



**AFRICA CENTER
FOR STRATEGIC STUDIES**

**Maritime Safety and Security:
Enhancing Maritime Security
Around Africa**

Syllabus

**Victoria, Seychelles
19-23 March 2018**

CONTENTS

About the Africa Center

Program Overview

Session 1: Maritime Insecurity Around Africa

Session 2: Maritime Security Initiatives Around Africa

Session 3: The Strategic Pillars

Session 4: Understanding the Maritime Domain

Keynote: Securing the Blue Economy

Session 5: Information Sharing and Coordination – Internal and External

Session 6: Maritime Interdiction Operations

Session 7: Prosecuting Maritime Crime

Keynote: Adjudicating and Penalizing Maritime Crime

Session 8: Harmonization

Session 9: Plenary Discussion of Lessons and Next Steps

ABOUT THE AFRICA CENTER FOR STRATEGIC STUDIES

Since its inception in 1999, the Africa Center has served as a forum for research, academic programs, and the exchange of ideas with the aim of enhancing citizen security by strengthening the effectiveness and accountability of African institutions, in support of U.S.-Africa policy.

VISION

Security for all Africans championed by effective institutions accountable to their citizens.

Realizing the vision of an Africa free from organized armed violence guaranteed by African institutions that are committed to protecting African citizens is the driving motivation of the Africa Center. This aim underscores the Center's commitment to contributing to tangible impacts by working with our African partners – military and civilian, governmental and civil society, as well as national and regional. All have valuable roles to play in mitigating the complex drivers of conflict on the continent today. Accountability to citizens is an important element of our vision as it reinforces the point that in order to be effective, security institutions must not just be “strong,” but also be responsive to and protective of the rights of citizens.

MISSION

To advance African security by expanding understanding, providing a trusted platform for dialogue, building enduring partnerships, and catalyzing strategic solutions.

The Africa Center's mission revolves around the generation and dissemination of knowledge through our research, academic programs, strategic communications, and community chapters. Drawing on the practical experiences and lessons learned from security efforts on the continent, we aim to generate relevant insight and analysis that can inform practitioners and policymakers on the pressing security challenges that they face. Recognizing that addressing serious challenges can only come about through candid and thoughtful exchanges, the Center provides face-to-face and virtual platforms where partners can exchange views on priorities and sound practices. These exchanges foster relationships that, in turn, are maintained over time through the Center's community chapters, communities of interest, follow-on programs, and ongoing dialogue between participants and staff. This dialogue – infused with real world experiences and fresh analysis – provides an opportunity for continued learning and catalyzes concrete actions.

MANDATE

The Africa Center is a U. S. Department of Defense institution established and funded by Congress for the study of security issues relating to Africa and serving as a forum for bilateral and multilateral research, communication, exchange of ideas, and training involving military and civilian participants. (10 U.S.C 342)

PROGRAM OVERVIEW

Introduction

The Africa Center for Strategic Studies (ACSS) supports the United States' Africa policy by working with African countries to provide security for all Africans championed by effective institutions accountable to their citizens. Since its inception in 1999, the Africa Center has fostered democracy and enhanced professionalism in Africa's security sector through programs that promote productive interaction among senior military and civilian leaders, and establish viable professional networks. It has provided an academic-style forum for Africa's security-related professionals to identify and evaluate current and emerging security threats, agree on strategies and shared responsibilities for national and regional security, and reinforce internationally recognized best practices in their various spheres of activity. The Center promotes peer learning, and networking, among thousands of individuals who have participated in its programs by affording them an opportunity to continue the dialogue and collaboration on key security issues upon return to their home countries.

Background

In July 2017, ACSS hosted a workshop on Inter-Regional Maritime Security Coordination in Yaoundé, Cameroon. The event highlighted how much progress has been made over the last decade regarding maritime safety and security in Africa. It naturally focused on where things need to improve, but it also revealed many positive lessons and experiences borne of admirable efforts around the continent. What was perhaps most notable about the event, however, was that it afforded participants an opportunity – and for many, their first opportunity – to meet their counterparts from other regions of the continent. The overwhelming response from the workshop was a request for more opportunities to engage in the commerce of ideas between different parts of Africa. This workshop aims to provide such an opportunity.

For many years, “capacity building” efforts on maritime security in Africa have involved experts from outside the continent, working with African states and regions on enhancing various aspects of maritime governance, security and development. During that period, however, many states have taken the lessons from international partners, adapted them to the local context, and made them work on the water in ways that the world has never seen before. The world's leading experts on African maritime security are undoubtedly African maritime professionals. So the time has come for capacity building to evolve. While international partners still have an important role to play, the norm needs to become peer learning. This workshop seeks to foster a whole-of-Africa maritime security dialogue whereby African maritime professionals can exchange ideas, lessons learned, experiences and failures with each other, and forge a network of practitioners around the entire continent.

A key theme of maritime insecurity is that criminals focus on seams between states and regions and effectively exploit them. Only by developing a whole-of-Africa maritime security community can the continent effectively achieve the whole-of-Africa maritime security envisioned in Africa's Integrated Maritime Strategy (AIMS 2050). African states and regions have a tremendous amount learn from each other on maritime security.

