascists controlled trade and commerce in Somalia and excluded Somalis from partaking in any profitable sector of the economy. The Italian colonial

system of rural administration had no Somalis in the colonial government except for the lowest levels of governance, and the police force where 1,475 Somalis were superintended by 85 Italian officers (Lewis, 1980:98).

It was only when the Italian fascists regime was defeated (Makinda, 1992:71), and Somalia placed under British military administration (up till 1949) that Somalis were made to participate in some form of profitable state economic ventures and governance. Somalis were made to replace the Italian police officers in the Somalis police force, and also replaced expatriates in the civil service.

British Somaliland and Italian Somaliland unified to form the Somali Republic at Independence on July 1, 1960. The multi-party constitutional democracy that was introduced at Independence did not whittle down loyalty to kin and clan. Consequently, personal merit was sacrificed on the altar of clan numerical strength and clan coalitions; political parties were formed along clans and sub-clans lines which inhibited political freedom, caused an increase in corruption, and political gridlock. This was such that by 1969, in a population of four million, there were 64 political parties representing 64 lineages and sub-lineages (Samatar, 1991:17); struggling for a piece of the 'national cake'. This pattern reappeared itself during the international relief effort in Somalia when clan members on local councils tried to corner foreign aid assistance to their own clans instead of distributing them evenly or according to need.

Because of her historical antecedents, the new Somalia state was dependent on foreign aid; and because of corruption, the aid that was available only served to enrich the civil service and the military while poverty remained endemic among the masses.

The disorder that greeted the endemic corruption and poverty in Somalia led to the assassination of the then incumbent Somali President, Muhammad Egal in

October 1969 by his a policeman bodyguard. When Major-General Siad Barre, commander-in-chief of the Somali armed forces took over the reins of power in 1969, he could not hide his love for "Comrade Marx" and "Comrade Lenin", so he introduced his concept of "scientific socialism" and ran Somalia as a dictator. He used the National Security Service's agents and informants to stamp out dissent, suspended the democratic constitution, dissolved the national assembly, disbanded political parties, banned professional associations, arrested and detained for years leading civilian politicians, proscribed civic organizations that were government sponsored (Omaar, 1992:230-231).

In 1972, he enacted a new constitution that established a national assembly but retained the power to create a political system without constitutional, legislative, or judicial restraints on the exercise of executive power. He nationalized most industries, banks, insurance companies, and the press, censored the media, denied visas to foreign journalists, and created a personality cult featuring Siad Barre as "Our Father" (Report of the Somalia Commission of Inquiry, 1997).

To control the other clans (the Majerteen, the Isaaq, the Hawiye) not represented in his government made up of the Marehan, Ogadeni, Dolbahante clans (Makinda, 1992:26), Siad Barre declared war on tribalism, dismantled institutions that traditionally resolved conflict, proscribed private social gatherings (engagements, weddings, and funerals) that would not be held at government orientation centres.

The absence of any genuine assistance for its sustenance and survival from Britain and other ex-colonial masters led Siad Barre to forge a relationship with the Soviet Union and source for the supply of arms and military equipment to prosecute her unification agenda at independence, particularly to recover territories like Ogaden and perhaps Djibouti which had an ethnic Somali majority. The use of Somali-flagged

Merchant Ships to deliver arms to North Vietnam during the Vietnam War served to sever the United States of America from Somalia (Hirsch & Oakley, 1995:6).

Soviet military support to the Marxist regime of Mengistu Haile Mariam (Hirsch & Oakley, 1995:6) during the 1979 Ogaden war brought Siad Barre's socialist ideology to an end and also severed the hitherto boisterous Somali USSR relationship.

It is instructive to note that during the 1970s and early 1980s, the renewed struggle for overriding influence in the Horn of Africa by the United States of America (US) and the Union of Soviet Socialist Republic (USSR) because of its proximity to the Middle East; and the need to maintain strategic presence in the Gulf of Aden saw the US and the USSR along with Cuba courting Somalia. It is this superpower romance with Somalia in their quest for strategic influence in the horn of Africa that led to the supply of arms to power blocks in the region particularly Somalia.

The consequence of that relationship was such that by the mid-1970s, the Horn of Africa had a 'per capita consumption of weapons' that was grossly higher than any other part of Africa, such that 'at the height of the Soviet-Somali friendship, Somalia had the best-equipped forces in Black Africa' (Report of the Somalia Commission of Inquiry, 1997). The ready availability of arms in Somalia and the entire region inadvertently fanned the embers of regional conflicts.

At the outset of this Superpower romance with Somalia, the Soviet Union and East Germany supported Siad Barre's 'scientific socialism' until shifting alliances forced a change that saw the parties on opposing sides. The withdrawal of Soviet and East Germany support in terms of aids saw Somalia's economy plunging into oblivion, and anarchy ensued.

When Somalia was defeated by Ethiopia in the Ogaden war in 1979, the little clan co-operation between the Marehan, Ogadeni, and Dolbahante clans that sustained Siad Barre's regime became completely eroded. The army lost its traditional discipline and started to experience organizational problems linked to rapid increase in size in the 1970s in anticipation of the Ogaden war. Controlling the army became more difficult because the pre-war army recruitment was conducted along clan lines - particularly the Ogadeni, Marehan, Hawiye, and Majerteen clans (Makinda, 1992:29).

The Ogaden War led to a major crisis in the horn of Africa as Ethiopian refugees trooped in hundreds of thousands across the border to settle with the Isaaq clan in majority in the north - which accounts for about 20 per cent of Somalia's total population (Makinda, 1992:31). In 1981, the Somali National Movement (SNM) (formed by Isaaq-clan exiles in Ethiopia) accusing the Barre regime of favouring refugees over the local population conducted hit-and-run attacks on the Somali Army. Angered by his inability to defeat the guerrillas, the Siad Barre regime killed tens of thousands of civilians in northern towns in May 1988. The UN accused the Barre regime of genocide against rebel factions in the north, and the West withdrew foreign aids to Somalia, the United States stopped supplying weapons to Somalia in 1989, and the Soviets ended shipments to Ethiopia in 1991 (Makinda, 1992:66).

People, frustrated by Siad Barre's dictatorial measures in Somalia, emigrated or turned to violence. But before violence escalated to incredible heights, a group of former Somali freedom fighters and post-independence politicians led by Aden Abdulle Osman (Somalia's first President) in May 1990 had attempted to rescue Somalia from the fangs of impending anarchy. They issued a five-page manifesto written in the Somali language demanding that the country's dictator, Major General Mohamed Siad Barre, relinquish power to avoid an imminent state collapse.

(Mohamed, 2012:63-64). But that patriotic gesture was rebuffed by Siad Barre. Instead, soon after the petition was issued, he quickly arrested and detained two-thirds of the signatories to the five-page manifesto and tried them in a kangaroo court (Mohamed, 2012:64).

The non-involvement of the international community in Somali affairs led to economic malaise; the severity of the famine that eventually plagued Somalia prompted the United Nations, as at December 1992, to intervene by sending a force of 35,000 troops in Operation Restore Hope, during which time the UN briefly calmed the situation after persuading fifteen warring groups to convene in Addis Ababa in January 1993 for peace and disarmament talks. That UN move was frustrated by the withdrawal of American and European Military Units in the UN Force in March 1994 on the guise that the casualty level was unacceptable, whereas troops from African countries and the Indian subcontinent remain in situ (History World, undated).

However, later on when the situation became worse the US intervened on humanitarian grounds. But most unfortunately, it did not do much to ensure that peace and security were restored (the principle of neutrality in armed intervention, and respect for sovereignty was still intact then), and perhaps assist in composing a new Somali Central Government that will be acceptable to the warring parties.

Guerrilla warfare led by emerging factions opposed the government and saw the entire southern region of Somalia descend into war in 1990. Unchecked corruption in the late 1980s (Hirsch & Oakley, 1995:6), poverty, Clan based insurgency, and availability of small arms encouraged the General Mohammed Farah Aideed-lead United Somali Congress (USC) forces to enter Mogadishu on January 19, 1991 leading to the overthrow of Barre in 1991.

By that eventful overthrow:

Siad Barre was reduced to the position of a clan warlord in southern Somalia, from where his remaining forces twice attempted to recapture Mogadishu between April 1991 and April 1992. Finally, he was forced by the advances of General Mohamed Farah Aideed - his former protégé, aide-de-camp, and adviser - to flee to Kenya and subsequently to asylum in Lagos, Nigeria, where he died in January 1995 (Mohamed, 2012:80).

Whereas Barre's withdrawal to the safety of his own clan and becoming one warlord among the many warlords in Somalia at that time increased the chaotic situation in the nation, his escape got the country to descend into terrific crisis. The violence did not cease as hundreds of 'freelance' soldiers and looters contributed to the continuity of the violence and each clan based faction fought each other for power.

Out of fear of the possibility of being excluded by a north dominated government; the southern clans declared for themselves the Republic of Somaliland on May 18, 1991 with Abed al-Rahman Ahmad Ali Tur of the SNM as President (Wyllie, 1993:72; Omaar, 1992:223).

The rivalry between Mohammed Ali Mahdi and General Aideed escalated into full-scale warfare in Mogadishu (Wyllie, 1993:71) in November 1991 as General Aideed's faction stepped up its effort to oust Ali Mahdi. The war damaged the inter-riverine agricultural zone between Mogadishu, Kismayu and Bardhere and ushered in famine.

The International Committee of the Red Cross in March 1992 noted that the famine was 'horrific' with levels of malnutrition hitting almost 90 per cent of the population in the area surrounding *Belet Huen* and in the camps of displaced persons around *Merca*, south of Mogadishu (Report of the Somalia Commission of Inquiry, 1997). Lawlessness, the destruction of infrastructure (Department of National Defence Report, 1992), and droughts in Mogadishu made only a third of the

population to have access to clean water (Department of National Defence Report, 1992:17).

Clan interest, fighting and banditry prevented food aid from reaching majority of the population in need. Roving gangs of clan bandits, clan militias, unpaid militia men introduced an economy of plunder (Transcripts of Dr. Kenneth Menkhaus's testimony before the Inquiry, Vol. 7, 1995:1307-1308) and anarchy ruled the state.

Without any immediate alternative, and:

In a desperate attempt to contain the famine, relief agencies were forced into 'security' arrangements with the local militias, who demanded food and salaries from the convoys and compounds they protected. The militias fought for control of famine relief supplies which they diverted and resold to finance arms purchases. When it was clear that the international relief effort was fuelling the fighting that had caused the famine in the first place, the international community considered armed intervention as a solution (Report of the Somalia Commission of Inquiry, 1997:6).

In the early days of the armed intervention, the Mahdi camp supported the presence of UN peacekeeping forces (Report of the Somalia Commission of Inquiry, 1997:6), but General Aideed's fear that the UN might recognize a government led by Mohammed Ali Mahdi (which was later the case) opted for a national reconciliation exercise that will ensure that any emerging government in Somalia would have his faction play a more prominent role (Omaar, 1992:223-234).

Prompted by the Red Cross and the U.S. State Department criticism, the UN in mid-December 1991 sent Under Secretary-General James Jonah to Somalia, and thereafter imposed an arms embargo on Somalia and encouraged member countries to provide humanitarian aid. By mid-February 1992, the UN called for a cease-fire while negotiating with Ali Mahdi and General Aideed in New York. Even though the fighting in Mogadishu continued in spite of the cease-fire, the representatives of the UN, the OAU, the Arab League, and the Organization of the Islamic Conference

(OIC) visited Mogadishu to work out the details of the ceasefire (Report of the Somalia Commission of Inquiry, 1997; Omaar, 1992:234).

The UN sent in a UN force of 50 unarmed observers to help enforce an UN-brokered cease-fire in Mogadishu between Ali Mahdi and General Aideedò (Report of the Somalia Commission of Inquiry, 1997:7). This was on the condition that the warring factions respect the cease-fire agreement before it provided food, medicine and other necessities was misguided, as the war in Mogadishu was fuelled by hungerò (Omaar, 1992:234).

4.4 BACKGROUND TO THE MARITIME INSECURITY IN THE GULF OF ADEN

The political history of Somalia set the background for the unfortunate maritime security situation in the Gulf of Aden which is a direct beneficiary of the internal armed conflict in Somalia.

In a bid to maintain its economic interests in India, the British government occupied the strategic port city of Aden in Yemen as early as 1839. The urge to meet the needs of the growing city of Aden, particularly for foodstuffs like meat supplies, brought the adjacent northern Somali coast with its abundance of sheep, goats, camels, and cattle to London's attention so that by 1886, the British had signed formal agreements with representatives of some major kin groups to officially turn northern Somalia into a protectorateò (Lyons & Samatar, 1995:11).

Not so far after the British establishment of her presence and interest in Aden than the French arrived the Gulf of Aden to establish their own port of call on their trade route to Madagascar and Indochina. Paris ended up laying claim over French Somali land (now Djibouti). So soon thereafter, the Italians came after the French and established an Italian colony in southern Somalia in 1893. But quite unlike the British

and French, a significant number of Italians were sent to settle in the new Italian colony in southern Somalia and imposed the most brutal of facets direct administration (Lyons & Samatar, 1995).

Emperor Menilek of Ethiopia expanded his state to the east in the late nineteenth century and asserted sovereignty over the Somali-inhabited Ogaden region. Finally, British colonial authorities claimed territory inhabited by Somalis in northeastern Kenya; the Somali people therefore experienced colonialism in five separate states (Lyons & Samatar, 1995:11).

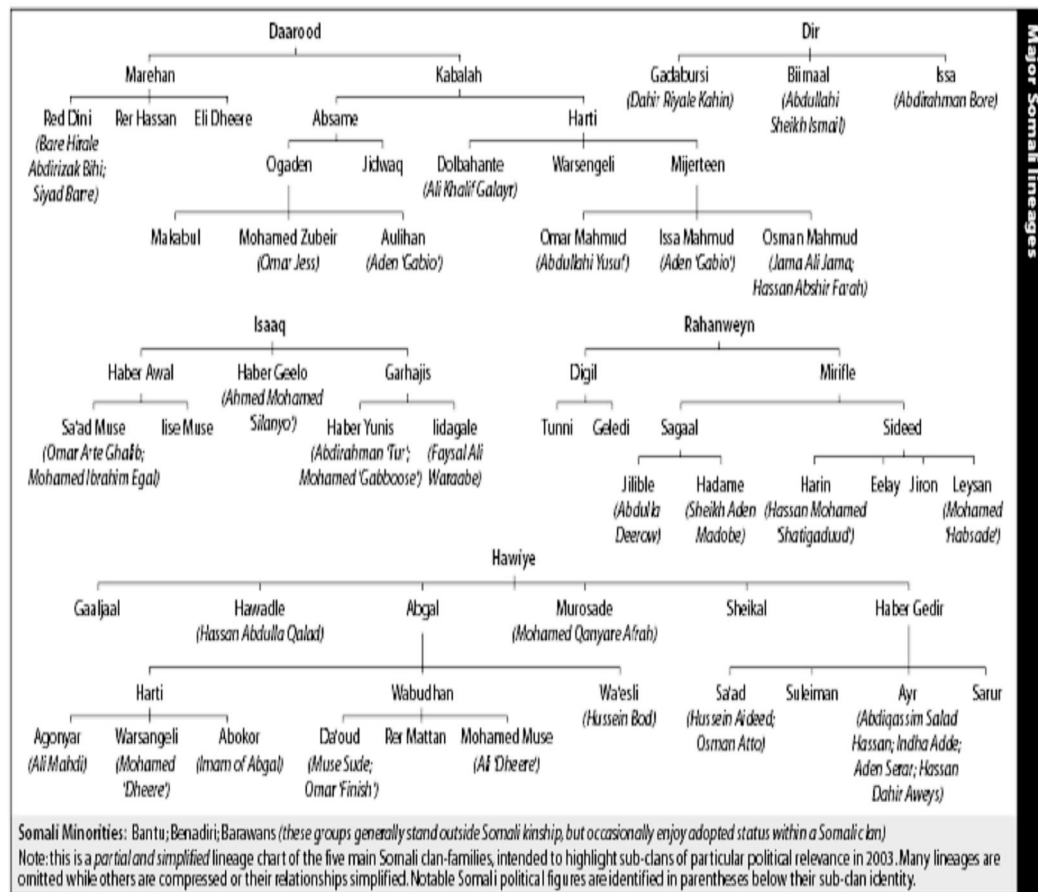
The interactions between Somalia and different civilizations and nations such as Britain, France, the US, Italia, East Germany, and USSR at different stages in her political development made internal conflict inevitable. Meanwhile, the process of decolonization created an independent state that remained aloof from Somali society (Lyons & Samatar, 1995:8). The state was created in total disregard of the fact that Somali society has been organized around mobile lineage units averse to centralized authority (Report of the Somalia Commission of Inquiry, 1997:4).

Consequently, Somalis lived as if there was no state running things, and most unfortunately the blunders of the Siad Barre's dictatorship regime reinforced Somalis believe in their clan ideology system well above the enlarged, artificial, repressive state system that was run by Somalis as if they were other colonial masters instead of Somalis citizens.

The Somali clan ideology of kinship is founded on blood-ties and *sheer'ò*. The concept of blood-ties is a product of genealogical connections reinforced by a patrilineal system rooted in a real or invented common origin or ancestor (Lyons & Samatar, 1995:8). The Somalis common origin or ancestor has the *Saab*, the *Irir*, and the *Darod* as its major clan-families (Figure 4.4.1 - Somali Lineage Structure). These

major clans are further divided into sub clans, subfamilies, many lineage-segments, and *rer* (household) usually geographically dispersed and often occupied noncontiguous territories. Clan solidarity was maintained in part by the institution of blood-payments - the *ódiya* - whereby the lineage had collective obligations to honor certain debts and make restitution for wrongs. The clan structure was further reinforced by communal access to the range and family ownership of the herd, the principal economic asset (Lyons & Samatar, 1995:8-10). This acephalous society therefore was highly egalitarian and democratic as well as susceptible to frequent internecine feuds (Lyons & Samatar, 1995:8-10; Lewis, 1961).

Fig. 4.4.1: SOMALI LINEAGE STRUCTURE



Source: Conflict in Somalia: Drivers and Dynamics (2005), The World Bank, p55.

The concept of *ðheer* was the embodiment of common wisdom and constituted an unwritten but loosely accepted pan-Somali code of conduct. *ðHeer* emphasized the values of interdependence and inclusiveness and thus formed the basis for social order (Lyons & Samatar, 1995:10). However, *ðheer* does not guarantee the absence of strife but provides an acceptable and functional method of resolving private and the public disputes and conflicts among Somalis (Lyons & Samatar, 1995). As noted by Lyons and Samatar (1995:11):

The intrusion of the powerful forces of the international market and imperialism led to the corrosion of the old Somali moral order. The end of the colonial period left Somalis with a growing divergence between the internal logic and demands of a social structure suited to a decentralized, pastoral setting, on the one hand, and the artificial, alien state and externally oriented world market system, on the other.

Meanwhile, nearly Somali nationalists organized in opposition to this historical partition and sought to unite the five territories into a single state, Greater Somalia (Lyons and Samatar, 1995:11). Unfortunately, the nationalism that greeted Somali independence was short-lived. Many of the nationalists that saw to the emergence of the post-colonial state of Somalia had seen the state as an enterprise and an opportunity for personal aggrandizement and profit and regarded the construction of the much needed public institutions to sustain the state as secondary. The consequence was that:

By 1969, it had become increasingly clear that Somali parliamentary democracy had become a travesty, an elaborate, rarefied game with little relevance to the daily challenges facing the population. On October 15, 1969 a member of the police force assassinated President Abdirashiid Ali Shermaarke. Six days later, the armed forces staged a bloodless coup. The military leaders led by General Siad Barre and organized as the Supreme Revolutionary Council at first received a tumultuous welcome. They were seen as heroes who had left the barracks to save the nation. The SRC had the freedom to

act decisively and settle issues that the ineffective parliament had debated endlessly, such as the selection of an official orthography for the Somali language. It also acted assertively on programs of adult literacy and settlement of populations displaced by drought. In 1970 Siad Barre adopted "scientific socialism" as his regimes guiding ideology and introduced policies to outlaw clan or tribal identities (Lyons & Samatar, 1995:14).

For example, the collection of blood payments by clans for offenses was made illegal. Instead of identifying themselves by their clan affiliation, Somalis began to talk of their "ex-clans" (Lewis, 1991:12).

Unfortunately, Siad Barre pretended to have proscribed tribalism while promoting his concept of "scientific socialism" and "Greater Somalia" but built his power base on clan manipulation. Consequently, a popular uprising on January 27, 1991, and generalized breakdown in security drove him from his bunker in the ruins of Mogadishu into a tank that eventually took him into exile. His departure marked the formal end of a difficult era but did not usher in a new one. Consequently; competing factions and anarchy filled the resulting vacuum (Lyons & Samatar, 1995:7).

In the aftermath of the civil war that followed the demise of the last functional government in Somalia in 1991, unlawful and dangerous fishing and dumping of toxic waste by foreign nations became the norm in the Somali coasts. Indeed, the country's 3,330 km (2,000 miles) of coastline - the longest in continental Africa - has been pillaged by foreign vessels (Ishaan, 2009, not paged).

Ishaan (2009) pointed to a 2006 United Nations report that indicated that in the absence of the country's at one time serviceable coastguard, Somali waters have become the site of an international "free for all," with fishing fleets from around the world illegally plundering Somali stocks and freezing out the country's own rudimentarily-equipped fishermen. Yet another U.N. report was said to have

estimated that \$300 million worth of seafood is stolen from the country's coastline each year.

Also relevant here is another 2006 study published in the *Journal of Science* which predicted that the current rate of commercial fishing would virtually empty the world's oceanic stocks by 2050. Yet, Somalia's seas still offer a particularly fertile patch for Tuna, Sardines and Mackerel, and other lucrative species of seafood, including Lobsters and Sharks (Ishaan, 2009).

Indications are that "High-seas trawlers from countries as far flung as South Korea, Japan and Spain had operated down the Somali coast, often illegally and without licenses, for the better part of two decades", often flying "flags of convenience from sea-faring friendly nations like Belize and Bahrain, which further helps the ships skirt international regulations and evade censure from their home countries" (Ishaan, 2009 - document not paged).

Local Somali fishermen have accused foreign ships of not only fishing in Somali waters unlawfully but also of dumping toxic and nuclear waste (uranium radioactive) in Somali waters, contrary to dictates of International Law of the Sea, which according to a 2005 United Nations Environmental Program report has led to an outbreak in villages, along the Somali coast, of respiratory ailments and skin diseases. It is estimated that whereas it costs about \$250 to dispose a ton of toxic and nuclear waste cleanly in Europe, it costs less than \$2.50 per ton for a European company to dump these types of materials off the Horn of Africa (Ishaan, 2009).

According to a number of Somali and international observers:

With the fall of the Siad Barre regime, foreign-flagged industrial fishing trawlers began encroaching on the resource-rich Somali waters. Local accounts purport that these vessels frequently engaged in intentional collisions with local fishermen in Somali waters, leading to the destruction of fishing gear, injuries and even deaths of local

subsistence fishers. According to a 2005 FAO estimate, approximately 700 foreign flagged trawlers were engaged in illegal, unreported and unregulated fishing in and around Somali waters. (UNSC: Report of the Secretary-General on the Protection of Somali Natural Resources and Waters, 25 October 2011:18).

It is stated also that allegations of the illegal dumping of various types of waste, including radioactive, hazardous and medical, on land and in Somali waters, have been made for almost 20 years (UNSC: Report of the Secretary-General on the Protection of Somali Natural Resources and Waters, 25 October 2011:18). The UN is yet to confirm any of these allegations.

In the absence of any government agency (coast guard, navy) or international force to check the inglorious activities of foreigners in Somali waters, Somali youth particularly those directly affected by these menace were compelled to aggregate their strength to defend their own fishing interests and waters and their only remaining sources of livelihood.

Initially they formed themselves into ideological groups such as the National Volunteer Coastguard of Somalia or Somali Marines to be able to achieve the objective of protecting Somalia coasts (Ishaan, 2009). Whereas the Somali fishermen who could not compete with the fishing techniques of the fish thieves in Somali coasts left the fish and set out to catch the fishermen.

Some writers have described these pirates as disenfranchised fishermen who have turned to piracy as informal coastguards levying ransoms as fines. Many of the pirate gangs or companies have taken such names as Somali Marines, Central Somali Coast Guard, Defenders of Somali Territorial Waters and Ocean Salvation Corps, suggesting that many of the pirates see this as part of their narrative (Jasmine, 2011:3).

Mellingen (2010:16) observed that there are about four main pirate groups operating from Somalia. They are as follows:

- **The National Volunteer Coast Guard (NVCG)** - specializes in intercepting small boats and fishing vessels around Kismayo on the southern coast. Their specialty is kidnap and ransom using modified fishing vessels. The self-proclaiming vigilante-style organization demands payment for illegal fishing (Mellingen, 2010:16).
- **Marka Group** - their area of operation is south of Mogadishu towards Kismayo. They are involved in smuggling and piracy. The group's mode of piracy is not hijacking. The group's means of transport and weaponry are modified fishing vessels with mounted weapons. The group is made up of several, but scattered and less organized smaller groups operating around the town of Marka. They have fishing boats with larger operating ranges. They were engaged in robbing and smuggling under the command of Sheikh Yusuf Mohammad Siyad (also known as Yusuf Indhaadde) (Mellingen, 2010:17).
- **Somali Marines** (aka, the Defenders of Somali Territorial Waters) - The most powerful pirate group is the Somali Marines, who, reports say, is the most sophisticated of the pirate groups and one that has a military structure. It has a fleet admiral, admiral, vice admiral and a head of financial operations. Area of operation is central Somalia from north of Mogadishu towards Puntland. Their specialties are kidnap and ransom, and are known to use mother vessels. It is said to have a capability to operate further off-shore than the other groups and participate in piracy activities involving vessel seizures, kidnappings and ransom demands. Their main activities are around the areas of the central Somali coast of Harardheere. They were responsible for a recent hostage saga

where they held 25 hostages for four months until a sizeable ransom was paid (Melling, 2010:17).

- **Puntland Group** i these are the traditional Somali fishermen who operate around Puntland from a small village near Bossasso and are largely referred to as the Puntland Group. In addition to illegal smuggling the Puntland group's specialty is to use modified fishing vessels for piracy as well as seize vessels to use as mother vessels for continued attacks (Melling, 2010:17).

According to Melling (2010:17) there's a wide belief among the population in Puntland that pirates are heroes because they are protecting Somalia's unguarded resources, looted by international companies. But today Somali fishermen (nationalist) operating as volunteer coast guards but termed 'pirates' and wrongfully described as - 'savvy opportunists in the most lawless corner of the planet' (Ishaan, 2009) are the only security in the Somali coasts and the Gulf of Aden with the particular interest to safeguard the fish stock in the Somali coast. Whereas, properly stated, Somali piracy is a product of the rest of the world's neglect (Ishaan, 2009 - document not paged).

Regrettably, and in the meantime, Somali piracy has metastasized into the country's only boom industry, most of the pirates are not former fishermen, but just poor folk seeking their fortune (Ishaan, 2009 - document not paged).

Ishaan (2009) relying on information from Tsuma Charo (of the Nairobi-based East African Seafarers Assistance Programme, which monitors Somali pirate attacks and liaises with the hostage takers and the captured crews) stated that 'illegal trawling has fed the piracy problem'. Furthermore that:

in the early days of Somali piracy, those who seized trawlers without licenses could count on a quick ransom payment, since the boat owners and companies backing those vessels didn't want to draw attention to their violation

of international maritime law and that this practice encouraged the pirates to build up their tactical networks and whetted their appetite for bigger spoils (Ishaan, 2009, no page).

As noted by Lyons and Samatar (1995:7):

with the state collapsed, the Somali people suffered the horrible brutality of living in a Hobbesian world without law or institutions to regulate relations among groups or to protect the most vulnerable from the most vicious. Violence and looting prevented economic production or the distribution of food, creating widespread famine that killed hundreds of thousands. This catastrophe came to the attention of the broad international community in mid-1992 as a complex humanitarian emergency that eventually inspired military intervention.

While the internal armed conflict in Somalia lasted, youths disgruntled by the states inability to protect or provide for its populace started scrambling for means of survival. Their disgust with the intractable conflict within Somalia, and the seeming inability of the international community to come to their aid propelled the youths to seek to fend for themselves. When it became obvious to them that it was rewarding to confront illegal fishing activities in their territorial waters and the adjoining Gulf of Aden, they extended their area of operation to it thereby making the gulf unsafe for everyone.

4.5 BACKGROUND TO THE ARMED INTERVENTION IN THE GULF OF ADEN

A 2005 International Bank for Reconstruction and Development and the World Bank Report captured the underlying factor responsible for the intractable conflict in Somalia thus, that:

Clannism and clan cleavages are a source of conflict - used to divide Somalis, fuel endemic clashes over resources and power, used to mobilize militia, and make broad-based reconciliation very difficult to achieve. The central state is conventionally viewed as a potential source of rule of law and peaceful allocation of resources, but, at times in

Somalia's past, it was a source of violence and predation (The World Bank, 2005:9).

Similarly, the same factor is responsible for the sustenance of the conflict and the challenges its control or stoppage is facing.

Samatar (1998) noted that between 1977 and 1991, Somalia had endured three major internal armed conflicts. The first was the 1977-78 Ogaden War with Ethiopia in which Somali forces intervened in support of Somali rebel fighters in a bid to liberate the Somali-inhabited region of the Ogaden. Somalia lost the war and suffered around 25,000 casualties (The World Bank, 2005:9).

Indications are that the losses encountered in that war sowed the:

Seeds of future internal conflict, prompting the rise of several Somali liberation movements intent on overthrowing the military regime of Siyad Barre, whom they held accountable for the debacle. The first of these movements was the Somali Salvation Democratic Front (SSDF), established in 1978 by Abdullahi Yusuf. This mainly Majerten clan movement engaged the regime in periodic skirmishes in the northeast of the country and was met with harsh repression (The World Bank, 2005:9).

The second of the said major internal conflicts endured by Somalia before the armed intervention is the battle for the control of northwestern Somalia wedged against the Somali National Movement (SNM). According to a 2005 Report by the International Bank for Reconstruction and Development/The World Bank:

The second major armed conflict was the war between the Somali military and the Somali National Movement (SNM) for control over northwest Somalia. The SNM was formed in 1981 by some members of the Isaaq clan following the Ogaden War. Isaaq grievances deepened over the course of the 1980s, when the Barre regime placed the northwest under military control and used the military administration to crack down on the Isaaq and dispossess them of their businesses. The civil war mounted by the SNM began in May 1988 and produced catastrophe (The World Bank, 2005:10).

During that battle, government forces committed atrocities against civilians. It was estimated that well over sixty thousand (60,000) Somalis died, majority, if not all, of whom were members of the Isaaq clan - which was the core support for the SNM. Aerial bombardments were used to hew down the city of Hargeysa, thereby forcing about four hundred thousand (400,000) Somalis to flee across the Ethiopian border as refugees, while another 400,000 were internally displaced (*Africa Watch*, 1990). These atrocities fueled Isaaq demands for secession in what became the self-declared state of Somaliland in 1991. ñSomalilandôs claim of sovereign independence has not received external recognition from the United Nations or any stateò (The World Bank, 2005:10).

The third of the three major armed conflicts endured by Somalia was the conflict between the embattled government forces and a growing number of clan-based liberation movements in 1989 and 1990. The clan-based liberation movements included the Somali Salvation Democratic Movement (SSDM) (majority of who are from the Majerten clan), the United Somali Congress, (USC) (majority of who are from the Hawiye clan), and the Somali Patriotic Movement (SPM) (majority of who are from the Ogadeni clan). They collectively ñpresaged the predatory looting and banditry that characterized the warfare in 1991ï 92ò (The World Bank, 2005:10).

In addition to the already bad situation introduced by the three major internal armed conflicts endured by Somalia, certain other factors emanating from the Siad Bareôs dictatorship energized and still sustains the conflict in Somalia. The factors are manly classified as follows:

- Anger over the oppressive and exploitative manner by which some political leaders were made to dominate others, monopolize state resources, and appropriate valuable land and other assets to themselves and their clans.

- High levels of distrust and a "zero-sum game" mentality toward political power.
- Clan identity which the leadership over the years have skillfully manipulated and politicized leaving a legacy of deep clan divisions and grievances.
- The large quantity of arms, attracted by the many years of Superpower rivalry in Somalia, which are now in clan and private hands (The World Bank Report, 2005:10).

These factors impede every reconciliation and power-sharing discussions in Somalia.

As Somalia's strategic importance to the West waned just as the Cold War was waning in the late 1980s, new rules in international relations emerged to cripple the availability of freebees from the warring super powers. Consequently donors began to place human rights conditions on aid to countries in need of assistance including Somalia. Instances of such conditionality in aid to Somalia is seen when Western donors froze aid to Somalia in response to the war with the SNM in the north. That singular action stripped Somalia of its principal source of revenue and the Somali state shrank and eventually collapsed.

An initiative by a group of eminent Somalis known as the "Manifesto Group" to broker reconciliation and establish a provisional post-Barre government was met with arrests by the Siad Barre regime in April 1990 (The World Bank Report, 2005:10).

Meanwhile:

The ouster of the Barre regime was followed not by a replacement government but by a prolonged period of violent anarchy and warfare. Armed conflict raged across southern Somalia through 1991 and 1992, pitting clan-based militias against one another for control of valuable towns, seaports, and neighborhoods. The wars, which began as struggle for control of the government, quickly degenerated into predatory looting, banditry, and

occupation of valuable real estate by conquering clan militias. Young gunmen fought principally to secure war booty, and were under only the loosest control of militia commanders (The World Bank Report, 2005:11).

The massive famine in the late 1991 and early 1992 occasioned by the war that greeted the fall of Siad Barre prompted large international relief operations to mobilize relief materials for the Somali populace. Unfortunately, the food aid became part of the war economy. The militias fought over it, and the warlords diverted the much they could grab to fund the wars.

