

Analysis: Illicit activity in ungoverned maritime areas

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More than 90% of global trade uses the sea, but the international community has so far paid little attention to ungoverned maritime spaces. IHS examines why policing the sea is vital in disrupting the operations of non-state armed groups.

Introduction

Ten years ago, in a briefing to the Senate Select Committee on Intelligence, then-director of the US Central Intelligence Agency (CIA) George Tenet highlighted the issue of ungoverned spaces. He described them as places “where extremist movements find shelter and can win the breathing space to grow”.

The emphasis on ungoverned spaces reflected the United States’ shifting security focus on non-state groups. To survive and thrive, such organisations often required a haven in areas of the world where governance was lacking. With the war on terrorism making it far more

uncomfortable for states to sanction and harbour non-state armed groups with an explicit anti-US agenda, such groups therefore needed an area where governments could not interfere. Ungoverned space allows individuals and organisations to operate with impunity, whether planning and organising violent campaigns, or undertaking criminal activity to support insurgencies.

As such, monitoring these ungoverned areas and where possible disrupting the non-state armed groups resident in them, or bringing governance to these areas, has been a key aspect of US foreign policy and defence priorities for the past decade. Of the ungoverned spaces receiving most attention, all have been on land: the Afghan-Pakistan border; Somalia; areas of Yemen; areas of Iraq; and the Sahel.

By contrast, little attention has been paid to the issue of ungoverned space at sea. Yet more than 90% of global trade travels via the sea, making its security a key

strategic interest for all countries. The existence of the sea as a conduit for human activity also allows for criminal interests to flourish where there is no governance: it is at sea that piracy occurs, drugs and people are often trafficked, and occasional maritime terrorism occurs.

Given continued international concerns about governance of the waters in the Caribbean, Indian Ocean, and Pacific, the issue of ungoverned space at sea is likely to become more relevant to the world's major trading countries. Perhaps surprisingly, with the ructions of the Arab Spring still being felt throughout the Middle East and North Africa, and the Eurozone economic crisis affecting littoral states' ability to govern, the Mediterranean may prove to be an area of significant ungoverned maritime space that directly affects the security of Europe.

A map illustrating ungoverned maritime spaces and the efforts being taken to secure them.^{1512813A} map illustrating ungoverned maritime spaces and the efforts being taken to secure them. (IHS)

Last frontiers

The fact that ungoverned maritime space has not received greater attention is, in part, influenced by the fact that non-state organisations cannot sustain themselves at sea over the long term. However, this underestimates the importance of the sea as a channel for supplies, illicit goods, and people. While illegal or violent groups may not reside at sea, they may use it as

an economic lifeline, and the difficulty in ensuring governance at sea makes it a useful route for those groups not based in landlocked countries.

Ungoverned maritime space is not a safe haven. This is an important distinction, as security communities that might see ungoverned maritime space as a problem are not seeking to oust or destroy groups, but rather disrupt their lines of communication and processes of trade and movement. There are often no fixed bases or concentrated forces against which to deliver violent reprisals, but simply areas of the sea that can be used with relative impunity to move products and people along constantly shifting trade routes. Eliminating these routes may also be more difficult than on land: there are no mountain passes or valleys, wadis or rivers that act as physical barriers and create bottlenecks that can be monitored.

The issue of ungoverned maritime space can incorporate not just areas of sea that are entirely ungoverned, but also those that are under-governed, mis-governed or ill-governed. Again, this reiterates that the ease with which illicit groups can operate is more of a concern for international security providers than whether governance is entirely lacking or simply insufficient to ensure good order at sea.

There is a centuries-long history of customary international maritime law that has been codified through the United Nations Convention on the Law of the Sea

(UNCLOS). This has clearly identified individual countries' rights, responsibilities, and sovereignty at sea. UNCLOS stipulates that a government should govern areas of sea within 12 nautical miles (nm) of a coastline that it has exclusive sovereignty over. Within 24 nm, the coastal state may enforce its customs, fiscal, immigration, and sanitary laws and regulations. Within the 200 nm exclusive economic zone (EEZ), the coastal state has exclusive rights to the living and dead resources within and under the sea, and can ensure that these rights are not violated through political, legal, or military means.