This workshop will delve into the key maritime strategic issues, and it will hone in on various aspects of maritime security, governance and development, including whole-of-government processes, monitoring and surveillance, information sharing, interdiction operations, prosecution and adjudication. Finally, and most importantly, this workshop will seek to identify tangible next steps for taking a whole-of-Africa approach to maritime security from being a concept to becoming a reality.

Workshop Structure

This workshop, spanning five days, will be comprised of keynote addresses from leading figures in maritime security and development; plenary sessions that draw on strategic, policy, academic, and operational expertise; discussion sessions where participants are encouraged to share freely on the topics that arise; and site visits to the maritime security institutions in our host country and host region. The plenary sessions will either involve expert discourse on specific topics, or provide an opportunity to learn from the experience of relevant practitioners. The brief presentations will be followed by moderated question and answer sessions during which participants will be encouraged to share experiences, question assumptions and think through creative approaches. The small group discussions will focus on problem solving. Participants will be encouraged to share perspectives and learn from each other. A team of experienced facilitators will work with participants to this end. The site visits will include seeing the courtroom where many of the world's piracy trials have occurred, seeing the regional centers for maritime security in Victoria, and seeing a Pirate Dhow that is now used for training purposes.

All Africa Center programs are conducted under a strict non-attribution policy. This allows participants to contribute and exchange views without reservation, thereby creating an effective and productive learning environment. Simultaneous interpretation will be provided to allow the workshop to be conducted in English, French and Portuguese. All workshop materials will be provided in these languages.

Academic Material

This Syllabus aims to provide a useful reference document and starting point for discussions; it does not pretend to offer comprehensive treatment of the issues or contain all the answers. It seeks to compile the information and analysis most salient to the workshop. But the principal resources will be in the room – the experts and practitioners who dedicate their lives to making Africa’s maritime domain safer and more secure. The aim of this workshop is expressly to draw on those resources and to greatly increase the network of professionals who can reach out to each other for ideas and assistance.

All workshop documentation will be posted on the Africa Center website. You will receive an email with details of how to access this website. Please contact us if you have any difficulty accessing the website. Ideally, we would like to initiate discussion about the key questions and objectives before the workshop starts. Our facilitators will be available to respond to your questions, discuss your perspectives on the topic and the academic materials, share experiences and examine relevant case studies.

Academic Preparation

Consultation and partnership are hallmarks of the Africa Center’s program development process. Formal and informal consultative meetings were held with a wide range of national, regional and international experts, representatives of African governments, representatives of international partners, and stakeholders in relevant U.S. government entities to determine the scope and focus of this workshop. A number of academics and practitioners were particularly helpful in reviewing the content and relevance of the academic material for this workshop.

SESSION 1: MARITIME INSECURITY AROUND AFRICA

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Identify current, evolving and emerging threats around the continent;
- Discuss how criminals respond to a law enforcement efforts around the continent;
- Understand differences in criminal behavior in different parts of the continent;
- Recognize the value of sharing experiences to learn from other regions in order to prepare for new threats and prevent criminals from playing different countries or regions off each other.

Background

Maritime insecurity is not a new phenomenon in Africa. But many states have only started to address it in recent years. As law enforcement efforts increase, the risk-reward calculus for criminals has begun to change. With that comes new criminal dynamics as the perpetrators innovate in order to evade capture. That criminal evolution coincides with increased use of the maritime space all over the world for committing illicit acts of different sorts. In some cases, seemingly benign criminal activity – like smuggling fuel or minerals – becomes the principal funding source for terrorist groups and transnational criminal organizations that threaten the peace, security, stability and prosperity of the states in which they operate. Maritime insecurity, therefore, is a threat that, when ignored, can erode the very foundations of a state.

Various instruments now enshrine the lengthy and growing list of maritime security threats. They are no secret: Piracy; armed robbery at sea; trafficking of all sorts including drugs, weapons, antiquities and humans; illegal unreported and unregulated fishing; environmental dumping and pollution; sand mining; cutting of mangroves and coastal vegetation; maritime terrorism; oil and fuel theft; looting of underwater cultural heritage sites and theft of cultural property; smuggling of humans, charcoal, counterfeit goods, fuel, minerals, pharmaceuticals and contraband.

It is one thing to list them, it is another to see them first hand and to engage the criminals who perpetrate them. Strategic approaches – at the national, zonal, regional, interregional and continental levels – must constantly be informed by and adapted to address the real-world situation on the water. There is no sense in protecting states against threats they do not face, while actually ignoring the reality of maritime insecurity.

Once a state is able to regularly assess its challenges as they are – not as they were or as they are in other countries – it can begin to understand the back and forth dynamics between law enforcement and criminals. If law enforcement does X, and the criminals respond with Y, the law enforcement authority can begin to predict the responses to their actions. So next time the law

enforcement does X, the responsible authority is also ready to respond immediately to Y with Z. This sort of approach is far more effective than a continuous response cycle. By pursuing X and Z almost simultaneously, the law enforcement is able to shift the criminal dynamic. Criminality is always a risk-reward calculus. If the risk increases, the criminals will be less inclined to pursue the reward, at least temporarily. Thus, having an accurate understanding of the current criminal threats is vital to truly addressing them.

Discussion Questions

1. How have the maritime security challenges changed in your country or region in the last five years? How have your security approaches changed?
2. Have you noticed a response to law enforcement efforts?
3. Have you noticed new issues that haven't been discussed?
4. Are the regional threats different than the national threats?
5. What might threats from other regions suggest about what could happen in your region?

