

Indian Ocean : An Analysis on the Trends and Evolution of Transnational Maritime Threats of Non Traditional Nature – The Need for National Maritime Single Points of Contact (NMSPOC)



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Introduction

Non Traditional threats are generally those that does not require a military force response, instead, it requires law enforcement agency response. The perpetrators are to be brought to the long arms of the law and are allowed to defend themselves through their defence counsel. It is for this reason that law enforcement fire should be disabling the threat, unlike military fire, which usually neutralises the threat.

In this process, the success of the case is dependent on successful conviction and not arrest, indictment or a neutralised threat. The case has to be thoroughly investigated and procedures must be adhered to when presenting to the court of law. This requires professional investigations with admissible forensics to support the case. Military skill sets are not equipped for this, instead these skills are developed for law enforcement agencies. Whilst the primacy of law enforcement is paramount to deal with these threats, the perennial support from the military force

cannot be understated. Militaries have been supporting law enforcement agencies for decades where many of the operations conducted by law enforcement would not have been successful without this support. Whilst law enforcement agencies conduct extensive intelligence operations to support their case, the military is able to bring forth their competencies, assets and technologies to support law enforcement in many areas.

Art 3(2) of the Vienna Convention provides that a crime is transnational in nature if: it is committed in more than one State; it is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; it is committed in one state but involves an organised criminal group that engages in criminal activities in more than one state; or it is committed in one state but has substantial effects in another state. In the context of transnational non traditional threats, most are organised and syndicated like Piracy, Illegal Unreported and Unregulated (IUU)/Fishery Crimes and Smuggling/Trafficking. These are profit motivated crimes,

which means their main focus is to profit and live happily ever after. They run it like a business entity. Another more important crime that requires the response of law enforcement agencies is Terrorism.

Terrorist are criminals as well, though some may dress as soldiers and carry heavy weapons. They are not formed military units that represent a country and hence do not require a military response per se, as militaries are instruments of foreign policies and are designed primarily to respond to state entities. Terrorism are essentially politically motivated crimes where the main aim is the propagation of political ideology through terror, death and destruction. Death is celebrated in their cause. To ensure they have maximum effects on their cause, terrorists have to be lucky just once, law enforcement agencies are to be lucky all the time.

The irony between profit motivated crimes and politically motivated crimes is that in the former, law enforcement agencies wait for the crime to happen then investigate, in the later, they bring forth all their expertise and collaborative networks to stop the bomb from exploding.

Transnational Non Traditional Maritime Threats in the Indian Ocean.

Piracy. The Indian Ocean is well known for the piracy attacks that started in 2008 and reached its peak in 2011. Pirates created a mayhem hijacking ships, holding hostages for millions in ransom. The Gulf of Aden and the waters of Somalia quickly became pirate haven that was symptomatic to the failed state of Somalia. Whilst the international community, regardless of protagonists or antagonists, came together to address the issue on land and at sea, it was initially a futile effort. Many large vessels were captured by using skiffs manned by mostly teenagers. Navies deployed could hardly manage the chaos as once the ship was hijacked there was no way of rescuing, it some of the lives of the crew were at stake. It was then the

advent of Private Maritime Security Companies (PMSC). Embarked and escort security even deterred pirates from coming close to their target vessels.

