A Somali pirate watches a pirate-held cargo ship off Hobyo in northeastern Somalia. MOHAMED DAHIR/AFP/GETTY IMAGES

On Piracy and the Afterlives of Failed States

George R. Trumbull IV

Until the resurgence of naval predation in the late 2000s, pirates were confined to the realm of the fantastic—novels, films and stage productions. Since Western states last worried about pirates in the eighteenth century, the intrinsic, man-bites-dog interest of contemporary pirates for the popular press is easy to understand. The reemergence of piracy as a political problem, however, has in no way banished the fantastic from current understandings of the phenomenon, nor of Somalia, whence the most famous of today's maritime bandits come. The fantasy is evident in media coverage, but in policy discourse as well. Once upon a time, begins the tale, there was a state called Somalia and now there is not. Pirates flourish where the writ of government has entirely lost its sway. Like many fairy tales, this one contains a kernel of truth. There was indeed a state called Somalia (and, officially, there still is). Nevertheless, the fetish within policy debates for states, whether their presence, absence or failure, prevents an analysis of Somalia and Red Sea piracy as perhaps a more fundamental challenge to the organization of post-colonial polities, in the Horn of Africa and elsewhere.

On September 9, two US Navy frigates belonging to an international anti-piracy task force in the Indian Ocean rescued a merchant vessel that had been captured by Somali pirates. It was the second occasion when US Marines had led such an operation; the anti-piracy initiative is arguably the highest-profile undertaking of the Obama administration in the Red Sea region. US interest in Somali piracy derives not from success, however, but from three failures: the inability to imagine spaces without states, the ongoing imperative to secure oil supplies, despite the growing costs, and the concomitant ambivalence, at both the executive and Congressional levels, toward conceiving of environmental policy as a national security issue, let alone a moral imperative. In East Africa, as in other regions adjacent to tanker

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routes, the worry for Washington is that states will be too weak to police shipping lanes. As Sandra Barnes has written, "American policymakers [thinking about Africa] perceive a double danger: the threat of terrorism and the risk of an interrupted oil supply."[1] This approach omits the local factors that, it seems, have given rise to piracy: illegal industrial fishing, toxic waste dumping, increasing poverty and the effects of all three on the livelihood of Somali fishermen.

Meanwhile, the US continues to promote the dubious claim to sovereignty of the Transitional Federal Government, a loose grouping of Somali politicos that formed in exile in 2004. This would-be state was only installed in Mogadishu by force of Ethiopian and US arms in December 2006, and has subsequently proven utterly unable to hold the Somali capital, let alone extend its writ outside the city limits, despite the presence of African Union peacekeepers. Al-Shabaab, the best known of several Islamist militias in the country, and whose progenitors were ejected from Mogadishu by the Ethiopian-US invasion, has the remnants of the Transitional Federal Government pinned down. Washington's dogged insistence on treating Somalia as a state, if a failed one, conceals a conceptual void at the heart of US policy on piracy in the Horn of Africa: Admitting, not the failure of Somalia as a state, but the contestation of the very concept of state in Somalia, requires acknowledging the complicated interplay among environment, petro-politics and poverty, even in states lacking oil.

Vexed and Vexing States

Representations of modern Somali history in the media follow a predictable pattern: colonialism, independence, Cold War, failed state, pirates. Perhaps surprisingly, scholarly studies scarcely add nuance to this picture. The best acknowledge the multiple colonial systems—French, Italian, British—that divided Somali peoples in East Africa and the changing allegiances of Cold War hegemons in the twentieth-century Ethiopian-Somali conflicts. Such cursory treatments, however, neglect the fact that Somalia, even when effectively functioning as a state, was never contained within the Somali state. Large Somali refugee communities live in Yemen and along the Red Sea and Indian Ocean coasts of Africa, but long before the Cold War-era fighting, the consolidation of imperial Ethiopia and the colonial dismemberment of East Africa had distributed ethnic Somalis across various states—Ethiopia, Djibouti and Kenya, as well as Somalia.