Recommended Reading

Ian Ralby, "Cooperative Security to Counter Cooperative Criminals," Defence IQ, 2017, <https://www.defenceiq.com/naval-and-maritime-defence/articles/cooperative-security-to-counter-cooperative>.

Raymond Gilpin, "Examining Maritime Insecurity in Eastern Africa," Soundings, Jan. 2016, http://www.navy.gov.au/sites/default/files/documents/Soundings_No_8.pdf.

Promoting regional maritime security in Eastern and Southern Africa and Indian Ocean, Speech of Marjaana Sall, June 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/24288/promoting-regional-maritime-security-eastern-and-southern-africa-and-indian-ocean_en.

Additional Reading

"State of Maritime Piracy 2016: West Africa Overview," Oceans Beyond Piracy, <http://oceansbeyondpiracy.org/reports/sop/west-africa>.

"State of Maritime Piracy 2016: East Africa Overview," Oceans Beyond Piracy, <http://oceansbeyondpiracy.org/reports/sop/east-africa>.

SESSION 2: MARITIME SECURITY INITIATIVES AROUND AFRICA

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Review the continent-wide African maritime security architecture in terms of both strategies and institutions;
- Hear from other regions and initiatives what they have sought to accomplish;
- Recognize some of the gaps, overlaps, duplications and challenges for maritime security institutions and instruments.

Background

The only way to make a coherent picture of the cooperative maritime security architecture in Africa is to ignore certain institutions, disregard some of the overlaps, turn a blind eye to the gaps, and overlook the issue of chronology. Despite a narrative that there is a cascading set of strategies and institutions from the continental to interregional to regional to zonal to national levels, the reality is far less clear.

Legacy institutions still exist, but have tenuous connection to recent activity, and a series of initiatives have divorced certain maritime crimes from other maritime security efforts. When drawn as either a map or a timeline, the patchwork nature of both the strategies and institutions becomes evident. The processes of retrofitting these strategic documents and institutions into a functional framework has left a number of gaps. On the one hand, it is important to try to fill the gaps and ensure clarity on paper. But at the same time, the purpose of all the documents is to produce functional maritime security on the water, so pragmatism is at a premium.

When new institutions are developed and new strategies adopted – and particularly when those developments occur at a rapid rate – divergent views can develop as to the actual roles and responsibilities of the new institutions and as to the real meaning or intent of the strategy. Robust and honest discussion of how these instruments and institutions are understood to work is the only way to identify the discrepancies in views and seek to clarify roles, authorities, jurisdictions, responsibilities and functions. Such a discussion is vital for the maritime security architecture in Africa to make a successful and sustainable transition from paper to practice. Ultimately, the goal is true maritime security for the whole of Africa.

Discussion Questions

1. Does a map or organizational chart of the instruments of maritime security in Africa mirror a map or organizational chart of the institutions of maritime security in Africa?
2. In your experience, what is the difference between maritime security cooperation on paper and maritime security cooperation on the water? How can the paper help improve the practice? How can the practice help improve what goes on the paper?
3. What are the key factors as to why an agreement is or is not actually implemented?
4. Can an agreement be made on paper after the cooperation already happens in practice or does there need to be written authority from the outset?
5. What approaches from other regions or initiatives might work in your region? How can your region work with others to share lessons, warnings and ideas?

Recommended Readings

Ulf Engl, "The African Union, The African Peace and Security Architecture, and Maritime Security," Friedrich Ebert Stiftung, (2014) <http://library.fes.de/pdf-files/bueros/aethiopien/10878.pdf>.

Lisa Otto, "Why Regional Efforts are key to Africa's Maritime Security," Jan. 2018, <http://theconversation.com/why-regional-efforts-are-key-to-africas-maritime-security-89813>.

"Maritime Security in the Western Indian Ocean: A Discussion with Assis Malaquias," May 2017, <https://africacenter.org/spotlight/maritime-security-western-indian-ocean-a-discussion-with-assis-malaquias/>.

Ian Ralby, "A Human Security Approach to Maritime Security in the Gulf of Guinea," Comparative Jurist, 31 Aug. 2016, <https://comparativejurist.org/2016/08/31/a-human-security-approach-to-maritime-security-in-the-gulf-of-guinea/>

Additional Reading

Kamal-Deen Ali, "Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges," Brill (2015).

SESSION 3: THE STRATEGIC PILLARS

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Recognize the relationship between security, governance and development;
- Identify the reason for having a national maritime strategy;
- Understand law as having both a constraining and enabling function;
- Consider options for how to use a national maritime strategy to generate both political will and international attention.

Background

While Africa has seen a proliferation of regional, inter-regional and continent-wide strategic instruments, national maritime strategies have only been developed in a few states. In those few states, however, the implementation process is making an unmistakable difference. To fully effectuate the multinational strategies, the few will have to become many, as states must confront the challenge of developing national maritime strategies. One of the reasons this process is so difficult and daunting, however, is that no one agency or entity can take it on alone.