It was the death of an estimated 250,000 Somalis, due to the war and famine (World Bank Report, 2005:11) that compelled the United Nations intervention in Somalia to switch from the protection of food relief to a U.S.-led UN sanctioned multilateral intervention involving nearly 30,000 troops. The operations when handed over to the United Nations in May 1993 were extended to assist Somalis in promoting national reconciliation, rebuilding the central government, and reviving the economy (The World Bank Report, 2005:11).

4.6. THE UNITED NATIONS AND SOMALIA

The United Nations' approach to the situation in Somalia and consequently the Gulf of Aden appears to be a continuation of the long abuse and counterfeit diplomacy Somalia and the rest of Africa has been exposed to over the century.

However, there is a school of thought that speculates that Somalia is the first test of the UN's capacity for peace-enforcement after the cold war - for instance Clarke (1997) observed that:

As the first Secretary-General inaugurated in the post-Cold War period, Boutros Boutros-Ghali strongly believed that the United Nations emerged as the 'central instrument for the prevention and resolution of conflicts and the preservation of peace.' Somalia was the first opportunity for the United Nations, liberated from its Cold War

constraints, and its new leader to act aggressively to restore order to a troubled community (Clarke, 1997:6).

Interestingly that accounts for the seeming inconsistency both in method and operations in Somalia. Besides it has been observed by Ryan (1997:78) that throughout this century, the relatively modest attempts of international society to check interstate or intrastate armed conflict have been mostly unsuccessful.

Speculations are that chasing shadows was the best the UN could have done in Somalia at least at the outset of the crisis since any resolute attempt to address the critical mass of issues leading to the conflict in Somalia would have seen the UN considering the violations of international law perpetrated by some of its major members (Marchal, 2011:1).

At the outset, the UN intervention in Somalia was strictly on humanitarian grounds. The objective of the intervention was tailored towards the reduction of human sufferings occasioned by the conflict. As noted by The World Bank Report 2005, the:

U.N. intervention in Somalia was initially prompted by a desire on the part of the international community to protect food relief and end the famine ravaging southern Somalia. It was initially a U.S.-led, U.N.-sanctioned multilateral intervention involving nearly 30,000 troops. In May 1993, the operation was formally handed over to the United Nations. The U.N. mandate was much more expansive – to assist Somalis in promoting national reconciliation, rebuilding the central government, and reviving the economy (The World Bank Report, 2005:11).

The intervention which was run on the platform of the United Nations Operation in Somalia (UNOSOM), succeeded to the extent that it froze the armed conflicts in Somalia, at least at the beginning. The success was limited because the U.S. commanders decided not to embark on a campaign of disarmament, for fear of

arousing armed resistance leading to U.S. casualties (The World Bank Report, 2005:11-12).

As part of the success credited to UNOSOM:

The cessation of hostilities provided an opportunity for the main 15 Somali factions to meet and negotiate the framework for a transitional national government and the terms of a national reconciliation, the Addis Ababa Declaration of March 1993. But the ambitious UNOSOM mandate of rebuilding a Somali government via locally-selected district councils directly threatened the interests of a number of militia leaders and their clans, who controlled valuable riverine and urban real estate through conquest, and who viewed UNOSOM's program as a move to disenfranchise them (The World Bank Report, 2005:12).

The said success ascribed to UNOSOM was short-lived as a June 1993 (barely one month after the United Nations assumed control of the operation) hostility by the General Aideed-led clan militia (made up of the Haber Gedir/Hawiye clan) against UN forces formation led to the death of:

24 peacekeepers and precipitating a four month battle between the United Nations and Aideed's militia. The subsequent failure of U.S. and U.N. forces to capture Aideed, the paralysis that the fighting imposed on U.N. nation-building efforts, and the disastrous losses sustained in the October 3 "Black Hawk Down" incident sealed the fate of the U.N. operation, which departed in March 1995, leaving Somalia still in a state of violence and anarchy (The World Bank Report, 2005:12).

In the World Bank Report (2005), it was conceded that the post-UNOSOM period witnessed many significant developments in the Somalia conflict, topmost of which are that:

- It began a failed pattern of externally funded national reconciliation conferences. More than a dozen such conferences have been convened, of which only one - the 2000 Arta Peace Conference - came close to bearing fruit. The conferences have tended to provoke conflict inside the country,

divert energies of the political elite from governing areas they claim to control to jockeying for positions in a proposed state, and elevate the status of factional and militia leaders, whom some argue are part of the problem, not the solution.

- The UNOSOM's civil and political work helped to empower a small but growing civil society in Somalia, which has since been an important force for peace-building in the country.
- UNOSOM's enormous presence transformed the Somali economy in ways that helped to undermine the war economy and reshape interests in greater levels of security and rule of law. Merchants who in 1991-92 had profiteered from diverted food aid and looting now made small fortunes in quasi-legitimate business ventures, from procurement and construction to remittances and import-export commerce. Their shifting interests helped to contain armed conflict and lawlessness in the post intervention period. (International Bank for Reconstruction and Development/the World Bank Report, 2005:12).

In line with the school of thought that propagated the view that 'Somalia is the first test of the UN's capacity for peace-enforcement after the cold war' championed by Clarke (1997), Boutros-Ghali, a believer in this school of thought shared similar views in his work 'An Agenda for Peace' (Boutros-Ghali, 1992) and in his first report to the UN Security Council on Somalia (Boutros Boutros-Ghali, Report of the Secretary-General on the Situation in Somalia (S/23693, New York: UN, March II, 1992:12). As UN Secretary-General, he captured some doctrinal and procedural difficulties that impeded success in the UN operation in Somalia. The said doctrinal and procedural difficulties are as summarized below:

- Credentials issues - Who represents which group? The United Nations, contrary to usual diplomatic conventions but following standard peacekeeping practice, made no judgments other than to accept the invariably overblown claims of the individual warlords.
- Venue issues - None of the militias wanted to meet in Somalia. To do so would give a symbolic advantage to one group or another. The preferred sites were Addis Ababa, Nairobi, and Asmara. There was no serious consideration of any political track other than accommodation (Clarke, 1997:6).

In reacting to the crisis situation in Somali, the UN had paid greater attention to peripheral and secondary issues resulting from the conflict like the Protection of Ocean-going Concerns (UNSC Resolution 1814, 2008; UNSC Resolution 1816 (2008) cajoled Somali neighbours to participate in fighting piracy or prosecuting pirates (UNSC Resolution 1897, 2009; UNSC Resolution 1918 2010), whereas not a single resolution was passed to address the critical mass of issues that brought about and sustains the conflict in Somalia.

The United Nations Security Council Resolution (UNSCR) 751 of April 24, 1992, established the United Nations Operation in Somalia (UNOSOM) and authorized a fifty man UN technical force to observe and monitor the cease-fire brokered in Mogadishu. The bid to expand UNOSOM's military operations by the deployment of uniformed UN observers in Somalia in mid-1992 was aborted when Aideed discovered that the same UN-Chartered aircraft used for transporting UN officials around the country had been contracted by his opponent, Ali Mahdi, to transport new Somali shilling notes for distribution in his area of influence. Aideed

seized this incident as a pretext to suspend the arrival of the final forty-six UN military observers (Clarke, 1997:7).

In 1992, by a Security Council Resolution 767 (July 27, 1992) the UN deployed to Somalia an additional 450 military forces - to see to a national conference. The said UNSC resolution 767 also decentralized the zonal approach for the UN intervention in Somalia, but accommodation mixed with persuasion remained the underlying philosophy of the UN operation (Clarke, 1997:8). Aideed rejected this UN initiative which he demonstrated by blockading several hundred Pakistani peacekeepers within the premises of the airport until the arrival of UNITAF in December that year (Clarke, 1997:8).

Following media hype to the starvation in central Somalia the UN Security Council passed Resolution 775 on August 28. The resolution principally authorized the deployment of additional 3,000 armed troops to the Somali mission with the specific instruction to protect food aid convoys.

As a parting gift, President Bush called for a two-division joint task force to be deployed to open the Mogadishu warehouses and the highways into the Somali interior for food shipments tagged Operation Restore Hope. However, in the process of translating Operation Restore Hope's political guidance into military tasking orders by CENTCOM, certain very important parts of the operations guidance were dropped. They include:

- The critical civil affairs (civil affairs officers are specialists in foreign cultures and are used for liaison with local communities. The U.S. military deployed approximately 1,000 civil affairs officers to Panama in December 1989 and about 300 to northern Iraq after the Gulf War. Under UNITAF, the numbers ranged from 7 to 30).
- The military police training components from the package intended to be engaged in the restoration of the Somali National Police Force as a very high political priority, but instead of using the MPs to help

retrain the Somali police, UNITAF turned this matter over to the warlords for action, with predictable results (Clarke, 1997:9).

These CENTCOM unusual changes to the agreed political guidance were based on several fundamental presumptuous miscalculations in the original overall plan. The thinking that led to the fundamental presumptuous miscalculations at the conception of the intervention was as follows:

- The operation would be over within weeks.
- The U.S. Marine Corps to be used in the operation are ñan expeditionary force that specializes in short-term, high-intensity combat operations, not trained or equipped for longer-term occupation-type operationsò.
- CENTCOM wished that no encumbering activities would develop during the operation to prolong its stay i.e. requirements would be placed on the mission by the United Nations or other agencies of the U.S. government.

As observed by Clarke (1997):

In a virtually unprecedented development for the United Nations, the first drafts of UN Security Council Resolution 794 (December 3, 1992), which authorized UNITAF, and later Security Council Resolution 814 (March 26, 1993), authorizing the expanded mission of UNOSOM II, were written in the Pentagon. There were several modifications during the Security Council debates on these resolutions, but the essential substance of the resolutions was designed to satisfy the concerns of CENTCOM (Clarke, 1997:9).

Meanwhile, the U.S. military had opposed the proposal for disarmament during the debate between the UN Secretary-General, Boutros-Ghali, and the White House in December 1992 because it pictured an effort to root out arms on an impossible house-to-house search basis. In a pro-active political reconciliation programme, other incentives would have been devised for the *mooryaan* to lay down their weaponsò (Clarke, 1997:9-10).

CHAPTER FIVE

POLITICAL NEUTRALITY AND SECURITY IN THE GULF OF ADEN REGION

This chapter contains information in support of the first hypothesis of this study which states that the application of the principle of political neutrality by the international community in the armed intervention has not enhanced security in the region. To that extent, it examined the emergence of the principles of political neutrality in the literature of political discourse on humanitarian armed intervention. It captured its application and applicability particularly in failed states/intra-state conflicts where sovereignty is in doubt. It also tested its impact on the intervention in Somalia and in the bid to restore security in the Gulf of Aden.

5.1 PRINCIPLES OF POLITICAL NEUTRALITY IN HUMANITARIAN ARMED INTERVENTIONS

Issues surrounding the application of the principles of political neutrality in armed interventions are at the center of debates on international order. In principle, armed interventions ought to follow the three core traditional principles - the consent among the parties to the conflict; the neutrality and impartiality of the deployed intervening forces and; the use of force by intervening forces personnel only in cases of self- defense (Mingst & Karns, 2007; Krasno, 2004).

But in practice generally, the principles of political neutrality as applicable to armed interventions have two components: neutrality and impartiality. Literally, neutrality has to do with not taking sides with warring parties (Weiss, 1999); or as Donald (2002) and Thakur (1998) would put it, "passivity and inaction"; or better still as defined by the UN Office for the Coordination of Humanitarian Affairs (OCHA), acting "without engaging in hostilities or taking sides in controversies of a political, religious or ideological nature"; whereas impartiality connotes "non-discrimination

and proportionality (Weiss, 1999); or acting without discrimination as to ethnic origin, gender, nationality, political opinions, race or religion (OCHA). It also refers to adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles. Irrespective of the differences in their individual meanings and significance, the principles of neutrality and impartiality have often been interlinked (Johannessen, 2007:2), and at times used interchangeably.

The principle of political neutrality appears to have developed from the application of the traditional UN peacekeeping operations - made applicable by Chapter VII of the United Nations Charter 1945 (from which peacekeeping operations and its principles derive their legality). According to the article 40 of the UN Charter:

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Consistently, the phrase without prejudice to the rights, claims, or position of the parties concerned as contained in article 40 of the UN Charter, has been interpreted to include the ideas of political neutrality and impartiality in armed conflict (Boulden, 2005; Johannessen, 2007). Moreover, the entire article 40 has been interpreted to be the foundation for military intervention in the internal affairs of a sovereign state in times of conflict for the purpose of protecting human rights, without prejudicing rights, claims, or position of the parties concerned, and with the view to making peace in what is currently termed peacekeeping.

This article 40 and its deliverables were further developed by the UN Security Council in her response to the Suez crisis of 1956 (Mingst & Karns, 2007; Krasno,

2004; Johannessen, 2007). That intervention was eventful and many writers (Mingst & Karns, 2007; Boulden, 2005; Johannessen, 2007) agree, jointly and severally, that the UN Security Council was right in giving a liberal interpretation to article 40 of the UN Charter for that purpose. The rationale for such liberal interpretation and consequent application of the then emerging principle of neutrality and its accomplice ñimpartialityò particularly in that Suez canal crisis has been heaped on the fact that some permanent members of the Security Council were directly implicated in the Suez Canal conflict. Therefore the UN Emergency Force (UNEF) assembled in 1956 for the purpose of the Suez Canal conflict had to be given a marching order to observe the principles of neutrality and impartiality i.e. not to ñinfluence the military balance in the present conflict and thereby the political balance affecting the efforts to settle the conflictò (Hammaraskjold, 1956). That interpretation of article 40 of the UN Charter has since that Suez Canal event consistently been liberally applied in the many armed interventions that have occurred in many other conflicts.

This principle of political neutrality found more relevance and was further developed during the cold war when armed intervention was planned and executed with more reverence to the need to avoid altercation between the US and the USSR than the need to succeed in the venture - armed intervention. Neutrality was therefore projected as a necessary tool to maintain cooperation between the superpowers in the Security Council (Mingst & Karns, 2007).

Historically, political neutrality in armed interventions remains one of the ñmost sensitive and most contested of Henry Dunantòs humanitarian principlesò (Schweizer, 2004:551-552). As held in the International Committee of the Red Cross (ICRC) circles, neutrality ñdenotes a duty for humanitarian organizations not to take sides in a conflict and not to take any action that might be to the advantage of one side

or the otherò. Interestingly, the principle of political neutrality offered the Red Cross volunteers a ticket to be ñaccepted on the battlefield by the armies of both sides and to enjoy protection and immunity from the hostilitiesò (Schweizer, 2004:551-552).

However, the ICRC seems to have slightly changed its policy of absolute political neutrality and is willing to consider ñpublicly condemning violations of international humanitarian law as a last resortò (ICRC Frequently Asked Questions, 2004). This ICRC's willingness to shift position seems to derive from ICRC thinking that she ñshould have behaved differently in the face of the Holocaust during World War IIò which she ñgrudgingly admitsò (Rieff, 2002:20). Nonetheless, the ICRC even after the eventful disagreement with the *Medecins Sans Frontieres* on this principle of political neutrality still retains neutrality ñas an operational tool to gain access to people in need and to maintain a dialogue with all parties to a conflictò (Schweizer, 2004:552).

The *Medecins Sans Frontieres* however in their departure from the traditional ICRC code of absolute neutrality introduced a new dimension to the principle. This dimension to the principles of political neutrality became evident during the Biafra War where the *Medecins Sans Frontieres* besides providing humanitarian assistance to victims of the war, in a neutral manner, also bore testimony to what they saw. This *Medecins Sans Frontieres* version of political neutrality appears to be the most recent development on the principle of neutrality.

5.2 APPLICATION AND APPLICABILITY OF THE PRINCIPLES OF POLITICAL NEUTRALITY IN FAILED STATES/INTRASTATE CONFLICT

The application and applicability of the principles of political neutrality in armed interventions in failed states and or in interstate conflicts is currently a contentious issue. It is being affected by the recent changes in international politics in the post-cold war era. The changes affecting the application and applicability of the

principles of political neutrality in post-cold war armed interventions owe their relevance to the expanded roles and tasks vested on intervening forces usually UN peacekeeping operations (Johannessen, 2007) and the character of recent internal armed conflicts.

Owing to the paradigm shift in the character of recent internal armed conflicts, there is a departure in the method of application and applicability of the traditional principles of political neutrality in armed intervention. This departure is such that in many post-cold war internal armed conflicts, armed interventions have had more political and human rights objectives to the extent that recent armed interventions (Peacekeeping and peace enforcement operations) are made to include protection of civilians, protection of human rights, monitoring of cease-fires, monitoring of elections, preventative deployment and state reconstruction (Donini, Minear & Walker, 2004).

In spite of the necessity for armed intervention in recent internal armed conflicts, and the desirability of being neutral and impartial in such interventions there are questions as to the relevance or the continued application of the principles of political neutrality in armed interventions. The questions stem from developments in the application of the principles of Political Neutrality in some interventions like the armed interventions in Iraq, Rwanda, Afghanistan and even the initial attempts in Somalia. In Iraq, it was the supposed "neutrality" of the UN forces that encouraged belligerents to attack the UN Headquarters in Baghdad in August 2003 killing 23 UN peacekeepers (UN News Centre, 2003). The moment the UN peacekeeping mission pulled out of Iraq as a result of the attack, insecurity and crisis escalated causing deaths and displacement of a good number of the civilian population the armed intervention had set out to protect.

It was the application of the principle of political neutrality by the UN peacekeeping forces in Rwanda (UNAMIR) that occasioned gross human rights abuses, violence, oppression, torture and finally genocide. In that Rwanda case, the intervening forces (Belgian contingent) in their neutrality ignored signs of an impending doom - brutality and massive human rights abuses. They even withdrew from Rwanda shortly before the killings and human rights abuses acquired genocidal proportions. Eventually:

When the UN peacekeeping operation in Rwanda (UNAMIR) left just as genocide was happening, the result was the slaughtering of about one million civilians and thus relinquished victory to the perpetrators. When the UN peacekeepers left, they handed the civilians directly over to mass murderers (Johannessen, 2007:6).

Annan (1999) in his assessment of the armed intervention in Rwandan as well as the other UN armed interventions in the 1990s noted that "impartiality does not, and must not, mean neutrality in the face of evil". He further reiterated this position during a visit to Rwanda in May 1998 by stating that "in the face of genocide, there can be no standing aside, no looking away, no neutrality, there are perpetrators and there are victims, there is evil and there is evil's harvest" (Annan, 1999).

The Rwandan experience is similar to what happened in Afghanistan, Somalia etc. These events left writers and observers wondering if it is actually the intendment of the UN Charter that intervening forces should be and remain neutral. This "wondering" was in view of the fact that the black and white letters of the UN Charter did not so state, and the spirit behind the establishment of the UN is to seek to prevent wars, protect human rights, promote justice, equality and social progress. Therefore the application of the principles of political neutrality in armed interventions appears to be an aberration, and a grave deviation from the UN Charter.

This ñwonderingò is particularly more obvious in many assessments of the armed interventions in the post-cold war era; because as the cold war raged, the application of the principle of political neutrality in armed interventions served out its usefulness ñ which is to ensure that there was no clash between the US and USSR as both appeared to have interests on opposing sides in many conflicts then. It also served to ensure unity of purpose in maintaining world peace under the auspices of the United Nations.

However, it appears that the principle of political neutrality as read into the UN Charter was made applicable in interventions in humanitarian emergencies by Resolution 46/182 of the UN General Assembly (1991). By this resolution, ñhumanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartialityò (UNGA Resolution 46/182, 1991, Annex 1(2)).

It has been observed that neutrality in this respect ñ under Resolution 46/182 of the UN General Assembly 1991, means intervening ñwithout engaging in hostilities or taking sides in controversies of a political, religious or ideological natureò (Johannessen, 2007); whereas impartiality means intervening ñwithout discrimination as to ethnic origin, gender, nationality, political opinions, race or religionò (Johannessen, 2007:6). Closely connected to the principle of political neutrality and impartiality is the principle of consent.

Here the principle of consent connotes that ñthe sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance, which is the bedrock of armed interventions in internal armed conflicts, should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected countryò (UNGA Resolution 46/182 of 1991, Annex 1(3)).

Taken collectively, whereas the application and applicability of the principles of political neutrality and its accordion principles of impartiality and consent of the affected country would seem to be easier in armed interventions in conflicts with humanitarian emergencies where the armed interventions is run in response to an appeal by the affected country, a part of it or a party to the conflict or with the consent of the affected country, it may not be that easy where the opposite is the case. In the later circumstance i.e. where no consents were obtained, the application and applicability of the principles of political neutrality and its accordion principles of impartiality and consent of the affected country are virtually impossible, and also instructive:

- (i) ***Conflicts involving ethnic-based issues, political struggles or the use of State Institutions against a section of the state:*** In such instances, it will be difficult and counterproductive to apply the principles of political neutrality and impartiality or obtain the consent of the affected country. This is because the nature of the humanitarian emergency present in the conflict would not allow the intervention to run without breaching the rules of neutrality which is i not engaging in hostilities or taking sides, and non-discrimination; and more so such an intervention would most probably run without the consent from all the parties to the conflict or an appeal from the country.

Under such circumstance armed interventions ought only to be initiated on the authority of the UN i who by virtue of its Charter have such authority vested in it as ñthe legitimate will of the international communityò (Johannessen, 2007) - which would be respect for human dignity, offer of humanitarian assistance to civilians in conflict situation, and restoration of peace.

However applying the principles of neutrality and impartiality here would mean to maintain the status quo and allow the conflict to run its course thereby defeating the essence of the armed intervention. Otherwise any armed intervention must therefore seek to put an end to the hostilities against civilians or the party badly affected by the conflict in which case the armed intervention will depart from the tenets of political neutrality. That was the case when UNSOM troops took sides in their armed intervention in the Somali internal armed conflict in favour of the Mohammed Ali Mahdi led group against the General Aideed-led clan militia in June 1993. The result of which was the death of 24 peacekeepers and a four month battle between the United Nations and Aideed's militia. The failure of US and UN forces to capture Aideed led to the paralysis and sealed the fate of the UN operation in Somalia i even to date.

The Iraqi crisis offered a good example of the futility in the application and applicability of the principles of political neutrality in armed interventions of this nature. In that conflict, it was difficult for the UN forces to be neutral or seen to be neutral. The UN forces interaction with the occupying forces (who also are the major sponsors of the armed intervention) left the Iraqis concluding that they UN forces were part of the war. Therefore the applicability of the principles of political neutrality was unforeseeable and the application thereof of impartiality was difficult and brought about untold consequences on both the intervening forces (the UN) and the affected country (Iraq). The Iraqi belligerents accused the UN peacekeeping Mission of working with the occupying power who was also its prime funder, so could not be perceived as, acting impartially (O'Brien, 2004).

- (ii) ***Conflict where one of the parties to a conflict or to a peace agreement is violating international law:*** The principles of political neutrality would be appropriately inapplicable in any intervention under this circumstance because it would be irresponsible for an intervention at such times to apply the principle of political neutrality to those who respect international, humanitarian and human rights laws and those who grossly violate it.

Accordingly, it has been observed that interventions for the purpose of Peace agreements and agreements of cease-fires are often intended to be impartial in nature. However, where such peace agreements and cease-fire agreements are violated the application of the principles of neutrality must cease particularly against the party that violated them; otherwise, the intervention would not achieve its objectives of curtailing humanitarian emergency (Boulden, 2005).

- (iii) ***Conflicts involving terrorists seeking to inflict suffering on civilians, in order to claim their political agenda:*** (Mingst & Karns, 2007). In armed intervention(s) to salvage humanitarian emergencies resulting from the conflict linked to terrorism, it is difficult to apply the principles of political neutrality and impartiality or obtain the consent of the affected country in any attempt aimed at helping civilians and minimize sufferings.

In such cases, terrorism has created fear and the war on terror has created the notion of 'them' as opposed to 'us' (Mingst & Karns, 2007) which has generated mistrust. The terrorist activities may contribute to uneven distribution of resources irrespective of political, religious and ethnic bias. Therefore the application of the principles of political neutrality and impartiality would be counterproductive.

- (iv) ***Conflicts arising from failed state or where sovereignty is in issue:*** It is more difficult to apply the principles of neutrality and impartiality or obtain the consent of the affected country in any armed intervention aimed at addressing humanitarian emergencies created by conflicts arising from failed state situation or where sovereignty is in doubt.

Some of the obstacles to the application and applicability of the principles of political neutrality in conflicts in failed states or where sovereignty is in issue are:

- first – there will be no state to invite or ‘appeal’ for humanitarian assistance that will warrant armed intervention
- second – there will be no authority to obtain consent from therefore the intervention must of necessity not be neutral because armed intervention must address the issue of who rules
- third intervention must first compel the warring parties to make room for the protection of human rights, movement of humanitarian aid workers, distribution of relief materials, and resolution of the conflict – in most cases where armed intervention had achieved reasonable success, the intervention had first broken the rule of neutrality and gotten involved in hostilities, taken sides, or discriminated.

Confirming the futility of the application and applicability of the principles of political neutrality and impartiality in interventions in internal armed conflicts generally, Betts (1994:21- 22) stated that:

Wars have many causes, and each war is unique and complicated, but the root issue is always the same: Who rules when the fighting stops? – In wars within countries the issue may be which group will control the government, or how the country should be divided so that adversaries can have separate governments. When political groups resort to war, it is because they cannot agree on who gets to call the tune in peace. A war will not begin unless both sides in a dispute would rather fight than concede. After all, it is not hard to avert war if either one cares primarily about peace all it has to do is let the other side have what it claims is its due. A war will not end until both sides agree who will control whatever is in dispute. Is all this utterly

obvious? Not to those enthusiasts for international peace enforcement who are imbued with hopes for global governance, unsympathetic to thinking of security in terms of sovereignty, or viscerally sure that war is not a rational political act. They cannot bring themselves to deal forthrightly in the currency of war. They assume instead that outsiders' good offices can pull the scales from the eyes of fighting factions, make them realize that resorting to violence was a blunder, and substitute peaceful negotiation for force. But wars are rarely accidents, and it is no accident that belligerents often continue to kill each other while they negotiate, or that the terms of diplomatic settlements usually reflect results on the battlefield. Others sometimes proceed from muddled assumptions about what force should be expected to accomplish.

Under such circumstance armed interventions ought only to be initiated on the authority of the UN, who by virtue of its Charter has such authority vested in it as the legitimate will of the international community which would be respect for human dignity, offer of humanitarian assistance to civilians in conflict situation, and restoration of peace.

However, applying the principles of neutrality and impartiality here would mean to maintain the status quo and allow the conflict to run its course thereby defeating the essence of the armed intervention. Otherwise any armed intervention must therefore seek to put an end to the hostilities against civilians or the party badly affected by the conflict in which case the armed intervention will depart from the tenets of political neutrality.

With the benefit of hindsight, such armed intervention must also take up the additional responsibility of restoring peace by addressing the critical mass of indicators that brought about and sustains the conflict; and must as a matter of expediency initiate rebuilding the state in which the armed intervention would in the long run do more harm than the good it intended.

Granted that political neutrality and impartiality has been regarded as a foundation of UN peacekeeping operations (Mingst & Karns, 2007; Johannessen, 2007) but it must be observed that such is not absolute; and they are observed with some caution and reservations. For instance, the United Nations General Guidelines for Peacekeeping Operations of 1995 provides that impartiality must not promote inaction (Annan, 1999). The implication is that an armed intervention may negate the application of the principles of political neutrality, impartiality, and consent of the affected country and run on the necessity to ensure respect for human dignity and offer humanitarian assistance to civilians in conflict situation, and restoration of peace.

The seeming departure from the application of the principles of political neutrality, impartiality, and consent of the affected country under this circumstance is because the intervention must first compel the warring parties to make room for the protection of human rights, movement of humanitarian aid workers, distribution of relief materials, and resolution of the conflict, in most cases where armed intervention had achieved reasonable success, the intervention had first broken the rule of neutrality and gotten involved in hostilities, taken sides, or discriminated. Without these the conflict would continue as if no one was interested as was the case in Rwanda.

Similarly, the case would be the same (i.e., the principles of political neutrality will not be applicable) where the conflict is grossly tilted in favour of one party to the conflict, in which case the intervention will take action against one side of the conflict perhaps in order to prevent mass murder, rape, ethnic cleansing or genocide (Johannessen, 2007, not paged). In such cases, such interventions are regarded as not

acting impartially, but as simply acting in accordance with the mandate (Kuhne, 2001).

Consequently the UN's inability to nip the Rwandan genocide in the bud has been dismissed as 'a gross failure of the UN in fulfilling its mandate' (Johannessen, 2007). It also serves as reason for the reevaluation of the conceptual framework for the application of the principles of political neutrality in armed intervention.

As a result of the re-evaluation process, emphasis is now shifting from the cold war era application of the principles of neutrality and impartiality, and requirement of consent of affected country to a stage where armed intervention is anchored more on 'human rights' than just humanitarian needs; and emphasis is more on impartiality and less on neutrality. But without prejudice to the proposition that 'consent of the local parties, impartiality and the use of force only in self - defense should remain the bedrock principles of peacekeeping' (The Report of the Panel on United Nations Peace Operations, 2000; UN General Assembly, A/55/305, 2000:9).

Furthermore, armed intervention in recent times is more of a 'right' under international human rights law than a privilege on humanitarian grounds. Consequently it is contemplated that armed interventions should address political, economic and cultural issues that brought the humanitarian emergency for which armed intervention is necessitated, in which case the principles of neutrality and impartiality would be down played, and consent of affected country would not be a requirement for deployment of forces.

However, these changes in international politics in the post - cold war period have brought about additional challenges to application and applicability of the principles of political neutrality in armed interventions. It is being perceived by scholars, observers and the affected countries that the objectives of recent armed

interventions are skewed. For instance, in both Iraq and Afghanistan, UN operations were known to have incorporated some political agenda among which is working for democracy, pluralism and human rights and thus not being seen as neutral (Anderson, 2004). The UN Assistance Mission in Afghanistan (UNAMA) deployed in March 2002 had the tasks to coordinate all UN activities, support the transition process, fulfill the Bonn Agreement and manage humanitarian relief (Krasno, 2004:266). The UN operation in Iraq in 2003 had the additional objective of reconstruction, democracy-building and establishing control (O'Brien, 2004).

To that extent, belligerents involved in conflicts do often regard humanitarian agencies not as impartial but as agents of outside powers (Donini, Minear & Walker, 2004). The bombing of the UN Headquarters in Baghdad clearly demonstrated the vulnerability of armed intervention and humanitarian aid workers who now faces the challenge of being perceived to be on the side of the enemy (Anderson, 2004; Donini, Minear & Walker, 2004). Increasingly, particularly where issues of terrorism are suspected in any conflict, the armed interventions have ignored the basic rules of intervention and gone into combat. The armed interventions also have faced and additional challenges of having to create trust in their intervention mandate among the population and among belligerents in such conflict around the world.

To overcome these challenges and deliver the package of respect for human rights in armed conflict, and offer some succor to displaced or affected civilian population there is need to recast the application of the principles of political neutrality and impartiality. It appears that the only alternative to intervention without a UN mandate is to endeavour not only to act observing the principles of political neutrality, but also to be seen as being neutral and acting impartially.

Unfortunately, the disproportionate influence of the US on the UN compared to the other permanent members of the Security Council is blurring the possibility (real or perceived) of achieving neutrality and impartiality in the post-cold war armed interventions.

In conclusion, armed interventions must have and project clear unambiguous mandate, act with openness, clarity and transparency as to their mandate and the values they are promoting. This will offer unfettered opportunity to deliver humanitarian assistance and protect the neediest in armed conflicts. Armed interventions must not ignore the cultural differentials in conflicts as was the case in Somalia. Armed interventions must also endeavour to deal with the root causes of conflicts and violence in order to bring the conflict to an end and avoid resurgence. Without these the application of the principles of political neutrality and impartiality in post-cold war armed interventions might at best be just an ideal and not reality.

5.3. THE PRINCIPLES OF POLITICAL NEUTRALITY AND SECURITY IN THE GULF OF ADEN REGION

The application of the principles of political neutrality was understandably the norm in traditional armed interventions where the role of the intervening force was to police existing truce or settlement arrangements that required evenhandedness between the sides that had agreed to invite the United Nations to support the truce (Coady, 2002:33).

Even in such simple agreed arrangements instances of palpable brutality have sometimes compelled the intervening forces to consider a reinterpretation of the principles of political neutrality. To that extent, the impact of the application of the principles of political neutrality in armed interventions remains controversial both when its application successfully reduces humanitarian emergencies and brings a conflict to an end and when it fails so to do.

It has been argued that while armed intervention missions anchored on Chapter VII of the UN Charter may help to restore order, it frequently involves killing and injuring civilians, as well as armed adversaries. When this happens, as it did in Somalia, Bosnia, the Congo, Rwanda, and Sudan, the UN and its leading members risk being accused of acting in a colonial manner (Yilmaz, 2011:2). Furthermore, the use of force can undermine perceptions of the impartiality of peacekeeping forces, especially if humanitarian aid is needed more by one side than another (Yilmaz, 2011:2).

It has been observed that Somalia, Rwanda and Darfur are epitomes of unsuccessful cases of intervention; Sierra Leone and the Comoros illustrate successful cases of intervention (Ramuhala, 2011:35). However, the difference between the unsuccessful and successful armed interventions in these cases was the application of the principles of political neutrality in the armed interventions in those conflicts. For example, in the Rwanda conflict, the application of the principles of political neutrality encouraged the selective killings to acquire genocidal proportions.

The geographical location of the Gulf of Aden and Somalia was what attracted the super-power attentions to that region for much of the Cold War period and after, and even to the Somali conflict and the unfortunate maritime security situation in the Gulf of Aden even to the point of sending navies to seek to redress it. At the end the cold war, strenuous lobbying by officials within the US executive and increased media attention raised the profile of humanitarian emergencies in Somalia prompting the Bush Administration to order a major airlift of relief supplies (Operation Provide Relief to Somalia) to Somalia from August 1991 (Mashudu, 2011).