There is therefore a layered system of governance that is legally mandated by a broadly accepted international legal regime. Even countries that have not ratified the treaty, such as the US, accept its stipulations. However, while the legal situation has been clarified, it is the inability on the part of certain states to monitor and enforce these regulations and laws at sea that leads to ungoverned space, rather than the lack of a legal framework.

Politics and economics

Ungoverned maritime space is generally a symptom of a poor or lethargic land-based government. There are a number of situations that can lead to ungoverned maritime space: most obviously, the waters of failed states or areas on land without any form of governance are often also ungoverned. The primary example of such an area is Somalia, where an effective government has

not existed for more than two decades. The absolute lack of a maritime law enforcement capability has allowed the waters off the coast of Somalia to be entirely ungoverned, leading to illegal fishing by overseas vessels in Somalia's EEZ and the development of piracy from the mid-2000s that became a threat to shipping throughout the Gulf of Aden and the western Indian Ocean.



Soldiers from China's People's Liberation Army-Navy special forces carry out an anti pirate drill on the deck of DDG-171 Haikou destroyer in Sanya, in Hainan Province in December 2008 (image © PA)

In Somalia, it took more than a decade of land-based chaos before maritime piracy developed significantly, but the collapse of a state can lead to immediate offshore problems. Following the outbreak of the civil war in Libya in 2011, illegal migration by sea increased rapidly. According to the European Union's Frontex co-operative border management agency, the number of illegal

migrants arriving in EU states by sea grew by nearly 800% year on year in the second quarter of 2011, to more than 27,500 people. This increase was largely attributable to growth in the central Mediterranean route originating from Libya, according to Frontex.

Despite the war in Libya seemingly providing a significant motivation for migrants from the country, in reality the vast majority of migrants were from elsewhere in Africa: nearly 7,000 were from unidentified countries in central Africa, while the most common specified nationalities were Tunisians, Nigerians, and Ghanaians, in that order. According to Frontex, there was evidence that some of the migrants were expelled forcibly, suggesting that the ungoverned maritime space may partially have been owing to a lack of will in Tripoli to police these migrants, rather than a complete lack of ability to do so.

The civil war raging in the country undoubtedly also detracted the authorities from any other forms of maritime law enforcement. The return of a semblance of government in the wake of the conflict also led to a sharp decrease in trans-Mediterranean crossings, as they fell to just over 4,000 – 20% of the previous year's total.

Nevertheless, the experience remains a salutary lesson given the fact that the Arab Spring continues to weaken governments throughout the region, potentially providing the impetus for a similar collapse of maritime order on Europe's doorstep. By early 2012, Frontex was already recording a more than 600% rise in the number of

migrants from Syria. A total of 2,024 were recorded in the second quarter of 2012, compared to 274 in the same period in 2011. Although most were arriving by land via the Turkish and Greek borders, European states will be concerned for the stability of the eastern Mediterranean's maritime governance should the situation deteriorate further in coastal cities such as Tartus.

The political environment on land naturally affects the ability of a state to govern its waters, but the economic situation can also be a determining factor. Less well-resourced states may struggle to secure their own waters, either owing to underdevelopment, economic crisis or because the state is too small to benefit from the economies of scale that larger states enjoy in the procurement of law enforcement capabilities. Recognising the inability of small Pacific states to police their vast EEZs in the wake of the signing of UNCLOS in 1982, Australia announced the Pacific Patrol Boat Programme in 1983.

By 1997, 22 patrol boats had been donated to 12 Pacific Island countries in a bid to improve maritime governance and prevent illegal fishing. They have also provided maritime surveillance and engaged in counter-trafficking and counter-drugs operations. Australia continues to offer training and support, providing Canberra with the ability to guide the process of maritime governance and, in turn, receive intelligence and information from the participating states.