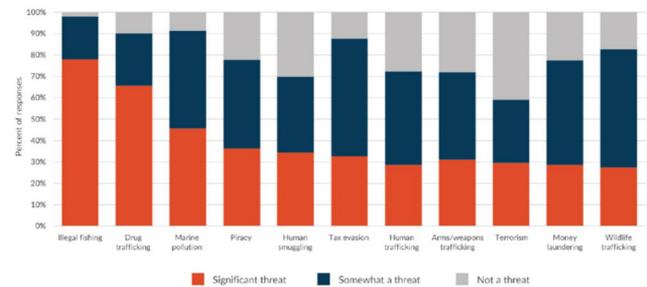


Figure 1: Significance of Maritime Security Threats in the Indian Ocean

Source: Caught Red-Handed Workshop Brief 2019

Security became a booming business that it quickly became a multi million dollar industry. An industry that brought in retired military personnel to address an issue where active military was unable to handle. Militaries were embarked on their own ship whilst PMSC were embarked on commercial traffic. Pirates knew if they came onboard they will have to face the elevated positions of PMSC onboard. A symbiotic relationship was established between risk mitigation and crisis response where PMSC provided the former and militaries the later. This relationship managed to address the issue of piracy. No ship has with PMSC has since been hijacked. The establishment of the Shared Awareness and Deconfliction (SHADE), which was originally conceived to help bind together multinational counterpiracy task forces began in 2008 to coordinate activities between the coalition task forces and maximise efficient use of naval forces in the Indian Ocean region. It later included independently operating navies like Malaysia and China. SHADE was not designed to coordinate any naval or military operations; instead, it has held meetings in Bahrain attended by military and civilian representatives from participating countries, international organisations, maritime industry groups and several governments. The meetings are co-chaired on a rotational basis by three key groups: Combined Maritime Forces (CMF), North Atlantic Treaty Organisation (NATO), and European Union Naval Forces

(EUNAVFOR). The idea is to share information and intelligence and best practices against the scourge of piracy. Whilst this counter piracy model was effective in responding to the threat, the underlying structure of piracy as a business entity has not been addressed. Many countries have not promulgated piracy as a crime and therefore prosecution becomes a problem and also a logistic nightmare when pirates have to be brought home for prosecution.

IUU/Fishery Crimes. According to a report by One Earth Future Foundation, Secure Fisheries and UNODC published in June 2019, Illegal fishing has been classified as the most significant threat. The *Caught Red-Handed Workshops which was conducted in 10 Indian Ocean countries in 2018. Illegal fishing garners little attention relatively little attention or resources allowing them to proliferate and conduct other maritime crimes.* IUU and fishery crimes are normally lumped together however there is a stark difference between them. To begin with, the scope and nature of illegal, unreported and unregulated (IUU) fishing as set out in the Food and Agriculture Organisation (FAO) *2001 International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing* (IPOA-IUU) does not cover fisheries crime. The definition of illegal fishing in various domestic legislation also shares the same limitation. Some of the specific incidents of transnational crime in fisheries include the hijacking of the *MV Kuber* for the purpose of transporting terrorists and arms into Mumbai; hijacking of fishing vessels and involvement of fishers in piracy attacks in the western Indian ocean; smuggling of weapons into off the coast of the Red Sea; human trafficking for the purpose of forced labor in Thailand fishing industry; and the illegal capture and trade of high value species by criminal syndicates in Australia and South Africa. A study published by UNODC in 2011 considered the role of fishers in transnational organized crime at sea and other forms of criminal activities. The study found that although fishers are often recruited by organised criminal groups due to their skills

and knowledge of the sea. The study also found that fishing vessels are used for the purpose of smuggling of migrants, illicit traffic in drugs (primarily cocaine), illicit traffic in weapons, and acts of terrorism. Fishing vessels are being used as mother ships, i.e. vessels that serve as base stations from which criminal activities take place, as supply vessels for other vessels engaged in criminal activities, or simply as cover for clandestine activities at sea and in port.

Transshipment ships conducting *fish laundering* activities are also a major concern. Though sustainable fisheries are being addressed through *Traceability* and Certification as responsible sourcing, there are a few challenges to sustainable fishing. Transshipment ships have been mixing 'clean' fish with 'dirty' fish bought cheap from local trawlers. These are sold to unsuspecting premium markets for huge profits using fraudulent documentation. Fisheries, unsustainably caught are sold at sea instead of being landed at registered landing points for better resource management. Large scale unregulated fishing are being done by local fishermen where IUU becomes legal unreported and unregulated (LUU) whereby, local vessels are legal, however their activity is unreported and unregulated. Transshipment ships operate in *Areas Beyond National Jurisdiction* (ABNJ) and rendezvous with local fishing vessels through a syndicated and organised system. Greenpeace reports that fishery crimes like destructive fishing using long liners, destructive Fish Aggregating Device (FAD), bombs and cyanide are transnational in nature as these activities serve syndicated organisations which supply logistics for these crimes. They not only destroy the fragile ecosystems and coral areas, their method of fishing is unsustainable and endangers other marine life.