A national maritime security strategy is vital to inform the overall national security strategy. But to develop a national maritime security strategy, a state must look at much more than just criminal activity in the maritime space. Securing the waters against threats is an endless effort and drain on resources. Convincing politicians to exhibit the will and devote the resources to such a task is almost impossible without another piece of the equation. Instead, states must proactively seek to secure the waters for the enrichment of the country and the betterment of life on land. The value proposition of expending the resources on maritime security is the return on that investment that comes through the maritime and blue economy.

There are therefore three pillars that are required of any national maritime strategy: security, governance and economic activity. Security is needed to provide the space for governance and development. Governance is needed to provide the oversight and management of the environment, the institutions and the frameworks that allow the waters to be secured and developed. And economic activity is needed in order to make security and governance worth the effort – stamping out the bad must be correlated with building up the good.

Cutting across all three pillars are the notions of both stewardship and law. Stewardship is protection of the marine environment. As a source food security and sovereignty, as well as part of the earth's delicate balancing act that allows us to live on this planet, the marine environment is vital to human life. It must be managed and protected in a manner that will sustain it for future generations to come.

Law is necessary for security. If bad actions are not criminalized, if legal institutions do not have jurisdiction to hear cases, and if penalties do not exist, maritime security and law enforcement cannot occur. Law is important for constraining actions – in other words, activities like piracy, trafficking drugs or fishing without a license must be expressly forbidden. At the same time, law is important for enabling actions. Without authorities under the law, different ministries, agencies and departments cannot do their jobs much less work together. And without the certainties that come from clear criminal and commercial laws, it is difficult to attract and sustain the sorts of investors who can really help make the maritime economy boom.

Bringing all these pieces – security, governance, development, stewardship and law – together in a manner that crafts a clear and achievable fishing for the state is not easy. But it is vital to continuing the forward progress of maritime security in Africa.

Discussion Questions

1. Do you have a national maritime strategy, a blue economy strategy, a national maritime security strategy or none of the above?
2. If you have a maritime strategy of some form, is it being implemented? If not, why not? If so, what difference is it making for security, governance and development?
3. If you do not have a maritime strategy, what guides your maritime-related decision making?
4. Is it possible to fulfil the regional, inter-regional or continent-wide maritime strategies without a national maritime strategy?
5. What other states in your region might be helpful in sharing their experience of strategy development and implementation?

Recommended Reading

Raymond Gilpin, *Maritime Safety and Security: Crucial for Africa’s Strategic Future*, 2016, <https://africacenter.org/spotlight/maritime-safety-security-crucial-africas-strategic-future/>.

“National Maritime Strategy Toolkit,” ACSS, <http://africacenter.org/wp-content/uploads/2016/07/The-Process-of-National-Maritime-Security-Strategy-Development-in-Africa.pdf>.

Timothy Walker, “Reviving AU’s Maritime Strategy,” ISS Policy Brief, Feb. 2017, <http://dspace.africaportal.org/jspui/bitstream/123456789/36352/1/policybrief96.pdf?1>.

Additional Reading

Africa Integrated Maritime Strategy 2050, AU, http://cggrps.org/wp-content/uploads/2050-AIM-Strategy_EN.pdf.

SESSION 4: UNDERSTANDING THE MARITIME DOMAIN

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Recognize the problem of maritime wealth blindness;
- Emphasize the value of scientific and economic/market studies to understand the contents and value of the maritime space as well as the challenges of sustainability;
- Highlight the use of technology to provide greater monitoring and coastal surveillance;
- Learn from some successful examples of taking an informed approach to maritime security, governance and development;
- Identify the issue of reducing or increasing value of marine resources through security and governance.

Background

It is impossible to know what to secure if you do not know what you have. Somewhat ironically, the international craze about piracy helped force states to overcome some of their sea blindness, so states generally understand that they have a responsibility to secure the maritime domain. But maritime wealth blindness remains a significant issue. There is a sense that the maritime domain has value – at a minimum, the maxim “no shipping, no shopping,” resonates with island, archipelagic, coastal and landlocked states alike. But most states have not engaged in the work to understand what is in their maritime domain. Without that knowledge, it is impossible to pursue the maximum sustainable economic potential of the maritime domain. And it is impossible to develop fit-for-purpose regulations, much less to enforce them.

On the one hand, it is vital to know what you have and how much it is worth. But the current value of the maritime space can either be reduced or enhanced by how it is secured, governed and developed. A \$10 fish can become a \$5 fish if it is not handled well and hygiene standards are low. Poor governance reduces the value of the maritime space. Alternatively, creative, value adding approaches can turn a \$10 fish into a \$15 fish. Traceability, for example, can increase the retail price of the fish by making the supply chain transparent – a cost the marketplace is increasingly willing to absorb.

Too many cases around the world indicate a painful lack of awareness of the value of the maritime industry. In one case in Southeast Asia, for example, the fishing sector of a country worth tens if not hundreds of millions a year was sold for a lump sum to a private enterprise for \$300,000. In other cases, high value species like sea cucumbers are sold for a \$1 each when their market value is \$250 each. In contrast, the Seychelles have just employed the first “Debt for Dolphins” scheme to use sustainability and marine conservation in exchange for their sovereign debt. This is one of the best examples to date

of leveraging national maritime domain potential to enrich the state and improve life on land for all people.

