

A Perspective on Maritime Security

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Maritime security has gained prominence, increasingly in the last two decades, largely due to the impact of maritime terrorism which has impinged on coastal security and also threatened trade operations at distant shores. Economic interdependence of world community through seaborne trade, maritime terrorism has assumed important connotations under the new economic order. As a result, unconventional threats such as piracy, armed robbery, drug trafficking etc have gained prominence, pushing into oblivion the concerns emanating from conventional threats from sea. Since 9/11, maritime security considerations, projected and pursued vigorously by US, have held centre stage at all credible forum,. These include:-

- Security of shipping assets particularly oil tankers and cruise ships which are attractive terrorist targets and against piracy.
- Vulnerability of port complexes and their related transportation networks.
- Security of off-shore installations, oil rigs and related pipelines.
- Safe operation of the fisheries and other economic activities in the EEZ and adjacent waters.
- Security of artificial installations as well as the security of uninhabited areas of the coast.
- Security of sub-sea assets such as fibre-optic communications cables and high-volume power cables.

Before dwelling further, it would be pertinent to quickly reflect on the peculiarities of maritime domain. The UN Convention on the Law of Sea (UNCLOS III)¹ marked a historically important shift in the balance between 'control and regulation' and the 'freedom of the high seas'. Maritime domain is characterized by 'freedom of navigation' at high seas as well as transit passage rights in territorial waters. Thus whilst the UNCLOS provides differing jurisdiction rights to coastal states in certain zones, it extends flexibility of operations in these areas to other nations as well. Further unlike land and air space, maritime zones have three distinct dimensions; sub surface, surface and air. Till 200 NM and beyond, the nature of threats envisaged remain largely the same irrespective of the distance.

In the maritime context therefore, '*Security*' would mean defending the sovereignty, rights and interests of the nation state, within the maritime context as a whole. Whilst '*Protection*' and '*Safety*' may be considered to be integral components of '*Security*', they are not the same as '*Security*'. '*Safety*' is the condition of being free from danger, injury, or risks. '*Protection*' means to keep safe, defend or guard against danger, injury or disadvantage. Both terms are related largely to the safety of life and property at sea.

'Security', a term that is primarily military in nature, is the condition of assuring peace and protection. In the maritime context, security would mean defending sovereignty and the rights of a nation state within its maritime zones. Protection and safety are therefore an integral subset of security but not the same as security. The 1982 UN Convention on the Law of the Sea (UNCLOS) provided nations with jurisdictional rights in adjoining seas in three distinct zones. One could also work towards defining maritime security through a broad classification as 'Coastal', 'Offshore' and 'High Seas' Security.

Maritime Security – A Zonal Approach

Coastal Security would encompass all maritime issues that impinge on the security of the State arising within 12 NM of coast, i.e., and the territorial waters. This maritime zone is characterised by the fact that the law of the land is applicable. Coastal maritime operations primarily include local fishing, recreational activities, ferry crafts and port operations. Security would necessarily translate to achieving a secure coastline through coordinated and regulated close coast operations monitored through comprehensive physical and electronic surveillance measures. It would be ludicrous to consider physically sealing the entire coastline, from seawards through maritime enforcement operations alone, due to the vast expanse of the coastline, requirement of assets, the financial implications thereof and heterogeneity of operators.

Fisheries alone account for nearly three lakhs crafts of different make such as conventional, non-mechanised and mechanised. Coastal security cannot be achieved without the active participation of all entities enforcement as well as users as individuals, private players or government agencies. *Shore based control* on coastal operations *through institutionalised procedures* enforced through *suitable legislations* will provide the firm structure to address coastal security.

Going beyond the territorial belt, the maritime activities would primarily manifest themselves as mechanized fishing/trawling (up to 50-70 NM off coastline), large trawling operations, offshore exploration and production activities, shipping and ocean research. These activities largely fall within what one could term as 'regulated' activities except the mechanized trawling/fishing activities restricted within 50-70 NM off the coast. Offshore Security would necessarily tackle all issues pertaining to the state's maritime jurisdiction within the MZI, beyond the territorial waters, as mandated under UNCLOS. Whilst providing certain rights to the coastal state, UNCLOS also provides freedom to other nations.