The Ogaden war of 1977–1978 and the subsequent, if episodic, insurrectionary movements in the Ogaden, a Somali-speaking region of Ethiopia, attest to both the instability of Somalia's borders and the fickleness of the great-power engagement with the Red Sea region. Beforehand, the US had backed the Ethiopian monarchy of Haile Selassie against pro-Soviet Somalia. The Soviet Union's withdrawal of support from Somalia to provision the Ethiopian Derg, a Marxist group that overthrew Selassie, precipitated Washington's own transfer of allegiances. This small-scale Cold War conflict involved the former South Yemen as a Soviet puppet. The Ogaden war, then, appears to offer a neat narrative of artificial colonial borders, Cold War conflict and political instability. Another interpretation, however, suggests itself, one with larger implications for current events in the Red Sea. The Ogaden war may have represented—in addition to Cold War score settling—the first battle in an ideological struggle between competing notions of Somali statehood. To this roster one may tentatively add Djibouti's civil war of the 1990s: The eruption of friction between Afars and (Somali) Issas revealed fractures in the communal politics of the bi-ethnic state, though not necessarily an attempt at cleaving Djibouti to a larger, ethnically Somali polity. Both conflicts nevertheless hint at the same question: Must Somalia become a Greater Somalia, incorporating the Somalis of the Ogaden, Djibouti and Kenya? Recent moves by al-Shabaab, such as attacks in Uganda, indicate not only a rejection of foreign interference in the current Somali civil war, but also a willingness to export that war to Somalis outside of rump Somalia—to make it a civil war, not within Somalia, but among Somalis.

Counter to this postulate is the long-standing critique of the Greater Somalia concept, articulated in the 1970s by Mohamed Siad Barre, the last leader of a unitary Somali state, and again, if more tentatively, by al-Shabaab. Many Somalis, after all, do not live within the boundaries of Somalia. Or do they? Somalia is not a political void, a mere discursive formation. Nevertheless, any discussion of Somalia, and hence of piracy, requires the acknowledgment that Somalia is more a geographic than a political designation. The northernmost region of the country, known as Somaliland, functions in the absence of official recognition and provides no small measure of security and even stability to its denizens.[2] Neighboring Puntland, too, has pursued self-rule, though to date the leaders of Puntland have largely avoided the avowedly dissolutionist language of Somaliland, preferring to maintain some kind of nebulous relationship to the notion of Somalia. Today, however, al-Shabaab seems to have infiltrated Puntland, the alleged home base of many of the Somali pirates. Hence, definitions of the state have become particularly vexed in the country—Somaliland claims independence, Puntland claims a vague autonomy and the rump of south-central Somalia is continually plagued with violence, with European and US policymakers refusing to acknowledge this complexity through recourse to the largely empty concept of the failed state. That is, there was a state, and now there is not.