Discussion Questions

1. What studies have been done to assess the marine environment and the economic potential of the maritime domain in your country?
2. Are you sure that the regulations in place cover the fish species and environmental features that you have in your waters?
3. What creativity has been applied to developing the maritime domain?
4. What could you do to add value to your maritime domain?
5. How could approaches from other parts of the continent be adapted to help bolster your blue economy and protect your marine environment?

Recommended Reading

Stable Seas, One Earth Future Foundation, <http://oefresearch.org/topics/stable-seas>.

Leonardo DiCaprio Deal Creates Giant Marine Reserve in Seychelles, The Times, 22 Feb. 2018, <https://www.thetimes.co.uk/article/leonardo-dicaprio-deal-creates-giant-marine-reserve-in-seychelles-fqpnzvjb7>.

Johan Berganas, James Stavridis, The Fishing Wars are Coming, 13 Sept. 2017, https://www.washingtonpost.com/opinions/the-fishing-wars-are-coming/2017/09/13/05c75208-97c6-11e7-b569-3360011663b4_story.html?utm_term=.48aa30f27f4b.

Additional Reading

Martin Stopford, Maritime Economics, Routledge 2009.

Tuna 2020 Traceability Declaration, 5 Jun 2017, <https://www.weforum.org/agenda/2017/06/tuna-2020-traceability-declaration-stopping-illegal-tuna-from-coming-to-market/>.

KEYNOTE: SECURING THE BLUE ECONOMY

Format: Keynote Address

Session Objectives:

- Understand the link between maritime security and sustainable development;
- Hear the Seychelles experience of establishing and implementing a blue economic strategy;
- Recognize the international support for implementing a clearly articulated strategy.

Background

Seychelles has established itself as a leader in promoting the blue economy, both nationally and internationally. The development and implementation of a blue economic strategy has drawn considerable international attention and provided the Seychelles with support and funding to help implement it. The Commonwealth, UNODC, EUNAVFOR and other international actors have responded with assistance, indicating how important a clear strategy is for effective international partnership. Within the country, public outreach has sought to bring the whole population onto the same page with regard to blue economic priorities. Protecting, preserving and developing the maritime space has become a matter of universal interest. Most recently, the Seychelles has become the first country to leverage marine environmental conservation as a means of cancelling its national debts. This “Debt to Dolphins” scheme is likely to become a model for states around the world. A lot can be learned from the Seychelles’ approach to maritime security, governance and development.

Discussion Questions

1. How can the Seychelles experience provide lessons for building the political will to secure and develop the maritime domain in other states in Africa?
2. What is needed to generate similar political will in countries that do not currently prioritize the blue economy?
3. How can strategic effort relating to maritime security, governance and development be used to attract positive international attention and support?

Recommended Readings

Seychelles Blue Economy Strategic Roadmap and Implementation, The Commonwealth, <http://thecommonwealth.org/project/seychelles-blue-economy-strategic-roadmap-and-implementation>

Blue Economy, Knowledge Center, Seychelles, <http://blueeconomyseychelles.org/>

SESSION 5: INFORMATION SHARING AND COORDINATION – INTERNAL AND EXTERNAL

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Identify the key benefits of whole-of-government processes;
- Recognize the challenges – practical, diplomatic, legal, etc. – that occur when states share information and law enforcement or security responsibilities;
- Note differences in approach in different parts of the continent;
- Identify steps toward inter-regional information sharing in Africa, and opportunities for law enforcement cooperation.

Background

Whole-of-Government processes are a major building block for successful maritime security at all levels. Maritime security does not occur in a vacuum – it is closely tied to all aspects of maritime governance and economic activity. Consequently, all the maritime-related ministries, agencies and departments have mutual interest in and responsibility for security, governance and development. If they do not, however, have any mechanism for working together, efforts are duplicated, money is wasted and insurmountable problems occur both between and during emergency situation. Globally, therefore, states are working to develop and improve whole-of-government processes for maritime matters. These repeatable, documentable frameworks provide smooth collaboration within the state organs and offer timely information to senior decision makers. When implemented well, they increase efficiency, effectiveness and transparency. They also allow states to more easily cooperate with each other.

International information sharing comes with a number of challenges. The line between information sharing and intelligence sharing is often quite delicate. Once a piece of information becomes classified by a government, sharing it becomes much more legally challenging – even within that government. In the context of maritime information sharing, therefore, it is important to keep the distinction in mind, and not trigger the legal challenges that arise when trying to share intelligence between states and regions. Given the need to share information with the maritime industry, the distinction between information and intelligence is all the more important. At the same time, when there are, perhaps, bilateral tensions or even legal concerns such as an embargo between states within a region, caution must be heeded on what information is shared. States must carefully weigh the potential concerns of sharing information against the potential benefits. At the end of the day, most states, even states that do not normally cooperate, have found positive returns on making the effort to share information on maritime security.

One aspect worth noting, that does not come into the picture as much as it should, is that cooperation is also incredibly important for maritime safety. More people die from maritime safety issues each year

than maritime security incidents. The same channels of information sharing and operational cooperation can be helpfully deployed to save lives and protect the marine environment as they are to guard against security threats. Thus the benefits to cooperation must be viewed more expansively than merely a matter of security.

Discussion Questions

1. Do you have a formal, documentable, repeatable framework for regular interaction with other government departments on maritime matters?
2. What agencies should be a part of that framework agreement?
3. What challenges have you encountered in sharing information within your government? With other governments? With non-governmental stakeholders?
4. Have there been instances of maritime security or safety where the exchange of information slowed or prevented a favorable resolution?
5. What successful approaches from other areas of the continent regarding either whole-of-government or regional information sharing might be adapted to work in your region?