'High Seas' Security would seek to safeguard the State from threats that emanate or threaten its sovereign interests beyond its MZI. These could purely be classified as conventional and non-traditional threats. Whilst the possibility of threat from conventional means, world wide, has significantly reduced, there has been an alarming rise in the threats due non traditional means. The relative freedom and absence of absolute jurisdiction of high seas seemed to foster, both state as well as non-state players in increasingly indulgent activities. Maritime terrorism has threatened the world community at large and has emerged as the prime concern in addressing security. The recent incidents of Somali pirates hijacking the US owned, but Italian flagged tug boat, and the attack on US flagged Maersk Alabama², resulting in kidnap of its Captain, has only served to highlight the primacy of threat posed to any flag.

Whilst it would be nigh impossible to achieve comprehensive maritime security, one could work towards a credible state by amalgamating and consolidating security aspects in each layer separately. Nations have different jurisdiction and rights in each of these zones which are necessary determinants of the security threat it faces. Whilst the coastal security would look at regulating the minor craft operations, offshore security could be concerned with poaching activities. Accordingly, the force and assets required would also need to be structured to address the envisaged threat so as to maintain cost effectiveness whilst not compromising efficacy. Maritime assets, characterized by a limited effective life, are not only capital intensive but also have significant recurrent revenue expenditure. Thus, one needs to approach each sector with optimal assets to mitigate the perceived threats.

Whilst maritime enforcement responsibilities within the territorial waters can be adequately addressed through fast small crafts, larger vessels with slightly longer endurance and surveillance capability would be able to effectively patrol the MZI. One does not necessarily fight oil spill or pollution at high seas as firstly it isn't cost effective and moreover the spill dissipates into environment without seriously affecting the ecology. However, it would be essential to have the capability to combat oil pollution close to coast as it has serious implication on the coastal ecological balance. Before building mitigation capability, it must be remembered the oil spill and pollution threats are managed through global cooperative effort which has participation both by the large oil companies as also the crude carriers. Escorting own flagged ships through Gulf of Aden by highly sophisticated warships to ward off lightly armed pirates needs to be debated in this light.

The incidents of un-seaworthy ships sinking in the Indian MZI as well as the rather impunity with which vessels departed ports in 2006-07, highlighted the weak maritime legislation as also its enforcement capability. Whilst subsequent efforts were put in motion to strengthen the maritime issues through formation of Crisis Management Group and Marine Emergency Fund, under DG Shipping, the larger issue of enforcement remains a weak subject. Under the Ministry of Shipping, DG Shipping, a shore based authority, has the responsibility vested in ensuring the compliance of maritime, but does not have an executive arm for enforcement at sea.

The same is the case with MoP&NG with regard to exploration/production activities. Similar is the case with MoES, which has the responsibilities for ocean activities as per Allocation of Business Rules, and the MoA, which has fisheries interest. Thus, none of these agencies which have significant responsibilities and jurisdiction in ocean management have any maritime arm to enforce its provisions.

ICG and IN, to a limited extent, remain the only options for exercising the enforcement of the provisions. Thus infringements detected at sea by CG/Navy assets, which functions under another ministry, invariably require suitable authorization to act. The procedure involves considerable time delays thereby negating the effectiveness of enforcement. Thus while the lack of a central maritime coordinating body was always been felt, the larger question of 'acceding control over its domain' has always been the proverbial downer.