Smuggling/Trafficking. Sri Lanka Police Narcotics Bureau with the support of Sri Lanka Customs seized over 1,700kg of cocaine in major seizures in 2016 and 2017. Combined Task Force (CTF) 150, based in Bahrain conducted the largest drugs haul in 2018 seizing and destroying almost 10,000 kg of illegal narcotics from two

dhows. A Canadian naval vessel conducting Operation Artemis in the Indian Ocean in 2019 seized 2,569 kilograms of hash stored in 119 bags inside a suspect vessel. The Indian Ocean It has been widely reported that Indian Ocean is being used as a major drug trafficking highway A report from Stable Seas Project on Illicit trades state that criminal networks leverage new technologies to facilitate the trafficking of contraband and the laundering of any proceeds. They couple these new strategies with timeless tactics; among them threatening violence against rival criminal networks and agents of the state, bribery of corrupt port authorities and law enforcement officials, and co-optation of local community.

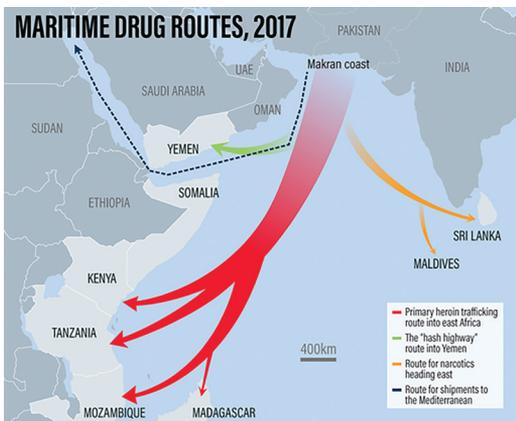


Figure 2: Maritime Drugs Routes
 Source: <https://www.thenational.ae/world/international-warships-seize-22-000-kilo-grams-of-terror-financing-narcotics-in-indian-ocean-1.829129>

The Need for Refining Mindset - Organised Against Organised Crime Syndicates.

The old order of law enforcement based on Whole of Government (WoG), land-sea divide, assets based responsive operations and punitive approaches are today seen as short-term measures. As mentioned earlier, whilst the government spends billions on security, much revenue are loss through taxation, resources and risks. At the same time. Organized crime syndicates operating in a transnational environment are raking billions in revenue. Hence there is a need to revisit approaches. The government needs enduring approaches that may require a refined mindset. These

approaches come from several efforts that focus on prevention rather than response. Firstly, on the national level, good governance through the inculcation of positive values among society is paramount. Corruption should be addressed as a cancer to society which will destroy the country. This has to start young and be spread throughout the system. Secondly, all efforts to provide economic growth and provide sustainable growth will gradually remove society from being part of the shadow economy into the legitimate economy. The introduction of Ocean Literacy in schools would enable the need the discern the need for ocean governance as Blue Economy can generate a healthy economy. Thirdly, the legal regime must be revisited in order to better conduct marine spatial planning within the periphery of ocean governance. This legal regime should as well establish deterrent measures like the seizure of assets when dealing with corrupt civil servants and crime syndicates. Fourth is the need to establish a network of collaboration among security agencies and establish a land-sea nexus in law enforcement. Fifth is the need to rationalise information sharing in order to establish the logistics chain of crime to address the roots instead of the symptoms. National and Regional systems must synchronise efforts to piece information jigsaws to see the big picture. Operations are to be information driven and not solely assets based, calibrated instead of coordinated. To do this, we need to progress to the sixth approach which is to engage the private sector, CSOs, PSOs, NGOs and IGOs to map out the landscape of the crime network. Within this effort, security agencies need to be part of the projects undertaken by these entities for the Co Management of the coastal community. Finally, the need for a National Maritime Single Point of Contact (SPOC) which will be the focal point for all the approaches.

Though compliance are necessary to compel and eventually change behaviors, the need to be part of a JUST society is more important than building a strong security

architecture. The fundamental effort is to emulate developed states in making good governance the norm and corruption the exception, rather than being the other way around. The community must be the eyes and ears of law enforcement in a way that by assisting law enforcement, they become part of a peaceful and stable environment.