Recommended Readings

Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations Between the Government of the United States of America and the Government of Canada, May 2009, <https://www.state.gov/documents/organization/207334.pdf>.

Multilateral Agreement Regarding the Creation of Zone E of the Maritime Region of West Africa and Cooperation to Suppress Illicit Activities at Sea, Maritime Crime and Justice Primer, http://africacenter.org/wp-content/uploads/2016/03/Gulf_of_Guinea_Maritime_Security_and_Criminal_Justice_Primer.pdf.

ACSS Template for Whole-of-Government Processes. (*handout*)

Additional Reading

Sam Bateman, "Capacity Building for Maritime Security Cooperation: What are we Talking About?," 2005, <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1433&context=lawpapers>.

SESSION 6: MARITIME INTERDICTION OPERATIONS

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Identify key challenges in maritime interdiction operations;
- Recognize the importance of clear law for interdicting illicit activities;
- Emphasize the importance of interdiction being understood as part of the maritime security ecosystem;
- Discuss the need to martial existing resources to their maximum potential.

Background

A key element of maritime security is successfully interdicting illicit activity in the maritime space. But stopping crime on the water comes with an array of challenges, even beyond the obvious. If the goal is merely to interfere with “bad” conduct, then it requires a vessel being in the right place when the activity is underway. That is difficult, often requires either intelligence or good surveillance, and even in the best of situations can go wrong. Furthermore, a pursuit of a vessel can be dangerous, and can lead to jurisdictional problems if the fleeing vessels crosses a maritime boundary into a neighboring state. Hot pursuit tends to cause states a lot of tension. Stopping bad activity on the water, therefore, is not simple.

If the goal, however, is to lawfully arrest the individuals and/or the vessel involved in illicit activity, then a lot more is required. Ensuring that the stop; boarding; detention; evidence collection, preservation and chain of custody; and handover of the case to authorities for administrative, civil or criminal prosecution all happens and happens smoothly and legally is vital to allowing for strong legal finish. In other words, if any of the points in the interdiction process are problematic, the deterrent effect of the legal finish will be negated.

One important development regarding hot pursuit in particular is the model of ECCAS Zone D. The four states of Cameroon, Equatorial Guinea, Gabon and São Tomé and Príncipe have, since 2009, worked collectively to resolve the issue of hot pursuit through developing a combined approach to maritime security. Through initially a technical accord and now through a forthcoming legal agreement, Zone D has pre-resolved issues like hot pursuit so that they do not arise when engaged in maritime interdiction operations. This notion of pre-agreeing how certain matters should be considered is becoming a trend world-wide. It is a remarkably powerful tool in improving maritime interdiction and thus maritime security.

It is worth noting that technology has begun to change where maritime interdiction can occur. Traditionally, it has been necessary to intervene in ongoing illicit activity and arrest or detain individuals and vessels at sea. This has required that the coastal state have the vessels to be able to get to the illicit conduct, stop it, and perform the arrest or detention. Increasingly, however, technology is allowing not

just for maritime domain awareness, but the collection of evidence that can be used to arrest and prosecute criminals when they return to shore. In other words, technology is allowing for pier side interdiction – a particularly important development for states that lack blue water interdiction capacity. Importantly, however, legal systems must be adjusted to allow for this kind of technological data in both criminal and civil matters.

At the end of the day, though, if states want to have the most secure waters possible, they must use all the maritime security assets at their disposal to their maximum potential. If a state has vessels, it needs to commit the resources to man and fuel them so they can be on the water. Even if it is possible to arrest criminals shore side, the presence of the state’s maritime law enforcement agencies out on the water sends a message and is important for securing the blue economy. States must martial their resources as creatively and effectively as possible to have the greatest impact on maritime security. This in turn, will create the space for the maritime economy, if pursued, to flourish.

Discussion Questions

1. What challenges have you encountered regarding maritime interdiction operations?
2. Have you ever had a case thrown out for lack of evidence or improper procedures?
3. Have you had issues with neighboring states relating to hot pursuit?
4. Have you had any successful arrests for maritime crime without being on the water?
5. How do the experiences from other regions compare to your own experiences?

Recommended Reading

Maritime Interdiction Operations: A View Through International Law Lens, NMIOTC Journal, 2010, https://www.researchgate.net/publication/208845949_Maritime_Interdiction_Operations_A_View_Through_International_Law_Lens.

AFRICOM, US Marines Train with Moroccan, Senegalese Maritime Interdiction Operations Teams in Preparation for Phoenix Express, 30 Apr. 2010, <http://www.africom.mil/media-room/article/7361/us-marines-train-with-moroccan-senegalese-maritime>.

Additional Reading

US Navy, Training Turns Real-World, 30 Mar. 2017, http://www.navy.mil/submit/display.asp?story_id=99638.

SESSION 7: PROSECUTING MARITIME CRIME

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Recognize the elements of the law enforcement ecosystem;
- Highlight the importance of expertise in maritime prosecution;
- Note the role of defense counsel;
- Identify how states around Africa could enhance their ability to prosecute maritime crime.

