Security Council Brief No. I: Maritime Insecurity

Introduction

Humans rely, in vital ways, upon the world's waterways, from ancient vessels primarily meant for fishing in littoral zones, to modern container ships that carry much of the world's commerce over the deep blue water oceans.[1] At present, approximately 95 percent of all trade moves via sea routes, and half of the world's population lives within 30 miles of a coastline (including in 80 percent of the world's capital cities).[2] Just as important, the vast majority of electronic communications that make modern life both possible and more convenient in both developed and developing Member States travel through fiber-optic cables laid on the seabed, with some sources estimating that they carry up to 99 percent of all daily traffic, including up to USD 5 Trillion in financial transactions.[3] The maritime domain is becoming a more critical support to everyday life, and maritime issues are increasingly coming to affect how citizens around the globe live and how Member States behave.[4]

Despite its vitality to human existence, secure littoral zones and safe high seas have only recently begun to gain serious attention on an international level, including the United Nations Security Council (UNSC).[5] Piracy, illegal, unregulated and unreported (IUU) fishing, environmental damage and climate change, and trafficking in drugs, weapons, and persons pose very real threats to societies.[6] Throughout the 21st Century, the costs these threats impose on Member States will only continue to grow in scope, as more people move closer to oceans.[7] And yet, because of the field's relatively recent rise to prominence, Member States, academics, and non-governmental organizations (NGOs) are only just beginning to develop generalizable theories related to maritime issues.[8] Conventional wisdom has been to treat each problem or threat within the maritime security domain as its own category, independent of the others despite obvious linkages between them.[9] It is well documented, for example, that IUU fishing and piracy are connected, and that in some areas, the relationship may even be causal, yet at present, Member States often adopt "counter-piracy" strategies and plans to reduce IUU fishing separate from one another.[10] This approach creates so-called "silos," where information is sorted and funneled into one category or the other, and the linkages between various aspects of maritime security are lost as diverse agencies focus on their individual remits.[11] Addressing one maritime issue, such as piracy or IUU fishing, and its impact on the populations of Member States, requires acknowledging those linkages and addressing multiple other problems in a coordinated inter-agency and possibly international effort.[12]

Piracy

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[1] James Stavridis, *Sea Power: The History and Geopolitics of the World's Oceans,* (New York: Penguin Books, 2018), 316.; Joshua Tallis, *The War for Muddy Waters: Pirates Terrorists Traffickers and Maritime Insecurity,* (Annapolis: Naval Institute Press, 2019), 4, 14.

[2] Stavridis, *Sea Power*, 316.; Tallis, *The War for Muddy Waters*, 4, 14.

[3] Stavridis, *Sea Power,* 321.

[4] Tallis, *The War for Muddy Waters,* 4, 14, 21.

[5] Tallis, *The War for Muddy Waters,* 3-14.

[6] Tallis, *The War for Muddy Waters,* 67-72.

[7] Tallis, *The War for Muddy Waters,* 4, 14-15.; "2018 Revision of World Urbanization Prospects | Multimedia Library - United Nations Department of Economic and Social Affairs," United Nations, May 16, 2018, https://www.un.org/development/desa/publications/2018-revision-of-world-urbanization-prospects.html.

[8] Tallis, *The War for Muddy Waters,* 25.

[9] Tallis, *The War for Muddy Waters,* 25.

[10] Bruce A. Elleman, Andrew Forbes, and David Rosenberg, eds., *Piracy and Maritime Crime: Historical and Modern Case Studies*, vol. 35, Naval War College Newport Papers (Newport: Naval War College Press, 2010), 210.

[11] Tallis, *The War for Muddy Waters,* 25.

[12] Tallis, *The War for Muddy Waters,* 25, 31.