Due to the fact that the conflict had long before brought Somali economy to ruins, the emergency aid became the only currency of an already collapsed

economy, and as aid poured in, it provided both prospects and competition for resources. This development introduced additional problems to the conflict as the availability of aid amplified violence as gangs and factions competed for control of international supplies; and the focus on Mogadishu as a distribution point brought the displaced population into the areas of intense conflict, thus subjecting more desperate people to the warlords (Talentino, 2005:106). Consequently, it became almost impossible to distribute the aid, and that threatened the armed intervention to contain the humanitarian emergencies in Somalia. In reaction to this deadlock in aid distribution, the Bush administration offered 28000 troops to the UN mission charged with the responsibility of restoring security in limited geographic areas to allow the distribution of aid (Hirsch & Oakley, 1995). The operation started with the arrival of the first batch of US troops in Somalia by 9 December 1991 (Robinson, 2001).

The supposed politically neutral approach of the US-Led intervention in Somalia and additional efforts at nation building led to the violence and humiliation (Bolton, 1994) unleashed on the troops. It was not just neutrality but also its accordion requirement of consent.

In order to minimize the risks associated with the application of the principles of political neutrality in any given conflict, Yilmaz (2011:2) had advocated that there is a need for local knowledge, good intelligence, good decision making, and the skilled performance of military tasks. He was quick to note that not all peacekeeping forces are strong in all these respects (Yilmaz, 2005a:21-26). He noted further that Peacekeeping forces, like any other forces in an alien land, need local allies and supporters, particularly if they are engaged in hostilities. In such circumstances, impartiality must be a casualty (Yilmaz, 2011:2).

Interestingly, the absence of local allies and supporters contributed to the prolonged conflict in Somalia even as armed intervention was on. The intervening forces ignored the fundamentals of dispute resolution in Somalia – the *Heerò* but applied their own concept which was unacceptable to the warring parties. They had no requisite – local knowledge, good intelligence of the conflict, and grossly omitted to execute that part of the Operation Restore Hope plan (that involved dealing with cultural issues) by deploying the US marines (who are experts only in short and intensive military operations). They had no strong local allies as it were even though it is suspected that the intervening forces were in favour of Ali Mahdi Muhammad of the Somali Salvation Alliance (SSA) – Aideed's opponent. That was a miscalculation that became an albatross in resolving the whole conflict by the armed intervention. Aideed, as it were, controlled the larger part of an identifiable unit of the Somali population, and was also in charge of Mogadishu.

Consequently, Somali armed groups manipulated the food aid supply to civilians as a means of repression, political bargaining or forced migration (de Waal, 1997) as was the case in Angola, Bosnia and Herzegovina and Ethiopia. Food and medicine were diverted to sustain soldiers and militia instead of unarmed civilians; and gave legitimacy to the most violent leaders and undermined non-violent ones by allowing the militarily powerful to present themselves as the leaders who are able to bring relief to desperate people (Anderson, 1999). It was from this condition that powerful warlords like Aideed emerged to be the leader of the most powerful group in the Somali conflict.

Political neutrality in the armed intervention in Somalia added to the intensity of the violence by adding troops, firepower and another armed group to an already volatile environment. When the situation became unbearable in 1993, the UN and US

forces became compelled to engage Somali leader General Muhammad Farah Aideed in the most intense fighting since 1991 (Seybolt, 2008).

The Somalia conflict presented some critical challenges to armed intervention that challenged the applicability of the principles of political neutrality in that conflict:

- One - the collapse of state apparatus made it difficult to deal with violence by any local authority perhaps by initiating internal negotiations for reconciliation;
- Two - it left the intervening forces with no choice than to intervene without seeking any ones consent since there was no legitimate authority to so do;
- Three - there was no rebel group strong enough to dominate the others and perhaps to work with (and or create a new government);
- Four - there were too many factions or groups involved in the conflict and no two or more could forge a common front. Unfortunately, the groups that attempted to present a common front broke up immediately and added new impetus to the conflict.

As noted by Seybolt (2008), when:

The rebel United Somali Congress seized control of Mogadishu but immediately split into two along clan lines. The stronger faction, the Somali National Alliance (SNA), was led by General Muhammad Farah Aideed and the weaker, the Somali Salvation Alliance, by Ali Mahdi Muhammad, who had the distinct political advantage of being recognized by the UN as the interim president (Seybolt, 2008:53).

The armed interventions in the internal armed conflict in Somalia can be loosely delineated into four consecutive efforts. Details from all the efforts explain the present intractable political situation in Somalia, and the unfortunate maritime security situation in the Gulf of Aden and the entire region. The interventions were divergent in scope, strength and impact and so were their contributions to the conflict:

- (i) ***UNOSOM I (September 1992 – March 1993)***: This armed intervention was one quickly constituted by the UN Security Council following pressure from

ñaid organizations and then UN Secretary-General, Boutros Boutros-Ghali, who goaded political leaders by accusing them of racism for their attention to Bosnia and Herzegovina but not Somalia, the UN Security Council authorized the first United Nations Operation in Somalia UNOSOM 1ò (Seybolt, 2008:53). It started operations in Somalia in September 1992 at the hills of the drought and famine that killed about 131,000-152,000 people in Somalia, amidst heavy taxation imposed by the organized militia on the very few humanitarian aid organizations left in Somalia.

Principally, UNOSOM I was mandated to monitor a UN brokered ceasefire in Mogadishu, as well as to provide security for UN humanitarian personnel, equipment and supplies at the seaport and airport; and to escort the delivery of supplies in Mogadishu (UN Security Council Resolution 751, 24 April 1992).

- (ii) ***OPERATION PROVIDE RELIEF:*** This is a UN authorized military airlift that quickly followed the UN Security Council Resolution 751, 24 April 1992. By this further intervention, it became possible for aid organizations to import more food and distribute same to people in grave need within Somalia.

Unfortunately, this exercise was limited to a small number of people in restricted locations since the armed intervention was not able to successfully curtail banditry and violence.

The implication was that aid operations outside Mogadishu was sluggish; and the greater portion of the over 180 000 tons of food imported in 1992 by the ICRC using small supply ships and rapid transport were stolen by local Somalia militia men (Hirsch & Oakley, 1995).

Cumulatively, even though UNOSOM I and Operation Provide Relief did not serve all the places where aid organizations were active, nor was it the only source of food coming into the country, its airlift enabled assistance that would otherwise have been impossible in critical locations (Hansch et al., 1994) and was responsible for a good proportion of the lives (over 10 000 lives) saved during the period of its operation.

- (iii) ***UNIFIED TASK FORCE (UNITAF) (AKA OPERATION RESTORE HOPE)***: This is a US-lead humanitarian military operation, and the second in the series of armed interventions in Somalia. Its convocation was necessitated by the apparent limitations of UNOSOM 1.

The call for urgent assistance by relief agencies, arising from the huge humanitarian emergencies in the Somalia conflict encouraged the outgoing U.S. President George H. W. Bush with the authorization of the UNSC (Resolution 794 of 1992) to establish the Unified Task Force (UNITAF) with the mandate, under Chapter VII of the UN Charter, to use all necessary means (i.e. military force) to establish as soon as possible a secure environment for humanitarian relief operations in Somalia (Seybolt, 2008:55), without mentioning disarmament, political settlement or national reconciliation (Seybolt, 2008).

With 21 countries contributing troops (Australia, Belgium, Botswana, Canada, Egypt, France, India, Italy, Kuwait, Morocco, New Zealand, Nigeria, Pakistan, Saudi Arabia, Sweden, Tunisia, Turkey, the United Arab Emirates, the UK, the USA and Zimbabwe (Seybolt, 2008; Adibe, 1995), the coalition operation soon had over 38 000 troops.

UNITAF concentrated on providing logistical assistance to aid distribution more than it did on its primary assignment which is security. For instance, three-quarters of the US troops were dedicated to logistics (Sommer, 1994), though necessary for emergency aid distribution. Mogadishu's seaport and airport "logistical capacity leapt as foreign forces provided security and improved the physical conditions of seaports, airports and roads - between 10 December and 20 January, 13 vessels with humanitarian supplies berthed at Mogadishu port" (Seybolt, 2008:55). Within that period, it is estimated that well over 40,000 tons of food, drugs, seeds and tools were successfully delivered through the Mogadishu sea port and main airport (UN Progress Report of the Secretary-General on the Situation in Somalia, 1993).

Irrespective of its supposed successes, the UNITAF's operations in Somalia generated a lot of controversy as to its contribution to the armed intervention, and the overall impact on the resolution of the armed conflict. Some argued that UNITAF's operations helped save "1 million lives" (President Bill Clinton) (Sommer, 1994:72), Secretary-General Boutros-Ghali claimed it was more than "250,000 lives" (Boutros-Ghali, 1996:5), a donor official estimated that UNITAF "helped save 10,000 Somali lives" (Prendergast, 1997:112), one "epidemiological survey reported that UNITAF helped to save approximately 10,000 lives" (Hansch *et al.* 1994: 32), another wrote that "the evidence that the intervention had *any* impact on mortality in general is extremely slender" (de Waal, 1994:158); whereas a representative for CARE US in Somalia boldly proclaimed, "the bottom line is we have saved millions of lives" (Seybolt, 2008:56). The UNITAF saw to an increase in the size and scope of military intervention, but no more lives were saved by military action than during the previous period. Seybolt (2008) conceded that:

The military operation contributed to rehabilitation and reconstruction efforts that had the potential to encourage

political stability in the long term. The leaders of the intervention, however, assiduously steered clear of politics to the greatest extent possible. The US military wanted to conduct a quickly-in, quickly-out operation like Operation Provide Comfort in northern Iraq, without becoming entangled in disarmament or peace-building efforts. (Seybolt, 2008:57).

Seybolt (2008:57) concluded that Oakley invested considerable effort in negotiations with Aideed and Ali Mahdi, and that by engaging the warlords without trying to settle their dispute, Oakley probably inadvertently raised their status and power, making it more difficult for his successor to work with social constituencies that were interested in peace (Seybolt, 2008:57; Menkhaus, 1994).

(iv) *UNITED NATIONS OPERATION IN SOMALIA (UNOSOM II) MAY 1993*

- MARCH 1995: UNOSOM II is the second UN armed intervention operation in Somalia, and the fourth military intervention in Somalia. Part of its mandate was to assist in the provision of relief materials, rehabilitation, the repatriation of refugees and IDPs; promotion and advancement of political reconciliation and, re-establishment of national and regional institutions and civil administration in Somalia among others (UN Security Council Resolution 814, 26 March 1993; Seybolt, 2008). Basically, it had more political components in its mandate than the other armed interventions before it whose mandates were essentially humanitarian in nature.

Although UNSOM II had the support of all the members of the Security Council, neither the civilian nor the military part of UNOSOM II was prepared for serious lapses and confrontation it witnessed in Somalia. As noted by Howe SRSG in Somalia, in a Telephone interview (3 Dec. 1997):

When Admiral Jonathan Howe arrived in Mogadishu in March 1993 to take up his position as the new Special Representative of the Secretary-General (SRSG) in charge

of the UN mission, he was astonished to find no strategy in place for implementing the Security Council Resolution, no plans for the handover from UNITAF, and necessary personnel and equipment leaving the country rather than arriving. Military confrontations between UNOSOM II and Aideed and the SNA dominated the attempt to achieve the mission's political objectives. Aideed tested the new mission's mettle a month after it began when militiamen attacked Pakistani soldiers in southern Mogadishu, killing 24 of them. The next day, the UN Security Council passed a resolution condemning the attack and authorizing UNOSOM to take all measures necessary against all those responsible for the armed attacks⁶ including⁷ their arrest and detention for prosecution, trial and punishment⁸. With the approval of the Secretary-General, Howe named Aideed as the man responsible for the attack and issued a warrant for his arrest (Seybolt, 2008:58).

This warrant of arrest of Aideed and efforts to execute same saw a drastic increase in the level of violence in Mogadishu that gave rise to UNOSOM II forces attacking Aideed's controlled military installations and political institutions. The result was the killing of a handful of Aideed's militiamen, scores of Somali civilians, and subsequent targeting of UN vehicles, and helicopters patrolling Mogadishu (United Nations, Report of the Secretary-General, 1993; United Nations, Report of the Commission of Inquiry, 1994).

By October 1993, the seventh, unsuccessful attempt by a US specially trained troop deployed to capture Aideed resulted in a 15-hour gun battle between the US special forces and Aideed's militiamen leaving about 300 Somalis, 18 US soldiers and one Malaysian soldier dead (Seybolt, 2008:58). The grave violence that followed saw the US and UN disengaging from military operations in Somalia; and to latter take up the task of providing safe passage for their vessels plying the waters of the Gulf of Aden.

UNOSOM II failed in its mandate to create new political institutions, as well as in providing humanitarian relief assistance and rehabilitation⁹ (it did not succeed in

protecting aid operations by guarding key locations and escorting convoys across southern Somalia, and could not offer necessary protection to aid organizations). In its time in Somalia, malnutrition was endemic and people remained highly vulnerable; large-scale aid operations remained necessary and relief organizations still needed protection to do their work (Seybolt, 2008:58-59). In March 1995 the operation was finally forced to concede failure and withdrew its forces (Berntsson & Severin, 2011:27).

In summary, UNSOM II saw: to

- an increase in violence directed against relief organizations (Sommer, 1994);
- bandits looting NGO offices in the major towns (Hirsch and Oakley, 1995);
- relief organizations having to return to their traditional practice of negotiating with local faction leaders and elders to secure a humanitarian space in which to operate;
- NGOs curtailing their operations and withdrawing their personnel from the field (United Nations, Report of the Secretary-General, 1994);
- UNOSOM II gradually withdrew from everywhere except Baydhaba, Kismaayo and Mogadishu (Seybolt, 2008:59);
- UN troops allowing a great deal of fighting and banditry to go on around them (Seybolt, 2008:59);
- nutritional and medical help withdrawal;
- deaths from combat of Somali military and civilian rise to its highest point since the ceasefire of early 1992;
- an increase in fighting between rival Somali clans with high proportion of the casualties from the fighting credited to the UN forces, particularly

during the hunt for Aideed - which killed an average of 1500 Somalis (more than half of them women and children), wounded about 8000 Somalis, killed about 165 foreign soldiers and civilians (United Nations Report of the Commission of Inquiry, 1994; Anderson, 1995).

It must be noted that it was at the very early stage of their intervention, that UNOSOM II's presence helped aid organizations quell a cholera epidemic in 1994. However, aid organizations identified 24 650 cases of cholera and reported 872 deaths (3.5%). Untreated cholera epidemics had a much higher mortality rate (United Nations, Further Report of the Secretary-General, UN document S/1994/839, 18 July 1994, para. 9), whereas, its overall impact on mortality was disastrous (Seybolt, 2008:59).

It was the application of the principles of political neutrality to the armed intervention in Somalia that encouraged the UN to place arms embargo on Somalia in mid-December 1991, and encouraged member countries to provide humanitarian aid. By mid-February 1992, the UN called negotiators for Ali Mahdi and General Aideed to New York and, after only two days of negotiations, declared a cease-fire (Report of the Somalia Commission of Inquiry, 1994:7).

Humanitarian aid to Somalia during the armed intervention 2008-2011 has also been accused of fuelling war economies and prolonging conflict by providing assistance, directly or indirectly, to combatants and their military operations (Schweizer, 2004). Edward Luttwak, for example, noted with dismay that NGOs impartiality was to a fault, and even helped both sides, thus preventing mutual exhaustion and a resulting settlement (Luttwak, 1999:43).

These gave credence to the statement credited to the former UN High Commissioner for Refugees, Sadako Ogata, that there can be ñno humanitarian solutions to humanitarian problemsò (Quoted in Rieff, 2002:57).

While the armed intervention was inadvertently promoting the internal armed conflict inside Somalia by the UN troops (intervening force) position of ñpolitical neutrality and impartialityò, the chaos in Somalia naturally spilled into the adjoining waters of the Gulf of Aden. Local Somali fishermen displaced by war, frustrated by the economic collapse, and disgusted by the nature of the armed intervention that has exaggerated the political situation in Somalia rather than restore peace and security, went to the sea to vent their disappointment and disgust on vessels and crew plying the waters of the Somali coasts and those scavenging for the uncontrolled abundant resources in the waters of the Somali coasts and the Gulf of Aden. From a few activities carried out on the Somali coasts by privately organized Somali coast guards seeking to protect Somali territorial waters and her Exclusive Economic Zone (EEZ), the venture developed into large scale piracy and found its way into the larger part of the Gulf of Aden.

The supposed pirate activities are the source of the insecurity in the entire Gulf of Aden region today. Beyond exacerbating ñthe already poor security situation by fuelling internal insurgency within the country, it is generally believed that some, if not most, of the money earned from the piracy is channeled to the militias fighting the TFGò (Odeke, 2011:142; Clayton, 2011).

Somali piracy has been blamed for the terrorist bombings in Kenya and Tanzania, and has further:

Become a threat to the neighbouring countries of Kenya and Ethiopia where the militias have threatened to attack Kenya for their participation in the pirate trials and ñinterference in Somali affairsòrespectively. They have also

threatened the security, fishing industry and tourism of the once peaceful tropical paradises of Mauritius and the Seychelles, and other Indian Ocean islands. In addition, recent events like the bomb attacks in Uganda, allegedly for that country's participation in AMISOM have highlighted the regional threats caused by the piracy and terrorism on those bases. The same fate awaits Burundi, the co-participant in AMISOM. The pirates and their backers have also threatened Tanzania, Mozambique and South Africa if they decide to support Western anti-piracy efforts, to which they are leaning (Odeke, 2011:142).

Furthermore, according to Odeke (2011) the Somali insurgents are thought to be linked to Al Qaeda in the Arab Peninsula from Yemen just across the Gulf of Aden in association with the Al-Shabab, their Somali affiliates. Left unchecked they might threaten the whole region thereby further endangering the Western energy sources by their strong presence in the strategic sea lanes.

The very moment the US and UN disengaged from military operations in Somalia (UNOSOM II) in 1993, violence reached new record heights. Local Somali fishermen, unemployed youths displaced by war and frustrated by the economic collapse went out for the only remaining source of livelihood - fishing. These Somali youths, out of the need to survive, having lost their source of livelihood to war, joined forces with local Somali fishermen in the coastal communities (who had no real weapons and no military expertise) to garner capacity to defend their waters against unlawful foreign fishing companies who used superior fishing skills to outdo them, and also used arms against the local fishermen.

The disengagement of about 1,500 Somali youths - trained in the use of sophisticated radio equipment, GPS, satellite phones, speed boats and mother ships, Internet resources to locate sea vessels, as well as boarding techniques looking for new job opportunities (Hansen, 2008) - by private security companies mobilized by the Puntland Government between 1998 and 2005 - saw Somali youths hijacking

illegal fishing vessels, first in Somali waters and later the entire Gulf of Aden. This has now gone beyond the initial intent which was essentially survival, to profit, i.e. to secure a sizable ransom which is frequently delivered directly to the pirates on-board the captured ship (Rotberg, 2010) by willing governments and shipping companies who prefer to pay ransom for the release of their vessels and crews because they consider that the sums demanded as ransom are relatively small compared with the value of a ship and its cargo (Chivers, 2010) as well as the effort the countries would have put in to restore order in Somalia.

5.4. ARGUMENT AGAINST THE PRINCIPLE OF POLITICAL NEUTRALITY IN HUMANITARIAN ARMED INTERVENTION

In recent times the debate on the issues surrounding the application of the principles of political neutrality in armed intervention in the affairs of a sovereign state in order to protect human rights on humanitarian grounds have resurfaced among scholars with more superior argument calling for reassessment. The debate has become more essential principally due to a significant increase in the numbers of humanitarian armed interventions into the domestic affairs of sovereign states in the post-cold war era, the impact armed interventions have on state's sovereignty particularly when looked at from the point of view of the rule of non-intervention, and also the impact the application of the principle of political neutrality has on resolving the internal armed conflict itself.

The argument from some quarters is that neutrality in armed interventions unwittingly prolong suffering where they meant to relieve it (Betts, 1994:20), prolongs the conflict, exposes the interveners to attacks as was the case in Iraq and Somalia, it rarely succeeds (Caney, 2005: 35) and generates negative outcomes; and offends the spirit of the UN Charter.

In fulfilling her mandate in conflict situations that give rise to humanitarian emergencies, United Nations backed armed intervention operations have often observed the three traditional core principles of armed intervention which are the consent among the parties to the conflict, the neutrality and impartiality of the UN forces deployed, and the use of force by UN personnel only in cases of self-defense (Mingst & Karns, 2007; Krasno, 2004). But in view of the fact that the UN mandate seeks to prevent wars, protect human rights, and promote justice, equality and social progress, which post-cold war conflicts abuse, the application of those principles particularly the principles of political neutrality in armed interventions in such conflicts appears to be an aberration.

As the cold war raged, the application of the principles of political neutrality in armed interventions in armed conflicts, now tagged aberration was well understood. Obviously it served to ensure that there was no altercation between the US and USSR as both superpowers appeared always to have vested interests on opposing sides of many conflicts. Moreover, it also served to ensure unity of purpose in maintaining world peace under the auspices of the UN. But this 'aberration' (the application of the principles of political neutrality) appears to have no strong value and justification in the post-cold war conflicts.

With the disintegration of USSR, the current level of US influence on the UN and the gradual shift in focus from a humanitarian based armed intervention to a more human rights based armed intervention, which has a broader agenda for armed intervention (protection of civilians, protection of human rights, monitoring of cease-fires, monitoring of elections, preventative deployment and state reconstruction) (Donini, Minear & Walker, 2004), the application of the principles of political neutrality in armed interventions in conflicts seems to be counterproductive. This is

because decisions on armed interventions in recent conflicts have shifted from the traditional adherence to the principle of neutrality to becoming more politicized (Donini, Minear & Walker, 2004; Anderson, 2004) due to the inclusion of additional components to the original agenda of armed intervention.

These new entrants into the mandate of interveners deemed political include democratization, monitoring of elections, and state reconstruction. Yet in most armed interventions essential components of total peace like internal political arrangements, economic and cultural issues that brought about the conflicts are left unattended in the name of political neutrality. This can be problematic and are at the fore front of issues agitating for the review of the application of the principles of political neutrality in internal armed conflicts.

The UN's inability to take action and prevent genocide in Rwanda has been dismissed as "a gross failure of the UN in fulfilling its mandate" (Johannessen, 2007), and joins in the calls for a reevaluation of the conceptual framework for the application of the principles of political neutrality in armed intervention. To that extent, it is being suggested that emphasis should now shift from the cold war application of the principles of political neutrality and impartiality and consent of affected country to a stage where the emphasis is more on impartiality and less on neutrality; and armed interventions are more for reasons of human rights than just on humanitarian bases. Albeit, armed intervention today is more of a right under international human rights law than a privilege on humanitarian grounds.

The Report of the Panel on United Nations Peace Operations (2000:9) recommended that the "consent of the local parties, impartiality and the use of force only in self-defense should remain the bedrock principles of peacekeeping". But there are doubts as to the continued relevance of those principles in post-cold war armed

humanitarian interventions. The fundamental objection to making neutrality the highest moral value in armed interventions stem from the fact that:

There is good and evil in the world. There are good actors and bad actors, good regimes and bad regimes. A world of neutrals eventually surrenders to bad actors and evil regimes. It is not possible for everyone to stand aside as neutrals, even for the worthy purpose of treating evil's victims humanely, lest evil be allowed to triumph. If the world is not to be run by bad regimes and bad actors, then neutrality as a moral position is necessarily a marginal one, never the primary one (Anderson, 2004:65).

The rejection of the proposal of putting the principles of political neutrality as the bedrock principle in armed intervention was initiated by the *Médecins Sans Frontières* when they declined to observe the ICRC's model of silence in the Biafra conflict of 1967-1970. In that conflict they (*Médecins Sans Frontières*) instead developed:

... a model of delivering humanitarian aid while bearing witness publicly to what it saw. Yet this did not constitute a break with the ideal of neutrality as such; it was instead a break with the ideal of humanitarian silence in order to have access to suffering people over the value of publicizing human rights abuses (Anderson, 2004:68).

The application and applicability of the traditional principles of political neutrality in armed interventions was questioned in the Bosnia war, the Rwanda genocide, and the Kosovo war, and the Biafra war off course. As noted by Anderson (2004), the principle was publicly challenged by David Rieff (a moralist) when he accused international aid NGOs of providing humanitarian assistance to perpetrators of genocide in Rwanda and Zaire. He noted further that:

The horror of the Srebrenica massacre and the siege of Sarajevo played crucial parts in convincing increasing numbers in the humanitarian NGO community that pure neutrality could not be taken as the highest moral value. Just as in the Second World War, the highest moral honor went to those who identified evil and fought it, and even

more to those who identified evil and fought it when the odds of victory were abysmal (Anderson, 2004:68-69).

Armed interventions in post-Cold War conflicts has been assessed to ñhave done reasonably well in some cases, but in others they have unwittingly prolonged suffering where they meant to relieve itò (Betts, 1994:20). This situation has been blamed on ñfollowing a principle that sounds like common sense: that intervention should be both limited and impartial, because weighing in on one side of a local struggle undermines the legitimacy and effectiveness of outside involvementò (Betts, 1994:20). As Betts further observed, the application of the principles of political neutrality:

é resonates with respect for law and international cooperation. It has the ring of prudence, fairness, and restraint. It makes sense in old-fashioned U.N. peacekeeping operations, where the outsidersôrole is not to make peace, but to bless and monitor a cease-fire that all parties have decided to accept. But it becomes a destructive misconception when carried over to the messier realm of ôpeace enforcementô, where the belligerents have yet to decide that they have nothing more to gain by fighting (Betts, 1994:20).

Betts (1994) is of the opinion that to successfully end a war by armed intervention, the intervener has to take sides, tilt the local balance of power, and help one of the rivals to win, or ñtake complete command of the situation, overawe all the local competitors, and impose a peace settlementò; but that avoiding any of those two options by applying the principle of political neutrality:

usually blocks peace by doing enough to keep either belligerent from defeating the other, but not enough to make them stop trying; and the attempt to have it both ways has brought the United Nations and the United States and those whom they sought to help to varying degrees of grief in Bosnia, Somalia, and Haiti (Betts, 1994:21).

He noted, in the case of Bosnia, that the application of the principles of political neutrality to the armed intervention only ñabetted slow-motion savageryò by

helping one side against the other, and enabled them to keep fighting. More so, in the end, it encouraged the initiation of a territorial compromise (geographic patchworks of noncontiguous territories, vulnerable corridors and supply lines, exposed communities, and indefensible borders) that made no strategic sense like the unrealistic 1947 U.N. partition plan for Palestine. Which if ever accepted, ñwould create a territorial tinderbox and a perpetual temptation to renew the conflictò (Betts, 1994:26).

In the case of Somalia, Betts (1994:26) noted that the armed intervention succeeded in relieving starvation, ñbut stopped short of taking charge and imposing a settlement on the warring factionsò. He noted further that the failed attempt to arrest General Mohamed Farah Aideed (who was not just a troublemaker but one of the prime claimants to governing authority) without championing any other contender resulted in the killing ñof a large number of Somalis and further roiled the political waters in Mogadishuò (Betts, 1994:26).

The application of the principles of political neutrality in Somalia made the intervention indecisive. Here, Betts (1994:26) alluded to Michael Maren who argued that the indecisiveness of the intervening forces in Somalia (due to the application of the principles of political neutrality) ñfueled the fighting by letting the feuding factions compete for U.N. jobs, contracts, and cash. In areas where U.N. forces were absent, the parties reached accommodation in order to reestablish commerce, rather than jockeying for U.N. resourcesò (Betts, 1994:25-26).

Betts (1994) concluded that political neutrality and impartiality ñworks best where intervention is needed least: where wars have played themselves out and the fighting factions need only the good offices of mediators to lay down their armsò as was the case in the cease-fire mediation between Iran and Iraq, and the political

receiver ship of the U.N. Transitional Authority in Cambodia (UNTAC). Political neutrality is more likely to work against peace in the more challenging cases where intervention must make the peace, rather than just preside over it because it reflects deeper confusion over what war is about (Betts, 1994:28).

CONCLUSION

The effort in this chapter has been to assess the application of the principles of political neutrality in the armed intervention in Somalia, and the impact it had on enhancing security in Somalia and the Gulf of Aden region (beneficiary of the internal armed conflict in Somalia), and by so doing answer the question "has the application of the principles of political neutrality by the international community in the armed intervention enhanced security in the Gulf of Aden?" We assert that "the application of the principles of political neutrality by the international community in the armed intervention has not enhanced security in the Gulf of Aden region", but instead has unwittingly encouraged it. We concede that the internal armed conflict in Somalia and the application of the principles of neutrality in the armed intervention itself are all part of the social production and reproduction mechanism through which individuals and nations strive to attain and remain in a favourable position in the social production process.

Our contention here is that the armed intervention, because it was predicated upon the principles of political neutrality, was not able to arrest the internal armed conflict in Somalia. The fact is that six years after the first of the many attempts at the armed intervention to restore peace and security in Somalia and consequently in the Gulf of Aden region, peace and security still eludes that country, and order is yet to be established in that region. Owing to aggravated danger even to the UN peace keeping forces drafted to shut the conflict in Somalia, the mission had to be aborted (the US and UN disengaging from military operations in Somalia) by October 1993 when the

seventh, unsuccessful attempt by a US specially trained troop deployed to capture Aided resulted in a 15-hour gun battle between the US special forces and Aided's militiamen leaving dead 300 Somalis, 18 US soldiers and one Malaysian soldier.

Even as the armed intervention was practically relocated to the Gulf of Aden, engaging almost all navies of the maritime world, insecurity rather than security was still the order in the entire Gulf of Aden region. While the armed intervention was inadvertently promoting the internal armed conflict inside Somalia by the UN troops (intervening force) position of "political neutrality and impartiality", the chaos in Somalia naturally spilling into the adjoining waters of the Gulf of Aden. Local Somali fishermen displaced by war, frustrated by the economic collapse, and disgusted by the nature of the armed intervention that has exaggerated the political situation in Somalia rather than restore peace and order, went to the sea to vent their disappointment and disgust on vessels and crew plying the waters of the Somali coasts and those scavenging for the uncontrolled abundant resources in the waters of the Gulf of Aden. From a few activities carried out on the Somali coasts by privately organized Somali coast guards seeking to protect Somali territorial waters and her Exclusive Economic Zone (EEZ), the venture developed into large scale piracy and found its way into the larger part of the Gulf of Aden region.

We agree that the principles of political neutrality is more effective where armed intervention is least needed, and may often make sense in internal armed conflict because "contending interests accept compromises negotiated in legislatures, adjudicated in courts, and enforced by executives because the state has a monopoly on organized force" (Betts, 1994:32), or in conflict situations where parties are exhausted and are willing to rely on the good office of the intervener to lay down their arms.

Furthermore, we hold that the principles of political neutrality have a defeatist contribution to armed interventions. Therefore, where peace, respect for human rights, and reduction of human suffering is the motive for any intervention then the intervening force should take sides, and have comprehensive plans to address the critical mass of issues that lead to the conflict and may sustain it. If not, there should be no intervention at all. It would even be better to allow the conflict run its course and resolve itself rather than intervening and creating an opportunity for a conflict to become intractable because an intervention has made it difficult for one side to defeat another which ñsupports military stalemate, lengthens the war, and costs more livesò (Betts, 1994:32). For an armed intervention to be clinically successful it must not be neutral, it should support one side to the conflict, the one that has a better and legitimate claim, or the mightiest of the rivals, irrespective of their legitimacy or at best overawe all parties and create a new political order. If the United Nations had taken sides with Aideed and allowed him take control of Mogadishu (rather than trying to jail him) there might well have been peace in Somalia long ago, and there would have been peace and security in the entire Gulf of Aden region.

Armed interventions, the way they were run within the period under review only provided humanitarian aid which unintentionally fueled the war economies of Somalia and helped prolong the conflict by providing assistance, directly or indirectly, to combatants and their military operations (Schweizer, 2004). It also prevented mutual exhaustion and a resulting settlement (Luttwak, 1999); it also prolonged suffering where they meant to relieve it (Betts, 1994:20), and more so exposed the UN forces to attacks. To that end, we conclude that the application of the principles of political neutrality by the international community in the armed intervention has not enhanced security in the Gulf of Aden region.

CHAPTER SIX

CONFLICT OF INTERESTS, PIRACY AND ARMED ROBBERY IN THE GULF OF ADEN

This chapter set out to examine whether the divergence in the interests of the contributors to the armed intervention in the Gulf of Aden undermined the task of combating piracy and armed robbery in the Gulf of Aden. To ascertain the impact of the divergence in the interests of the contributors to the armed intervention in this respect, the chapter examined the individual and group contributions to the armed intervention in Somalia and the Gulf of Aden. The chapter contains an analysis of the interests of the contributors to the armed intervention. It captured piracy and armed robbery incidents in the Gulf of Aden from year 2003 when piracy assumed prominence in the region, as well as efforts made to curtail it which include the naval platforms deployed to the region. It contains also the economic and human cost of pirate activities. It ended with a statement on the impact of the divergence of interests on piracy and armed robbery in the Gulf of Aden within the period under review.

6.1. CONTRIBUTIONS TO THE ARMED INTERVENTION IN SOMALIA AND THE GULF OF ADEN

There is a great presence of the world's navies in the Gulf of Aden and the coasts of Somalia with the view to tackling piracy, armed robbery and general maritime insecurity in the region. Recent estimates have it that over twenty-six countries (see Table 6.1.1) are directly participating either by contributing troops, ships or both (Mugridge, 2011). In some cases, some countries are known to be running individual anti-piracy operations in the gulf. Also contributing in the anti-piracy campaign are interest groups and a coalition of neighbouring countries. The degree of their contributions varies so also is their interests, aims, objectives and rules of engagement. However, all operate on the understanding that the UN has declared it

lawful to use ñall necessary means to repress acts of piracy and armed robbery at seaò (UN Security Council Resolution 1846 of 2008).