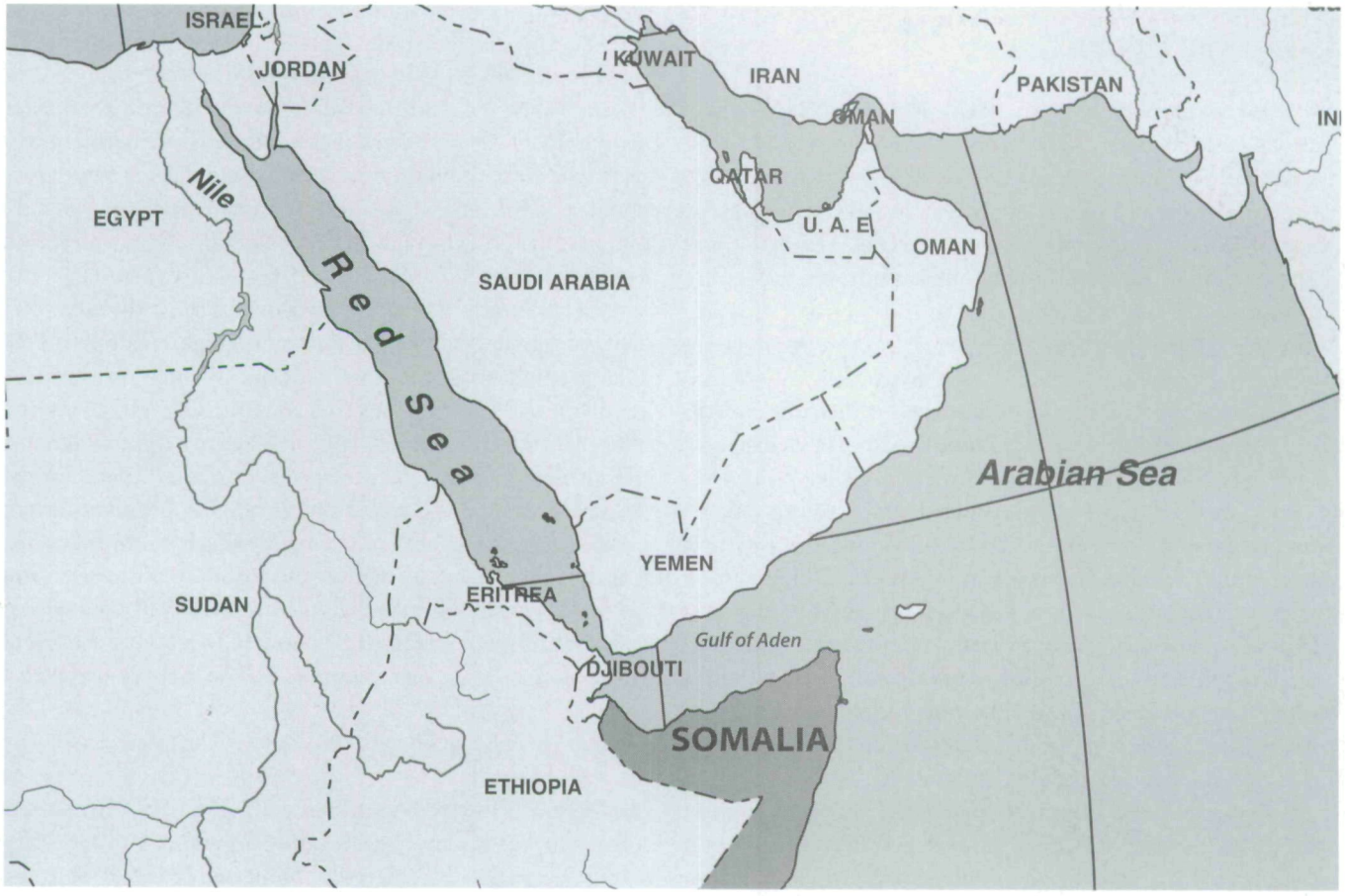
Hope Is Not a Plan

The inability to come to terms with post-state formations means that Somalia is described, in both reporting and policy writing, as anarchic. Such is the contention of Robert Rotberg,

for instance, in the elite foreign policy journal *Foreign Affairs*: "Somalia is the model of a collapsed state: a geographical expression only, with borders but with no effective way to exert authority within those borders."[3] Somalia expert Ken Menkhaus, likewise, writes that "Somalia is, in an odd way, a failure among failed states" for lacking "even a fig leaf of central administration."[4] The formulation is witty, but not funny, certainly not to those suffering in the Horn of Africa. Moreover, the picture these two writers paint is inaccurate. However abhorrent al-Shabaab has proved itself to be, its highly structured public executions enact a theater of justice that does, in fact, impose a form of law and order. Somalia has witnessed not just the failure of the state, but also the emergence of a series of conflicts about what a polity might be in the aftermath of a state. But when Rotberg speaks of "authority," he means the coercive power of the state, and so his concept of Somali politics revolves around a stubborn commitment to the idea of the state, even in its absence. The notion of a failed state, it turns out, does not erode the concept of the state at all,[5] but rather enshrines it as the core of policy decisions. The fairy tale has an unstated happy ending: There was a state, now there is not, but there will be again (and US and international policy should be geared toward helping it into being). The conception of Somalia as a failed state allows US policy to preserve the most impolite fiction of all, the idea of Somalia.