Over the past two decades, piracy's impact has been enormous. Estimates put its global cost at between USD 15 billion and 20 billion annually.[13] This cost owes to a variety of factors, including increased insurance premiums, ransoms paid, the hiring of armed guards, and the deployment of warships to counter it.[14] When attempting to conduct "counter piracy," efforts often focus on repelling attacks, patrolling littoral areas with warships, and apprehending pirates in order to bring them to justice.[15] Very little (though growing amounts of) focus is being paid to the root causes of piracy in areas such as the Horn of Africa, the Straits of Malacca/South China Sea, and the Caribbean Basin.[16]

One crucial commonality between the world's hotbeds of piratical activity is that local populations tend to be in extreme poverty, often working simply to live.[17] In these littoral zones, most are subsistence fishers, whose survival depends on their catching fish each day. Another key similarity is poor or nonexistent governance. In the Federal Republic of Somalia, weak governance since the fall of the Siad Barre regime has allowed its littoral zone to operate in a state of virtual anarchy, combining with abject poverty and high shipping traffic thanks to the Suez Canal to create one of the world's most dangerous areas for merchant ships.[18] In Somalia, these factors combined to create an ideal environment for IUU fishing. Commercial fishing vessels began to operate in the area, including in Somalia's territorial waters, with little consequence owing to the fact that a functioning navy or coast guard was nonexistent.[19] These larger operations began depleting fish stocks off Somalia's coast, drastically affecting the lives of the subsistence fishermen who traditionally utilized those waters. [20]

By 1995, fishermen who found their lives being upended, and without the economic prospects to make a living in different industries, began engaging in piratical activity, boarding vessels and demanding compensation from the crews for depleted fish stocks.[21] In some cases, the ships and their crews were even held for ransom. By 2002, there were 370 reported incidents.[22] This trend fluctuated slightly, but continued increasing, until in 2010 the International Maritime Organization reported that 438 persons were being held captive at one time, a dramatic increase from when only a few ships and crews were kept as prisoners.[23] As noted earlier, the effects of this piracy are global: piracy operations expand once their perpetrators realize that their methods will bring them greater revenue than they could obtain by attempting to fish despite the diminished stocks.[24] Merchant shipping operations that had nothing to do with IUU fishing off the coast of Somalia find themselves targeted and must take precautions that increase the cost of transporting goods, such as hiring armed guards, taking less economical routes to avoid danger zones, and carrying more insurance in case of capture.[25] The situation became so severe that in 2001, UNSC passed S/RES/1373, which resulted in the creation of Combined Task Force 150 (CTF 150), a multinational naval effort to combat piracy in international waters as part of the Global War on Terror.[26] In 2008, further steps were taken with S/RES/1816 (2008), which allowed for counter-piracy vessels from other Member States to enter and patrol Somali territorial waters and to suppress piracy and armed robbery using "all necessary means."[27] International terrorist organizations like Al-Shabaab have now been linked to piracy off the Somali coast, 'taxing' pirates to fund its

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[13] Stavridis, *Sea Power,* 277-278.

[14] Stavridis, *Sea Power,* 277-278.

[15] Tallis, *The War for Muddy Waters,* 25.

[16] Tallis, *The War for Muddy Waters,* 25.

[17] Tallis, *The War for Muddy Waters,* 178.

[18] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210.

[19] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210.

[20] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210-211.

[21] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210-211.

[22] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210-211.

[23] "Warships Alone Will Not Deter Piracy off Somali Coast, Security Council Told | UN News," United Nations, November 09, 2010, https://news.un.org/en/story/2010/11/358502-warships-alone-will-not-deter-piracy-somali-coast-security-council-told, (accessed August 06, 2019).

[24] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210-212.

[25] Stavridis, *Sea Power,* 278.

[26] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 208.; "Resolution 1373: Creation of Counter Terrorism Committee (CTC)," UNSCR, 28 September 2001, https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1373%20%282001%29.