The major contributions to the armed intervention (maritime protection operations) in the Gulf of Aden and the coasts of Somalia include:

(i). ***THE UNITED NATIONS:*** The role of the UN in the anti-piracy activities in the Gulf of Aden and the coasts of Somalia is more on the part of providing enabling international legal instruments and frameworks for the anti-piracy crusade, the principal among which is the UN Convention on the Law of the Sea 1982. This convention made provision in Part VII for dealing with issues of piracy on the high seas. It made repression of piracy in the high seas a collective duty for every state, even in their non-jurisdictional waters. Article 105 of the UN Convention on the Law of the Sea (UNCLOS) states:

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

By the provisions of article 107 of the UN Convention on the Law of the Sea, it appears that the powers to seize pirate ships as provided by article 105 of UNCLOS are not granted to non-military vessels and non-government ships. Article 107 states that ña seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effectò. Such ships have the authority to fire at another ship in self-defense (Convention for the Suppression of Unlawful Acts

against the Safety of Maritime Navigation, 1988 (SUA) (Convention against Transnational Organized Crime, 2000).

Other legal instruments provided by the UN and relevant to the anti-piracy campaign in the Gulf of Aden and the coasts of Somalia include:

- UN Security Council Resolution 733 of 1992 which imposed a general and complete arms embargo on Somalia;
- UNSC Resolution 1816 of 2008 which authorized (for a period of six months) states to enter Somalia's territorial waters for the purposes of repressing acts of piracy and armed robbery at sea by all necessary means. This UNSC Resolution 1816 of June 2008 authorized states acting in cooperation with, and with prior notification of the TFG to "enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea" and to "use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery" (Ploch, *et al*, 2011:19);
- UN Security Council Resolution 1846 of 2008 which extended Resolution 1816 (Authorization of Other States to enter Somalia's Territorial Waters) for another twelve months. This UN Security Council Resolution 1846 of 2008, as noted by Sauvageot (2009),

added an important point in its paragraph 15, emphasizing the need for states to assume the legal prosecution of pirates pursuant to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) of 1988 and to cooperate with the International Maritime Organization (IMO) to that end, reflecting the deep dilemma existing for states unwilling to assume the costs of trial. Acknowledging the obstacles

existing, paragraph 3 of Resolution 1851 invited countries to conclude special agreements with other countries from the region to enable prosecution, encouraged the creation of an international cooperation mechanism (paragraph 4), a centre for information sharing (paragraph 5), and decided that "for a period of twelve months from the date of adoption of resolution 1846, states and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has been provided by the TFG to the Secretary-General, may undertake all necessary measures that are appropriate *in Somalia* (emphasis of the author), for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG" (paragraph 6)³⁸, thus opening the door to actions within the territory of Somalia (Sauvageot, 2009:257).

The Resolution also authorized the provision of technical assistance to TFG personnel and forces "to enhance the capacity of these States to ensure coastal and maritime security" in accordance with procedures outlined in Resolution 1772 (Ploch, *et al*, 2011:20);

- UNSC Resolution 1851 of 2008 which authorized states to make special agreements with other states in the region to facilitate prosecution of piracy (encouraging also the creation of an international cooperation system and a center for the sharing of information); and the United Nations "Rome Convention for the Suppression of Unlawful Acts Against the Safety of Marine Navigation of 1988" (Rome Convention) which provides for the suppression of all unlawful activities that may impede safety of Marine Navigation;
- UNSC Resolution 1838 of October 2008 - "calls on states with military capabilities in the region to contribute to anti-piracy efforts and clarified the standing of the authorization contained in Resolution 1816 with respect to international law" (Ploch, *et al* (2011:20);

- UNSC Resolutions 1897 and 1950 - extended the mandates in Resolutions 1846 and 1851 through 2010 and 2011;
- UNSC Resolution 1772 - authorized the supply of technical assistance to Somali ñsecurity sector institutionsò upon prior case-by-case notification to the U.N. sanctions committee for Somalia (Ploch, *et al*, 2011:20);
- UNSC Resolution 1851 - provided similar authorization to weapons and military equipment destined for the sole use of Member States and regional organizations undertaking authorized anti-piracy operations in Somali waters (Ploch, *et al*, 2011:20);
- UNSC Resolution 1872 of May 2009 - authorized members states to participate in the training and equipping of the TFG security forces in accordance with Resolution 1772. It lifted the arms embargo in order to improve the capabilities of forces fighting Islamist insurgents (Ploch, *et al*, 2011:20);
- UNSC Resolution 1897 of December 2009 - encouraged states to undertake agreements that would allow governments to embark law enforcement officials aboard coalition anti-piracy vessels for the purpose of facilitating the investigation, detention, and eventual prosecution of piracy suspects (Ploch, *et al*, 2011:20);
- UNSC Resolution 1918 of April 2010 - required the Secretary-General to report on ñpossible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somaliaò (Ploch, *et al*, 2011:20);

- UNSC Resolution 1976 of April 2011 - expressed unanimous support for increased efforts to establish governance and the rule of law in Somalia, deciding to urgently consider the establishment of the specialized Somali courts for Somali pirates (Ploch, *et al*, 2011:21).

(ii) **COMBINED TASK FORCE 151 (CTF 151)**: this is an offshoot of the initial US intervention in the Gulf of Aden tagged Combined Task Force 150 (CTF 150) (or Operation Enduring Freedom) (Fink & Galvin, 2009) whose specific interest was principally focused on counter-narcotics, and anti-terrorism, with their operations in the Gulf of Aden and Somalia dating back to early 2005.

As observed by Dutton (2009:20):

Even before piracy from Somalia became a serious international concern in 2008, the waters off the coast of the Horn of Africa were some of the most dangerous in the world. In these critical sea lanes fishing vessels, chemical tankers, cargo ships, cruise liners and other vessels have all been targets of attacks in recent years. Human trafficking and smuggling were also a concern. These have caused serious disruption to free navigation in this major international sea lane.

Dutton (2009:20) conceded that it was in a bid to address these sources of instability that a coalition of willing countries with capable naval forces established CTF 150. However, as piracy aggravated the maritime insecurity in the Gulf of Aden, public outcry compelled the US to restructure Combined Task Force 150 to take up interest in anti-piracy activities. The restructuring gave birth to Combined Task Force 151 (CTF 151). Their platform boasts of about two dozen ships (Ploch *et al*, 2009) engaged in monitoring the location of hijacked vessels anchored off the Somali coast or actively tracking and interdicting pirate skiffs or mother ships operating in the Gulf of Aden. The US runs CTF 151 with assistance from partners such as Pakistan, Germany, the Netherlands, the United Kingdom, and Australia.

In August 2008, a Fifth Fleet was established (the Maritime Security Patrol Area (MSPA) with the specific mandate to coordinate counter-piracy efforts. Both Combined Task Force 150 and Combined Task Force 151 are working simultaneously in the region in their counter-narcotic and counter-piracy efforts respectively (New Counter-Piracy Task Force Established, 2009).

(iii). **EU NAVFOR:** This is an European Union (EU) contribution to the fight against piracy and insecurity in the Gulf of Aden and the coasts of Somalia otherwise known as Operation *Atalanta*. It was launched in December 2008 (Strickmann, 2009:3) with the principal mandate being the maintenance of the Internationally Recognized Transit Corridor (IRTC) (a designated transit route coordinated by the Maritime Security Centre - Horn of Africa (MSCHOA)). The idea was to see to a well-coordinated maritime traffic in the coast of Somalia, the Gulf of Aden and the entire length of the Indian Ocean and to facilitate operations with the other task forces in the region using the MSC HOA Web portal (King, 2010:59), with a view to making it difficult for pirates to successfully attack ships plying that maritime route.

The above mandate is without prejudice to other components of its mandate which is guarding World Food Programme (WFP) activities, including vessels transporting WFP shipments into Somalia, and the new mandate which is to deter, defend against and disrupt pirate activities in the Horn of Africa (Hulbert, 2009; Ploch, *et al*, 2011:22).

The Operation *Atalanta* has about nine ships (six war ships, and three support ships) in its fleet, and runs on a very tight budget (Hulbert, 2009). But Chalk (2010) wrote that EU combined Naval Force (EU NAVFOR) operation (ATALANTA) has in her flotilla seven frigates, three corvettes, one submarine, and four aircraft.

Generally, the EU NAVFOR's mandate is not limited to the protection of WFP Chartered vessels, as well as other vessels sailing off the coast of Somalia (Council Joint Action, 2008) warships operating in the EU NAVFOR operation are authorized to employ the necessary measures, including the use of force, to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery which may be committed in the areas where they are present (EU Naval Operations against Piracy, 2009).

As part of her operations, EU NAVFOR operates the Maritime Security Centre - Horn of Africa (MSCHOA). This is principally a co-ordination centre, operated by the Navy and Military personnel from many countries. Their responsibility is to safeguard merchant shipping by offering a 24-hour uninterrupted surveillance of the Somali basin and the Gulf of Aden monitoring vessels making their way through the water course with the aid of an interactive website. They also keep shipping companies and operators up-to-date with current anti-piracy guidance.

(iv). NORTH ATLANTIC TREATY ORGANIZATION (NATO): At inception NATO's anti-piracy contributions to the war on piracy in the Gulf of Aden and the coasts of Somalia were on ad hoc bases e.g. NATO's Operation Allied Protector.

NATO's actual counter-piracy operations in the Gulf of Aden and the coasts of Somalia named Operation Ocean Shield began in August 2009 (after about six months of the deployment of Operation Allied Protector). Its principal objectives to deter disrupt and protect against pirate attacks of vessels plying that sea lane. They are also to endeavour to prevent further pirate activities in the region; support the development of the maritime protection capacity of states in the region; and to coordinate NATO operations including NATO's joint counter-piracy activities with other maritime forces operating in the region.

Even though deemed to be a separate mission from EU NAVFOR they share operational objectives which include dissemination of information, and facilitation of coordination amongst the shipping industry and other task forces through a dedicated web portal (the NATO Shipping Center (NSC); and liaison with Puntland government to coordinate counter-piracy operations from year 2009. It has about six warships in her operational fleet in the Indian Ocean, particularly the Gulf of Aden. As opined by Fink and Galvin (2009), Operation Ocean Shield ñis meant to be a longer term commitment of NATO to counter-piracy engagement without a fixed end date.

(v). ***UNITED NATION CONTACT GROUP ON PIRACY OFF THE COAST OF SOMALIA (UNCGPCS)***: This is a non-state actor in this anti-piracy effort in the Gulf of Aden. The UNCGPCS was established by UNSC Resolution 1851 of 2009 with the principal objective being to help ñfacilitate discussion and coordination of actions among states and organizations to suppress piracy off the coast of Somaliaò (Contact Group on Piracy off the Coast of Somalia, 2009).

Essentially, it is a diplomatic mechanism aimed at providing an enabling environment for international cooperation by providing opportunity for the international community to discuss naval coordination, promote preventative efforts within the maritime industry, facilitate legal solutions pertaining to captured pirates and increase the maritime capacity in the region (King, 2010).

An essential part of its mission is the creation of awareness on the issues surrounding piracy in the Gulf of Aden, with the view to providing opportunities for concerned states to collaborate in addressing the identified issues of concern at state, regional, and international levels.

Put succinctly, it is an ad hoc international forum where the states and organizations that are fighting piracy in the Gulf of Aden can meet and exchange

ideas and information. It meets quarterly at the headquarters of the United Nations. UNCGPCS has four units (working groups) each, dealing with specific aspects of UNCGPCS's commitments to the fight against piracy in the Gulf of Aden and coasts of Somalia. The working groups include military coordination working group, shipping industry awareness working group, judicial working group and, public information working group.

(vi). ***AFRICA UNION (AU)***: beyond composing and deploying African Mission to Somalia (AMISOM), the African Union's contribution to the anti-piracy campaign in the coasts of Somalia and the Gulf of Aden include the Abuja Declaration on Maritime Transport, and the African Maritime Transport Charter.

The African Maritime Transport Charter harps on the need for co-operative approaches to solving maritime insecurity problems in the whole of Africa. Furthermore, it requires that member states update their existing maritime legislation and instruments (including institutions) so to make them functional in achieving maritime security.

(vii). ***THE INTERNATIONAL MARITIME ORGANIZATION (IMO)***: the IMO has spearheaded many initiatives aimed at enhancing maritime security generally. It was the IMO that spearheaded the amendments to the SOLAS Convention that require, Installation of Automatic Identification Systems (AIS) on ships and Ship Security Alert Systems (SSAS) (including the Long Range Identification and Tracking) and the implementation of the ISPS code to provide for a standardized way of assessing risks (Wambua, 2011).

IMO has made some effort at the regional level e.g. the convocation of the Djibouti Code of Conduct on Piracy. This code is as a result of an agreement between

9 states in the Indian Ocean concluded on 29th January 2009. It provides a framework for co-operation among the signatory states in combating piracy in the Gulf of Aden and the coasts of Somalia, and also establishes information centers in Mombasa, Dare-salaam and Sanaa ĩ with the view to making information readily available for operations in the maritime industry.

(viii). THE UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC):

the specific objective of UNODC in the anti-piracy campaign in the coasts of Somalia and the Gulf of Aden is more of building the capacity of states in the region aimed at facilitating the prosecution of apprehended pirates. To that end it ģprovides financial support and training of personnel involved in prosecution of piracy including judicial officers, prosecutors and the policeĶ (Wambua, 2011:1).

In line with her objective on capacity building, UNODC in conjunction with the Judicial Working Group of the UN Contact Group on Piracy off the Coast of Somalia (CGPCS) introduced the scheme tagged ģShipridersĶ founded on UN Resolution 1851. The aim of the ģShipridersĶ scheme is to ģfacilitate regional law enforcement participation in anti-piracy enforcement efforts off the coast of SomaliaĶ (Wambua, 2011:1). By the arrangements following this ģShipriderĶ, ģregional law enforcement personnel are seconded to international vessels to perform anti-piracy arrest and investigation functionsĶ (Ploch, *et al*, 2009:22).

The ģShipriderĶ scheme was explained in details by Antonio Maria CostaĶs testimony before the US House, Foreign Affairs Subcommittee on International Organizations, Human Rights:

In general, *shiprider* arrangements are designed to address the logistical and legal challenges inherent in multilateral naval enforcement efforts in remote areas or where the capacity of regional governments does not allow for the provision of sufficient security. With regard to current

operations in the Horn of Africa region, long transport times, limited military resources, legal limitations on the operations of military personnel, and complex differences in jurisdictional standards and requirements would complicate the arrest and prosecution by the varied non-regional forces operating under Resolution 1851 (Transcript, UNODC Executive Director, Antonio Maria Costa's Testimony before the House Foreign Affairs Subcommittee on International Organizations, Human Rights and Oversight, May 14, 2009, quoted in Ploch, *et al*, 2009:22).

(ix) MARITIME ORGANIZATION OF WEST AND CENTRAL AFRICA

(MOWCA): MOWCA is a regional intergovernmental body established in 1975 under the Abidjan Charter with the mandate of regulating maritime affairs of the West and Central Africa states. It is made up of 25 states from the West and Central Africa region.

To avoid the expensive obligations imposed by maritime conventions on states who develop their own regulatory frameworks, the 25 West and Central African states, members of MOWCA signed an Memorandum of Understanding (MOU) in July 2008 to establish an integrated sub regional coast guard network (Kraska & Wilson, 2009:270-271), and sets up its own shore installations and brings into service its own coastguard network.

(x). DJIBOUTI CODE OF CONDUCT TO COMBAT ACTS OF PIRACY: this

code was established to help jumpstart greater maritime cooperation between African and Arabs. This agreement stands on the reason that Somalia is of strategic importance to the African continent because of her affinity (historical and religious) with the Arab and Islamic world which offered her a seat in the Organization of African Unity (OAU), now African Union (AU) and the Arab League (Wyllie, 1993:71). Part of the regional effort include the few bilateral accords signed with key

states such as Kenya, and Seychelles aimed at improving the prospects of bringing apprehended pirates to justice through legal prosecution.

(xi). **CHINA:** China deserves mention in this whole anti-piracy effort in the Gulf of Aden and the coasts of Somalia. The attention on China in this matter is instructive:

Naval observers and officials in the United States have noted the engagement of China with particular interest, as Chinese naval operations in the Horn of Africa region demonstrate the Chinese government's desire and ability to protect international shipping lanes far from China's shores (Ploch, *et al*, 2009:20).

Given China's historically defensive maritime posture, Dutton (2009) observed that "the decision by China's leaders to send a small flotilla of ships to join the anti-piracy efforts has been described as an "adjustment" in China's maritime strategy". To many observers chagrin, "China has two destroyers in her fleet in the Gulf of Aden, whereas Indian, Japanese, and Malaysian's operations are "designed to keep their geopolitical toes in the water" (Fink & Galvin, 2009:3).

Cumulatively, the list of over twenty-six contributing countries (see table 6.1.1 with ships and or personnel working in the Gulf of Aden) either in collaboration with other states or working alone include China, Russia, Malaysia, Japan, Iran, Saudi Arabia, Pakistan, New Zealand, Australia, India, Portugal, Canada, Germany, France, Netherlands, UK, USA, Turkey, Greece, Italy, Spain, Belgium, South Korea, Yemen. The list of countries is fluid (Ploch, *et al*, 2009:20).

TABLE 6.1.1: CONTRIBUTIONS OF SELECTED COUNTRIES TO THE ARMED INTERVENTION IN THE GULF OF ADEN

13 EU States (Operational Commitments)	9 EU States (Headquarters Staff)	4 Non EU states
France	Cyprus	Norway (includes Frigate)
Spain	Romania	Croatia
Germany	Bulgaria	Ukraine
Greece	Slovenia	Montenegro

Sweden	Czech Republic	
Netherlands	Hungary	
Italy	Poland	
Belgium	Ireland	
UK	Finland	
Portugal		
Luxemburg		
Malta		
Estonia		

Source: Mugridge, David (2011) ñEU NAVFOR versus Somali Piracy - A War Worth Winning? P 1-2 http://www.defenceiq.com/sea/articles/eu-navfor-versus-somali-piracy-a-war-worth-winning/&mac=DFIQ_OI_Featured_2011&utm_source=defenceiq.com&utm_medium=email&utm_campaign=DefOptIn&utm_content=3/31/11

6.2. ANALYSIS OF INTERESTS OF THE CONTRIBUTORS

A cursory look at the group contributions and coalition efforts in the armed intervention in the Gulf of Aden indicates that there is no unity in objectives, aims, and interests. What may seem to be uniform to all contributors is the desire to heed to the UN's call for all states to ñenter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea and to ñuse, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery (Ploch, *et al*, 2011:19; UNSC 1816 of 2008). This explains why there is no single unified UN operation in the region but pockets of groups and more specifically individual state naval operations. For example the presence of US-led CTF 151 (a coalition of about 6-20 states) did not deter UK's EU NAVFOR, and NATO. States that did not feel protected within those blocks put up personal navies e.g. China, Russia, India, Japan, Iran etc.

Referring to the naval presence in the Gulf of Aden, Hulbert (2009:2) noted that there is ña proliferation of state interests and international mandates, all with different aims, objectives and rules of engagement falling under UN blessing to use ñall necessary means to repress acts of piracy (Ploch, *et al*, 2011:19). He indicated that ñthe US has

revamped its anti-terrorism measures under Combined Task Force 150 to cover an anti-piracy remit under CTF 151, deploying a dozen ships to the region and garnering support from another 20 states in the process, and that NATO and the EU have both been keen to display their newfound maritime credentials in the region through her Operation *Atalanta* (launched in December 2008 as the first ESDP-flagged naval operation (EU NAVFOR), which has taken over NATO's commitment to safeguard World Food Programme deliveries within its re-coined activities - to deter, defend against and disrupt pirate activities in the Horn of Africa as part of Operation Allied Protector (Hulbert, 2009:2).

Furthermore, Hulbert (2009) noted that the upshot is that over 20 countries now have ships or personnel working in the Horn of Africa, including Chinese, Indian, Russian, Malaysian, Japanese, Iranian, Saudi, and Pakistani contributions. New Zealand and Australia have even joined the effort, underlining the significance of the Gulf of Aden to the South Pacific (Hulbert, 2009:2).

Granted that the naval warships deployed in the Gulf of Aden and the coasts of Somalia have the general objective of combating piracy and armed robbery, but some nations focus is on the protection of their own shipping (national interest) - for instance China (Weitz, 2009). However, besides taking care of their own maritime fleet plying the sea lane, some contributors have shown additional commitment:

On safeguarding the transportation of humanitarian aid shipping and patrol the threatened economic sea lines of communications against possible pirate attacks. Yet others focus solely on stopping and deterring pirate attacks, such as the multinational maritime force Combined Taskforce (CTF) 151. Whatever the motivation for taking part in any of these operations, taking action against piracy as the common enemy of mankind proved to be a perfect, uncontroversial way to show resolve and solidarity amongst the nations and international organizations within their security strategies and without touching old or politically sensitive issues (Fink & Galvin, 2009:382).

Thus, below we shall detail the various interests of the major contributors in the Gulf of Aden.

INTERESTS OF THE CONTRIBUTORS:-

(i). ***THE UNITED STATES OF AMERICA:*** The interest of the United States of America in the Gulf of Aden and the coasts of Somalia appear to be shrouded in mystery. But speculations are high that the US interest may be part of her anti-terror war.

The US concerted interest in Africa started at the end of the Cold War, and driven by President George H. W. Bush's vision of a "New World Order" (President George H.W. Bush, "Toward a New World Order," September 11, 1990; Ploch, *et al*, 2011:31). Bush was credited to have stated that "in Africa, promise and opportunity sit side by side with disease, war, and desperate poverty. This threatens both a core value of the United States – preserving human dignity – and our strategic priority – combating global terror" (Ploch, 2011:14). To address these challenges, the United States Central Command (CENTCOM) was set up in October 2002, to help in "detecting, disrupting and ultimately defeating transnational terrorist groups operating in the region, and to provide a forward presence in the region" (Ploch, 2011:20-21).

As part of the US Policy, the US National Maritime Security Strategy, issued in 2005, stated that the "safety and economic security of the United States depends upon the secure use of the world's oceans," and identified "well organized and well equipped" pirates and criminals as threats to international maritime security (Ploch, *et al*, 2011:18).

The Bureau of Political-Military Affairs (Fact Sheet) of September 1, 2009 captured the US interest in African succinctly that:

the United States Government, in concert with the American maritime industry and other concerned nations and international organizations, continues to work to prevent pirates operating in the waters off of the Horn of Africa from interfering with maritime commerce, endangering mariners, hindering the provision of humanitarian aid to East Africa, and further destabilizing this troubled region (Bureau of Political-Military Affairs, Fact Sheet, 2009).

However, a view that seems to be acceptable to many observers is that the US, control of this region will allow them to counter the dominance of China in the region, as well as use the region as a base to conduct operations on terrorists and nations accused of harboring terrorists (Nyankor, 2009, not paged).

Kraska and Wilson (2009:252-260) noted that the tenets of the U.S. Piracy Policy in the Gulf of Aden revolves around prevention, deterrence, vulnerability, accountability, protection of the sea lanes, freedom of navigation and diplomacy.

The US interest as noted by Kraska and Wilson (2009) are summarized as follows:

- *Prevention* aspect - the U.S. interest is to prevent piracy attacks and other criminal acts of violence targeted at U.S. vessels, persons and interests (Memorandum on Maritime Security (Piracy) Policy, 2007; quoted in Kraska & Wilson (2009:252).
- *Deterrence* - The US interests is to deter acts of piracy, consistent with international law and the rights and responsibilities of port, coastal and flag states. The idea here is to ensure that coastal and maritime states maintain a presence at sea and in ports, which is hoped can serve as a deterrent similar to a street cop walking through a neighborhood. This is based on the understanding that Piracy tends to surge when it is ignored and recede after it is addressed.
- *Reduce the Maritime Domain's Vulnerability* - The US interest is to seek to reduce the ability of criminals to exploit the vulnerability of the maritime domain, particularly when U.S. interests are directly affected.

- *Hold Pirates Accountable* ĩ to prosecute acts of piracy in domestic criminal courts, and ensure that effective and meaningful legal sanctions exist against maritime piracy.
- *Preserve Freedom of the Seas* ĩ the U.S. interest is to see that ĩFreedom of navigationĒ which ĩunderpins global prosperity, peace and securityĒ is preserved. More so, preservation of the freedom at sea has been the prerogative of the worldĒs super powers ĩrunning from Ancient Greece and Rome, into the modern era through Portugal and Spain, then the Netherlands, England, and now the United States, all of the worldĒs foremost powers achieved and maintained their positions of leadership by amassing preeminent sea power and maintaining the freedom of the seasĒ.
- *Protect Sea Lines of Communication* ĩ This is in a bid to sustain interstate trade that survives on unimpeded ocean transit, besides open sea lines of communication (SLOCs) ensures ĩfreedom and safety in the maritime domain generate stability and prosperity on landĒ.
- *Diplomacy* ĩ ĩInternational trade tends to generate systemic political benefits as well. Free trade and international investment help democracies socialize non-democratic nations into an interdependent liberal world systemĒ; ĩ[a] strong world economy enhances our national security by advancing prosperity and freedom in the rest of the worldĒ.

As noted by Potgieter (2012), the efforts of the United States and to some extent its international partners ĩ India, Australia, Singapore, Japan, France, the United Kingdom and Canada is ĩto maintain and expand their authority in the Indian Ocean and achieve key strategic objectives. These include attempts to hinder or limit the power and influence of countries such as China, Iran and Russia; to protect secure access to energy sources; and to counter terrorism and other security threatsĒ (Potgieter, 2012:2-3).

As noted by Marchal (2011), the US fighting piracy in the Gulf of Aden was a way to assemble an international coalition that would fund the TFG and therefore allow the United States to focus on its counterterrorist agenda. This also served to legitimize the newly created U.S. Combat Command for Africa (AFRICOM), since fighting piracy is among its five priorities.

The lead role played by the US in this antipiracy campaign in the Gulf of Aden has more angles than can be placed on the table. The US is using this opportunity to take its own national cake from the Gulf of Aden having not participated and benefited in the age long scramble for Somalia and the Gulf of Aden or any of the partition exercises at various stages of political and historical development of the region first in the 1880s, second in the 1940s, third in the 1970s, from which major world powers obtained territories (Barnes & Boddy, 1994:292) or strategic interests. Events that saw to native Somalis domiciled in about five contiguous countries - Italian Somaliland in the south, British Somaliland in the north, some Somali communities in Djibouti, a large number of communities in the Ogaden under the rule of Ethiopia, and another large group in northeastern Kenya (Report of the Somalia Commission of Inquiry, 1997). Summarily, the naval exercise in the Gulf of Aden is a new dimension to the scramble for Africa in the bid to actualize the social production requirements of participating nations.

In summary, the US interest in the armed intervention is to:

- I. Preserve human dignity - and US strategic priority - combating global terror (Ploch, 2011:14).

- II. Ensure the safety and economic security of the United States which depends upon the secure use of the world's oceans.
- III. Prevent pirates operating in the waters off of the Horn of Africa from interfering with maritime commerce, endangering mariners (Bureau of Political-Military Affairs, Fact Sheet, 2009).
- IV. Use the region as a base to conduct operations on "terrorists" and nations accused of "harboring" terrorists" (Nyankor, 2009 not paged).
- V. Maintain and expand their authority in the Indian Ocean and achieve key strategic objectives.
- VI. Hinder or limit the power and influence of countries such as China, Iran and Russia.
- VII. Protect secure access to energy sources; and to counter terrorism and other security threats" (Potgieter, 2012:2-3).
- VIII. Assemble an international coalition that would fund the TFG and therefore allow the United States to focus on its counterterrorist agenda (Marchal, 2011).
- IX. Legitimize the newly created US Combat Command for Africa (AFRICOM), which had fighting piracy among its five priorities (Marchal, 2011).
- X. Take its own "national cake" from the Gulf of Aden having not benefited in the age-long scramble for Somalia and the Gulf of Aden or any of the partition exercises at various stages of political and historical development of the region from which major world powers (Britain, France, Italia, USSR), and even

Ethiopia, and Kenya) obtained territories or strategic interests (Barnes & Boddy, 1994:292).

(ii). **CHINA:** Before China's outing in the Gulf of Aden and the coasts of Somalia, many nations, industry watchers, and persons with interest in maritime security had expressed doubts as to China's ability and perhaps willingness to partake in maritime lane protection outside China. This view derived from China's historical "defensive maritime posture" and China's policy of non-intervention in the domestic affairs of other states, which China has over the years repeated whenever she criticized "hegemony" for using their powers to "bully" less powerful countries (Dutton, 2009:16-17).

Ordinarily, China has been seen as being opposed to the protection of the maritime belt of the Gulf of Aden and the coast of Somalia. This impression derived from China's statement in support for Resolution 1816 (discussion of Somalia's Transitional Federal Government letter requesting Security Council assistance in fighting pirates sheltered inside Somalia's territorial sea), where China clearly emphasized "the importance of Somalia's consent for assistance" i.e. that International assistance "should be based on the wishes of the [Somali] Government and be applied only to the 'waters of Somalia'" (Report of Security Council 5902nd Meeting, 2008).

On the face of it, it may be correct to state that China's interest in participating in the anti-piracy campaign to eradicate maritime insecurity in the Gulf of Aden and Somalia coasts is hinged on the Somali invitation of the international community (through the United Nations) to come help fight piracy and armed robbery in Somalia's territorial waters (Zhingwei, 2008; Ta-kuang, 2008); and that it is as a result of the said invitation that China deployed her People's Liberation Army Navy

(PLAN) anti-piracy operations in the Gulf of Aden and the coasts of Somalia on the understanding that:

- the relevant UN Security Council Resolutions authorize it.
- the government of Somalia requested international support and consented to naval operations by the international community in its territorial sea and Exclusive Economic Zone.
- the United Nations Convention on the Law of the Sea, to which China is a signatory, allows anti-piracy operations in sea areas beyond territorial waters [and] which have been authorized by that government (Ruixue & Hongliang, 2008, quoted in Dutton, 2009:17).

But interestingly, China had some far personal interests in joining the armed intervention in the Gulf of Aden and Somalia coasts. Between 2000 and 2006, Chinese trawlers have been poached repeatedly when approaching the Horn of Africa, seven of which incidents were identified to have been carried out by Somali pirates; and in 2008, pirates targeted six Chinese ships in the Gulf of Aden (Holslag, 2008:25). Consequently, in December 2008, the Chinese government deployed two destroyers and a replenishment ship in the Gulf of Aden to participate in the United Nations-backed mission against piracy (Holslag, 2008:30). See details of China deployments in the Gulf of Aden in Table 6.2.1.

Table 6.2.1: Chinese Naval Vessels deployed to Coast of Somalia Gulf of Aden Region 2009-2013

S/N	Period of Deployment	Ship	Ship Type
1	Jan. 2009-Apr. 2009	Wuhan Haikou Weishanhu	Luyang I-class destroyer Luyang II-class destroyer Qiandaohu-class supply ship
2	Apr. 2009-Aug. 2009	Shenzhen Huangshan Weishanhu	Luhai-class destroyer Jiangkai II-class frigate Qiandaohu-class supply ship
3	Aug. 2009-Nov.	Zhoushan	Jiangkai II-class frigate

	2009	Xuzhou Qiandaohu	Jiangkai II-class frigate Qiandaohu-class supply ship
4	Nov. 2009-Mar. 2010	Ma'anshan Wenzhou Chaohu	Jiangkai I-class frigate Jiangkai I-class frigate Jiangkai II-class frigate
5	Mar. 2010-Jul. 2010	Guangzhou Chaohu Weishanhu	Luyang I-class destroyer Jiangkai II-class frigate Qiandaohu-class supply ship
6	Jul. 2010-Nov. 2011	Kunlunshan Lanzhou Weishanhu	Yuzhao-class landing platform dock Luyang II-class destroyer Qiandaohu-class supply ship
7	Nov. 2010-Mar. 2011	Zhoushan Xuzhou Qiandaohu	Jiangkai II-class frigate Jiangkai II-class frigate Qiandaohu-class supply ship
8	Mar. 2011-Jul. 2011	Ma'anshan Wenzhou Qiandaohu	Jiangkai I-class frigate Jiangkai I-class frigate Qiandaohu-class supply ship
09	Jul. 2011-Nov. 2011	Wuhan Yulin Qinghaihu	Luyang I-class destroyer Jiangkai II-class frigate Nancang-class supply ship
10	Nov. 2011-Mar 2012	Haikou Yuncheng Qinghaihu	Luyang II-class destroyer Jiangkai II-class frigate Nancang-class supply ship
11	Mar. 2012-Jul. 2012	Qingdao Yantai Weishanhu	Luhu-class destroyer Jiangkai II-class frigate Qiandaohu-class supply ship
12	Jul. 2012-Nov. 2012	Yiyang Changzhou Qiandaohu	Jiangkai II-class frigate Jiangkai II-class frigate Qiandaohu-class supply ship
13	Nov. 2012-Feb. 2013	Huangshan Hengyang Qinghaihu	Jiangkai II-class Jiangkai II-class frigate Nancang-class supply ship
14	Feb. 2013-current	Harbin Mianyang Weishanhu	Luhu-class destroyer Jiangwei II-class frigate Qiandaohu-class supply ship

Source: Authors adaptation from J. Peter Pham (2013) "Pirates and Dragon Boats: Assessing the Chinese Navy's Recent East African Deployments" *The Journal of the Middle East and Africa*, Vol. 4, No. 1, p 12.

It has been noted that:

the immediate objective of the three ships in the modest task force - the Luyang I-class destroyer Wuhan, the Luyang II-class destroyer Haikou, and the Qiandahou - class supply ship Weishanhu - was essentially to protect Chinese merchant vessels passing through the waters of the Gulf of Aden. Of the 1,265 Chinese vessels that passed through the Gulf during 2008, seven were assaulted and one, the fishing trawler Tianyu No. 8, was successfully seized by its attackers (McDonald, 2012:2).