Background

Part of the point of law is to constrain behavior that is antithetical to a safe, secure, stable and prosperous society. But if the law on paper is not enforced in practice, the written words do little to successfully constrain conduct. A major aim of law enforcement is to deter people from engaging in illicit activity. Catch and release is never successful as a deterrent. And if the consequences of a prosecution are negligible, criminals will continue to see greater reward than risk in committing crime. These realities are perhaps even truer on the water than on land.

Prosecution in the maritime space is a bit different than on land. When people are involved in illicit activity on land, they are arrested and the materials that are used in the illicit conduct are confiscated. In the maritime domain, however, the people and the vessel itself can both be arrested. Additionally the maritime law enforcement agency may not have the power to arrest – they may have to detain and then hand over to authorities on land to conduct the arrests. These nuances, as well as the possibility for *in rem* actions against the vessel have to be fully understood, however, in order to maximize the deterrent potential of the prosecution. Furthermore, maritime prosecutors must be aware of all the vagaries and oddities of maritime law in order to be as effective as possible.

In some jurisdictions, maritime law is considered one of only a few specialist fields of law. It is also one of the greatest areas of malpractice. Training lawyers of different maritime agencies, prosecutors and judges in understanding maritime law is vital to successful legal finish for the maritime security ecosystem. Too often, expert defense counsel are employed and run circles around the local prosecutors and judges who have little to no experience in maritime law. A key priority for maritime security, therefore, should be to ensure the expertise and capacity to provide legal finish. Without that, criminals will be undeterred by interdiction as there will be no consequences for being stopped. In some cases, brazen criminals will even charge the state for the delays to their illicit operations caused by failed prosecutions.

Discussion Questions

1. Have you ever had a seemingly good case not proceed to prosecution? Why did it not proceed?
2. How long does prosecution take in your country?
3. Have the same people ever been arrested, to your knowledge, for committing the same maritime offenses? Have the same vessels ever been used to commit offenses after having already been arrested?
4. How are your maritime prosecutors trained?
5. What lessons from other countries or regions might help in improving prosecutions in your country?

Recommended Readings

Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations Between the Government of the United States of America and the Government of Canada, May 2009, <https://www.state.gov/documents/organization/207334.pdf>.

Michael Scharf & Mistale Taylor, A Contemporary Approach to the Oldest International Crime, Utrecht (2017), <https://utrechtjournal.org/articles/10.5334/ujel.373/galley/168/download/>.

UNODC's Global Maritime Crime Programme, <https://www.unodc.org/unodc/en/piracy/Indian-Ocean.html>.

Herbert Anyiam, The Legalities of Gulf of Guinea Maritime Crime with Suggested Solutions, CRIMSEC 2014, <http://cimsec.org/legalities-gulf-guinea-maritime-crime-suggested-solutions/11783>.

Additional Reading

Michael Scharf, Michael Newton, Milena Sterio, Prosecuting Maritime Piracy, Cambridge (2015).

KEYNOTE: ADJUDICATING AND PENALIZING MARITIME CRIME

Format: Keynote Address

Session Objectives:

- Hear the experience of the Seychelles in adjudicating piracy cases;
- Identify lessons from those piracy cases that are applicable around the continent;
- Recognize the value of establishing expertise in maritime criminal justice.

Background

The Seychelles has served as one of the most successful regional centers for prosecuting piracy, not just in the Western Indian Ocean, but the world. The judiciary of the Seychelles is now among the most expert on earth when it comes to adjudicating piracy cases. As a universal crime, piracy can be tried in any court – pirates, after all, are considered *hostis humani generis* (enemies of all mankind). Consequently, therefore, the jurisprudence of piracy trials in any court is persuasive guidance for how to understand and adjudicate the crime elsewhere. A tremendous amount can be learned from the Seychelles experience in adjudicating piracy cases, and it is important to note that while pirate attacks have dwindled, the court remains active on this front. Indeed, in December 2017, Seychelles charged six individuals with piracy relating to November attacks in the Indian Ocean.

Discussion Questions

1. How many piracy cases have been tried in your country?
2. Would you take on the cases from another legal jurisdiction?
3. Would a regional court for maritime crimes be possible in your region?
4. How can you ensure that cases of maritime crime in your jurisdiction are prosecuted to the extent the law allows?

Recommended Readings

6 Suspected Somali Pirates Transferred to Seychelles for Possible Trial, Seychelles News Agency, 23 Nov. 2017,

<http://www.seychellesnewsagency.com/articles/8282/+suspected+Somali+pirates+transferred+to+Seychelles+for+possible+trial>

Seychelles Charges Suspected Somali Pirates Over November Attacks in Indian Ocean, GCaptain, 19 Dec. 2017, <http://gcaptain.com/seychelles-charges-suspected-somali-pirates-over-november-attacks-in-indian-ocean/>.

Anthony Fernando, An Insight into Piracy Prosecutions in the Republic of Seychelles, Commonwealth Law Bulletin, Vol 41, Issue 2, 20 July 2015,

<http://www.tandfonline.com/doi/abs/10.1080/03050718.2015.1067631?journalCode=rclb20>.

SESSION 8: HARMONIZATION

Format: Plenary Presentation & Discussion Session

Session Objectives:

- Understand the difference between sovereign rights and sovereign responsibilities;
- Recognize the need for states to not become magnets for maritime crime;
- Identify all the key points in the security ecosystem where harmonization can occur.