[27] "Resolution 1816: The Situation in Somalia," UNSCR. 2 June 2008, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S%20RES%201816.pdf, (accessed August 05, 2019).

operations.[28] This trend also seems to bear out across regions, with notable terrorist groups such as Abu Sayyaf and the Moro Islamic Liberation Front directly engaging in piracy.[29]

Environmental Degradation and Climate Change

By the year 2050, the world's population is projected to approach 9.8 billion.[30] According to the United Nations Department of Economic and Social Affairs, 68 percent of that total (approximately 6.6 billion) will live in urban areas, an increase of 2.5 billion over the present global urban population.[31] Given that 75 percent of all large cities are on the water, this increase in urbanization also means a dramatic increase in the global littoral population.[32] This means that up to two-thirds of the world's citizens will be directly exposed to the effects that climate change will have upon coastal areas, including more powerful and frequent weather events.[33] These include tropical cyclones and coastal thunderstorms, which the latter occurs far more often than cyclones and, should their frequency increase as expected, could produce immense strain on drainage systems and potentially cause recurring floods, especially in underdeveloped areas.[34] The destruction caused by more powerful weather events will threaten lives and economies around the world. Of a much more sinister nature, however, is the potential for social and political instability in the affected areas. A breakdown in law and order as a result of major and frequent natural disasters could result in increased migrant and refugee flows, accompanying a concomitant increase in illicit migration and human trafficking across littoral areas and on the high seas.[35]

In addition to weather events and their more obvious impacts, one can expect increasing ocean acidification and warming to affect animal migratory patterns and thus impact the global food chain, with the potential to exacerbate already strained fish stocks.[36] Projects such as land reclamation and dredging operations have direct and deleterious effects on coral reefs, which can likewise damage the ecosystems relied upon by so many of the world's citizens for survival.[37] As noted earlier, the depletion of fish stocks by IUU fishing has a demonstrable effect on piracy in certain areas, as subsistence fishermen lose their livelihoods and turn to illicit means to sustain themselves.[38] In adding climate change to the mix, these effects could amplify greatly, exacerbating the plight of those already harmed, but also creating new victims, who then may find recourse in piracy.[39]

Maritime domain problems are growing and multidimensional in nature. These problems are not distinct sectors of criminal activity but interconnected and layered. Solutions, therefore, cannot address them separately, and must not be undertaken alone. Too many obstacles stand in the way of implementing a multidimensional approach to maritime security to make it successful without international cooperation.

Barriers to Cooperation

Fostering an environment of maritime security in the world requires the participation of all Member States, as well as NGOs, Intergovernmental Organizations (IGOs), and citizens themselves. At present, however, exist many obstacles that could inhibit the type of collaborative efforts needed to implement multidimensional solutions. At present, nearly 70 treaties govern the international fishing environment, creating a patchwork that can be difficult to navigate.[40] Worse still, only six of the 70 treaties have three critical elements needed to be effective: a secretariat or similar administrative body, a scientific research body, and enforcement mechanisms.[41] For any international

[28] Stavridis, *Sea Power,* 278.
[29] Song Yann-Huei, "Maritime Security in the Strait of Malacca," *International Law Studies* 83, no. 7, https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1163&context=ils, (accessed August 05, 2019).
[30] "2018 Revision of World Urbanization Prospects," United Nations, (accessed August 05, 2019).
[31] "2018 Revision of World Urbanization Prospects," United Nations, (accessed August 05, 2019).
[32] Tallis, *The War for Muddy Waters,* 14.; "Severe Thunderstorms and Climate Change – Climate Change: Vital Signs of the Planet," NASA, September 16, 2014, https://climate.nasa.gov/news/897/severe-thunderstorms-and-climate-change/.
[33] Tallis, *The War for Muddy Waters,* 14.
[34] "Severe Thunderstorms and Climate Change – Climate Change: Vital Signs of the Planet," NASA, September 16, 2014, https://climate.nasa.gov/news/897/severe-thunderstorms-and-climate-change/.
[35] Oli Brown, "Migration and Climate Change," Geneva: International Organization for Migration, 2008.
[36] Stavridis, *Sea Power*, 276.
[37] Stavridis, *Sea Power*, 276.
[38] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 210-211.
[39] Oli Brown, "Migration and Climate Change," Geneva: International Organization for Migration, 2008.
[40] Stavridis, *Sea Power*, 301.
[41] Stavridis, *Sea Power*, 301.

agreements attempting to address IUU fishing, piracy, or other maritime security-related issues, enforcement mechanisms are going to be vital.