As observed by Dutton (2009:16):

In deciding to send its own naval forces to help maintain maritime security, China made clear it has specific national interests in sending naval forces abroad for operations for the first time since the voyages of Zheng He. Chinese strategic rationales behind the decision began with a statement that China has a duty to protect ships that sail under its flag, and that it would also protect vessels sailing under the flags of Hong Kong, Macau and Taiwan if requested. Additionally, officials noted that six Chinese-flagged vessels were attacked in the region during 2008 and 17 crewmembers of a captured Chinese fishing vessel remain in captivity.

Suspicion is high that China's incursion into the Gulf of Aden and the coasts of Somalia may not be just for the foregoing reasons alone. Indications are that China may be in the Gulf of Aden and Somali Basin out of mistrust or fear that her abstinence from the maritime intervention may give room for other superpowers to develop and claim additional authority over that maritime lane and perhaps subsequently subject China flagged vessels as well as vessels flying other states' flags to some form of prejudices (charges) during the intervention or when the war on piracy is won.

China's mistrust or fear of other superpowers would be prejudice against China should China abstain from the Gulf of Aden venture stems from her 1993 *Yin He* incident experience, (Saudi Board a Chinese Ship in Search for Chemical Arms, 1993) when:

acting on intelligence reports that apparently turned out to be erroneous, the US government accused the Chinese vessel *Yin He* (Milky Way), bound for Iran, of carrying thiodiglycol and thionyl chloride, two chemicals agents used in chemical warfare, and in spite of the Chinese governments assurances to the United States that the vessel was not carrying such materials, the US insisted that the vessel submit to inspection following which an inspection was arranged in a Saudi port by Saudi officials in the

presence of Chinese officials and American observers. No chemicals were located (Dutton, 2009: 20, note 53).

According to Dutton (2009:20) "this incident deepened China's suspicion of the US approach to enforcement of international nonproliferation norms and resulted in a renewed Chinese commitment to protect the sovereign interests of flag states against what it perceived as 'abusive' American practices" (see Mingjiang, 2009 quoted in Dutton, 2009:20). This offered yet another reason for China's insistence at the UN that the Somali government must request the Security Council's assistance in the fight against pirates in the Gulf of Aden and the Somali coasts (Faced with Myanmar Protests, China Reaffirms Non-Intervention, 2007:16).

Nyankor (2009) offered a more technical explanation for China's participation in the armed intervention in the Gulf of Aden and the coasts of Somalia. He noted that the so-called pirates' crisis is a struggle between China, America and the West to control the strategic waterways in Somalia and the Horn of Africa. Somalia's strategic position in the Horn of Africa means that any nation that dominates this area will have tremendous control over world trade (Nyankor, 2009).

Other explanations for China's interest in the Gulf of Aden and the coasts of Somalia are that:

- it is part of China's plan to increase her Sea presence at home and overseas, because at home China needs to increase her sea presence for the purpose of boosting and protecting her Regional economic interests against the backdrop that "much of China's claimed maritime territory is exploited or controlled by other nations" (Xinsheng, 2005:63) (roughly half, or 1.5 million square kilometers, of the approximately 3 million square kilometers of maritime territory under China's legal jurisdiction is in dispute or already controlled by other regional nations (Dongsheng, 2006:225); bolster her claims to its "disputed natural resources in the Asia Pacific region" (Liu Xinhua & Qin Yi, 2003).

- Because China is reaching out overseas for her economic interest, and takes her navy along on the understanding that "wherever our interests go, our military force needs to go there too" (Wenmu, 2003:92-100), because "the degree of development of the external-facing economy, regardless if it is the protection of maritime passageways, the expansion of foreign trade, the spreading of the overseas market, or defending overseas production, all require having a powerful military force as a guarantee, otherwise China will be possibly caught being passive" (He Jiacheng, 2005:12). More so "by developing its sea power, China can ensure the security of maritime oil deliveries (Liu Xinhua & Qin Yi, 2003:39).

China's interest in the Gulf of Aden, like that of others e.g. Iran, Pakistan and to some extent Russia, is to strengthen her position in the Indian Ocean and increase her "ability to counter the potential threats that may be posed by the US-aligned states" (Potgieter, 2012:3).

However, China's mission in the Gulf of Aden and the coasts of Somalia is not intended to extend to "disembarking and going ashore" (i.e. undertaking missions requiring his personnel to disembark or go ashore) ("PRC Fleet Commander Rear-Admiral Du Jingcheng on escort tasks off Somalia," *Xinhua*, December 26, 2008, quoted in Dutton, 2009:17).

In summary, China's objective in deploying her naval forces to the Gulf of Aden and Somalia coasts is to:

- (i) safeguard vessels carrying humanitarian supplies for the people of Somalia;
- (ii) escort Chinese-flagged merchant vessels (including ships flying Hong Kong, Macau and Taiwan flags, upon request across the pirate infested trade route)

- (iii) provide information to other merchant vessels about potentially dangerous areas
- (iv) provide "necessary rescue services" to merchant ships that find themselves under attack ("Naval Escort Fleet To Protect 15 Chinese Merchant Vessels From Pirates," *Xinhua*, January 6, 2008, quoted in Dutton, 2009:17).
- (v) to protect ships that sail under China's, and on request those vessels sailing under the flags of Hong Kong, Macau and Taiwan.
- (vi) mistrust or fear that her abstinence from the maritime intervention may give room for other superpowers to develop and claim additional authority over that maritime lane and subsequently subject China flagged vessels as well as vessels flying other states flags to some form of prejudices (charges) during the intervention or when the war on piracy is won.
- (vii) to join the struggle between China, America and the West to control the strategic waterways in Somalia and the Horn of Africa. Somalia's strategic position in the Horn of Africa means that any nation that dominates this area will have tremendous control over world trade (Nyankor, 2009).
- (viii) to increase her Sea presence at home and overseas.
- (ix) China is reaching out overseas for her economic interest, and takes her navy along on the understanding that "wherever our interests go, our military force needs to go there too" (Wenmu, 2003:92-100).

- (x) is to strengthen her position in the Indian Ocean and increase her ability to counter the potential threats that may be posed by the US-aligned states (Potgieter, 2012:3).

(iii). **FRANCE:** the interest of France in the anti-piracy campaign in the Gulf of Aden is paradoxical. Even though France had never provided aid or any other assistance to Somalia since the latter's independence, her position as the chair of the European Union and the opportunity of leading in a new European undertaking compelled her to join the armed intervention. As indicated by Marchal (2011) the intervention offered France an opportunity to showcase:

the utility of the French base in Djibouti at a time when relations were strained because of a French white paper on defense that foresaw a reduction of the French military presence in Djibouti – valuable because of the high-profile investigations related to the killing of the French judge Borrel in Djibouti (investigations that traced his murder to the inner circle of Djibouti president Ismael Omar Guelleh). The initiative also allowed President Nicolas Sarkozy to cast himself as a primary European leader (Marchal, 2011).

It must be mentioned here that the French interest in the armed intervention in the Gulf of Aden and Somalia coasts has some prospects in the protection of her investments in the Suez Canal. More so, because the activities of the Somali pirates in that region affect the Suez Canal.

In summary, France interest in the armed intervention is to:

- (i). as the chair of the European Union an opportunity of leading in a new European undertaking compelled her to join the armed intervention;
- (ii). showcase the utility of the French base in Djibouti;
- (iii). renew French military presence in Djibouti;

- (iv). aid the completion of a high-profile investigations related to the killing of the French Judge Borrel in Djibouti;
- (v). allow President Nicolas Sarkozy to cast himself as a primary European leader (Marchal, 2011).
- (vii). to protect of her investments in the Suez Canal.

(iv). **JAPAN:** principally Japan's interest in the armed intervention in the Gulf of Aden was a matter of diplomatic facelift aimed at recovering her position as a regional power house, which position she lost by not partaking in the 1991 Gulf War. As observed by Marchal (2011):

Japan's non-involvement in the 1991 Gulf War was internationally met with sarcasm despite its huge financial contribution to the international coalition against Saddam Hussein. After various initiatives, the involvement of units of the Japanese Self-Defense Forces to fight piracy offshore Somalia was seen as a step forward. For the first time, an embassy and a military base were established by the Japanese in Djibouti (Marchal, 2011).

Protection of Japanese fleet and citizens plying the Gulf of Aden and Somali coasts (and those involved in unlawful fishing in Gulf of Aden and Somali coasts) was also topmost in the Japanese mission in the armed intervention in that region.

In summary Japan's interest in the armed intervention is to:

- (i). recover her position as a regional power house, which position she lost by not partaking in the 1991 Gulf War (Marchal, 2011);
- (ii). establish a permanent presence in the Gulf of Aden by opening an embassy; and a military base was established by the Japanese in Djibouti (Marchal, 2011).

(iii) Protection of Japanese fleet and citizens plying the Gulf of Aden and Somali coasts.

(v). **INDIA:** India's interest in the Gulf of Aden and the coasts of Somalia in the anti-piracy campaign has been traced in part to her desire to establish some reasonable control over the African side of the Indian Ocean Rim, and perhaps to curtail "China's extraterritorial and regional influence" (Middleton, 2008; Silva, 2010).

However, it was the 15 September 2008 hijacking and detention for 62 days of a Japanese chemical tanker "Stolt Valor" with 18 Indian crews onboard by Somali pirates that "convinced the Indian government to come out of passivity and send warships in the Gulf of Aden" (Chakarborty, 2009:84). Before then India had only sent four of her warships into the Red Sea and the African coast (Gulf of Aden) on a two-month-long deployment, claiming "that it is not possible of any nation to maintain permanent deployment" (Chakarborty, 2009:84).

India is one of the countries running an individual package in the anti-piracy campaign in the Gulf of Aden. As observed by Chakarborty (2009):

India is not participating with the CTF-151 and is acting single-handedly as in the case of China and Russia. The reasons behind India's reluctance to work with CTF 151 is unclear particularly when India is physically close to the Gulf and it can send its ships in short interval, refuel in its base and then go back again to patrol in the piracy infested area of the Gulf. Nevertheless, India prefers a UN Peacekeeping force to patrol the Gulf of Aden which will bring the individual countries' effort under a unified command and remove the burden from single country (Chakarborty, 2009:84).

Indian navy at present is maintaining just one ship on rotation at the permanent anti-piracy patrol which keeps patrolling in the 300 to 600 nautical miles in the Gulf of Aden (Chakarborty, 2009:84).

In summary India's interest in the armed intervention is to:

- (i) establish some reasonable control over the African side of the Indian Ocean Rim;
- (ii) curtail "China's extraterritorial and regional influence" (Middleton, 2008; Silva, 2010);
- (iii) rescue pirate hijacked India flags ships and prevent further attacks.

(vi). ***SOUTH KOREA:*** South Korean has a significant economic and strategic interest in the Gulf of Aden region. And that was the motive for her contributions to the armed intervention in that region, individually (see table 6.2.2), and through CTF151 (see table 6.2.3). It has been estimated that about "five hundred South Korean ships pass through the Gulf of Aden annually" amounting to approximately 29 percent of South Korea's maritime commerce; and that about "one hundred and fifty of these are highly vulnerable to pirate attack because of their slow speed". Therefore as "piracy increased, ROK ships traveling off the coast of Somalia also became more vulnerable" (Roehrig, 2012). For instance, in 2006 alone:

Somali pirates hijacked two tuna boats owned by the South Korean company Dongwon Fisheries. The crew of twenty-five that included eight South Koreans was released after four months of captivity for a ransom of close to \$800,000. In May 2007, pirates seized two more ROK ships with four South Koreans on a crew of twenty-four. The ship was held for six months and released after paying another sizable, though undisclosed, ransom. In 2008, piracy in the Gulf of Aden, including incidents involving ROK ships and citizens, escalated further. In May, pirates hijacked two fishing boats with a crew of twenty-five from Daechang Fisheries, releasing them six months later. In September, another South Korean vessel was hijacked with eight South Korean crew members on board. This ship was released after being held for a month (Roehrig, 2012:29).

Besides the numerous incidents of pirate attacks, long detention of ships and crew as well as large ransoms paid for their release, "as a rising middle power that depends heavily on the oceans to maintain its export-driven economy, South Korea

bears some responsibility to help protect the global maritime commons. South Korea's assistance in these efforts provides an important boost to its international standing (Roehrig, 2012:41).

Roehrig (2012) gave some specific insight into South Korea's motive for her solo venture in the armed intervention in the Gulf of Aden and her participation in CTF-151. He outlined the benefits to include that:

- (i) the presence of the *Cheonghae* unit has helped protect both ROK commercial interests in the Gulf of Aden and Arabian Sea and its citizens involved in maritime commerce there.
- (ii) ROK warships have escorted many South Korean ships through the region and moved in to ward off pirate attacks; rescued the *Samho Jewelry*.
- (iii) The deployment also put an end to an apparent wave of ransom demands in which South Korean ships became priorities for the hijackers; citing a report which conceded that the high ransoms paid by ROK shipping companies, particularly the \$9.5 million paid for the *Samho Dream*, may have singled out South Korean ships.
- (iv) operations such as the *Samho Jewelry* rescue demonstrate that South Korea is willing and able to use force when necessary, making it a valued partner – an incident that has left a strong impression on countries in the region – that South Korea is not a paper tiger on the piracy issue and is willing and able to use hard power to protect its nationals and property.
- (v) participation in CTF-151 operations provided South Korea with a chance to share its operational experience gained through its preparation for North Korean actions, while also gaining from participating in and leading multilateral operations. Gulf of Aden actions provide the ROK navy with valuable operational experience. In addition, successful counter piracy operations, especially the *Samho Jewelry*, may have helped to send a deterrence message to the pirates and North Korea, while allowing the navy and the Lee administration

to redeem its reputation in the wake of the *Cheonan* sinking and the *Yeonpyeongdo* skirmish.

He concluded that it is ñdifficult to calculate in monetary terms the benefit of the *Cheonghae* unit's presence; but given South Korea's dependence on ocean-borne shipping, the approximately \$33 million spent annually to fund the deployment is money well spentò (Roehrig, 2012:40).

South Korea's DDH-II destroyers and the dates in which they were commissioned are presented in tables 6.2.2 and 6.2.3.

Table 6.2.2: SOUTH KOREA'S DDH-II DESTROYERS DEPLOYED TO THE GULF OF ADEN

SN		Ship Commissioned	Date
1	DDH 975	<i>Chungmugong Yi Sunshin</i>	2003
2	DDH 976	<i>Munmu the Great</i>	2004
3	DDH 977	<i>Daejoyoung</i>	2005
4	DDH 978	<i>Wang Geon</i>	2006
5	DDH 979	<i>Kang Gam-chan</i>	2007
6	DDH 981	<i>Choi Young</i>	2008

Source: Roehrig, Terence. ñSouth Korea's Counter-Piracy Operations in the Gulf of Adenò Chap. in *Global Korea: South Korea's Contributions to International Security*. New York: Council on Foreign Relations Press, October 2012:32.

Table 6.2.3: SOUTH KOREA'S DDH DEPLOYMENTS TO CTF-151

SN	Ship Dates	Deployed
1	Munmu the Great	Marchì July 2009
2	Daejoyoung	Julyì November 2009
3	Chungmugong Yi Sunshin	November 2009ì May 2010
4	Kang Gam-chan	Mayì September 2010
5	Wang Geon	Septemberì December 2010
6	Choi Young	December 2010ì May 2011
7	Chungmugong Yi Sunshin	Mayì November 2011

Source: Roehrig, Terence. ñSouth Korea's Counter-Piracy Operations in the Gulf of Adenò Chap. in *Global Korea: South Korea's Contributions to International Security*. New York: Council on Foreign Relations Press, October 2012:36.

In summary South Korea's interest in the armed intervention is to:

- (i) protect both ROK commercial interests in the Gulf of Aden and Arabian Sea and its citizens involved in maritime commerce there;

- (ii) rescued pirate hijacked ships like the *Samho Jewelry*;
- (iii) put an end to an apparent wave of ransom demands in which South Korean ships became priorities for the hijackers;
- (iv) demonstrate that South Korea is not a paper tiger but willing and able to use force when necessary;
- (v) show that South Korea on the piracy issue and is willing and able to use hard power to protect its nationals and property making it a valued partner;
- (vi) gain and also share operational experience gained through its preparation for North Korean actions; and
- (vii) send a deterrence message to the pirates and North Korea, while allowing the navy and the Lee administration to redeem its reputation in the wake of the *Cheonan* sinking and the *Yeonpyeongdo* skirmish.

(vi). **IRAN:** Iran had some good measure of interest in the Gulf of Aden region being a major player on the world oil industry that depends on the safety of that transit route. As noted by Shaul (2012):

control of this area is also important when combatting Somali pirates who operate in the Gulf of Aden and threaten international oil shipping routes. The Red Sea route is also a main channel of communication and arms supply from Iran to its regional ally Hamas in the Gaza Strip, allowing Iran to funnel weapons to the Strip via Yemen, the sea, and through Sudan to Sinai and ultimately Gaza (Shaul, 2012:3).

Essentially therefore the Iranian Navy has been conducting anti-piracy patrols in the high seas, including the Gulf of Aden, since November 2008, when Somali raiders hijacked the Iranian-Chartered cargo ship *MV Delight*, off the coast of Yemen. In September 2010 the Iranian Navy dispatched its tenth flotilla of warships to the Gulf of Aden to defend the country's cargo ships and oil tankers against the

continued threat of attack by Somali pirates. The presence of the Iranian Fourth Fleet in the Gulf of Aden is useful in smuggling weapons to Iranian proxies in Somalia and Yemen (Shaul, 2102:3). The IRIN is on its 14th anti-piracy patrol in the Gulf of Aden since late 2008 - maritime milestones that no one would have predicted from Iran just a few years ago (Himes, 2011:7).

Most countries like South Korea, Japan and Spain hid under the anti-piracy campaign to conduct illicit acts in the Gulf of Aden. It was reported that High-seas trawlers from countries as far flung as South Korea, Japan and Spain have operated down the Somali coast, often illegally and without licenses, for the better part of two decades, often flying flags of convenience from sea-faring friendly nations like Belize and Bahrain, which further helps the ships skirt international regulations and evade censure from their home countries (Ishaan, 2009, not paged).

TABLE 6.2.4: INTERESTS OF CONTRIBUTORS

S/N	State	i. Summary of Interests in Somalia and the Gulf of Aden
01	United States	ii. Preserve human dignity iii. Ensure the safety and economic security of the United States which depends upon the secure use of the world's oceans. iv. prevent pirates operating in the waters off of the Horn of Africa from interfering with maritime commerce, endangering mariners v. use the region as a base to conduct operations on "terrorists" and nations accused of "harboring" terrorists vi. maintain and expand their authority in the Indian Ocean and achieve key strategic objectives vii. hinder or limit the power and influence of countries such as China, Iran and Russia viii. protect secure access to energy sources; ix. assemble an international coalition that would fund the TFG and therefore allow the United States to focus on its counterterrorist agenda x. legitimize the newly created US Combat Command for Africa (AFRICOM), which had fighting piracy among its five priorities xi. take its own "national cake" from the Gulf of Aden having not benefited in the age-long scramble for

		Somalia and the Gulf of Aden or any of the partition exercises at various stages of political and historical development of the region xii. prevent piracy attacks and other criminal acts of violence targeted at U.S. vessels, persons and interests xiii. ensure that coastal and maritime states maintain a presence at sea and in ports to serve as a deterrent similar to a street cop walking through a neighborhood xiv. reduce the ability of criminals to exploit the vulnerability of the maritime domain, particularly when U.S. interests are directly affected xv. prosecute acts of piracy in domestic criminal courts, and ensure that effective and meaningful legal sanctions exist against maritime piracy xvi. ensure that freedom of navigation which underpins global prosperity, peace and security is preserved - because preservation of the freedom at sea has been the prerogative of the world's super powers running from Ancient Greece and Rome, into the modern era through Portugal and Spain, then the Netherlands, England and xvii. protect Sea Lines of Communication; - xviii. sustain interstate trade that survives on unimpeded ocean transit xix. ensure free trade and international investment which helps democracies socialize non-democratic nations into an interdependent liberal world system
02	China	i. safeguard vessels carrying humanitarian supplies for the people of Somalia; ii. escort Chinese-flagged merchant vessels (including ships flying Hong Kong, Macau and Taiwan flags, upon request across the pirate infested trade route); iii. provide information to other merchant vessels about potentially dangerous areas; iv. provide necessary rescue services to merchant ships that find themselves under attack; v. overcome mistrust or fear that her abstinence from the maritime intervention may give room for other superpowers to develop and claim additional authority over that maritime lane and subsequently subject China flagged vessels as well as vessels flying other states flags to some form of prejudices (charges) during the intervention or when the war on piracy is won; vi. join the struggle between China, America and the West to control the strategic waterways in Somalia and the Horn of Africa; vii. increase her Sea presence at home and overseas; viii. for her economic interest; ix. strengthen her position in the Indian Ocean and increase her ability to counter the potential threats that may be posed by the US-aligned states;

		x. as part of her policy to increase her Sea presence at home and overseas; xi. her economic interest.
03	France	i. as the chair of the European Union an opportunity of leading in a new European undertaking compelled her to join the armed intervention ii. showcase the utility of the French base in Djibouti iii. renew French military presence in Djibouti iv. aid the completion of a high-profile investigations related to the killing of the French Judge Borrel in Djibouti v. allow President Nicolas Sarkozy to cast himself as a primary European leader vi. protect her investments in the Suez Canal.
04	Japan	i. recover her position as a regional power house, which position she lost by not partaking in the 1991 Gulf War ii. establish a permanent presence in the Gulf of Aden by opening an embassy; and a military base was established by the Japanese in Djibouti iii. diplomatic facelift aimed at recovering her position as a regional power house, which position she lost by not partaking in the 1991 Gulf War iv. conduct illicit acts in the Gulf of Aden
	India	i. establish some reasonable control over the African side of the Indian Ocean Rim; ii. curtail ñChinañs extraterritorial and regional influence iii. rescue pirate hijacked India flags ships and prevent further attacks
06	South Korea	i. help protect both ROK commercial interests in the Gulf of Aden and Arabian Sea and its citizens involved in maritime commerce there ii. ROK warships to escort South Korean ships through the region and move in to ward off pirate attacks iii. put an end to an apparent wave of ransom demands in which South Korean ships became priorities for the hijackers; citing a report which conceded that the high ransoms paid by ROK shipping companies, particularly the \$9.5 million paid for the <i>Samho Dream</i>, may have singled out South Korean ships iv. demonstrate that South Korea is willing and able to use force when necessary, making it a valued partner i.e. that South Korea is not a paper tiger on the piracy issue and is willing and able to use hard power to protect its nationals and property v. participation in CTF-151 operations provided South Korea with a chance to share its operational experience gained through her preparation for North Korean actions, while also gaining from participating in and leading multilateral operations

		vi. Gulf of Aden actions provide the ROK navy with valuable operational experience vii. successful counter piracy operations, especially the <i>Samho Jewelry</i>, may have helped to send a deterrence message to the pirates and North Korea viii. allow the navy and the Lee administration to redeem its reputation in the wake of the <i>Cheonan</i> sinking and the <i>Yeonpyeongdo</i> skirmish ix. protect both ROK commercial interests in the Gulf of Aden and Arabian Sea and its citizens involved in maritime commerce there x. conduct illicit acts in the Gulf of Aden
07	Iran	i. as a major player on the world oil industry that depends on the safety of that transit rout ii. as an avenue to continue smuggling weapons to Iranian proxies in Somalia and Yemen

Source: Authors Research 2012

6.3. PIRACY AND ARMED ROBBERY INCIDENTS IN THE GULF OF ADEN, 2008-2011

There is a visible discrepancy in the available data on pirate and armed robbery incidents in the Gulf of Aden, and the Somali coasts. The reason for the said discrepancy in data has been traced to the constraints identifiable in reporting of pirate incidents in the Gulf of Aden and the coasts of Somalia. The constraints has further been linked to the fact that ñnot all vessels reported equally to every official source, leading to differences in the numbers reported by the IMB, EU-NAVFOR, ONI, and Oceanus, which were the primary resources for this section of the reportò (IMB and Oceans Beyond Piracy, 2012:13). This may be seen for instance in the 2011 records of hostages taken by Somali pirates, where the four official sources had some differences in their reported figures thus = IMB 470, EU NAVFOR 436, ONI 458, and Oceanus 507 (IMB and Oceans Beyond Piracy, 2012:13).

More so:

There are many areas where the numbers listed on piracy attacks and crimes are underreported. There are many local dhows and fishing vessels that are fired upon or hijacked without notifying the UK Maritime Trade Operations (UKMTO), Maritime Security Center ì Horn of Africa

(MSCHOA), or the IMB. Media stories about naval vessels rescuing these dhows while they are acting as mother ships, such as the US Navy's rescue of an Iranian dhow in January 2012 indicates that numerous dhows are taken by pirates for use as mother ships, with little regard for the well-being of the crews (IMB and Oceans Beyond Piracy, 2012:13).

Meanwhile, it is of common knowledge that owners of vessels on illegal voyages like dumping of toxic waste, unlawful fishing, and those flying flags of convenience do not report attacks on their ships to any authority, rather they open negotiations and pay ransoms for the release of their vessels without recourse to any designated maritime authority. In which case attacks on their ships do not reflect on any records (included in this category are phantom ships). For example, Ishaan (2009), relying on information from Tsuma Charo (of the Nairobi-based East African Seafarers Assistance Programme, which monitors Somali pirate attacks and liaises with the hostage takers and the captured crews) noted that in the early days of Somali piracy, those who seized trawlers without licenses could count on a quick ransom payment, since the boat owners and companies backing those vessels didn't want to draw attention to their violation of international maritime law and that this practice encouraged the pirates to build up their tactical networks and whetted their appetite for bigger spoils.

With these challenges in mind, this writer has relied more on data provided by the IMB except where data is not available or deficient, in which case data was sourced from other equally authentic sources and matched against data reported by the other three sources namely EU NAVFOR, ONI, OCEANUS; and the more recent One Earth Future Foundation (Ocean Beyond Piracy Project) reports.

(i) **PIRATE ATTACKS ON SHIPS 2008 – 2011:** Available data on pirate attacks and armed robbery on ships and other vessels plying the Gulf of Aden and the Somali coasts indicated an appreciable level of increase within the period under review.

The data revealed an increase in the number of pirate attacked ships from 111 in 2008 to an unprecedented level of 237 in 2011. Within the same period, the number of ships successfully hijacked by pirates in the Gulf of Aden declined from 42 (in 2008) to 28 (in 2011), so also was a decline in the number of hostages taken within the period under review (Table 6.3.1).

TABLE 6.3.1: SHIPS ATTACKED BY SOMALI PIRATES, 2008-2011

Year	2008	2009	2010	2011
Ships Attacked	111	215	219	237
Ships Hijacked	42	47	49	28
Hostages	815	865	1016	470
Ships plying the Gulf of Aden	20,000	20,000	20,000	20,000

Source: Author's adaptation from Maritime Piracy around the World Synopsis. Oceans Beyond Piracy Project i Fact Sheet 5: 2012.

While there was a significant increase in the number of pirate attacked ships there was also a significant decline in the number of ships hijacked as well as the number of hostages.

This draws our attention to an ongoing debates as to whether the fluctuation in the data on pirate attacks (number of pirate attacked ships, number of ships hijacked, and the number of hostages taken) within the period under review (2008 to 2011) was attributed to the presence of the world's navies in the Gulf of Aden as part of the armed intervention. The popular view is on the contrary; and the argument is that that would have been the case had the number of pirate attacked ships declined alongside the decline in the number of successful hijacks.

The increase in the number of ships attacked helps situate the cause of the decline of the other indices outside the armed intervention. Ordinarily if the armed

intervention was the reason for the decline in the number of ships hijacked and the number of hostages taken it naturally would have meant a decline in the number of ships attacked by pirates too.

Therefore many analysts have argued that the decline in both the number of ships hijacked and the number of hostages taken are as a result of individual efforts of the shipping lines who have taken private measures to reduce intercourse with the pirates in the Gulf of Aden region and in some cases the navies from states other than the states whose flags they fly.

In support of this position is a ñOne Earth Future Working Paper (December 2010:14) report which stated that Ship owners had attempted ñto protect their property and crew from pirate attacks by preparing their ships with security equipment and/or personnel prior to transiting a high-risk zoneò. The report had it that such security equipment (deterrent security equipment) and or armed security personnel carried on board ships, or escorting ships across the Gulf of Aden and the coasts of Somalia cost the shipping industry between 363million US dollars (lower bound estimate per year) and 2.55 billion US dollars (upper bound estimate per year) ï see tables 6.3.2, and 6.3.3.

Table 6.3.2: DETERRENT EQUIPMENT AND PERSONNEL COST 2010

Equipment	Cost (in US dollar)
Licensed Security Guards	80,000
Sonic Deterrent Equipment	1,250
Barbed/Razor Wire	12,000
Sandbags	1,200
Electric Fences	40,000
Total per ship, per transit	134,450
Total security costs if all purchased per year	3.6 Billion
Lower bound estimate per year	363 million
Upper bound estimate per year	2.5 billion

Source: One Earth Future Working Paper, December 2010:15

Table 6.3.3: DETERRENT EQUIPMENT COST (ONLY) 2011

Security Equipment	Average Cost/ Ship/ Year	Total Cost in 2011	
		Lower Bound	Upper Bound
Razor Wire	\$12,796	\$434,552,160	\$434,552,169
Electrified Barrier	\$1,529.80	\$3,247,000	\$9,741,000
Warning Signs	\$4.50	\$286,538	\$286,538
Acoustic Devices	\$21,000	\$44,527,500	\$133,717,500
Sandbags	\$1,424.16	\$48,364,473	\$48,364,437
		\$533,609	\$629,248,653

Source: One Earth Future Working Paper, December 2011:16.

Similarly, the cost of the antipiracy campaign to Piracy Deterrence Organizations and Trust Funds working in the Gulf of Aden region, estimated based on their annual budgets, amounts to over 24.5 million US dollars – see tables 6.3.4 and 6.3.5.

Table 6.3.4: COST TO ANTI-PIRACY ORGANIZATIONS AND TRUST FUNDS 2010

Organization	Funds US dollars
UN Contact Group on Piracy Off the Coasts of Somalia	3.7 million
IMO Djibouti Code	13.8 million
Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP)	2 million
UNODC	5 million
Total cost of anti-piracy organization	24.5 million

Source: One Earth Future Working Paper, December 2010:20

TABLE 6.3.5: TOTAL FINANCIAL CONTRIBUTIONS TO THE TRUST FUND 2011: \$4.7 MILLION

Organization	Fund
European Union	\$1.48 million
United Arab Emirate	\$1 million
Norway	\$750,000
France	\$500,000
Netherlands	\$400,000
Belgium	\$150,000
Abu Dhabi Port Company	\$200,000
DP World	\$100,000
E Marine Co	\$100,000
Philippines	\$25,000

Source: One Earth Future Working Paper, December 2011:27

(ii). **TYPES OF PIRATE ATTACKS 2003 - 2011:** data on pirate attacks indicate that pirate attacks had been going on in the Gulf of Aden a long time before the period under review. The attempted pirate attacks have increased from 93 in 2003 to 105 in 2011. The figure in Table 6.3.6 indicate a decline in the number of attempted pirate attacks in 2005, which came a little lower in 2008, but went back up from 2009 up till 2011. The trend in the figures shows an increase in attempted pirate attacks during the period under review 2008 2011. This is an indication that the armed intervention in the Gulf of Aden did not lead to a reduction in the number of attempted pirate attacks.

Table 6.3.7 also indicate that within the period under review that there was also a significant increase in the number of ships fired upon by pirates i from a paltry 20 in 2003 to 46 in 2008, and a steady progression up to 113 in 2011. Meanwhile, there is a relatively significant decline in the number of ships boarded from as high as 311 in 2003 to 45 in 2011 (Table 6.3.6).

This relative movement on the numbers of ships hijacked and the number of ships boarded was attributed to efforts of the private sector shipping lines. It was achieved by equipping their ships with security deterrent equipment, carrying armed guards onboard their ships, increasing ships capacity to out speed pirate mother ships, increase in ships freeboard, and the use of citadels as against the armed intervention.

Ploch *et al* (2011:24) confirmed this when he wrote that private sector and shipping industry have responded to the pirate threat in the waters off the Horn of Africa in so many ways. According to them:

In addition to altering financial decisions based on higher insurance costs, some accounts suggest that shipment navigation patterns have changed in response to the threat of piracy, with some vessels preferring to circumnavigate the southern Cape of Good Hope rather than risk attack in the Gulf of Aden. Crews also have developed a number of unique countermeasures and best practices in their attempts to ward off and resist pirate attacks. The use of water

cannons, fire hoses, and passive sonic defenses has become more widespread. Initial industry surveys suggested that ships that operate at speeds above 15 knots (One knot is unit of measurement equivalent to one nautical mile per hour or 1.15 miles per hour) and that have higher freeboards (the term 'freeboard' refers to the distance between the waterline and the main deck of the ship) have proven less susceptible to pirate attack (Ploch *et al*, 2011:24).

Ploch *et al* (2011) however pointed to a U.S. Office of Naval Intelligence, Maritime OPINTEL Report on Somalia of March 2010 which warned in March 2010 of pirates' increasing ability to board any vessel regardless of high freeboard (U.S. Office of Naval Intelligence, Maritime OPINTEL Report - Somalia: 2010).

The use of safe rooms or 'citadels' by crew during attacks has proven a successful mechanism for avoiding capture in several cases (Ploch *et al*, 2011:24).