In a similar vein, but with different methods, the United Kingdom has maintained a seasonal military patrol in the Caribbean since decolonisation in the mid-20th century. In 2011, this presence was downgraded from a frigate to a Royal Fleet Auxiliary vessel, in a reflection of the increasing pressure on the navy's dwindling surface combatants, but the continued dedication of a vessel to the Caribbean was a clear indication of the need for greater maritime governance in the region. In September 2013, RFA Wave Knight seized approximately GBP9 million (USD14.6 million) worth of marijuana in a joint US-UK operation in the Caribbean, demonstrating the continued activity of extra-regional powers in waters that can be considered as ungoverned maritime space.

Even if a state has the political organisation on land and the economic wherewithal to theoretically police its waters, this does not necessarily mean that the maritime space will be effectively governed. Countries may have other priorities, their governments may have a vested interest in sea-based organised crime, or the effects of transnational crime on a potential rival may be beneficial for the host state.

Venezuela is frequently cited by the US as a country where counter-drugs policies are lacking: in September, US president Barack Obama highlighted Venezuela (alongside Bolivia and Myanmar) as a country that had “failed demonstrably” in its counter-drugs policies for the fifth year running. This is despite the fact that Venezuela is one of the primary trans-shipment routes for trans-

Atlantic and trans-Caribbean drugs. Between 2006 and 2008, according to the international Maritime Analysis Operations Centre – Narcotics (MAOC-N), Venezuela accounted for more than 50% of trans-Atlantic drug trafficking. The Venezuelan government rejected the report and denied the claims.

Other ungoverned spaces

Even where there is sufficient political will and financial backing to theoretically guarantee maritime governance, ungoverned maritime spaces can still exist.



A spotlight from an Italian coastguard boat shines on a boat loaded with migrants spotted at sea off the Sicilian island of Lampedusa, Italy, in March 2011 (image © PA)

It is rare that newly discovered or uncovered waters are found, creating entirely ungoverned spaces owing to the

novelty of the maritime area. Yet this is exactly what is happening in the Arctic, where climate change is ensuring the seasonal retreat of summer sea ice, making much larger areas of the region accessible for maritime traffic. The minimum extent for sea ice in 2013 was the higher than that of 2012, but this is largely due to the previous measurements being so far below the long-term average. Despite the slight improvement in 2013, the Arctic currently has the sixth-lowest recorded ice extent on record, and confirmed the long-term decline in sea ice seen over the past four decades in data collected by the US National Snow and Ice Data Center.

This opening of the Arctic has also led to the creation of relatively ungoverned maritime space, despite the fact that the five Arctic littoral states – Canada, Denmark (through Greenland), Norway, Russia, and the US – include three members of the G8. In particular, the vast areas of water along the Northeast Passage (particularly the Northern Sea Route along Russia's northern coast) and the Northwest Passage (to the north of Canada and the US state of Alaska) do not have a permanent law enforcement presence along the whole route and little in the way of maritime surveillance.

The littoral countries are addressing this issue. For example, Russia announced in September that it would reopen a naval base on the Novosibirsk islands that had been abandoned for more than two decades. Equally, while traffic is increasing in the region it remains extremely low: in 2012, 46 vessels transited the Northern

Sea Route compared to 34 in 2011 and four in 2010. Nonetheless, maritime law enforcement remains sparse given the large areas in the region and the difficult operating conditions. Maritime governance has also complicated the issue of Greenland, which is economically dependent on Denmark. Should Greenland choose complete independence in the future (it voted in favour of self-rule in a November 2008 referendum), it is unlikely to be able to govern its waters effectively for some time.

Similarly, despite the political and economic situation on land, there will always be large areas of sea that are essentially ungoverned as they fall outside the jurisdiction of any state. The high seas, those areas beyond the EEZ of coastal states, comprise the vast majority of the oceanic space. In the high seas, there is no sovereignty over the seas themselves, and there is simultaneously a principle of no jurisdiction and universal jurisdiction at sea.