If the state has indeed failed, then the notion of a US policy on Somali pirates requires wholesale rethinking—if the policy intends to tackle the underlying conditions that produce piracy and, not coincidentally, misery for the majority in these lands. A failed state is, especially from the perspective of the people who live in its putative territory, a wholly imaginary one, useful conceptually but of limited utility when it counts. The simultaneous ruling-out of (official, though not back-channel) negotiations with pirates and the configuration of Somalia as a failed state prevent the emergence of a coherent policy. With whom, after all, would such a policy traffic?

Hence, the politics of the Horn of Africa challenges the underpinnings of state-centered foreign policy. The legal state of Somalia functionally no longer exists and the states that function—Somaliland and, to a lesser extent, Puntland—legally do not exist. In fact, these statelets cannot exist as long as other nations insist on the legal existence of Somalia in its prior geographic incarnation. "Somalia," whether as a functioning state or a failed one, attempts to split the difference between, on the one hand, an irredentist Greater Somalia that threatens to destabilize the entire Red Sea region, and on the other, a functioning Somaliland, a restive Puntland and a conflagration in the southwestern territories that renders them, from the perspective of the people living and dying in them, ungoverned, if not ungovernable. That middle ground



A woman struggles in high winds as passengers head out to smugglers' boats moored off the Somali coast. ALIXANDRA FAZZINA/NOOR/AURORA PHOTOS

between irredentism and partition, hoping ludicrously that the Transitional Federal Government will conquer all, while ramping up armed responses to piracy, represents no solution at all: Somalis still live in extreme poverty, subject to the depredations of various armed factions, and as a result, some Somalis still take to the ocean as pirates.

Murky Waters

The very presence of pirates embodies the indeterminacy of statehood. Nothing, however, about piracy as either naval crime or political fact guarantees that it would attract the interest of the United States. Indeed, Washington has few strategic interests in rump Somalia, Somaliland or Puntland, a fact underscored by the Bush and Clinton administrations' ill-conceived and poorly executed intervention in the early 1990s. It has, however, extensive strategic interests in the Red Sea region, especially the safe and unimpeded transit of naval vessels and oil tankers. Even a so-called failed state, it seems, can effectively disrupt trade. The international response has been robust. There are three separate anti-piracy task forces in the Indian Ocean, one led by NATO, another by the European Union and a third by the US and Turkey. The navies of China, France, India, Japan, Malaysia, Russia, Saudi Arabia, South Korea and Yemen have their own anti-piracy flotillas in these waters. The multiple task forces are not part of a coherent Somalia policy, but rather an emergency corollary to the policy, common to all these states and inter-state alliances, of protecting the flow of key commodities. Meanwhile, the US is pushing at the UN Security Council and other forums to have more of the interdicted pirates tried and imprisoned, hoping that punishment will deter the banditry rather than addressing its origins.

Illegal fishing, toxic waste dumping and other environmental crimes seem to have pushed at least some into piracy, though the evidence remains murky at best. In many ways, the environmental destruction of Somalia follows directly from the failures of the failed state paradigm itself: It is not just the lack of government structures, but also the refusal to countenance diplomatic engagement with counter- or alternate-state governance structures that allows such violations. Yet there is little attention to environmental problems. Even debates about global warming as a security threat remain at the most rudimentary level of discussions of population movements. The disposal of toxic waste on the coasts of Somalia, as an international incident and a testimony to a conceptual failing in state-centered diplomacy, has scarcely merited a mention. What institution,

what state, would speak on behalf of the fishermen whose livelihood that waste destroyed?