Table 6.3.6: COMPARISON OF THE TYPES OF ATTACKS ON SHIPS PLYING THE GULF OF ADEN, 2003-2011

Category	2003	2004	2005	2006	2007	2008	2009	2010	2011
Attempted	93	77	52	56	62	47	84	89	105
Fired upon	20	13	19	7	14	46	120	107	113
Hijack	19	11	23	14	18	49	49	53	45
Boarded	311	228	182	162	169	151	153	196	176
Total	445	329	276	239	263	293	406	445	439

Source: Author's made up from ICC's IMB Piracy and Armed Robbery Against Ships Report: Annual Report 2008, 2009, 2010, and 2011

(iii). ATTACKS ON SHIPS PLYING THE GULF OF ADEN (2003-2011):

A look at tables 6.3.7 and 6.3.8 shows a horrific increase in crews taken hostage up to 2010 but declined in 2011; an increase in crew threatened up to 2011; an increase in crew injured up to 2011; and an increase in crew killed up to 2011. While the not so significant decline in overall numbers in certain indices (e.g. Crew Assaulted, Kidnap/Ransom) generally is attributed to the measures taken by the shipping lines to protect themselves from pirate (and unfriendly navies), the increases in certain other indices (e.g. crews taken hostage, crew threatened, crew injured, crew killed) is a confirmation that the pirates have become more desperate and aggressive in their

venture: and are threatening, injuring, and killing crew in retaliation for navies assaults on pirates. Unfortunately it was those “retaliation” ventures that account for the increase in the use of arms in attacks against civilian ships plying the Gulf of Aden.

Table 6.3.7: TYPES OF VIOLENCE AGAINST CREW ABOARD SHIPS PLYING THE GULF OF ADEN, 2003-2011

Types of Violence	2003	2004	2005	2006	2007	2008	2009	2010	2011
Taken Hostage	359	148	440	188	292	889	1052	1181	802
Kidnap/Ransom	-	86	13	77	63	42	12	20	10
Crew Threatened	65	34	14	17	6	9	14	18	27
Crew Assaulted	40	12	6	2	29	7	4	6	6
Crew Injured	88	59	24	15	35	32	68	37	42
Crew Killed (died) ^a	21	32	-	15	5	11	8	15	24
Missing	71	30	12	3	3	21	8	-	-
Total	644	401	509	317	433	1011	1166	1277	911

Source: Author’s research from ICC’s IMB Piracy and Armed Robbery against Ships Report’s Annual Report 2008, 2009, 2010, and 2011

^a = Note: 2010 and 2011 figures from the *Economic Cost of Somali Piracy, 2011. One Earth Future Foundation, Working Paper, p. 36*

Besides, indications are that “Somali pirates have demonstrated an increasing willingness to use violence in order to capture a ship, and, according to the commander in charge of EU counter-piracy operations, their treatment of hostages appears to be worsening. The U.S. Office of Naval Intelligence (ONI) had reported that the increase in the number of vessels fired upon by Somali pirates in 2009 (127) and 2010 (120) was triple the number fired upon during 2008 (42). A confirmation that Pirates appear to be adapting to certain self-defense mechanisms used by mariners, and have, in some instances, used RPGs or explosives to breach a ship’s “citadel” (a safe room with a reinforced door used by crew to avoid capture)” (Ploch, *et al*, 2011:11). Owing to this development, most navies have avoided rescue operations that could endanger the lives of hostages, preferring instead to engage in hostage negotiations or wait for shipping companies to negotiate ransom.

Further indications are that if things remained the way they were within the period under review, that chances are high that pirates will start sabotaging ships they

fail to hijack. For example, several high profile rescue attempts have led pirates to threaten revenge ñThe April 14, 2009, attack on the U.S.-flagged *Liberty Sun* allegedly was carried out with the intention of damaging or sinking the ship and injuring or killing its crew in retaliation for the deaths of three Somali pirates during US military efforts to secure the release of the detained captain of the *Maersk Alabama* days earlierò (Ploch, *et al*, 2011:11; *Agence France Presse*, ñPirates stage rocket attack on US freighter,ò April 14, 2009). Again, Ploch *et al* (2011) noted that:

Pirate groups have threatened to kill hostages in the event of such attempts. Hostages may also inadvertently be caught in the crossfire during rescue operations. In April 2009, a rescue operation by French naval forces designed to free a family held hostage onboard a small sailboat off the Somali coast resulted in the death of the vessel's owner, a French citizen, during an exchange of fire between the pirates and naval personnel. In January 2011, South Korean commandos successfully rescued the crew of the tanker *Samho Jewelry*, but the tanker's captain was shot in the stomach during the operation. The deaths of four Americans onboard the *Quest* in February 2011 further highlights the dangers to hostages while being held by pirates.

Table 6.3.8: TYPES OF ARMS USED DURING ATTACKS ON SHIPS PLYING THE GULF OF ADEN, 2003-2011

Types of Arms	2003	2004	2005	2006	2007	2008	2009	2010	2011
Guns	100	89	80	53	72	139	240	243	245
Knives	145	95	80	76	67	68	70	83	69
Not stated	168	130	103	100	110	80	90	108	117
Other weapons	34	15	13	10	14	6	6	6	8
Total at Year End	445	329	276	239	263	293	406	440	439

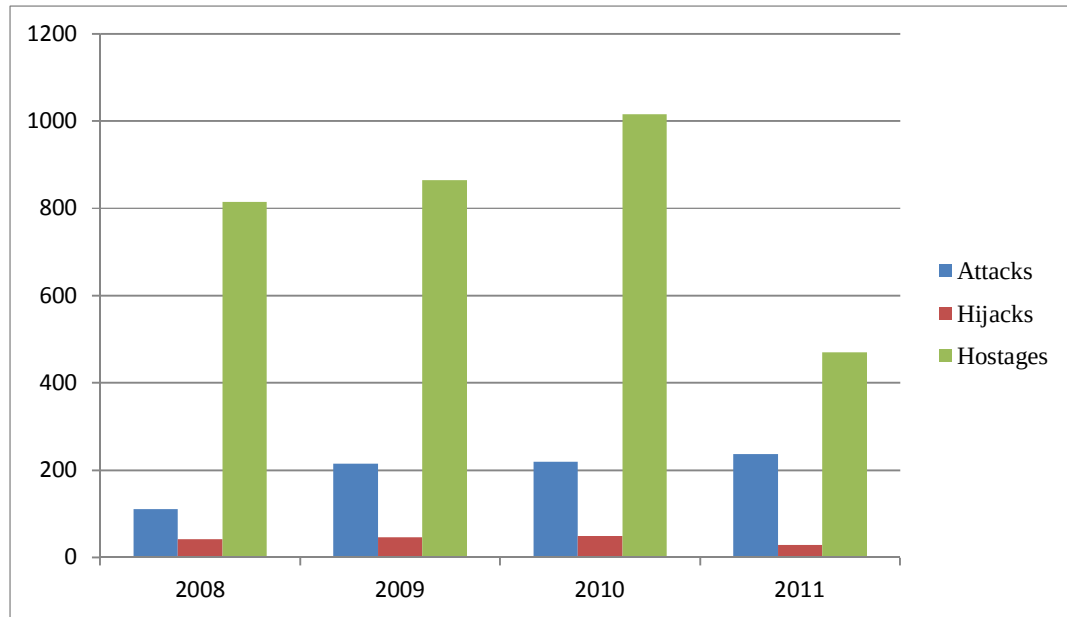
Source: Author's research from ICC's IMB Piracy and Armed Robbery against Ships Report's Annual Report 2008, 2009, 2010, and 2011

6.3.1 REVIEWS

Records indicate that there was a steady progression in the rise of pirate incidents/attacks on ships plying the Gulf of Aden and the coasts of Somalia between 2008 and 2001 (Table 6.3.1 and Figure 6.3.1), but a relatively steady and later decline

in the number of successful hijacks, which explains to an extent the figures in the hostage column.

Figure 6.3.1: PIRACY INCIDENTS IN THE GULF OF ADEN, 2008-2011



Source: Author's Analysis, 2012

However, it is important to note that the figures of piracy incidents between 2008 and 2011 are piracy incidents in the face of the armed intervention in the Gulf of Aden and the coasts of Somalia.

The proper interpretation of the indices reflected in the tables and figures above (particularly figure 6.3.1) is that pirate attacks were actually on the increase in the face of the armed intervention between 2008 and 2011 (see the blue bars of the chart). The second point is that successful pirate attacks leading to hijacking of ships was on the decline (see the red bars of the chart), and that perhaps accounts for the supposed decline in the number of hostages (see the green bars on the chart) (please note that this is not conclusive as the number of hostages that may be taken from any hijacked ship depended on the type of the ship and the number crew or passengers on board).

The fact that pirate attacks were on the increase while successful attacks that resulted in ship hijacks were on the decline during the armed intervention in the Gulf of Aden between 2008 and 2011 means that the cause of the decline in the number of successful pirate attacks that resulted in ship hijacked could not be traced to the armed intervention (navies), but to some other factors or institutions.

The whole truth is that the presences of the navies and the pirates both make navigation of the Gulf of Aden and the coasts of Somalia a challenge to merchant ships who most often fly flags of states (flags of convenience) that have little or no presence or contribution to the Naval operations in the Gulf of Aden e.g. flags of countries like Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Burma, Cambodia, Canary Island, Cayman Islands, Cook Islands, Cyprus, Liberia, Malta, Marshal Island, and Panama. That being the case, such ships (ships flying flags of convenience) offer soft targets to pirates in the absence of ready naval escorts or naval defense for them during their transit of the Gulf of Aden. Most often, such ships do not have the capacity to distinguish precisely which approaching Vessel is pirates or navies, therefore they preferred to reroute their vessels away from the Gulf of Aden and the coasts of Somalia. Where rerouting was not considered a viable alternative, such ships had to equip their vessels with deterrent equipment and carried armed personnel onboard - both of which introduced huge costs to their operations.

Apart from rerouting of vessels away from the Gulf of Aden and Somali coasts, other vessels particularly Supper Tankers (very large oil carriers) and other vessels who may not find it convenient to reroute particularly because of distance and time (rerouting a ship away from the Gulf of Aden adds more 6 days, 2,700 nautical miles, and \$89 million to each voyage (data made out from One Earth Future Working Paper, December 2010) (see also King, 2010:3-4) either increase their

engine capacity to ensure that they out run pirate mother ships in the case of pursuit by pirates or deploy very expensive Deterrent Equipment on board their vessels and engage Private Security Guards (note that there was no comprehensive records of number of ships deploying Private Guards, deploying very Expensive Deterrent Equipment, or increasing their speed to out run pirate ships, or rerouting, but records show that very many shipping lines are currently employing all or any combination of these new techniques to survive Somali piracy). (See table 6.3.2. and 6.3.3. on cost of rerouting, deterrent equipment etc.).

It must be acknowledged that Rotberg (2010) had given some credit for the reduction in pirate incidents in the Gulf of Aden between 2008 and 2011 to the armed intervention, but he was quick to acknowledge that budget issues (finances) are taking away the shine from the intervention therefore the supposed success in curtailing piracy incidents. He also acknowledged the part played by weather conditions (see, King Jnr, 2010:57) and the Best Management Practice (BMP) employed by the shipping industry.

The other challenges that did whittle down the chances of successful anti-piracy campaign in the Gulf of Aden within the period under review are:

- (i) Use of force against suspected pirate vessels: The use of force against suspected pirate vessels was problematic to the antipiracy campaign because of the difficulty inherent in distinguishing a pirate mother ship from a legitimate commercial ship. According to reports, in November 2008, a ship from the Indian navy attacked what it thought was a pirate mother ship; only after the attack did the navy discover that the targeted ship was an innocent Thai commercial trawler (Ploch, *et al*, 2011).

- (ii) Ransom payments: Within the period under review, particularly towards 2011, ransom payments were considered to be problematic to the antipiracy campaign because they encouraged pirates to continue their attacks with the expectation that insurance and shipping companies will decide that ransoms are more cost effective relative to the insured values of personnel and cargo ï which unfortunately was the reasoning of the insurance companies and ship owners.
- (iii) Large sums of money available to pirates: Reports suggest that pirates have invested ransom earnings in more sophisticated weaponry and have fortified their operating bases against local authorities and potential international intervention. With pirate revenues in 2009 estimated at roughly \$80 million, local authorities like the governments of Puntland and Somaliland are completely out-resourced (Ploch, *et al*, 2011).
- (iv) The use of armed guards on board private and commercial ships: The use of armed guards on board private and commercial ships generated a lot of debate. The problem was that there is no international law regime as regards carrying of arms on board private and commercial ships on the high sea. More so some of the ships plying the Gulf of Aden region either stops over in Somalia or neighbouring harbours which are within some state jurisdictions where arms cannot be taken in without authorization; and often times it is unlawful for civilians to bear arms within those states. This debate about the use of armed guards continues among shipping industry representatives, government officials, and observers worldwide (ñOptions for Improving the Immediate Security of Merchant Shipsò) (Ploch, *et al* (2011).

6.4. IMPACT OF THE CONFLICT OF INTERESTS ON PIRACY AND ARMED ROBBERY IN THE GULF OF ADEN, 2008-2011

The divergence in the interests of contributors to the anti-piracy campaign in the Gulf of Aden and the coasts of Somalia had great but negative impact on piracy and armed robbery in the Gulf of Aden between 2008 and 2011. Kupferschmidt (2011:62) noted that the ñNaval interventions against piracy at the horn of Africa in the Gulf of Aden and the Somalia basin began at the end of 2008. Since then there have been at times upwards of 40 warships (plus reconnaissance planes) operating in the multinational formations or under national commandsò. But in spite of this huge naval platform patrolling the Gulf of Aden and the Somalia coasts the Somali pirates numbering about 1200 are still holding the whole world to ransom, threatening the world ocean trade, and energy security at a huge cost (see tables 6.3.2ï 6.3.5 above).

The divergence of interests of contributors to the intervention whittled down the impact of the naval presences and provides leeway for piracy to thrive both as an income generating venture and a political course.

King (2010:3-4) noted that:

The economic benefits of piracy continue to be a significant issue with ransom payments in 2008 estimated to have been somewhere between 18 to 30 million USD. Besides the immediate cost of ransom payments, the maritime shipping industry faces potential increases in insurance premiums if they elect to continue transits of the region, and increased operating costs if forced to bypass the Suez Canal and GOA. Recent estimates from Lloyd's of London, a major insurer of commercial vessels, show an increase in average insurance premiums from 500 USD in 2007 to 20,000 USD in 2008 for vessels operating in the GOA, an estimated cost of 400 million USD annually. Conversely, operators who wish to bypass the region altogether have one option, a long voyage of over 2,700 nautical miles around the Cape of Good Hope. This voyage, although safer, takes six more days than the Suez and GOA route and is projected to cost significantly more, close to 89 million USD annually (industry-wide) in added cost.

The divergence in the interests of contributors to the armed intervention is evident in the absence of coherence in the naval conduct and individual approach to the naval exercise. This left room for pirates to operate conveniently in the presence of about 40 warships (plus reconnaissance planes) (Kupferschmidt, 2011:62) from about 26 countries (Mugridge, 2011; see Table 6.1.1). The activities of these pirates in the 2.8 million square km of waters around Somalia's eastern coast (Matthew, 2009:2-3), has raised average insurance premiums from 500 USD in 2007 to 20,000 USD in 2008 (King, 2010:3-4; Tables 6.4.1-6.4.3).

The pirates appear to be very much aware of the dynamics of the naval intervention in the Gulf of Aden and the Somali Basin and are riding on the gaps in the operation of the navies. The gaps created by the divergence in the interests of contributors to the antipiracy campaign gave room for pirates to conveniently pick and choose which ships to attack and when.

As observed by Reid (2011:6) 'Piracy is a dynamic activity mutually dependent on global economic development, government policies, corporate strategies and actions of regional and local players'. Therefore, 'as counter-piracy efforts make attacks more difficult, pirates are becoming more aggressive and increasingly likely to use weapons to get vessels to stop' (Reid, 2011:5). In their 'aggression', pirates are singling out for attacks ships flying the flags of states that have employed more force and have brought more harm to pirates and their business empire. Consequently for instance, as reprisal, in 2010 Somali pirates targeted and attacked two US Naval Vessels (the *U.S.S. Nicholas* and the *U.S.S. Ashland*). Also in 2011, Somali pirates targeted and attacked one US commercial ship (the *Maersk Alabama*). Consequently, the ship (the *Maersk Alabama*) now has armed security guards onboard. Meanwhile, that February 22, 2011 Somali pirate attack on *Maersk Alabama* was the third it

survived (by ñdefensive maneuvers) in one year. Somali pirate attacks have also resulted in the death of four Americans on onboard the ship ñsailboat *Quest*; and that marks the first known American casualties during a Somali pirate attack (Ploch, *et al*, 2011). US Navy reports had it that ñpirates onboard the *Quest* fired a rocket-propelled grenade (RPG) at one of the destroyers, the *U.S.S. Sterrett*, after negotiations broke down with two pirates who had boarded the *Sterrett* for talks with a Federal Bureau of Investigation (FBI) hostage negotiator. A Navy SEAL team subsequently boarded the *Quest* and found that the American hostages had been shot and fatally wounded. Some Somali accounts differ with the Navy account, claiming that the hostages were caught in crossfire during a rescue attempt by the SEALs. Two pirates were found dead onboard, and two others were killed during the raid. The remainder, 13 Somalis and one Yemeni, were captured and brought to Norfolk, Virginia, where they have been indicted by a grand jury (Ploch, *et al*, 2011).

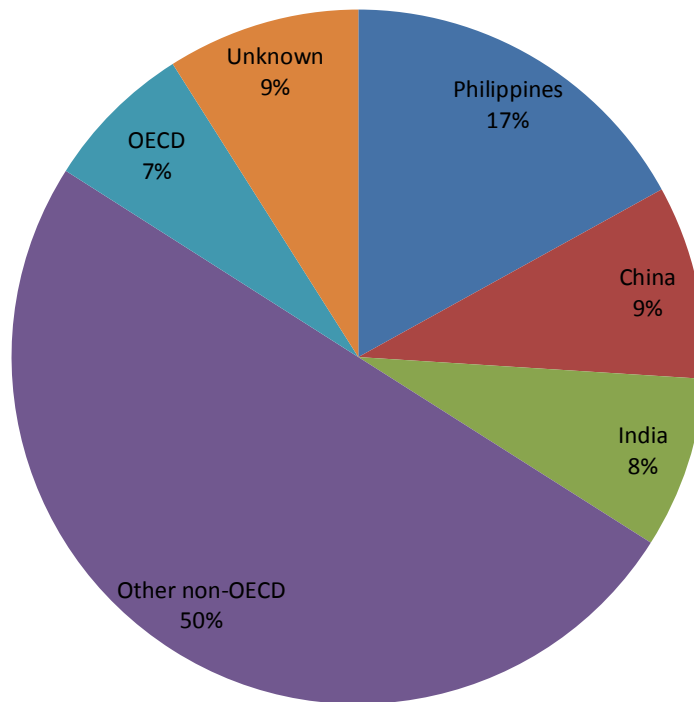
Divergence of interests and consequent aggression by pirates is also making negotiations for the release of hostages even more difficult, the result of which is that hostages are detained for longer periods and abused. Pirates are therefore mindful of which ships to attack with certain expectations as to returns from ransom or force. Where returns are not as large as expected or even not forthcoming, pirates have visited hostages with accordion aggression or even death.

Reports have it that:

Somali pirates held 1,206 people hostage in 2011. This number represents 561 people captured in 2011 and 645 people who were taken captive in 2010 and remained in pirate hands for some or all of 2011. The fact that 645 people were taken in 2010 and remained hostage in 2011 highlights the large number of attacks in late 2010, an increase in the average length of time to negotiate the ransom, and in some cases, stalled negotiations. The victims are citizens of more than 47 countries, the vast majority of which are from Asia, especially the Philippines,

China, and India (International Maritime Bureau and Oceans Beyond Piracy, 2012:7).

Pirates are also becoming increasingly professional and branching out into other criminal activity; the pirates have studied the patterns of the patrolling warships and adapted their tactics accordingly (Reid, 2011:5). Part of this adaptation, emerging from a thorough understanding of the gaps created by the divergence in the interests of the contributors to the armed intervention, as reflects on the operations of the navies in the Gulf of Aden, is that pirates are now technical in their choice of Vessels to attack and when. Pirates are now preying on vessels from countries without navies in the Gulf of Aden and the Somalia coasts or vessels from countries without a strong naval platform in the region. To that extent only a few ships from countries that can respond quickly are attacked, whereas many ships from countries that may never respond, vessels flying flags of convenience, and vessels on unlawful missions are heavily attacked; and perhaps only a few ships from the countries with great naval presence in the Gulf of Aden e.g. U.S., UK, and Russia are attacked – perhaps more for the purpose of revenge than for ransom. The result is reflected in the rate of hostages – showing less of US, UK, Russia citizens, but more of Asians (figure 6.4.1).

Figure 6.4.1: 1,206 Hostages held in 2011

Source: The Human Cost of Somali Piracy, 2011. International Maritime Bureau and Oceans Beyond Piracy (2012:7).

The divergence in the interests of the contributors to the armed intervention had grave implications on the success of the naval operations in terms of resources available for the intervention between 2008 and 2011. By the fact that the different naval platforms in the Gulf of Aden are running on separate and individual budgets they do not benefit from the economics of scale – the assumption that more could be done with less (Reid, 2011:7); if done collectively. This however put pressure on the budgets of the contributors, see table 6.4.1.

Table 6.4.1: COUNTER-PIRACY MILITARY MISSIONS IN THE GULF OF ADEN: ADMINISTRATIVE BUDGETS

Mission	Description	Costs and Contributing Nations
European Union Operation Atalanta	EU-NAVFOR's Operation Atalanta composed of 5-10 frigates or destroyers, one auxiliary, and three maritime patrol	Administrative Cost 2011: \$10.9 million Contributing nations include (not limited to): Belgium, Estonia, France, Germany, Greece, Italy, Luxemburg, The Netherlands, Norway, Spain,

	or reconnaissance aircraft	Portugal, Sweden, United Kingdom
NATO Operation Ocean Shield		Administrative Cost 2011: \$5.5 Million. Contributing nations include (not limited to): Denmark, Norway, Turkey, United States
Combined Task Force	CTF 151	Administrative cost 2011: \$5.5 Million. Contributing nations include (not limited to): Australia, Bahrain, New Zealand.

Source: One Earth Future Working Paper, 2011:26 (with some amendments).

As noted by Rotberg (2010:8), ñat a time of increasing budgetary pressures, the effectiveness of maritime forces to combat piracy is being challengedò. The success in the anti-piracy campaign may not be credited to the Navies in the Gulf of Aden and the coasts of Somalia only, but to a combination of factors that may include weather conditions and the implementation of Best Management Practice (BMP) by the shipping industry. These have helped reduce the success rate of pirate attacks from 60 percent in 2007 to 23 percent in 2009 (UNOSAT, 2010. *Spatial Analysis of Somali Pirate Attacks in 2009*. Geneva: UNOSAT/UNITAR).

It is doubtful whether the success in the anti-piracy campaign mentioned in the forgoing paragraph (reduction in successful pirate attacks) is actual or otherwise. King Jnr (2010) noted that:

The international response to Somali piracy has produced little quantifiable success. Despite the dedication of dozens of warships to the region in 2008- 2009, reported attacks in the GOA and West Indian Ocean actually increased through the first six months of 2009. Successes initially attributed to the increased naval presence were later more appropriately attributed to changes in weather off the coast, as high seas and winds during the stormy seasons prevent most small craft activity off the eastern coast of Somalia. Conversely, the GOA is relatively protected during these periods, allowing for continued pirate activity throughout the year (King Jnr, 2010:57).

Reacting to the impact the divergence in the interests of the contributors to the armed intervention in the Gulf of Aden and the coasts of Somalia had on actual success in combating piracy, Matthew (2009:2-3) observed that:

even as the number of ships sent to the region increases, Somali pirates now operate up to 800 miles offshore, effectively making it unfeasible to monitor the entire expanse of water. Rough estimates suggest it would take up to 140 craft to properly patrol the Gulf of Aden and several times more that number to cover the 2.8 million square km of waters around Somalia's eastern coast. Even if success is achieved in the Horn of Africa, the western Indian Ocean is now firmly within the reach of pirates from Somalia to the Seychelles, in what is essentially a displacement problem. Somali pirates are still holding around 300 hostages and 15 to 20 ships, and are becoming increasingly technologically adept at selecting and tracking far-reaching targets via GPS and onshore intelligence hubs.

The armed intervention has not had great impact on piracy as expected due to divergence in the interests of the contributors to the armed intervention. Chalk (2010) offered an explanation for this development when he wrote that:

The international response has also been somewhat crippled by the enduring legacy of sovereign interest. Many countries patrolling off the HoA only became involved in the region when their own flag assets were attacked and continue to view their mandate in national as opposed to truly collaborative terms. This has been reflected by the continuing reluctance of prominent maritime states such as China and Russia to join CTF-151 and gives rise to the prospect of their departure once their own vessels and citizens are no longer deemed to be under threat (Chalk, 2010:100).

Chalk (2010:100) noted some comments that were made during the "Countering Piracy in the Modern Era" workshop (RAND, Arlington, March 2009) to buttress the point that "the whole impetus for action off the HoA was driven by political imperatives". He noted further that "certain commentators believe that countries such as the U.K., Spain, and Germany only started pushing for a EU taskforce after France had dispatched vessels to the Gulf of Aden and that the

subsequent U.S. decision to form CTF-151 was a desire not to be “outdone” by Europe.

Cumulatively, the divergence in the interest of contributors to the armed intervention in the Gulf of Aden and the coast of Somalia had inadvertently encouraged piracy in the Gulf of Aden and Somali coasts, and energized pirates to become more adventurous, reaching out farther into the high sea and attacking larger vessels. The impact is felt more by participating organizations in terms of logistics; seafarers in term of risks; world trade and shipping in terms of costs (ransoms, insurance premiums, re-routing of ships away from the Gulf of Aden, installation of deterrent security equipment on board ships plying that route; naval forces (maintenance of personnel and servicing equipment); states in terms of prosecution of apprehended pirates, piracy deterrent organizations, regional economic etc.

Generally, a rough cost estimate of the impact of the divergence in the interests of the contributors to the anti-piracy activities in the Gulf of Aden and the coasts of Somalia are reflected in tables 6.4.2 and 6.4.3 below:

Table 6.4.2: ECONOMIC COST OF MARITIME PIRACY IN THE GULF OF ADEN, 2008-2011

Year	2008	2009	2010	2011
Ransoms			176m	160m
Insurance premiums			460 ĩ 3.2b	635m
Re-routing of ships			2.4 ĩ 3b	486m ĩ 681b
Security Equipment			363- 2.5b	1.064 ĩ 1.16b
Naval Forces			2b	1.27b
Prosecutions			31m	16.4m
Piracy Deterrence Organizations			19.5m	21.3m
Cost to Regional Economy’s			1.25b	
UN Contact Group on Somalia			3.7m	
IMO Djibouti Code			3.8m	
ReCAAP			2m	
UNODC			5m	
Increased Speed				2.71b
Labour				195m

Source: Authors arrangement from One Earth Future Foundation, Working Paper 2010.

Table 6.4.3: HUMAN COST OF MARITIME PIRACY IN THE GULF OF ADEN, 2008-2011

Year	2008	2009	2010	2011
Pirate deaths	-	11	-	-
Seafarers death	11 ^a	8	15	24
Ships attacked	111	215	219	239
Ships hijacked	42	47	49	28
Ships fired at	46 ^b	120 ^c	4,185	3,865
Hostages	815	865	1016	470
Seafarers attacked	32 ^d	68 ^e	2,522	1,525
Pirates for prosecution	-	269	-	-

Source: Author's Arrangement from One Earth Future Foundation Working Paper 2011

A - ICC-IMB piracy and armed robbery against ships Annual Report 2008

B - ICC-IMB piracy and armed robbery against ships Annual Report 2008

C - ICC-IMB piracy and armed robbery against ships Annual Report 2009

D - ICC-IMB piracy and armed robbery against ships Annual Report 2008

E - ICC-IMB piracy and armed robbery against ships Annual Report 2009

While the roll call of states engaging in "out of area" operations and maritime cooperation continues to grow, the continued rate and success of attacks in the area shows that the problem of Somali piracy cannot be resolved exclusively with enlarged fleets, but requires far greater maritime co-ordination and concerted political engagement on an international and regional basis (Matthew, 2009:2-3).

CONCLUSION

It was the objective of this chapter to ascertain whether the divergence in the interests of the members of the international community to the armed intervention did indeed undermine the task of combating piracy and armed robbery in the Gulf of Aden. To that extent, to answer the question: "does the divergence in the interests of the members of the international community in the armed intervention undermine the task of combating piracy and armed robbery in the Gulf of Aden?"

Here, based on facts, data, scholarly opinions and observations captured in the text of this chapter, this author asserts that "the divergence in the interests of the members of the international community in the armed intervention has undermined

the task of combating piracy and armed robbery in the Gulf of Aden within the period under review.

The fact is that the social production and reproduction needs of the very many contributors to the armed intervention were different and so were their interests in the armed intervention. Naturally that accounted for the divergence in interests which led to the inability of the antipiracy campaign to succeed in combating piracy and armed robbery in the Gulf of Aden between 2008 and 2011.

It may however be argued in line with recent figures on piracy and armed robbery in the Gulf Aden and Somali coasts that the success rate of pirate attacks has dropped, but ñtheir numbers are still a major issue for maritime security in the area. Pirates are also operating in a much larger area today (the Seychelles are hardly included in Somali territorial waters), which makes the mission of the international force only more difficultò (Marchal, 2011). Feelers are that dismantling pirate networks inside Somalia ought to be by enhanced local capacity-building solutions founded on the development of good governance and economic and legal reforms, which at the moment is not being attended to. Thereafter, local institutions would then provide an effective on-going land-based compliment to sea-based operations, without which ñany success in suppressing piracy is ephemeralò; or in the alternative to impose ñinternational regency similar to the UN administration in Kosovoò (Max, 2009:107).

Chakarborty (2009:86) had opined that:

A long-term and realistic resolution for Gulf of Aden piratesò must come from two quarters: firstly, addressing the genuine concerns of the Somali people which otherwise drive them towards piracy as a business. Their disquiet over illegal fishing activity around their coast must be tackled. The European firms dumping toxic waste off the Somali coast is another troubled area. These issues must be attended in order to bring out a holistic approach towards

effective counter-piracy measures. Secondly, until a proper judicial system is in place in Somalia an International Court of Law under the UN with proper prisoner's cell could be an option thereby executing justice to the perpetrators of maritime piracy.

As it is presently constituted, it is believed that "Piracy in Somalia cannot be erased with naval deployment" (Chakarborty, 2009:86) because Somali piracy is a symptom. In the absence of functional central government in Somalia, "the most likely outcome of the international anti-piracy efforts will not be an exhaustion of piracy. It will be a form of piracy that is more violent toward the crews and more sophisticated militarily and that eventually attempts to sabotage the ships it fails to take over" (Marchal, 2011).

CHAPTER SEVEN

ARMED INTERVENTION AND MARITIME SECURITY

In this chapter, effort is made to ascertain whether the armed intervention improved maritime security in the Gulf of Aden. This is done through discussions on the international law regime on armed intervention, piracy and armed robbery on the high seas, rationale for the armed intervention; nature and strategies of the armed intervention in Somalia and the Gulf of Aden.

7.1. INTERNATIONAL LAW REGIME ON ARMED INTERVENTION

The UN Charter is the principal legal authority in relation to matters that touch and border on threats to the peace, breaches of the peace, and acts of aggression including armed intervention in the affairs of a sovereign nation with the view to offering humanitarian assistance to victims of armed conflict, and restoration of peace and security.

Article 39 of the UN Charter provides that "the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security".

By virtue of article 40 of the UN Charter, where the United Nations Security Council (UNSC) has determined the existence of any threat to the peace, breach of the peace, or act of aggression as in article 39 and has made the appropriate recommendations based on what it deems fit is desirable to be done in order to maintain or restore international peace and security in accordance with Articles 41 and 42, an opportunity is given to the warring parties or parties whose activities are threatening the peace, breaching the peace, or whose act is classified as an aggression

to comply with such provisional measures to avert any threat to the peace, breach of the peace, or act of aggression. The UN Charter allows the Security Council the liberty to choose whatsoever it may deem necessary or desirable to be done in order to maintain or restore international peace and security, provided it does not prejudice the rights, claims, or positions of the parties concerned. The Article 40 of the UN Charter reads:

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures (UN Charter, Article 40).

Where the application of articles 39 and 40, as expected, has not averted any threat to the peace, breach of the peace, or act of aggression, Article 41, provides that the Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations (UN Charter, Article 41).

By Article 42, the UNSC is empowered to take additional measures where the above measures have failed to avert any threat to the peace, breach of the peace, or act of aggression. The additional measures contemplated under article 42 include action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other

operations by air, sea, or land forces of Members of the United Nations» (UN Charter, Article 42).

More so, where Article 42 has become applicable, the UN Charter authorizes state parties to «contribute to the maintenance of international peace and security by making available to the Security Council, on call and in accordance with a special agreement(s) armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security» (UN Charter, Article 43(1)).

In interventions in the armed conflicts within a sovereign state or involving sovereign states, the element of political neutrality and impartiality found its way into the international law arena by a stretch of interpretation of some phrase in article 40 of the UN Charter. As observed by some writer's (Boulden, 2005; Johannessen, 2007), over the years, and consistently too, the phrase «without prejudice to the rights, claims, or position of the parties concerned» as contained in article 40 of the UN Charter has been loosely interpreted to give rise to what has become the principle of «political neutrality and impartiality» in armed interventions in armed conflicts.

More so, the entire article 40 has been interpreted to be the foundation for military interventions in the internal affairs of a sovereign state or in conflicts involving sovereign state in times of armed conflict for the purpose of addressing issues relating to «any threat to the peace, breach of the peace, or act of aggression» protecting human rights and providing humanitarian assistance. Provided however, that the «rights, claims, or position of the parties concerned» in the armed conflict are not prejudiced by an intervention. This act of intervention in conflict situations with the view to addressing «any threat to the peace, breach of the peace, or act of

aggression in internal armed conflict or conflicts involving sovereign states is what has developed into what is currently termed "peacekeeping".