The reason for this mutually conflicting situation is that although no country has official jurisdiction over the high seas, every country has the duty, under UNCLOS, to cooperate in the repression of piracy. So, for this particular crime, there is a universal jurisdiction to prevent its occurrence. This helps explain why three multinational operations (NATO's Operation Ocean Shield, the EU's Operation Atlanta, and the multinational Combined Task Force 151) and various independent operators have been

able to co-operate in the Indian Ocean and Gulf of Aden since 2009 to act against piracy.

Areas of concern

It is unsurprising that ungoverned, under-governed or poorly governed maritime space exists. The world's oceans cover 71% of the Earth's surface, according to the National Ocean and Atmospheric Administration. The only fixed military bases that abut the sea are small islands and coastal towns, leaving vast areas of ocean largely unsupervised.

Beyond the high seas, there are certain areas of the world more likely to suffer from ungoverned maritime space than others. These are areas where small states (particularly island states), underdeveloped countries, or states with vast coastlines and weak governments find it difficult or impossible to effectively govern the entire area.

One way of measuring ungoverned maritime space is to view the levels of illegal activity that occur within them, with higher levels of illegal activity relating to more ungoverned maritime space. According to figures from the International Maritime Bureau's (IMB) piracy reporting centre, the areas with the most virulent levels of piracy and armed robbery in 2013 have been: off the Horn of Africa, particularly in the Gulf of Aden; the Gulf of Guinea in Nigerian, Beninese, Togoan and Ivorian waters; and Southeast Asia. For Southeast Asia, more detailed figures from the Japan-funded Regional Co-operation Agreement on Combating Piracy and Armed Robbery against Ships

in Asia (ReCAAP) demonstrate that the majority of incidents occur off the northern coast of the Indonesian island of Sumatra, in waters east of Singapore and on the eastern coast of Kalimantan. According to ReCAAP, there were 35 incidents of piracy or armed robbery against ships in Indonesian waters in the first six months of 2013.

Other forms of maritime crime include drug trafficking, where the primary routes run from Colombia, Venezuela, and Ecuador along the eastern and western coasts of Central America and through the Caribbean, highlighting the problems of ungoverned maritime space in these seas. As the primary source for the global cocaine market, it is unsurprising that transoceanic routes emanate from South America, particularly travelling from Venezuela along the northern Atlantic route to Spain or the southern Atlantic route to Western Africa (particularly Cape Verde, Guinea-Bissau, and Guinea off the west coast, and Togo and Benin in the Gulf of Guinea). Marijuana trafficking by sea across the Mediterranean is largely undertaken by go-fast boats from Morocco to Spain, southern France, and Italy, while human trafficking can occur along the north African coast, often from Libya. Smuggling is also an issue across the Strait of Hormuz and the Gulf of Aden; despite the former being a heavily used transit route, the lack of maritime governance in Oman and southern Iran facilitates go-fast illegal traffic.

Elsewhere, the Pacific island states are a concern for maritime governance given their lack of capacity, although maritime trafficking is less of an issue given the

islands' remoteness. Meanwhile, the vast spaces of the Arctic, particularly the northern Russian, Canadian, and Alaskan coastlines, and the waters around Greenland, are increasingly accessible but have not yet developed the maritime security infrastructure to ensure good governance.

Conclusion

The concept of ungoverned maritime space is one that encompasses a broad range of different sea areas and levels of governance. From complete anarchy without any form of government to effective governance hindered by a lack of political will or the vast areas of the high seas, ungoverned maritime space can occur anywhere. It does not necessarily lead directly to illicit activity at sea, but it creates an environment in which such activity can flourish if the right factors are in place.

Indeed, governance at sea is evidently insufficient to end all illicit activity. According to the UN Office on Drugs and Crime (UNODC) World Drug Report 2013, of the 10 most frequently reported countries of provenance for maritime drug seizure cases, four were EU states: Belgium, France, the Netherlands, and Spain. This may be specifically due to effective maritime governance, as the ability and will to interdict maritime criminal activity may bias the reporting figures; more crime may occur elsewhere and remain undetected or unpunished. Nevertheless, it also suggests that even governed maritime space will witness illicit activity if the criminal or violent motivation exists.