Land reclamation projects, especially those in contravention of the UN Convention on the Law of the Sea (UNCLOS) and Permanent Court of Arbitration judgments, greatly inhibit international cooperation.[42] In addition to the geopolitical disputes and potential for maritime conflict they exacerbate, these projects are hazardous to the environment, and disproportionately impact already economically disadvantaged citizens in the area, whose fish stocks are depleted and who may also face difficulty navigating new, unlawfully created and non-internationally recognized maritime boundaries around areas in which they traditionally fish.[43] This can create conditions similar to those seen in Somalia, in which subsistence fishermen turn to piracy as a means of sustaining themselves. Increases in piracy strain the resources of other Member States, and the resulting tensions make them less likely to cooperate with one another, thus inhibiting their ability to combat piracy effectively.

Hope for the Future

Though plenty of obstacles remain, reassuring signs have also presented themselves in recent years. One positive development has been the attitudinal shift within the UNSC to recognize robbery at sea (occurring within a Member State's 12 mile territorial waters under the UNCLOS) as *de facto* piracy, even if it is not legally defined as such.[44] This has ramifications for international antipiracy efforts, potentially allowing for seizure of vessels that commit acts of piracy in territorial waters by forces other than the government that controls those waters (if, for example, said government is incapacitated or incapable of marshalling a naval or coast guard force to intercept).[45] An instructive example in international maritime cooperation is the case study of Somalia. With the piracy situation off its coasts growing untenable, and Somalia unable to effectively patrol its territorial waters, the international community and the Somali Transitional Government came to an agreement resulting in the passage of S/RES/1816 (2008), which allowed for counter-piracy vessels from other Member States to enter and patrol Somali territorial waters and to suppress piracy and armed robbery using "all necessary means."[46] The provisions of this resolution have been extended and added to in successive resolutions for at least a decade, with the most recent iteration being S/RES/2442 (2018).[47]

Conclusion

The observations in this report make clear that maritime security issues are both fluid and highly interconnected.[48] The same individuals who commit acts of piracy in the Straits of Malacca or Horn of Africa may also belong to the Moro Islamic Liberation Front or Al-Shabaab terror groups.[49] Environmental damage can affect great power competition and international cooperation just as easily as it can play a causal role in piracy.[50] These issues require a multidimensional response from Member States that includes close collaboration of the type seen in counter-piracy operations in Somalia.[51] Some questions to consider, then, include: What other barriers to international cooperation exist, and how can they be reduced? How can Member States respond at a local level to maritime security issues in ways that have international impact? How will environmental damage and climate change affect Member States' maritime zones? How can Member States combat the jurisdictional challenges associated with maritime security

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[42] The South China Sea Arbitration (Permanent Court of Arbitration: July 12, 2016).
[43] The South China Sea Arbitration (Permanent Court of Arbitration: July 12, 2016).
[44] United Nations General Assembly, *Convention on the Law of the Sea*, 10 December 1982, available at:
     https://www.refworld.org/docid/3dd8fd1b4.html, (accessed 5 August 2019).; Lisa Otto, "Westward Ho! The Evolution
     of Maritime Piracy in Nigeria," *Portuguese Journal of Social Science* 13, no. 3, September 2014,
     doi:10.1386/pjss.13.3.313_1.
[45] Lisa Otto, "Westward Ho! The Evolution of Maritime Piracy in Nigeria," *Portuguese Journal of Social Science* 13, no. 3,
     September 2014, doi:10.1386/pjss.13.3.313_1.
[46] "Resolution 1816: The Situation in Somalia," UNSCR. 2 June 2008,
     https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-
     CF6E4FF96FF9%7D/Somalia%20S%20RES%201816.pdf.
[47] "Resolution 2442: The Situation in Somalia," UNSCR, 6 November 2018, http://unscr.com/en/resolutions/2442.
[48] Tallis, *The War for Muddy Waters,* 196.
[49] Tallis, *The War for Muddy Waters,* 195.
[50] Oli Brown, "Migration and Climate Change," Geneva: International Organization for Migration, 2008.
[51] Elleman, et al., *Piracy and Maritime Crime: Historical and Modern Case Studies,* 208.

while also protecting national sovereignty? It is this committee's directive to review and establish recommendations that will advance this goal, in hopes of fostering a safer and more secure global maritime environment for all its Member States.