Another question that arises is whether a maritime enforcement agency under MHA/MoSRTTH, through relocation of CG, could be ideal and appropriate to address the safety and protection issue? In prevailing security environment the aspect of improving surveillance and effective patrolling of the MZI is of immediate concern and has a significant impact on national security. The potential maritime security issues in the Indian context may be summarized as:

- Maritime Sovereignty and unsettled territorial issues like the Sir Creek dispute, New Moore Island and Maritime Boundary delimitation involving the demarcation of the continental shelf
- Low Intensity Maritime Operations (LIMO) that includes Piracy, terrorism and Crimes at sea such as illegal immigration, Drug trafficking, poaching and maritime fraud.
- Disaster Management in the form of cyclones, floods and earthquakes.
- Protection of the Environment from oil spills, waste disposal and pollution by ships.
- Marine Safety including search and rescue, salvage and dealing with accidents at sea.
- Offshore territorial conflicts generated by a need to control energy resources, fisheries and minerals.
- Security of shipping (including cargoes) using Indian waters, including oil tankers and cruise ships which are particularly attractive terrorist targets and against piracy thereby ensuring India's Sea-Lanes of Communication are open at all times.
- Security and Protection of maritime infrastructure such as offshore assets and ports.
- Extraneous presence, including weaponisation, in the Indian Ocean. US, UK, Australia and France have a continued presence, while China, Japan and in partnership with South Africa, seem keen to increase their presence in the Indian Ocean.
- Security of under-sea cables (both fibre-optic communications cables and high-volume power cables) and their shore-side terminals.

This brings us to the question as to who should be responsible for ensuring maritime security. Whilst a single agency would necessarily be required to be responsible for the overall maritime security, separate entities addressing the layers would manifest in '*clarity of objective and thoroughness of effort*'. Whilst there can really be no water tight subdivisions in the maritime domain, one needs to attempt to delineate these to achieve a semblance of security. Within this delineation of responsibility and jurisdiction, it does not preclude the overlapping of roles for synergized operations.

Coming specifically to our context, whilst the Navy has been clearly mandated to ensure the maritime security of the nation the ICG, when created in 1978, was specifically mandated with responsibility for 'safety and protection' in the MZI. With the formulation of the Marine Police in 2005, the issue of the coastal security seemed also adequately addressed. However, the Marine Police has not yet been fully and operationally been put in place. What could further be a matter of concern is the inability to segregate the Marine Police from the traditional role of the land based Police.

The Navy and the Coast Guard, functioning under MoD is a unique setup that is unparalleled anywhere in the global maritime scenario. As key members of India's maritime security and law enforcement system, the two forces have functioned variedly at times independently as well as interdependently. Though charters in respect of the services have been very clearly defined and laid down, the interpretations of the same, in search of implied tasking, have significantly blurred the

demarcation. What complicates matters is the failure to segregate the responsibilities between the two services and instead, to take the simpler option of addressing the issue to both. This, though may be an easy way out for the ministry, it contributes in creating roadblocks and difference of perception.

An issue addressed by a higher authority to multiple agencies, with overlapping roles, creates an impression of responsibility as well and an excuse to don the role. Operating two maritime enforcement agencies, with overlapping jurisdiction, under the same ministry needs deft handling to achieve synergy of operations. Over a period of time, in light of limited resources and stretched as well as implied responsibilities, a number of so called 'differences of perceptions' have therefore crept in. Nearly six months after 26/11 Mumbai incident, what has firmly appeared through MoD communiqué is that the Navy would be responsible for coastal security through its Commander in Chief's at Mumbai, Kochi and Visakhapatnam through Joint Operations Centre⁴. One needs to examine this emerging setup in larger detail in light of the implications that maritime security bodes for us. The need clearly is to address issues holistically rather as a knee jerk reaction as the maritime security implications have clearly larger imponderables.

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¹ United Nations Convention on the Law of the Sea, http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf, (accessed on 21 May 09)

² US Captain hostage of pirates, <http://www.nytimes.com/2009/04/09/world/africa/09pirates.html> (accessed on 21 May 09)

³ Indian Port Community System, <http://ipa.nic.in/pcs/Pcs.asp> (accessed on 21 May 09)

⁴ Coastal Security – Where Are We Headed? Cdr BK Verma, www.maritimeindia.org/commentary (accessed on 21 May 09).