The UN satellite maps of pirate activity indicate no clear relationship between political stability in post-state Somalia and the emergence of piracy. Indeed, pirate attacks cluster off the coast of the most stable and highly functioning region, Somaliland, and only secondarily in the seas off the ferment of south-central Somalia. For a pirate, the Gulf of Aden, which separates Somaliland and Puntland from Yemen, offers some clear advantages over the deeper, rougher waters of the Indian Ocean to the south. The Gulf acts as a bottleneck for the major shipping lanes coming from the south and east, channeling commercial vessels into what might be called a "target-rich environment" for buccaneers. And nothing guarantees that the pirates attacking off the coast of Somaliland hail from Somaliland. At the very least, however, these maps indicate the limited capacity or willingness of authorities in Somaliland to halt such attacks. If the nations comprising the anti-piracy task force are trying to convince those authorities of the utility of policing the seas, they are not succeeding. (So far, Kenya is the only country that will prosecute Red Sea pirates.)

Piracy thus seems to correlate not with state failure, but with the failure of state failure as a paradigm in foreign policy. The insistence on engagement with a state, even a failed one, in ex-Somalia prevents the US, Europe, India and China from recognizing the wellsprings of piracy in East Africa—that it emerges not from state failure, but from the successes, however tentative and incomplete, that follow upon state collapse. Only after increased policing in the Gulf of Aden, off the coast of Somaliland, did pirate activity intensify off the shores of rump Somalia.

Why not just acquiesce to the partition of Somalia and recognize Somaliland and perhaps Puntland? For one thing, al-Shabaab, the militia besieging Mogadishu, desires to govern all of Somalia, not just rump Somalia in the south. Setting aside the strong opposition to partition among key Somali actors and its potentially massively destabilizing consequences, such recognition would resolve precisely nothing. Markus Höhne notes, "As long as [Somaliland and Puntland] play their political games without reaching a definitive political conclusion, individuals and groups can maneuver.... When either the Somaliland or Puntland side tries to enforce its policy on the ground, the territorial and mental borders of the political identities close, and serious tensions escalate to the level of military confrontation."[6] In other words, the very indeterminacy of the political status of Somaliland and Puntland, both in relation to each other and in relation to a notional Somalia, has become a requirement for their stability. The imposition of statehood on a post-failed state, argues Höhne, will result in violence. The very success, albeit relative, of Somaliland's emergence from the Somalia implosion has largely resulted from the looseness of the arrangements.

And, of course, there exists no agreement, neither among Somalis nor within the international community, upon what a regenerated state of Somalia would look like. If the failed state paradigm has not functioned especially well for merchant ships, it has functioned well enough for Somaliland. One anonymous observer has noted the contradiction of Somaliland's push for recognition as a state and "the international community's insistence on the continued existence of Somalia as a state, despite the disappearance of its central government." This contradiction indicates, he or she argues, a clear disjuncture between conceptions (largely hypothetical or at least theoretical) of nations and states. As policy plans, both state building and nation building in Somalia seem doomed to failure: There exists no coherent concept of what a nation might or should look like in Somalia, and assertions of state control in Somalia seem to precipitate violence, in part due to the regrettable history of the predacious state under Siad Barre and his predecessors (and successors). The kleptocratic regime of Siad Barre is hardly a model for would-be Somali state builders to emulate. Again, any replacement of current political circumstances must navigate the treacherous (and, of course, pirate-ridden) waters between Greater Somalia and a dissolution of multiple states in East Africa precipitated by the dissolution of Somalia.

Beyond the Non-Starters

Unfortunately, just as both nation and state building seem to be non-starters, the alternatives are scarcely articulated. Rosa Ehrenreich Brooks' otherwise insightful investigation of the failed states model offers examples of "non-states" that oscillate between the dismal—Palestine, Western Sahara—and the utopian or downright naïve—Aruba, the British Virgin Islands.[7] Despite its shared pirate histories with the Caribbean locales, Somalia seems a most unlikely cruise destination, at least for the foreseeable future. In a similar fashion, Pierre Englebert called, in a *New York Times* op-ed, for a process of de-recognition of non-functioning states.[8] He argues persuasively that Somaliland's diplomatic isolation catalyzed its formation of institutions. Nevertheless, it is not clear that de-recognition of other states (Engelbert mentions Chad, the Democratic Republic of Congo, Equatorial Guinea and Sudan) will not massively increase the suffering of the most vulnerable in such states. Perhaps it would be better to stop conceiving of all people in the world as living either in states or states of non-state limbo.