Similarly, the rocket-propelled grenade attack on a container ship transiting the Suez canal in late August demonstrated that even in one of the most surveilled maritime areas of the world, attacks are likely to happen given the attraction to terrorists and insurgents of a spectacular attack in a major shipping route. In that 31 August incident, the Egyptian militant group Al-Furqan claimed responsibility for attacking a Panamanian-registered container ship, although the vessel suffered no damage.

Ungoverned maritime space provides a more permissive environment for such activity to occur; the most virulent pirate activity over the past decade has occurred first off the coast of Somalia and latterly in the Gulf of Guinea, with no maritime governance in Somalia and limited governance in the Gulf of Guinea in the waters of countries such as Benin and Togo. The most effective maritime terrorism attack involved an explosion outside the hull of a ship and occurred in the poorly governed waters of Yemen when Al-Qaeda attacked the M/V Limburg on 6 October 2002. An explosives-laden dinghy crashed into the side of the Limburg and detonated, leaking 90,000 barrels of oil into the Gulf of Aden. This caused the short-term collapse of shipping in the region.

It is not just that a lack of maritime governance enables illicit activity at sea. As a major conduit and medium for illegal trade, it also sustains and supports illegal activity on land. The use of the sea to transfer arms, either from a state or non-state source, is a key concern for the waters

of the Gulf of Aden. In January 2013, a shipment of weapons including surface-to-air missiles seized off the coast of Yemen was, according to Sanaa, being transported from Iran to Yemeni insurgents. According to a June report from the US-led Combined Maritime Forces after a seizure by HMCS Toronto in the Red Sea, narcotics smuggling is “a known source of funding for terrorist organisations”.

Poor maritime governance can also develop rapidly, as seen in Libya in 2011, and blight areas previously viewed as well-governed. It is also not just a problem located in areas far away from the richest countries: the Mediterranean is home to some of Europe’s largest navies and two NATO maritime standing groups, but it is also the sea across which the largest number of maritime drug seizures are made (according to the UNODC) and up to 100,000 people are smuggled or trafficked on an annual basis to the EU. MAOC-N helped to seize more than 70 tonnes of cocaine and more than 50 tonnes of cannabis between 2007 and mid-2012.

With the civil war still raging in Syria; the security situation in Egypt deteriorating; Tunisia and Libya remaining unstable; European countries such as Cyprus, Italy, and Spain suffering from economic recession and austerity; and transnational groups such as Al-Qaeda in the Islamic Maghreb (AQIM) increasing their activity, the issue of ungoverned maritime space is likely to be of growing importance to European states.

Military solutions, such as those employed to counter piracy in the Indian Ocean and Gulf of Aden, can be temporarily effective but are limited by political will, international law, and cost. International collaboration, particularly intelligence sharing, adds much needed capability to regional states’ knowledge and builds greater interaction among the relevant agencies. For example, ReCAAP has brought together regional states in Asia for the first time in a concerted effort to enhance co-operation in the fight against piracy.

Ultimately, much of the problem of maritime governance stems from a lack of capacity, either owing to political shortfalls, economic restrictions or a lack of effective training. Largesse through capacity building, both in terms of assets and training, can be vital in improving coastal states’ ability to govern their own waters. It is for this reason that the EU is funding EUCAP Nestor, a regional training mission intended to strengthen maritime capabilities in several countries of the Horn of Africa (most notably Djibouti, the Seychelles and Somalia).

However, capacity building will not eliminate the problem of ungoverned maritime space, as the issue extends beyond national jurisdictions. Nor will more effective governance eliminate the motivations for maritime piracy, crime, and terrorism, or the ability of non-state organisations to evolve and adapt, as shown by the development of semi-submersibles by Colombian drugs traffickers or the use of go-fast boats by Moroccan traffickers. Nevertheless, allowing coastal states to better



govern their own waters lessens the ability for illicit organisations to use those waters for purposes seen as detrimental to security, and is therefore in the interests of most developed states.

[This analysis is abridged. The full report is available within IHS Jane's Military & Security Assessments Intelligence Centre.](#)



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