Background

Sadly, many of the best comparative maritime lawyers on earth are criminals. They study legal jurisdictions for peculiarities that can be exploited and weaknesses that can give them the comfort to operate without fear. Criminality is a risk reward calculus and if the reward of one criminal activity is similar from one state to the next, but the risk of being caught and seriously penalized for it varies, criminals will gravitate toward the lower risk jurisdictions. At the same time, they will look for ways to innovate – to reduce risk or increase reward – using nuances in maritime law. Pirates off of Somalia manipulated SOLAS obligations by issuing distress signals to divert ships off their course in order to attack them. Illegal fishermen in West and Central Africa flee to jurisdictions where they think they can avoid prosecution in order not to face consequences for pillaging the region’s waters. Legal innovation is increasing and much of it falls on imbalances in legal jurisdictions.

States have both sovereign rights and sovereign responsibilities. They have the sovereign right to legislate as they see fit. But they have the sovereign responsibility to look after the best interests of the state and the welfare of the population. When it comes to maritime matters, criminals are particularly adept at operating across and between borders. When it comes to maritime security, therefore, harmonization is extremely important for both national and regional security. This does not mean that the states across a region have to have the same laws – indeed, they likely should not, as each legal system has its own nuances. Instead, it means that the same activities need to be outlawed and the penalties for them relatively equivalent so that no state or region becomes a magnet for crime.

The process of harmonization itself can be used to strengthen both national and regional resilience to crime. By discussing what issues need to be adequately criminalized and what the suitable levels of penalties would be, states can learn from each other, become better neighbors and be more prepared to address the threats they face. Fishing is one of the areas where penalties are in particular need of increase. Regulatory penalties sometimes dating back decades, are completely out of line with the value of fisheries cargos. If the criminal value of the illicit fishing cargo is \$1 million, and the maximum penalty in the state is \$200,000, but the normal penalty if a vessel is caught is only \$15,000, why would anyone even bother to pay for a \$50,000 license? The risk reward calculus is squarely in favor of the criminals. States in Africa must work together to recognize that the value of their maritime space warrants much

stronger penalties for those who infringe upon the safety, security, stability and prosperity of the African maritime domain.

Discussion Questions

1. Have discrepancies in law or policy drawn criminals to your waters or your neighbor's?
2. How much do you collaborate with your neighbors to make sure all the different points of your counter-criminal approach are at least as strong as the equivalent approaches in the other states?
3. What regional body could or should be the conduit through which harmonization might occur?
4. Are your national penalties up to date? Are they in line with the international value of the criminal activities they are supposed to be penalizing?

Recommended Readings

Harmonization of EAC Partner State Laws, Law Commission of Tanzania, <http://www.lrct.go.tz/ongoing-reform/harmonization-of-eac-partner-states-laws/>.

Mary Kimani, Safeguarding Africa's Fishing Waters, Africa Renewal, 2009, <http://www.un.org/africarenewal/magazine/july-2009/safeguarding-africa%E2%80%99s-fishing-waters>.

Gumisai Mutume, Organized Crime Targets Weak African States, Africa Renewal, 2007, <http://www.un.org/africarenewal/magazine/july-2007/organized-crime-targets-weak-african-states>.

Additional Reading

Ian Ralby, *Approaches to Piracy, Armed Robbery at Sea, and Other Maritime Crime in West and Central Africa*, in *Militarised Responses to Transnational Organised Crime: The War on Crime*, Chapter 8, Palgrave Macmillan: 2017.

SESSION 9: PLENARY DISCUSSION OF LESSONS & NEXT STEPS

Format: Facilitated Plenary Discussion

Session Objectives:

- To identify actionable lessons from the week;
- To brainstorm key steps on the road ahead for inter-regional cooperation in Africa;
- To harness new ideas for how to raise the level of maritime security cooperation around the continent;
- To canvass ideas for what would be most helpful in facilitating inter-regional cooperation.

Background

As the aim of this workshop is to enhance maritime security around the continent by engaging in an Africa-wide maritime dialogue, it is important that what happens this week continues beyond the workshop. This final session is an opportunity for participants to engage in a facilitated discussion about what they have learned and what they intend to do with it. It is also a chance to clarify points that may have been unclear earlier in the week, or follow-up on questions that were posed. But the main focus is to engage with the participants collectively. There is tremendous value in actually articulating what lessons one may take away, and almost equal value in hearing colleagues express as much.

This final session is also an opportunity for participants to suggest what external support would be helpful in the future. This chance to make requests is tempered by the recognition that the process must be African led, externally supported, rather than the other way around. Finally, it is an opportunity to pose questions to the audience about how success should be measured and what issues need to be addressed further. In summary, this final discussion aims to ensure that the workshop as a whole is a means to an end, not just an end in and of itself.

Discussion Questions

1. What are some of the key things you learned this week?
2. What did you expect to hear this week that you did not? What did you hear this week that you did not expect?
3. What needs to happen next to make inter-regional cooperation around Africa a reality?
4. What are you, in your own role, going to do to further that end?
5. What can external partners do to help in the future as you push forward with enhancing pan-African maritime security cooperation?
6. What would benchmarks of success look like?
7. What can be done to ensure the current momentum continues?