There are many returns to this effort. A peaceful environment binds society and forms social defence against threats. It severs the required logistic support to criminal syndicates and it attracts investments for better sustainable development efforts.

The National Maritime Single Points of Contact (NMSPOC)

Due to the complex and transnational nature of maritime crimes, almost all members of the Association of South East Asian Nations (ASEAN) have established the NMSPOC. These are maritime security structures dedicated to the significant threats to the respective nations. They have concluded that no single agency nor country can address these complex security threats. These structures are capable to address jurisdiction gaps and overlapping jurisdictions among their security agencies and train together in simulated scenarios to better calibrate force package requirements. They can better equip themselves to the challenges faced in the maritime domain. They can also coordinate cohesively with private industries, NGOs, IGOs, CSOs, PSOs and regional as well as global entities to better understand what they are dealing with. Counter terrorism, drug trafficking and human smuggling are the main issues they are addressing collectively. Thailand has the Thai Maritime Enforcement Coordination Authority based on the need to govern fisheries and other maritime issues. This inter agency outfit is the central focal point for efforts to ensure Thailand does not get another 'red-card' in the European Union IUU card system. Thailand's innovative Port In Port Out (PIPO) system complies with the Port State Control Agreement (PSMA) and adheres

to the Regional Plan of Action on IUU (RPOA -IUU). These and other measures like forced labour, fishery crimes and destructive fishing are addressed collectively with other national, regional and global entities. Indonesia's Badan Keamanan Laut (BAKAMLA), Brunei's National Maritime Coordinating Centre (NMCC) and Singapore's National Maritime Security System (NMSS) to name a few. Within the framework of the ASEAN Regional Forum, efforts are being made to institutionalise efforts to enhance collaborative frameworks in addressing maritime crimes in the region.

Similarly, in the Indian Ocean, The Regional Maritime Information Fusion Centre (RMIFC) in Madagascar, the Djibouti Code of Conduct, which includes Regional Maritime Information Sharing Centre (ReMISC) and the Regional Coordination and Operations Center (RCOC) in Seychelles. are good foundations to NMSPOC in the Western Indian Ocean. On the East Indian Ocean, Myanmar's proposed Integrated Command Centre (ICC), Sri Lanka's and India's bilateral cooperation on maritime information sharing are developments in the regional information sharing centres are positive approaches that can eventually connect the Indian Ocean ISC to the Pacific ISC through ASEAN. Making ourselves more Organised Against Organised Crime.

Conclusion

Transnational non traditional threats have evolved over the years into complicated efficient fund raising and management systems. It fully utilises the Information Age to regulate itself, there is little or no bureaucracy in the system. However, the same cannot be said about security. A change of mindset is required. The old way of addressing crimes must change as there are budget implications, cost to government versus the value created must be discerned. Whilst governments spend trillions on maritime security, they also lose a large sum from piracy, smuggling/trafficking and IUU. Fishery crime partitivities. At the same time, transnational crime syndicates rake billions

from crimes. How do we rationalise these losses when they keep repeating themselves.

Transnational non traditional maritime threats are not just maritime matters, they have no boundaries. Crimes are hatched on land and the bounty is consumed on land, the sea is just the medium. There is a need to bust syndicates and dismantle their system instead of just arresting criminals, to go after the 'tie' instead of the 'tattoo'. To address this, a land-sea nexus is required to address maritime crimes. Law enforcement agencies on land and sea must work in concert with military forces in calibrated operations. The role of private industries, non governmental organisations (NGO), inter-governmental organisations (IGO), civil service organisations (CSO) and public service organisations (PSO) must be enhanced. It's like addressing the mosquito menace, better to dry the swamp than taking the approach to spend money on mosquito nets, aerosols, beefing up hospitals and the rest. Preventive is always better than responsive. Value must supersede costs. If Counter Terrorism units can work together to stop a bomb from exploding, transnational non traditional maritime crimes can also be stopped through concerted measures.

In the end, there is a change in the way we do business, to collectively develop a deterrence, a preventive architecture instead of merely a responsive one. One that will eventually effect the behaviors of threat and security alike, to render a cost effective, peaceful and stable environment for sustainable development.