Thus far, however, the US "war on terror" has corroded non-state institutions that could prove useful for building, and in some cases maintaining, stability in the Horn of Africa. Poverty has certainly risen among Somalis as the US and other governments target the *hawala*s that transfer money home from the diaspora for closure. While al-Qaeda operatives may have used *hawala*s to move funds without a trace, most such transactions are conducted among families seeking to survive and provide young sons an alternative source of income to militias. As Khalid Medani has noted in these pages, "In addition to precipitating a humanitarian disaster in Somalia, the war against terrorist

finance threatens the fragile peace that has been achieved in many parts of the country."[9] It may prove impossible to articulate a foreign policy based on institution building without an ideology of a transcendent state. Given the failures of the failed state paradigm in relation to the people of Somalia, Somaliland and Puntland, it seems imperative to try, however. Whatever "terrorist threat" emerges out of ex-Somalia will of course terrorize the people of Somalia first and will target rival institutional power structures, particularly vulnerable, local ones. Somali pirates manifest, not the failure of the state, but the failure of "successful" states to identify and pursue effective policies in the aftermath of the collapse of the idea of the state as a useful political tool in this particular time and place.

Instead of demanding a state capable of legislating and enforcing institutions from above, policy could instead work with local institutions that respond to local needs. Life, after all, has gone on, even in the most desperate of failed states, and social groupings have proved capable of organizing responses, however rudimentary or piratical, to the absence of functioning state institutions.

The Obama administration has emphasized that its anti-piracy initiative is bold and forward-looking. "We may be dealing with a seventeenth-century crime," Secretary of State Hillary Clinton pronounced, "but we need to bring twenty-first-century solutions to bear." The failed state model, however, is stuck in the past, functioning far better as a unit of analysis than as a basis for prescriptions in global politics. A failed state Somalia may be, but merely to label it as such offers nothing on which to base attempts to limit piracy or encourage the reintegration of Somalia, whether in parts or as a whole, into the foyers of international political interaction. The obvious, and easiest, solutions of recognition, de-recognition, re-recognition or partition threaten either to destabilize the region further or to perpetuate the current, wholly unsatisfactory regimes of local violence. To continue to insist on the failed state as the basis of policy debates results only in a wholly imaginary framing of a very real problem that requires a real solution. ■

Endnotes

1 Sandra T. Barnes, "Global Flows: Terror, Oil and Strategic Philanthropy," *African Studies Review* 48/1 (April 2005), p. 2.

2 Ken Menkhaus, "Governance Without Government in Somalia: Spoilers, State Building and the Politics of Coping," *International Security* 31/3 (Winter 2006–2007).

3 Robert Rotberg, "Failed States in a World of Terror," *Foreign Affairs* 81/4 (July-August 2002), p. 133.

4 Ken Menkhaus, "State Collapse in Somalia: Second Thoughts," *Review of African Political Economy* 30 (September 2003), p. 407.

5 See, broadly, Rosa Ehrenreich Brooks, "Failed States or the State as Failure?" *University of Chicago Law Review* 72/4 (Fall 2005).

6 Markus V. Höhne, "Political Identity, Emerging State Structures and Conflict in Northern Somalia," *Journal of Modern African Studies* 44/3 (2006), pp. 410–411.

7 Brooks, pp. 1157–1158.

8 Pierre Englebert, "To Save Africa, Reject Its Nations," *New York Times*, June 11, 2010.

9 Khalid M. Medani, "Financing Terrorism or Survival? Informal Finance and State Collapse in Somalia, and the US War on Terrorism," *Middle East Report* 223 (Summer 2002), p. 9.