The first test and opportunity for life interpretation of the provisions of this almighty Article 40 of the UN Charter was during the Suez crisis of 1956. It was from the UN Security Council's response to the Suez crisis of 1956 (based on UNSC interpretation of the article 40 of the UN Charter), as observed by many writers (Mingst & Karns, 2007; Krasno, 2004; Johannessen, 2007), that the current understanding of the provisions of that Article 40 derives.

In that Suez Canal crisis armed intervention, the UN Security Council gave a liberal interpretation to article 40 of the UN Charter. The rationale for the said liberal interpretation and consequent application of the then emerging principle of neutrality and its accomplice "impartiality" has been heaped on the fact that some permanent members of the Security Council were directly implicated in the Suez Canal conflict. Therefore the UN Emergency Force (UNEF) assembled in 1956 for the purpose of the intervention in the Suez Canal conflict had to be given a marching order to observe the principles of neutrality and impartiality. In which case all effort was to be made during the intervention not to "influence the military balance in the present conflict and thereby the political balance affecting the efforts to settle the conflict" (Hammarskjold, 1956).

That liberal interpretation of the provisions of article 40 of the UN Charter has since that Suez Canal event consistently been applied in the many armed interventions that has occurred in many other conflicts.

Nonetheless, this principle of political neutrality found more relevance and was further developed during the cold war when armed intervention was planned and executed with more reverence to the need to avoid altercation between the US and the

USSR than the need to succeed in the venture - armed intervention. Neutrality was therefore projected as a necessary tool to maintain cooperation between the superpowers in the Security Council (Mingst & Karns, 2007).

Currently, it is being considered that the principle of political neutrality as read into the UN Charter may have been made applicable in interventions in humanitarian emergencies in the post-cold war era by Resolution 46/182 of the UN General Assembly (1991) which provides that "humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartiality" (UNGA Resolution 46/182 of 1991, Annex 1(2)).

Neutrality in this regard (under Resolution 46/182 of the UN General Assembly, 1991) has been defined to mean intervening "without engaging in hostilities or taking sides in controversies of a political, religious or ideological nature"; whereas its accomplice "impartiality" means intervening "without discrimination as to ethnic origin, gender, nationality, political opinions, race or religion" (Johannessen, 2007).

Closely connected to the principle of political neutrality and impartiality in current armed interventions policy is the principle of consent. It has been observed that consent of parties is necessary in recent armed interventions which most unfortunately since the end of the cold war occur more within the territory of sovereign states, and in the "last two decades, the African states" (Eliav, 2011:372). The rationale for the introduction of the element of consent into the current policy on armed intervention stems from the understanding that irrespective of how it is carried out "any intervention, with the exception of seemingly neutral peacekeeping operations, has the potential to advance the interests of one party over the other" (Eliav, 2011:339). Therefore it comes as no surprise that in many cases, forcible

interventions receive the consent - explicit or tacit - of one or more of the warring parties (Eliav, 2011).

Here the principle of consent connotes that the sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance, which is the bedrock of armed interventions in internal armed conflict, should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country (UNGA Resolution 46/182 of 1991, Annex 1(3)).

7.2. INTERNATIONAL LAW REGIME ON PIRACY AND ARMED ROBBERY ON THE HIGH SEAS

For over 2,000 years, the nations of the world have considered pirates to be enemies of the human race (*hostes humani generis*). Accordingly, every nation has the legal authority to establish jurisdiction over piracy and punish the offenders, regardless of the nationality of the perpetrator or victim (Countering Piracy off the Horn of Africa: Partnership & Action Plan, United States, National Security Council, 2008:4).

Under international law, piracy and armed robbery are considered unacceptable and criminal. To that extent international law prohibits them and encourages states to do same within their local legislative competences since acts otherwise deemed piracy are regarded as armed robbery when they are committed outside the high sea but within the territorial jurisdiction of any sovereign states internal waters, contiguous zone or EEZ.

The principal international law regime on piracy and armed robbery at sea is the UN Convention on the Law of the Sea (UNCLOS) 1982. As it relates to proscription of piracy and armed robbery against ships on the high sea, and actions to prevent, deter, respond, arrest and prosecute offenders the principal legal instrument is

also the UN Convention on the Law of the Sea (UNCLOS) 1982. This convention made provisions in Part VII for the dealing with issues of piracy on the high seas.

Note: UNCLOS does not deal with armed robbery. The reason is that armed robbery, legally speaking, does not take place on the high sea but in territorial waters, contiguous zone and the Exclusive Economic Zone. The distinction here is a technical one because acts that constitute armed robbery, if done on the high sea is deemed piracy and vice versa. Kraska and Wilson (2009:264) quoted an English jurist William Blackstone, who wrote that "piracy consists by the common law, of those acts of robbery and depredation upon the high seas, which, if committed upon land, would amount to felony there."

This postulation that the principal international law on piracy and armed robbery is UNCLOS is however without prejudice to the fact that the UN Charter's provision in Article 39 (where the UN Security Council has determined the existence of a threat to the peace, breach of the peace, or act of aggression; and has made the requisite recommendations on what measures shall be taken, in accordance with Articles 41 and 42, to maintain or restore international peace and security) may found an intervention in the high sea; and indeed it is Article 39 of the UN Charter that is the legal authority for the many resolutions calling for action in the waters of the Gulf of Aden and the coasts of Somalia.

The very first and most important provision of the UNCLOS is in its Article 87. By Article 87 the UN made the high sea free for all, irrespective of whether a state has direct boundary with the sea or not. By this concept of "freedom of the high seas", the high seas are open to all States, whether coastal or land-locked, and every state, subject to certain conditions laid down by the UNCLOS and by other rules of international law, have the freedom of navigation; freedom of overflight; freedom to

lay submarine cables and pipelines (subject to part vi); freedom to construct artificial islands and other installations permitted under international law (subject to part vi); freedom of fishing (subject to the conditions laid down in section 2); and freedom of scientific research (subject to parts vi and xiii (Article 87, UNCLOS).

The implication of this liberalization of access to the high sea is such that every state(s) or person(s) have legitimate access to the high sea, but on the condition that whatsoever is to be done in the high sea must be "for peaceful purposes" (Article 88, UNCLOS, 1982).

It is on this understanding that piracy and armed robbery on the high sea are not "for peaceful purposes" that piracy and armed robbery offend the intent of the UN Convention on the Law of the Sea thereby warranting that action be taken to tackle such activities on the high seas.

It must be noted that UNCLOS provisions on repression of acts not done for peaceful purposes is restricted to the high sea. However, it must also be understood that it does not mean that such activities are permitted in places other than the high sea (e.g. Territorial Water, Contiguous Zone or even in the Exclusive Economic Zones). The contemplation of the law here is that the states within which the water bodies (Territorial Water, Contiguous Zone or even in the Exclusive Economic Zones EEZ) belong are the legal authorities to ensure that acts done, not "for peaceful purposes", do not go on in them.

It is recently being considered that UN Charter and UNCLOS did not contemplate the possibility of having a water body without a state supervising authority. This lacuna in law is part of what has made the waters of the Somali coasts and the adjoining waters of the Gulf of Aden a difficult case in international law.

The most visible part of this lacuna is in the definition of piracy by UNCLOS.

In Article 101 of UNCLOS, it is provided that:

Piracy consists of any of the following acts:

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

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

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

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Mario (2010:570) agreed that there are lacunas in the UNCLOS, and noted thus:

The Law of the Sea Convention define piracy as encompassing all illegal acts of violence, detention, and depredation (plundering, robbing, or pillaging), committed for private ends taking place on the high seas outside the jurisdiction of any state. This definition excludes the territorial waters of states, such as the coastal waters of Somalia. International law authorizes warships to prevent, deter, and respond to acts of piracy and armed robbery on the high seas, but it does not apply to territorial waters. Under the Law of the Sea Convention, however, those same illegal acts of piracy committed inside the territorial waters of a country: do not fall under the definition of piracy, but are simply considered "sea robbery" under international law, and are dealt with by the laws of that country. Domestic laws seldom permit a vessel or warship from another country to intervene. Illegal acts committed for political rather than private ends also fall outside the international law definition of piracy. Therefore, when piracy occurs in the territorial waters of a particular state, pirates are subject to that state's jurisdiction and capacity to prosecute. The narrow scope of the Law of the Sea Convention's piracy provisions severely limits the availability of international law to deal with piracy in places such as Somalia.

By UNCLOS, repression of acts piracy on the high seas is made a collective duty of every state, even in their non-jurisdictional waters. Article 105 of the UN Convention on the law of the sea (UNCLOS) states:

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

But by the provisions of Article 107 of UNCLOS, it appears that the powers to seize pirate ships are granted only to military vessels and government ships. The meaning is that no other ship can legally seize a pirate ship including private guard vessels, and private guards carried on board merchant vessels plying the Gulf of Aden and the Somali coasts. Article 107 states that "a seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect".

The gap seen above as in the definition of piracy not including acts in territorial waters (Article 101 UNCLOS) is deemed to have been filled by some other UN instruments. The relevant UN instruments include the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) 1988 and the Convention against Transnational Organized Crime 2000, within which there are provisions relating to mutual legal assistance in prosecution and extradition of pirates (Mario, 2010).

Other relevant instruments in pirate interdiction in Somalia and the Gulf of Aden include the UN Security Council Resolution 733 of 1992 which imposed an embargo "on all deliveries of weapons and military equipment to Somalia until the

Council decides otherwise; Resolution 1816 of 2008 by which the Security Council authorized states to, in cooperation with the Somali TFG, enter Somalia's territorial waters for the purposes of repressing acts of piracy and armed robbery at sea for a period of six months; UNSC Resolution 1846 of 2008 which extended the authority granted to states to, in cooperation with the Somali TFG, enter Somalia's territorial waters for the purposes of repressing acts of piracy and armed robbery at sea under, UNSC Resolution 1816, by 12 months; UNSC Resolution 1846 which encouraged states to prosecute arrested pirates by deploying naval vessels and military aircraft, and through seizure and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery off the coast of Somalia.

Furthermore, on the international law regime on piracy and armed robbery at sea, Lucas (2011:413) observed that a defining characteristic of modern piracy is that there is substantial dualism in the fabric of the law among states and the international regime; and that:

At the center of this dual development is the fundamental distinction between monist and dualist states. Whereas monist states, such as France, welcome international law without any further internal enactment, dualist states, like the United States, require national legislation to give effect to international law. To this end, dualist states inadvertently encourage divergent practices in the law as written and practiced because they insulate their national laws from external legal developments under international law (*piracy jure gentium*). They also inadvertently encourage dualist practices by enabling the proliferation of municipal laws that are sometimes inconsistent, not only with their international counterparts, but also *inter se* (Lucas, 2011:413).

He noted that it has been the standard over a long time, and drew our attention to a 1932 Harvard Research in International Law study which concluded that piracy under the law of nations and piracy under domestic law are entirely different subject

matters andé there is no necessary coincidence of fact-categories covered by the term in any two systems of lawò (Lucas Bento, 2011:413).

He identified the limitations of UNCLOS to include:

(i). restricting the definition of piracy to private ends; (ii) the geographical restriction of piracy to the high seas; (iii) issues of reverse hot pursuit; (iv) the two ship requirement that excludes internal seizure; and (v) the lack of a mandate for states to adopt domestic counter-piracy laws that implement their international commitments. The brief analysis that follows of UNCLOS deficiencies underscores why piracy law is in dire need of reform and, specifically, its own separate body of international law (Lucas Bento, 2011:416 - 417).

On his part, Odeke (2011) identified ñjurisdictional uncertainty of how to approach the suspected pirate ships, whether pirate suspects can be arrested, what to do with them once arrested and where and how to try themò as ñanother major problem facing the international community with regard to Somali piracyò. He noted that ñthe only country that has flag and coastal state jurisdiction is Somaliaò, but with Somalia being a ñfailed state with no functional government, navy, registry or court system. The next alternative is invoking the jurisdiction of states of the patrolling navies, whether or not their merchant vessels are victims of the piracyò but that the states are at first reluctant because ñif the seizure of the alleged pirate ships was affected without any adequate justification, the state making the seizure is liable for any damage to the state of the shipsò nationality, even if in this case that state (Somalia) is dysfunctionalò (Odeke, 2011:151).

Tullio (2009:402) agreed that there is lacuna with the international law regime on piracy, and observed that the ñdefinition of piracy is rather narrow, as it includes only action on the high seas and only action undertaken by one ship against another ship. So forms of violence conducted in the territorial sea as well as without the involvement of two ships, such as, for instance, the violent taking of control of a ship

by members of its crew or passengers, even when the follow-up consists of holding to ransom the ship and its crew and passengers, are not included.

He referred to the taking of control by hijackers embarked as passengers on the Portuguese ship *Santa Maria* in 1961 and on the Italian cruise ship *Achille Lauro* in 1985, which were not considered to be piracy; and acts of violent activities against ships off the Somali coast sometimes take place in whole or in part in the territorial seas, thus often remaining outside the scope of the definition simply because they do not involve the presence of one or more other ships and other requirements. And that UNCLOS excludes acts preparatory to piracy and other acts of violence not directly linked to piracy (Tullio, 2009:402).

These identified deficiencies in the international law regime on piracy and as they played out in the armed intervention in Somalia and the Gulf of Aden have further implications that made piracy and armed robbery interdiction in that region a nightmare. For instance pirates' mother ships cannot be legally arrested without an authorized person from Somalia on board an arresting ship under the scheme *Shipriders*, high incidents of pirates killed and consequently high number of crew killed since arrests, prosecution and conviction of pirates are being increasingly frustrated by international human rights law provisions.

7.3. RATIONALE FOR THE ARMED INTERVENTION IN SOMALIA

Incidents of armed intervention in the affairs of sovereign nations are very many. Eliav (2011) observed that:

Since the end of World War II, the international community has witnessed a tragic increase in the number of internal armed conflicts taking place across the globe. In fact, internal armed conflicts have become the dominant form of conflict, greatly outnumbering inter-state conflicts in the last few decades. This global trend has culminated in the deadly post Cold War internal conflicts in Africa, which have caused tremendous loss of life, inflicted severe human suffering, and were accompanied, many times, by mass

atrocities. In numerous instances throughout recent history, internal armed conflicts have prompted external forcible interventions - undertaken both unilaterally and pursuant to U.N. Security Council resolutions. Between the years 1946 and 2009, the UCDP/PRIO Armed Conflict Dataset has recorded many dozens of internal armed conflicts in which external interventions occurred - either on behalf of governments or of opposition groups, and many times by more than one intervening power (Eliav, 2011:339).

Numerous also are the rationale for the armed interventions. Wellisz (2003) captured some of the main socio-political considerations (motivation) behind armed interventions when he wrote that "since Adam Smith we have reluctantly come to accept the idea that individual greed is the motor of economic progress. But our social ethos emphasizes the virtue of altruism and of cooperation" (Wellisz, 2003:3).

Asserting that the "standard pattern of intervention aggression promoted by interest groups which camouflage their motives justified in moral terms persisted throughout the Twentieth Century", Wellisz (2003) went back into history to capture some of the sociopolitical motivations behind some incidents of armed interventions. He observed that in the armed intervention into the affairs of the Knight Templers, the sociopolitical motivation of the King of France was "to seize the wealth accumulated by the Knights Templar" (Wellisz, 2003:3) whereas the King of France accused them of heresy; in the invasion and eventual sack of Constantinople, Venice and the "crusaders pretended to be motivated by the desire to put an end to the Great Schism" whereas their motive was "to eliminate a dangerous trade rival" - the knights who participated in the crusade enriched themselves (Wellisz, 2003:2); that the 2nd World War started when Hitler claimed "that he had a moral duty to help the Sudeten Germans who suffered terribly in the hands of the Czechs" (Wellisz, 2003:2-3); that the Soviets claimed that they did not invade Czechoslovakia, Hungary or Afghanistan, but that "they reluctantly responded to urgent appeals for intervention coming from

within each countryò (Wellisz, 2003:3); that ñthe first Gulf War was fought ostensibly to defend the independence of Kuwaitò, whereas ñthe need to preserve the access to the Middle East's oil was a powerful argument for the warò. He went on to state:

Liberalsò (in the American sense of the word) who rejected the economic and strategic arguments for the war, were ready to subscribe to the moral argument ñ as if they were unaware of the fact that Kuwait, like Iraq was artificially created in the 1920s under the Allies' divide and conquer policy. The victors gave Kuwait back to the ruling dynasty, and no one even bothered to find out what the Kuwaiti men (and women) thought of the arrangement (Wellisz, 2003:3).

He concluded that ñthroughout the ages, and down to the present, strong countries have intervened in the affairs of weaker ones. Specific interest groups, such as mercantile or industrial interests, pressured their governments to intervene. Moral considerations were invoked to legitimize actions, and to mobilize broader public supportò (Wellisz, 2003:9).

The situations that conjure armed intervention on humanitarian grounds in the internal affairs of a sovereign state, the standard to be observed in an armed intervention, the rationale behind the decision to intervene, the appropriate time to intervene as well as in which internal armed conflict and the use of the military to intervene are issues in sociopolitical considerations bedeviling armed interventions generally. Comments by writers and observers are beginning to suggest that diplomats and states must be compelled to justify their armed interventions - proposed and or executed; and perhaps subject their future armed intervention proposals to peer review at the UN before their execution.

(i). ON SITUATIONS THAT CONJURE ARMED INTERVENTION ON HUMANITARIAN GROUNDS: As it relates to situations that invoke armed interventions on humanitarian grounds, many questions are being asked as to what constitutes ñhumanitarian crisesò demanding intervention for the purpose of

alleviating human sufferings and protection of human rights; and as it relates to armed intervention proper many more questions are being asked as to what is the standard.

Ordinarily, 'humanitarian crises' demanding intervention for the purpose of alleviating human sufferings and protecting human rights would be such that cannot be handled by the state(s) concerned or involved therefore requiring external help. It may also be seen more broadly as situations that demand external assistance to help 'save distant people from slaughter' (Roth, 2004); or as noted by Walzer (2004:68) in cases of 'massacre, rape, ethnic cleansing, state terrorism, [and] contemporary versions of bastard feudalism, complete with ruthless warlords and lawless bands of armed men'; or 'whenever cruelty and suffering are extreme and no local forces seem capable of putting an end to them' (Walzer, 2004:69). Almost all the views agree that within or without the above, considerations for armed intervention in 'humanitarian crises' on humanitarian grounds should not be to promote any type of government (democracy), economic justice, and other social practices and or arrangements. Therefore, every armed intervention must be aimed specifically at ending situation(s) that 'shocks the conscience of humankind' (Walzer, 2004:69), or as Slater and Nardin (1986:92) would put it, that 'intervention is justified, at least in principle, in many cases where governments are responsible for substantial and systematic violations of human rights, even when such violations fall short of genocidal proportions'; or where 'the wrong perpetrated within a state against a part of its own population is of a kind specifically prohibited by an international agreement (e.g., the Convention on the Prevention and Punishment of the Crime of Genocide; Treaties regarding racial discrimination, torture, the rights of women and children; the International Covenant on Civil and Political Rights (ICCPR); and agreements on humanitarian law applicable in civil conflict)' (Franck, 2002:135).

In affirmation of the forgoing propositions on what situation should conjure armed intervention on humanitarian grounds, Roth (2004) maintains that the French intervention in the Democratic Republic of Congo (later backed by the UN) was most clearly motivated by a desire to stop ongoing slaughter. Furthermore, that the Liberia and Cote d'Ivoire interventions, apart from enforcing a peace plan, had played important humanitarian roles. So also was the case in the armed interventions in Bosnia-Herzegovina, Sierra Leone, Liberia, and East Timor, where the interventionists bore the cost of their action without deriving any material advantage (Wellisz, 2003:6). With these in mind, Roth (2004:2) wondered what the humanitarian objective was for the US intervention in Iraq – he observed that the Iraq war was not mainly about saving the Iraqi people from mass slaughter, and because no such slaughter was then ongoing or imminent.

(ii). ON THE ISSUE OF STANDARDS IN THE ARMED INTERVENTIONS ON HUMANITARIAN GROUNDS: It appears that there is none. However, certain expectations are demanded of the intervening force whether it is the UN or the US or any combination of states. Such expectations include the observation of the principles of political neutrality and impartiality in the intervention, or as noted by Weiss – at least do no harm. Others include the use of force only in self-defense, consent of the state whose internal affairs is to be intervened in (Eliav, 2011). More so, the nature of the armed intervention must be such that is reasonably calculated to make things better rather than worse in the country invaded (Roth, 2004:9).

One other point that needs to be added to the element of standard as it relates to armed intervention in humanitarian crises that conjure armed intervention on humanitarian grounds is the need to obtain UN approval. The rationale behind this important aspect of armed intervention is that it offers an opportunity for the

intending intervener to convince other states (UN member states) and observers of the necessity and appropriateness of a proposed armed intervention. It will also ensure that the motive is right. Above all it guards against the debate about the legality or otherwise of an armed intervention.

However, Human Rights Watch appears to have proposed an exception to the necessity for obtaining UN approval before armed intervention in "humanitarian crises" that conjure armed intervention on humanitarian grounds - that is - "in extreme situations". Their argument is that it is too dangerous to rely on the UN Security Council as "the sole mechanism for legitimizing humanitarian intervention", because:

Its permanent membership is a relic of the post-World War II era, and its veto system allows those members to block the rescue of people facing slaughter for the most parochial of reasons. In light of these faults, one's patience with the council's approval process would understandably diminish if large-scale slaughter were underway (Roth, 2004:10).

Meanwhile, the absence of international consensus on the standards and conditions for armed intervention may encourage errant governments to abuse "the concept, as the United States has done in its after-the-fact efforts to justify the Iraq war" (Roth, 2004:11).

(iii). ON THE RATIONALE BEHIND THE DECISION TO INTERVENE:

Questions are being asked as to what ought to be the motivations for armed intervention, particularly for those interventions that caused more harm than good. Irrespective of what motive that may be projected as being the rationale for an armed intervention, it is clearly understandable that the real motive would be among others the urge to meet the social production and reproduction of material needs of the intervening forces or those of their allies.

In as much as the motive behind armed interventions that are not entirely on humanitarian grounds, or have some other components larger than the humanitarian angle is difficult to discern. It should be at least as noted by Roth (2004:7) that:

Any humanitarian intervention should be conducted with the aim of maximizing humanitarian results. We recognize that an intervention motivated by purely humanitarian concerns probably cannot be found. Governments that intervene to stop mass slaughter inevitably have other reasons as well, so we do not insist on purity of motive. But a dominant humanitarian motive is important because it affects numerous decisions made in the course of an intervention and its aftermath that can determine its success in saving people from harm.

This statement provides proposition for a minimum standard and rationale, otherwise the concept of armed intervention as it is being practiced now will be subjected to innumerable abuses. States with very strong military capabilities may on flimsy excuses invade other states for reasons far beyond humanitarian issues yet interpret their intervention to be humanitarian. Such times may include intervention in the affairs of sovereign state(s) in the name of looking for terrorists as is the case in the US invasion of Afghanistan.

It is important to mentioned that these post-cold war considerations for armed intervention should be observed even in the application of the post 9/11 (September 11, 2001) war on terrorists.

(iv). ON THE ISSUES RELATING TO TIME TO INTERVENE, AND WHERE TO INTERVENE ON HUMANITARIAN GROUNDS: Issues relating to ñtimeò to intervene and the ñwhereò to intervene are generally more difficult to determine than the other issues as anyone may have imagined. Much as there is no agreement as to the time to intervene it appears that every armed intervention must be undertaken at such a time that it will have maximum impact. Relying on Article 42 of the UN

Charter, armed interventions would become necessary after all the requirements of articles 39 to 41 have failed without more.

On the issue of choice of the humanitarian crises in an internal conflict to intervene, the recent developments in Libya and Syria are taking us back to the cold war era standards where armed intervention must be undertaken only on the consent of all UN Security Council members.

(v). ON THE ISSUE OF USE OF MILITARY MACHINERY IN ARMED INTERVENTION: The military angle to humanitarian intervention is one aspect of intervention that pits itself against the humanitarian angle to armed interventions. The use of the military usually spells out force, violence, and war, all three of which are dreadful. Therefore, in any humanitarian armed intervention without the consent of the relevant sovereign state(s), the use of force must be limited to events of wanton unending or inevitable mass slaughter of genocidal proportion because:

War is dangerous. In theory it can be surgical, but the reality is often highly destructive, with a risk of enormous bloodshed. Only large-scale murder, we believe, can justify the death, destruction, and disorder that so often are inherent in war and its aftermath (Roth, 2004:3).

On the other hand, however, where the consent of parties to an armed conflict has been obtained before an armed intervention, the use of force should not be the case as there will be virtually no need for it except in pockets of resistance and for self-defense. More so, the use of military force should be for restoration of peace and order (peace enforcement) only, and perhaps for preliminary infrastructural reconstruction.

In the armed intervention in Somalia within the period under review, it appears that there was a mixture of socio-political considerations and that such was responsible for the failure of the armed intervention to address the critical mass of

factors responsible for and sustains the conflict. It appears also that because of the non-commitment of the international community interveners to the restoration of peace and security inside Somalia (which, with the benefit of hind sight was not the principal motive for the armed intervention) they had intentionally breached the rules of armed intervention (not affecting the balance of interest of parties) when they took sides with Ali Mahdi Muhammad of the Somali Salvation Alliance (SSA) and launched an all-out attack on General Muhamed Farrah Aideed of Somali National Alliance (SNA) in June 1993. Eventually, it was this breach of the rules of armed intervention that prompted the withdrawal of the US military and other military contingents to the armed intervention from Somalia thereby plunging Somalia further into anarchy.

More like following their real motive (pursuit of their social production needs) all the interested members of the international community relocated to their primary area of interest which is the Gulf of Aden. Even in the Gulf of Aden, the activities of the international community intervening forces did indicate that their interests were not in putting a stop to piracy and armed robbery but to police the waters for life.

It confirms that the whole maritime world's interests are in the Gulf of Aden; that is why they preferred to interface with the well-armed dastardly pirates on daily bases instead of putting up similar effort in resolving the political conflict inside Somalia that brought about maritime insecurity in the region.

This naval abracadabra in the Gulf of Aden and Somali coasts was a reminder of the scramble for the same region in the 1880s, 1940s, and the 1970s, just that this recent scramble involved the whole world. It is also a confirmation of the UN Security Council's failure to fulfill its responsibility to act during several humanitarian crises, which was a partial result of states' reluctant attitude towards

interventions in Africa (Eliav, 2011:372). Eliav noted that following the military failure of American Led UNITAF forces in Somalia in 1994, President Clinton adopted the policy of 'African solutions for African problems' (Furley & May, 2001:7-7, quoted in Eliav, 2011:372 - note 179).

7.4. NATURE AND STRATEGIES OF THE ARMED INTERVENTION IN SOMALIA AND THE GULF OF ADEN

Generally, the nature of armed intervention is such that requires a lot of strategic planning before eventual deployment of troops. Strategic planning here has to do with the way withal of integrating 'political ends and operational arts' (Gray, 2011) to achieve desired goals of the armed intervention.

But, suffice it to state that management of armed interventions in strategic terms is an age long problem. In spite of the fact that armed interventions has been going on since the early days of civilization, lessons learnt from the history of armed interventions dating as far back as the Napoleonic wars of the early nineteenth century and ever since seem not to have help in plotting for the success of the intervention in Afghanistan by NATO making that outing a charade, and perhaps other armed interventions including Somalia.

According to Rynning (2013), there is no doubt that 'the strategic management of armed interventions can be difficult'. Rynning traced one of such inherent difficulties in managing armed interventions (that arise from the issues of strategic management) beyond 'alliances to national leadership'; and conceded that it does not end there, as this has 'significant consequence to the conduct of war and peace' (Rynning, 2013:53).

In clear terms, analysis of recent armed interventions situates the burden of strategic planning and management of armed interventions on the leadership of an armed intervention. In recent times armed interventions had been carried out either by

a coalition of states with or without the blessing of the UN. At such instances where the armed intervention had been carried out by coalition of states not constituted by the UN, the strategic planning and management of the armed intervention had been vested in the leadership of the coalition. In such cases, the coalition can make strategy on its own, unilaterally and in isolation (Rynning, 2013:55). But where the armed intervention had been constituted by the UN, the UN had taken up those responsibilities in consultation with member states.

Rynning (2013) however noted that strategy will be more manageable if it was run with certain basic components working together. The components are coalitions, institutions and tents (Rynning, 2013:55); and in such instances, Coalition leadership must thus build bridges (Rynning, 2013). He conceded that the triad of coalitions, institutions and tents were at the base of the success achieved in the Balkan wars of the 1990s, even though it largely went unrecognized, but was absent in Afghanistan and Libya, where considerable differences in strategic management were evident (Rynning, 2013:55).

In the armed intervention under review, it was the US that led the initial initiative to intervene in the Somali internal armed conflict and later on in the Gulf of Aden and the entire coasts of Somalia, when the insecurity in Somalia owing to Somali piracy had invaded the Gulf of Aden.

The strategy for the armed intervention in Somalia and the Gulf of Aden was as contained in the US National Strategy for Maritime Security of September 2005 (the Maritime Security Strategy). The strategy assumed that nations have a common interest in facilitating maritime commerce which is the underlining factor in economic security, therefore the protection of the oceans against ocean-related crimes like terrorism, hostility, and piracy. To that extent, the strategy recommended full and

complete national and international coordination, cooperation, and intelligence and information sharing among public and private entities to protect and secure the maritime domain (United States, National Security Council, 2008:4).

In furtherance of that strategy and to ensure its success in securing the Gulf of Aden maritime domain, the US was not to act alone but in partnership and strong coalition with other states. The reason for a coordinated multilateral cooperation in this venture stems from the fact that most of the world's maritime domain is under no single nation's sovereignty or jurisdiction. Thus, effective management and policing of the domain require international cooperation of all interested States. Moreover, Somali territorial waters and the adjacent shore are largely ungoverned, allowing piracy to flourish and spill out into the international maritime domain (United States, National Security Council, 2008:7). While this is the case the US is to continue to lead and support international efforts to repress piracy and other acts of violence against maritime navigation and urge other states to take decisive action both individually and through international efforts (The United States's Policy for the Repression of Piracy and other Criminal Acts of Violence at Sea, 2007).

Conceding that the above described strategic planning was the case in the Gulf of Aden, it is doubtful that there was such planned strategy for the armed intervention inside Somalia. The much there was for the armed intervention inside Somalia was the desire to respond to the outcry by the relief agencies (CARE US, Save The Children Fund) to the critical humanitarian emergencies inside Somalia due to the internal armed conflict.

Obviously, from the context of the US National Strategy for Maritime Security as was applied in the armed intervention inside Somalia it is evident that the interests of the international community in the region were in the maritime domain only. The

internal armed conflict in Somalia only offered the desired impetus for permanent naval presence in the Gulf of Aden where piracy and armed robbery has been going on over time. The need for quick response force became critical following and illustrated by the bombing of the U.S.S. Cole in 2000 in the Yemeni harbor of Aden and the bombing of the French oil tanker MV *Limburg* in 2002 (Ploch, 2011:4). Indeed, the incidents illustrated the threat of potential maritime terrorism in the region (Ploch, 2011:4); and for which the United States, working with international partners, established a Combined Naval Task Force to meet the terrorism threat (Combined Task Force 150), and increased bilateral military assistance to regional navies (Ploch, 2011:4). Again:

In order to provide a short term response to the immediate threat to international navigation in the region's waters, the U.N. Security Council has authorized third party governments to conduct anti-piracy operations in Somali territorial waters and ashore, but only with authorization from and in coordination with the TFG. Among CTF-151, the EU's Operation ATALANTA, NATO's Operation Ocean Shield, and other navies' national escort operations, roughly 3 dozen combatant ships are patrolling in the region (Ploch (2011:17).

7.5. ARMED INTERVENTION AND MARITIME SECURITY IN THE GULF OF ADEN: AN ANALYSIS

The primary objective of the armed intervention in the Gulf of Aden was essentially to tackle the insecurity that was persisting and plaguing that maritime belt credited to Somali pirates and by so doing ensure maritime security in that region. Ensuring maritime security in the Gulf of Aden by the international community, as a matter of necessity, was premised on the fact that the Gulf of Aden is part of the sea lanes that sustains world freights, ninety percent of which is transported by sea. More so because of the understanding that global economic stability depends on the reliable transport of goods – including medicine, food, energy and oil – across vital

international shipping corridors (Report of the Atlantic Council Counter-Piracy Task Force, 2012:2) of which the Gulf of Aden is one, and of which pirate attacks off the coasts of Somalia threatens. However, many a review of the impact of the armed intervention on maritime security in the Gulf of Aden had been discouraging and inconclusive because of the inherent challenges with the entire anti-piracy intervention process.

Categorically, an armed intervention of this magnitude by nature ought to have an aggregated strategic planning by all participants prior to the eventual deployment of troops integrating ñpolitical ends and operational arts (Gray, 2011) so to ensure that it achieves the desired goals at the shortest possible time and costs. But such was not the case in the armed intervention in the Gulf of Aden and Somali coasts. The deployments of naval forces therein were essentially in piecemeal, individual, and uncoordinated, and without a centralized management structure and an agreed leadership. The deployment of navies in the Gulf of Aden and Somali coasts did not incorporate the strategic needs and concerns of all parties particularly the needs and concerns of the Somalis. That ought not to have been the case particularly when it was obvious that the management of armed interventions in strategic terms is an age long problem and that ñthe strategic management of armed interventions can be difficult (Rynning, 2013:53).

In his review, Eden (2012:117) made some useful observations in this respect when he noted that:

The first major problem with current counter-piracy operations is the issue of overlap and redundancy. Three task forces, in addition to numerous independent deployers, require three separate headquarters staffs, communication systems and logistical support structures, and maintain separate reporting and tracking systems for interfacing with the commercial maritime community. In addition, non-military organizations like the globally-focused

International Maritime Bureau Piracy Reporting Center and the regionally-focused UK Maritime Trade Office (UKMTO) track incidents of piracy globally, and within the High Risk Area (HRA) (Eden, 2012:117).

Eden (2012:117) identified other challenges with the armed intervention - ñon the military side, even after taking steps like physically co-locating headquarters at Northwood, EU-NAVFOR and NATO still maintain separate command staffò.

Furthermore, Eden (2012:117) opined that of the three major types of operational organizations that can be employed in armed interventions, Parallel Command Structures (PCS) ñare the most inefficient and least-able to coordinate command and control (C2), and óshould be avoided if at all possibleâò His reason was based on his believe that ñPCS requires separate military headquarters and command staffs, and the separate task forces have established separate, competing officesò and centers for Command, Control, Communications, Computers, Intelligence, Surveillance, Reconnaissance (C4ISR) which the U.S. military doctrine strongly opposes because the separate coalition hierarchies involved in PCS operations ñmust develop a means for coordination among the participants to attain unity of effortò (Eden, 2012:117).

Eden (2012:117) acknowledged the role played by ñSHADEò in coordinating the activities of the Parallel Command Structures (PCS) of the various military and non-military partners in the anti-piracy efforts in the Gulf of Aden but noted with dismay that ñits status as a forum for discussion and collaboration means that strategic, operational and tactical shifts cannot be implemented across-the-board without the agreement of the three task force commandsò, and perhaps the agreement of the many individual states operating in the Gulf of Aden with the supposed objective of tackling Somali piracy.

The foregoing explains in some details the precarious happenings in the armed intervention in the Gulf of Aden which had inadvertently impacted negatively on the exercise. The task forces (CTF 151, EU NAVFOR, and NATO) have independent and Parallel Command Structures that collaborate only to the extent necessary to avoid clashes. Even within the task forces, contributing countries have been known to run their own separate activities in the bid to protect their respective national interests. For instance, in the US-led CTF 151 (there are noticeable individual naval operations) the US has always gone out of the CTF 151 team to provide special protection to ships flying US flag plying the Gulf of Aden and adjoining waters - see for instance the special protection given the *Maersk Alabama* and the *Sailboat Quest* (Ploch, *et al*, 2011). In spite of the fact that France contributed to EU NAVFOR and NATO, yet she had individual naval operations in the waters of the Gulf of Aden. That explains why some navies look the other way and leave a scene when an imminent pirate attack did not involve their state flagged ships.

Meanwhile, besides these task forces are many unallied states participating in the anti-piracy campaign on their own accord and at their own terms - China, India, Russia, etc.

These noticeable gaps in the anti-piracy war in the Gulf of Aden encouraged the development of some level of acrimony between the pirates and some states. For instance, the pirates have vowed to hijack and may later resort to sabotaging US flagged ships plying that water way in revenge for their attacks on pirates. Consequently, for instance pirates have consistently targeted and attacked the *U.S.S. Nicholas* and the *U.S.S. Ashland*; and also attacked in 2011, one US commercial ship (the *Maersk Alabama* - which now has armed security guards onboard), who survived the suspected pirates attack for a third time by defensive maneuvers. This acrimony

between the Somali pirates and the US naval team in the Gulf of Aden played out in February 22, 2011 when four Americans died onboard the US flagged *Sailboat Quest* marking the first known American casualties during a Somali pirate attack (Ploch, *et al*, 2011).

This acrimony is traceable to the individual role the US played in the general anti-piracy activities as against the role the US played in the CTF-150 or CTF-151. The interpretation derivable from these rifts in the armed intervention process is that the world's navies pretend to be cooperating for the common good of all whereas indeed they were busy competing and struggling for supremacy and for their individual selfish national interests in the maritime domain of the Gulf of Aden amongst themselves, and against the pirates *inter se*. While the competition lasted, piracy in the waters of the Gulf of Aden and the coasts of Somalia was thriving and insecurity further increased. These struggles for supremacy had left the ships particularly merchant ships locked in between the competing navies and the pirates. The impact of which was that ships and vessels flying flags other than that of the US, UK, Russia or those flying flags of convenience ñor not projecting any nations interestò have long gone in search of safer ways of transacting their haulage business with the least interface with the uncoordinated competing navies in the Gulf of Aden and the rampaging Somali pirates.

A comprehensive analysis of the impact of the armed intervention on maritime security in the Gulf of Aden would naturally require a measurement of the number of ships plying the sea lane against the number of ships attacked by Somali pirates, and some other variables, as well as a measurement of the rate of attacks in the face of the armed intervention. But this was difficult to achieve because the sea is an unregulated thoroughfare with no known record of the number of ships plying the world's sea

lanes. The absence of records draws from the provisions of Article 107 of the Convention on the Law of the Sea (UNCLOS) 1992 by which it is granted that the high sea belongs to all.

The other challenges in respect of obtaining record of ships transiting the Gulf of Aden was that the ships that transit the Gulf of Aden are not from any single maritime jurisdiction; neither do they belong to a single company, and do not take off from a single port or berth at the same port. The closest source of data on the number of ships plying the Gulf of Aden would have been the Suez Canal authority because most ships transiting the Gulf of Aden are headed for the Suez Canal, but unfortunately, a large number of ships plying this sea lane end their trips without getting to the Suez Canal – many are engaged in World Food Programme (WFP) Mission in Somalia, Fishing and Dumping of toxic waste off the coasts of Somalia, Cabotage (port to port movement of ships within the same state), etc. These inform the inherent difficulties in ascertaining the exact number of ships plying that sea lane and the number of pirate attacks against ships by Somali pirates on the waters of the Gulf of Aden and the coasts of Somalia.

Meanwhile, data on pirate attacks are incomplete and often distorted because – information about the attacks issued by shipping owners is often vague – (One Earth Future Foundation, 2010:7). More so – about half of all pirate attacks go unreported –, and – in some cases the ship's owners dissuade the captain from reporting an attack –. They don't want bad publicity or the ship to be delayed by an investigation – (Gwin, 2007). The UK Government has estimated that piracy attacks occur about 25% more than official reporting (House of Commons: Select Committee on Transport Eighth Report: 2006).

Meanwhile, other maritime reporting, recording and or regulating authorities have suggested that “only an estimated 30-40 percent of pirate attacks on commercial ships are reported” (Koburger, 2010:75), and that “Piracy is downplayed by both governments and industry for both political and commercial reasons” (One Earth Future Foundation, 2010:8).

It was observed that the International Maritime Bureau (IMB) (which is the official primary source of information on piracy in the world) “is restrained by the volume of piracy attacks it is permitted to report and document” (One Earth Future Foundation, 2010:7).

Meanwhile, since the cost of ransom rose to an all-time high of \$9.5 million paid to Somali pirates for the release of a South Korean oil tanker “the *Samho Dream*” (BBC News, 2010) from the paltry sum of about \$150,000 paid in 2005 (Payne, 2010), and detention of ships increasing up to “an average of 106 days between April and June of 2010, up from just 55 days in 2009, and the last four ships released in November 2010 were held for an average of 150 days” (NPR, 2010), the ship owners have resorted to rerouting their ships away from the Gulf of Aden (See Map 7.5.1 below).

Within the period under review, rerouting of vessels was deemed more effective for:

slow and slow-moving ships, which are at the greatest risk of piracy attack, avoiding risk zones altogether may be a safer or cheaper option. For example, some ships may opt to avoid the risk of transiting through the Gulf of Aden and Suez Canal, and instead take the longer voyage around the Cape of Good Hope (One Earth Future Foundation, 2010:12).

Map 7.5.1.: MAP SHOWING THE PRESENT PATTERN OF SHIP REROUTING AWAY FROM THE GULF OF ADEN AROUND THE CAPE OF GOOD HOPE



Source: UNCTAD World Shipping Report

Besides low and slow moving ships, records have it that some major Shipping lines did divert their fleet away from the Gulf of Aden between 2008 and 2011. The major Shipping lines that diverted their fleet away from the Gulf of Aden between 2008 and 2011 include *AP Moller-Maersk* (one of Europe's largest ship owner) who diverted all her 83 Tankers away from the Gulf of Aden and adjoining waters; *Odyssey* Shipping Group (Norwegian Stolt Tanker Fleet) - who diverted all of her 90 tankers fleet) away from the Gulf of Aden and adjoining waters; and *Frontline* (one

of the world's major oil carrier) (See for instance: ICIS.com, 2008). It was estimated by One Earth Future Foundation that around 10% of shipping traffic avoids transiting this region as a result of the threat of piracy (One Earth Future Foundation, 2010:13).

Within the period of the armed intervention in the Gulf of Aden under review (between 2008 and 2011), it was the case that ships avoided the tangle between uncoordinated and competing navies and rampaging pirates, and that ships that plied the Gulf of Aden within the period under review were those that had enhanced their capacity to apply increased speed when in the Gulf of Aden, and those from countries that had the naval capacity and willingness to escort their ships and vessels across the Gulf of Aden successfully.

Other ships that plied the Gulf of Aden within the period under review employed private security guards on board their ships to keep watch while it transited the Gulf of Aden at great costs. They also put in extra effort at fitting their ships with Deterrent Security Equipment which included licensed security guards, sonic deterrent equipment, barbed/razor wire, sand bags, electric fence, and took up exorbitant insurance premiums. Table 7.5.1 below provides data on the costs of maritime piracy in the Gulf of Aden in U.S. Dollars between 2008 and 2011.

Table 7.5.1: COSTS OF MARITIME PIRACY IN THE GULF OF ADEN, 2008-2011 (IN U.S. DOLLARS)

	2008 ^a	2009 ^b	2010 ^c	2011 ^d
Re-routing Per day		2.3b	2.4 b- 3b	486m ÷ 681b
Deterrent Equipment		368m	363m - 2.5b	1.064b ÷ 1.16b
Private Guard			80,000	
Insurance premium	120m	459m	460m ÷ 3.2b	635m
increased speed		104m	2,713	2,71b
Ransom	44m		176 m	160m

Source: Author's Research, 2013.

Note:

A - 2009 figures are from - "Twenty years of collapse and counting: the cost of failure in Somalia". A joint report of Centre for American Progress and One Earth Future Foundation 2011. Page 33

- B - 2008 figures are from - "Twenty years of collapse and counting: the cost of failure in Somalia". A joint report of Centre for American Progress and One Earth Future Foundation 2011. Page 33*
C - One Earth Future Foundation Working Paper 2010 "The Economic Costs of Maritime Piracy" 2010
D - One Earth Future Foundation Working Paper 2011 "The Economic Costs of Maritime Piracy" 2011

Contrary to popular expectations, it was not the world's navies and their anti-piracy activities within the ambit of the armed intervention within the period under review that was responsible for the decline in the number of successful pirate attacks in the Gulf of Aden and the coasts of Somalia. The decline in the number of successful pirate attacks was rightly credited to the efforts of the individual shipping lines and the private sector.

Some of the efforts that led to the decline in the number of successful pirate attacks in the Gulf of Aden and the Somali coasts between 2008 and 2011 included the re-routing of ships away from the Gulf of Aden. This reduced the number of ships available for pirates' attacks. The other effort in this regard is the application of the Best Management Practices for Protection against Somalia Based Piracy (BMP4s). This had to do with strict compliance with the self-protection measures scheduled to ensure safe transits, made available to ships intending to ply through the Gulf of Aden, on the best possible times and ways of avoiding pirates on proposed day of transit. The last but not the least in list of efforts in this regard is carrying private armed guards on board ships or as escorts, among others. These collectively accounted for the decline in the number of successful pirate attacks on ships plying the Gulf of Aden, and Somali coasts between 2008 and 2011.

The preceding position was corroborated by the Report of the Atlantic Council Counter-Piracy Task Force (2012:2) which stated that:

The significant decline in the number of successful attacks off Somalia is mostly attributable to the shipping industry's implementation of a set of self-protection measures, known as the Best Management Practices for Protection against

Somalia Based Piracy (BMP4s), and the use of private armed security teams on ships. In addition to the security advantage of using best management practices and armed security personnel there are financial incentives: insurance companies have cut premiums for ships with armed security by as much as forty percent. But because of the high cost of these teams, many small to medium-sized vessels as well as more modest regional operators cannot afford them, and are forced to transit high risk waters unprotected. These vessels consequently account for two-thirds of all pirate attacks in the region.

Put succinctly, ñover the past year, efforts by the private sector have dramatically reduced the number of successful Somali pirate attacks. International naval patrols have certainly helped but the decline is primarily attributable to widespread implementation of BMP4s and the use of private armed security teams on board shipsò (Report of the Atlantic Council Counter-Piracy Task Force, 2012:6).

CONCLUSION

The objective of this chapter has been to ascertain whether the armed intervention improved maritime security in the Gulf of Aden between 2008 and 2011, and by so doing answer the question: ñhas the armed intervention improved maritime security in the Gulf of Aden?ò

It is asserted here that the armed intervention did not improve the maritime security situation in the Gulf of Aden within the period under review, but instead may have unwittingly encouraged it.

We concede that there was some reduction in the number of successful piracy and armed robbery incidents (which is responsible for the maritime insecurity in the Gulf of Aden) within the period under review, and that the presence of the navies did affect the trajectories of piracy but essentially was not responsible for its decline.

Our central contribution is that the armed intervention had many flaws from strategic planning to withdrawal of troops from inside Somalia through to the

deployment of national navies in the Gulf of Aden so was not able to arrest the internal armed conflict in Somalia and by implication the maritime security of the region.

It is the social production and reproduction of material values interests of the entire maritime world that had played out in the Gulf of Aden and the coasts of Somalia within the period under review. The variance in their social production and reproduction capacity, ability and interests was what had made it impossible for all the navies in the Gulf of Aden to forge a common front in the fight against piracy. It was also the social production and reproduction capacity, ability and interest of Somalia (albeit dysfunctional) that brought about and sustains piracy in the coastal waters of Somalia and the Gulf of Aden.

As there were variations in the impact Somali piracy in the Gulf of Aden had on the social production and reproduction of material values capacity, ability, and interests of many maritime nations, so was the willingness of such states to contribute to the armed intervention. For example, routing a tanker from Saudi Arabia to the United States via the Cape of Good Hope, adds about 2,700 miles to the voyage (MARAD, 2008). A re-routing from Europe to the Far East will add almost six extra days to a journey for a liner and up to 15 to 20 days for a cargo ship (Unterreiner, 2009). This excess duration of transit time reduces a vessel's annual voyages from six to five, equal to a 17% reduction in its yearly delivery capacity (MARAD, 2008). Therefore the US and Europe had greater need for security in the Gulf of Aden waters and that accounts for the greater interests they showed in the armed intervention in the Gulf of Aden within the period under review.

More so because the impact of Somali piracy in the Gulf of Aden on the social production and reproduction capacity, ability, and interests was not the same for all

contributors relatively skewed in favour of a few nations so was the urge to control piracy in the Gulf of Aden.

It was these variations and absence of uniformity in the impact Somali piracy in the Gulf of Aden had on the social production and reproduction capacity, ability, and interests of the contributing states that resulted in the ineffectiveness of the intervention in restoring maritime security in the Gulf of Aden, and the entire maritime region.

It seems that there is a conspiracy among some of the contributors to the armed intervention that piracy should not stop, since if it stops, the maritime lane will be free for all and may prejudice their specific social production and reproduction interests. In which case they prefer that the piracy continues while ñtheyò, having the capacity, would guard their state flagged ships successfully across the pirate infested waters of the Gulf of Aden continually, while states without the capacity to do the same are left to incur more costs be rerouting their vessels away from the Gulf of Aden, paying higher insurance premiums or, left their ships voyage across the Gulf of Aden to chance, or eventually to patronize shipping lines of the states with the capacity to protect vessel across the Gulf of Aden at minimal cost.

More so, the review revealed that none of the contributors to the armed intervention had current viable sufficient social production and reproduction interest inside Somali so had no strong urge to ensure that the internal armed conflict stopped, in which case the maritime insecurity in the Gulf of Aden would naturally have ceased. Their interests were in the huge economic resources in the Somali coasts (Tuna fish, biodiversity, corals, free toxic waste dumpsite, etc.) and strategic relevance of the Gulf of Aden.

The US-led armed intervention did not bring about peace and security in Somalia nor the Gulf of Aden apparently because it was not in compliance/compatible with the tenets of US policy on armed intervention. By the US policy on armed intervention:

- (i) An armed intervention must be or deemed to be vital to the US national interest or that of her allies.
- (ii) An armed intervention has to be undertaken wholeheartedly because it is vital to the U.S. national interest or that of her allies.
- (iii) An armed intervention must have clearly defined political and military objective; because there was no clearly defined political and military objective for the intervention in Somalia, there was no precise knowledge of how the U.S. forces could accomplish unclear objectives. Consequently, the U.S. sent in for that armed intervention the wrong forces - the U.S. Marines - that are trained and used for short intensive combat only. The consequence was that the U.S. Marines burnt out even before the intervention could achieve any feat.
- (iv) In Somalia the objectives were unclear so could not be properly reassessed, and adjusted
- (v) It is clear that the U.S. faced no threats in Somalia but in the Gulf of Aden, so the support from the American people (through the Congress) could not be sustained for the continued military efforts inside Somalia.
- (vi) Contrary to tenet (vi) of the U.S. policy on armed intervention) the commitment of the U.S. forces to combat was not the last resort.

See table 7.6.1. below for analysis of the defects in the application of the U.S. policy on armed intervention in the intervention in Somalia.

Table 7.6.1: U.S. POLICY ON ARMED INTERVENTION AND THE DEFECTS IN ITS APPLICATION IN SOMALIA

Tenets of U.S. Policy on Armed Intervention	Defects in its Application in Somalia
(i) The United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies.	(i) The armed intervention inside Somalia was not deemed vital to US national interest of that of her allies.
(ii) If we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all.	(ii) The armed intervention was not done wholeheartedly so the US contingent vacated Somalia because a slight confrontation with a Local Somali War Lord (General Aideed).
(iii) If we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have, and send, the forces needed to do just that.	(iii) There was no clearly defined political and military objective; so there was no fore precise knowledge of how US forces can accomplish an unclear objective; so the US sent in the wrong forces i the US Marines trained and used for only short but intensive military action.
(iv) The relationship between our objectives and the forces we have committed-their size, composition, and disposition-must be continually reassessed and adjusted if necessary.	(iv) The objective was unclear so could not be properly reassessed, and adjusted. This prompted the total pull out of US contingent from the intervention. Only to appear in the waters of the Gulf of Aden.
(v) Before the United States commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation.	(v) It is clear that the US faced no threats inside Somalia but in the Gulf of Aden i so the support from the American people (through the congress) could not be sustained for the intervention inside Somalia. (But the naval exercise in the waters of the Gulf of Aden has been sustained because of the continued support of the American people and their elected representatives in Congress).
(vi) The commitment of US forces to combat should be a last resort.	(vi) The commitment of the US forces to combat was not the last resort. Certain necessary pre-military deployment diplomatic options that ought to have arrested the internal armed conflict in Somalia where negated.

Source: Author's Research, 2012.

Irrespective of what has led to the reduction in the number of successful pirate attacks in the Gulf of Aden in the later part of the period under review, the southern shipping routes toward the East African coast and to an extent the entire Gulf of Aden remain unprotected and ships plying that sea lane are still too vulnerable. It is speculated that before long, terrorists are likely to take note of the opportunity to seize Western hostages through similar acts of piracy in the Gulf of Aden - and their willingness to release any such hostages unharmed is open to serious doubt. Nipping this problem in the bud will can deter future acts of commercial piracy and prevent the nightmare scenario of an American crew in the hands of an Osama bin Laden devotee (O'Hanlon & Solarz, 2009).

CHAPTER EIGHT

SUMMARY, CONCLUSION, AND RECOMMENDATIONS

8.1. SUMMARY

Many academic and policy discussions on piracy in the Gulf of Aden have centered on finding ways and means of solving the piracy problem almost to the exclusion of the lawlessness in Somalia from which the piracy derives. It is this approach that is evident in the many writings that advocated the deployment of more military assets to combat piracy and punish arrested pirates with the view to making piracy less attractive to anyone. On the other hand, however, the few academic discussions that did attribute the existence of piracy in the Gulf of Aden to the absence of a functional centralized Somali state have conceded that the naval option to combating piracy by policing the Gulf of Aden is only but temporary. They therefore posited that an enduring solution to piracy must have restoration of law and order in Somalia as its cardinal objective.

Primarily, piracy in the Gulf of Aden does not target the general civilian population. Thus it does not result in the kind of gruesome mass casualties as those associated with terrorists. Essentially, its target is the distribution of the means of social production and reproduction of material values. Put succinctly the circulation of capital. A closer study of the whole piracy venture highlighted in a significant way the relationship between social production and reproduction of material values and political violence particularly in the face of economic exclusion.

Attributing piracy in the Gulf of Aden simply to the absence of a functional central government in Somalia and concentrating on finding ways of curtailing it without reference to the fact that piracy in the Gulf of Aden is but an outcome of the region's integration into capitalist social production and reproduction of material

values struggle has been the reason for the failure of the collective effort towards finding a lasting solution to the conflict in the region. This capitalist social production and reproduction of material values struggle began with the many colonial interferences into the historical development of Somalia, through the Cold War politics, into the despicable dumping of toxic waste and dangerous unlawful overfishing in the Somali coasts and the Gulf of Aden. These had indeed contributed to the unending struggle between pirates and navies on the one hand and Somalia and the rest of the world on the other hand.

Until the political and economic circumstances that make piracy in the Gulf of Aden a viable business or avenue to keep the conflict in Somalia in the eyes of the world is addressed the struggle is bound to continue and universal ñpeace buildingò as envisaged by the UN will remain ideological.

This study explored the impact which the armed intervention by the many naval forces of the sea-going world with substantial maritime interests in the Gulf Aden, has had on the maritime security situation in the Gulf of Aden region, between 2008 and 2011. This exploration was undertaken in the light of the fact that the principles of political neutrality was applied by the international community in their armed intervention; the interests of members of the international community who contributed to the armed intervention were divergent; and maritime insecurity still persists in the Gulf of Aden even in the face of the intervention.

Much of the scholarly analysis on maritime security in the Gulf of Aden and the consequent armed intervention revolved around legality, standards, best practices and challenges of the armed intervention. However, the impact of the application of the principles of political neutrality, and the divergence in the interests of members of the international community on the armed intervention has not been related to the

challenges of maritime security in the Gulf of Aden within the period under review. In the light of the above, the specific objectives of the study were to:

1. Determine whether the application of the principle of political neutrality by the international community in their armed intervention has enhanced security in the region.
2. Explore whether the divergence in the interests of members of the international community to the armed intervention undermined the task of combating piracy and armed robbery in the Gulf of Aden.
3. Ascertain whether the armed intervention has improved maritime security in the Gulf of Aden.

Consequently, the following hypotheses were formulated to guide the study:

1. The application of the principle of political neutrality by the international community in the armed intervention has not enhanced security in the region.
2. Divergence in the interest of members of the international community to the armed intervention has undermined the task of combating piracy and armed robbery in the Gulf of Aden.
3. The armed intervention has not improved maritime security in the Gulf of Aden.

The qualitative method of data collection was adopted whereas the *ex-post-facto* research design was applied in the study. Data used in this study were sourced from textbooks, academic journals, magazines, occasional papers, newspapers, websites, as well as official documents from relevant institutions and organisations such as the United Nations Organisation (UN), International Maritime Organisation (IMO), Contact Group on Piracy off the Coast of Somalia (CGPCS), One Earth Future Foundation, U.S. Bureau of Political-Military Affairs, EU Naval Force, International Maritime Bureau (IMB), US Congressional Research Service, Institute for Security Studies, The Corbett Centre for Maritime Policy Studies, US Department

of State, International Chamber of Commerce (ICC), International Committee of the Red Cross (ICRC), *Medecins Sans Frontieres*, and International Tanker Owners Pollution Federation (ITOPF). The qualitative method was used to analyse the data and a combination of Marxian political economy approach and logical data framework provided the platform for systematic data presentation and analysis.

The Marxian political economy approach in its social production and reproduction of material values variant was adopted as the framework for analyzing armed intervention and the challenges of maritime security in the Gulf of Aden. It focused on the conceptual structure which provided historical explanation, identified and explained the objective conditions on which the production of social life was the base and determinant of the social production relations established in and between Britain, France, Italy, US, China, Ethiopia, Somalia and the rest of the world in the Gulf of Aden. The theory made it safer to affirm that the identified social production relationship exploited and indeed alienated the social subjects ĩ the Somalis, and was responsible for proliferation and ready availability of arms that engendered and sustained the conflict in the region. The data gathered were analyzed using qualitative description and logical induction - and presented in charts, figures, tables, and simple percentages.

8.2. CONCLUSION/FINDINGS

After an exhaustive investigation, the study found as follows:

- (i). That the application of the principles of political neutrality by the international community in the armed intervention has not enhanced security in the Gulf of Aden, but instead has unwittingly encouraged it. The rationale for this failure is premised on the fact that where peace, respect for human rights, and reduction of human suffering are the motive for an intervention, the

intervening force ought not be neutral but take sides. Indeed, the interveners should either support one side to the conflict (the one that has a better and legitimate claim or the mightiest of the rivals, irrespective of their legitimacy) or at best overawe all parties and create a new political order. The intervener must also have comprehensive plans to address the critical mass of issues that lead to the conflict and may sustain it. If not, there should be no intervention at all.

Alternatively, the conflict should be allowed to run its full course and resolve itself naturally rather than intervening and creating an opportunity for a conflict to become intractable because an intervention has made it difficult for one side to defeat another – this encourages military stalemate, lengthens the war, and costs more lives. The primary objective of an armed intervention ought not to be to provide humanitarian aid alone (as was the case in the initial armed intervention in Somalia) because it inadvertently fuels the war economies and prolongs the conflict by providing assistance, directly or indirectly, to combatants and their military operations, thereby preventing mutual exhaustion and consequently prolonging suffering where it is meant to relieve it.

The point is that the principles of political neutrality are more effective in armed intervention in internal armed conflicts within a functional state where contending interests are compelled to accept compromises negotiated in legislatures or adjudicated in courts and enforced by the state's organized force; or in conflict situations where parties are exhausted and are willing to rely on the good offices of the intervener to lay down their arms.

- (ii). The study also found that the divergence in the interests of the members of the international community in the armed intervention did undermine the task of

combating piracy and armed robbery in the Gulf of Aden within the period under review.

The fact is that the social production and reproduction needs of the very many contributors to the armed intervention were competing naturally and thus accounted for the inability of the anti-piracy campaign to succeed in combating piracy and armed robbery in the Gulf of Aden between 2008 and 2011. Although with recent data on piracy and armed robbery in the Gulf Aden and Somali coasts, the number of successful pirate attacks resulting in the hijack of ships has reduced, the number of successful attacks is still a major issue for maritime security in the area. The determination of the pirates to resist the armed intervention has seen pirates operating far into the high seas and areas traditionally not part of the Somali coast like Seychelles; thus making the mission of the international force only more difficult. More so, the pirates are getting more sophisticated using GPRS, RPGs, and assault rifles to attack ships, holding hostages longer than before and being more brutal to them.

Scholars are of the opinion that a long-term and realistic resolution of the Gulf of Aden piracy must be one that addresses the genuine concerns of the Somali people which otherwise drive them towards piracy as a business or for vengeance. That is, illegal and dangerous fishing activity and dumping of toxic wastes off the Somali coast by European firms; as well as the establishment of a functional government in Mogadishu to address the internal factors.

Concerns are that, as it is presently constituted, piracy in Somalia cannot be erased with international naval deployment because it is just a symptom. The most likely outcome of the international anti-piracy efforts will not be a stoppage of

piracy but a more sophisticated military action that would attempt to sabotage the ships it fails to take over.

- (iii). The study also found that the armed intervention is not responsible for the supposed improvement in the maritime security situation in the Gulf of Aden within the period under review. Although the presence of the navies did affect the trajectories of piracy, the significant reduction in the number of successful pirate incidents within the period under review cannot be credited to it.

Indeed the credit for the decline in the number of successful pirate attacks is attributed to the efforts of the individual shipping lines and the private sector. This is contrary to speculations that point to the effort of the world's navies and their anti-piracy activities within the ambit of the armed intervention within the period under review as the responsible for the decline in pirate attacks. Some of the efforts that led to the decline in the number of successful pirate attacks in the Gulf of Aden and the Somali coasts between 2008 and 2011 included: re-routing of ships away from the Gulf of Aden; the application of the Best Management Practices for Protection against Somalia Based Piracy (BMP4s); and carrying private armed guards on board ships or as escorts, among others. Another significant contributor to the decline in successful pirate attack is the decision by the insurance companies to offer ship-owners financial incentives by cutting premiums for ships with armed security by forty percent (because of the high cost of these private security guards on board ships, many small to medium-sized vessels as well as more modest regional operators could not afford them, and are forced to transit high risk waters unprotected. These vessels consequently account for two-thirds of all pirate attacks in the region between 2008 and 2011. These collectively accounted for the decline in the number of successful pirate attacks in the Gulf of Aden and Somali coasts.

Of note in the assessment of the armed intervention are the many flaws on strategic planning of the armed intervention. One significant flaw was that the US-led armed intervention was not in compliance/consonance with the tenets of US policy on armed intervention. The tenets are that: any intervention must be in places deemed vital to US national interest or that of her allies (Somalia was not, the Gulf of Aden is); there was no clearly defined political and military objective detailing how US forces can accomplish the objectives of the intervention, so US marines, trained for short but intensive combat were deployed instead of regular soldiers; and the US faced no threats in Somalia but in the Gulf of Aden.

The variance in the social production and reproduction capacity, ability and interests of the contributors to the armed intervention made it impossible for all the navies in the Gulf of Aden to forge a common front in the fight against piracy. It was discovered that none of the contributors to the armed intervention had viable interest inside Somali, and so had no strong urge to ensure that the internal armed conflict stopped, in which case the maritime insecurity in the Gulf of Aden would naturally have ceased. Their interests were in the huge economic resources in the Somali coasts (Tuna fish, biodiversity, corals, free toxic waste dump-site) and strategic relevance of the Gulf of Aden. It was also the social production and reproduction capacity, ability and interest of Somalia (albeit dysfunctional) that brought about and sustained piracy in the coastal waters of Somalia and the Gulf of Aden.

The above findings underscore the contradictions inherent in the many relationships Somalia had with Europe and America and a few African countries (Ethiopia, Kenya, Djibouti, Seychelles etc.) in her pre and post-independence development era. These inherent contradictions were the underlying factors in the outbreak and sustenance of maritime insecurity in the Gulf of Aden and coasts of

Somali attributed to Somali pirates. Therefore, if the pattern of management of the conflict in Somalia continues to be founded on the principles of political neutrality, and the interests of contributors in the intervention remain in competition, rather than cooperation, then maritime insecurity in the Gulf of Aden will continue to grow to a monstrous proportion and peace will continue to elude Somalia, her neighbours, and the rest of the sea going states that have need for the Gulf of Aden sea lane.

8.2. RECOMMENDATIONS

Based on the findings of this study, we hereby recommend as follows that:

1. The United Nations should eschew the principles of political neutrality in the intervention in the internal armed conflict in Somalia. It should either take sides and support one faction and tilt the local balance of power, and help one of the rivals to win the war and establish a government, or overawe all factions and take over the Somali territory and impose international regency similar to the United Nations administration in Kosovo. Continued application of the principles of political neutrality in any intervention in Somalia will continue to block peace by preventing either belligerent from defeating the other i which encourages the war to continue.
2. The United Nations should ensure that the interests of interveners in the conflict are coalesced so as to forge a united front capable of arresting the seemingly intractable internal armed conflict inside Somalia which feeds the pirate venture in the Gulf of Aden. The situation where states come into the intervention with divergent competing objectives has proven very costly in the crisis. Any state involved in the intervention that does not submit to the United Nations's impartial conditions must be made to retreat from involvement in the conflict resolution effort in the Gulf of Aden.

3. The United Nations should ensure that the application of the Best Management Practices for Protection against Somalia Based Piracy (BMP4s), the use of private armed security guards on ships, and routing of ships away from the Gulf of Aden (which has proven to be sufficient in reducing pirate attacks in the region) are encouraged so as to keep successful pirates attacks low until such a time that the internal armed conflict inside Somalia and the Somali pirates have been greatly curtailed or stopped.
4. The navies running the Gulf of Aden must form a single mission to avoid the situation where navies turn the other way when there is an imminent pirate attack on vessels not flying flags of the navy's State or that of their allies. This will also greatly reduce the existing acrimony exhibited by navies of enemy states operating in the Gulf of Aden and Somali coasts. This is one reason why pirates still succeed in hijacking vessels in the midst of the huge naval platforms in the Gulf. More so, it is the reason why the pirates succeed in tracking and attacking vessels of states that are very hostile to the piracy venture, e.g. the US.
5. Any future interventions in Somalia should, as a matter of priority, have a political marshal plan to restore peace and order in Somalia, as well as a plan to constitute a government that will accommodate all contending interests of the warring factions.
6. The United Nations must come up with resolutions that deal with specific issues of concern in the Gulf of Aden particularly as it relates to unlawful fishing and dumping of toxic waste by European and Asian contractors. Even though it may be said that these are already provided for by international law, it must be recognized that the absence of a state authority in Somalia is an

indicator that relevant international laws will not apply since the bulk of the activities complained about by Somalis take place close to the Somali coast line.

7. The United Nations must, as part of any measure aimed at restoring peace in that region, organize an arms mop-up exercise to clear the readily available arms that make conflict interesting to the contenders.
8. An arrangement must be put in place for states implicated in unlawful fishing and dumping of toxic waste to pay reparation to the Somalis.
9. The individual naval operations in the Gulf of Aden should be discouraged because such has encouraged inefficiency in the whole naval operations to address piracy. Navies without strong presence and capacity to prosecute pirates captured in the Gulf of Aden have resorted to "catch and release" tactics wherein apprehended pirates are released in the middle of the high sea in small boats and without food, or at extreme cases killed instead of subjecting them to trial in courts, or treated like war criminals whereas the pirates are civilians.
10. The United Nations must also prohibit nations from selling or supplying arms to entities in Somalia until an acceptable central government is formed and conflict ceased.

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