



# The Power of Networks in Maritime Security

*What the Fight Against Piracy Can Teach Us About Irregular Migration*

Conor Seyle and Jens V. Madsen | September 2016



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*Cover photo: Volunteers and lifeguards help refugees arriving on the Greek island Lesbos.  
Photo by Alexander Koerner/Getty Images*

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The rise of maritime piracy in the Somali region triggered a series of responses from maritime actors. Different sectors, including navies and intergovernmental organizations, the maritime industry, and non-governmental organizations, all reacted with varying degrees of speed to develop policies and practices to mitigate the threat at sea or address the root causes on shore. Over time, this set of diverse efforts developed into a coordinated, effective system. In this piece, we argue that the reaction to Somali piracy has lessons for maritime security overall about how to address other soft security challenges, and in particular can generate lessons for addressing the crisis of irregular maritime migration. In our analysis, the central element that drove effective international responses to maritime piracy was the use of a loose, networked structure for addressing piracy which allowed for effective information sharing and coordination among relevant stakeholders. Such network-based systems are increasingly a feature of international security,<sup>1</sup> and may be of particular value in considering other maritime security challenges.<sup>2</sup>

## NETWORK SYSTEMS IN THE RESPONSE TO SOMALI PIRACY

In the early 2000s, criminal gangs operating in Somali waters were increasingly targeting international shipping with their attacks. Due to the lack of adequate on-shore governance at that time, Somali pirates were able to capture whole ships and their crews and hold them for ransom, resulting in enormous economic gains to the criminal groups.<sup>3</sup> By the time Somali piracy peaked in 2011, the international system of stakeholders affected by piracy had begun to develop a sprawling and increasingly coordinated system of responses to piracy that appear to have contributed to the decline in the number of successful attacks.

We have argued in previous work that when considering counterpiracy operations addressing Somali piracy, three distinct “pillars” can be identified: naval operations focused on interdicting and arresting pirates at sea or directly attacking pirate supply depots on shore, industry practices focused on hardening vessels against attack through Best Management Practices and the use of armed guards, and rule of law or capacity-building programs focused on increasing law enforcement on shore and undermining root causes of piracy.<sup>4</sup> Over time and across the different pillars, the same basic process repeated itself: stakeholders impacted by the problem began to act; first independently, then in a semi-coordinated fashion within each sector, which evolved into a coordinated, networked system.

Many of the formal responses to Somali piracy began in 2008 following UN Security Council resolution 1816, which allowed states cooperating with the Transitional Federal Government of Somalia to enter Somali territorial waters and use “all necessary means” to repress acts of piracy and armed robbery at sea in a manner consistent with international law for a period of six months.<sup>5</sup> The three “pillars” of counterpiracy activities soon emerged: naval operations, industry self-protection, and rule of law. On the naval side, NATO deployed naval vessels under Operation Allied Provider in October of 2008. The EU deployed naval vessels under Operation Atalanta in 2008 as well, as did Indian, Russian, and Chinese navies. On the industry side, the initial “Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia” were released in February of 2009 by a group of industry associations.<sup>6</sup> Operations under the rule of law pillar began as early as 2009, but took somewhat longer to demonstrate impact. The effectiveness of the coordinated response to judicial capacity-building in the region was clear by 2011 when the communique from the 8<sup>th</sup> Contact Group on Piracy off the Coast of Somalia meeting documented 850<sup>7</sup> prisoners being



Many convicted pirates were sent to Hargeisa Prison. Photo by Jens V. Madsen



held or prosecuted for piracy, up from only 90 in 2010.<sup>8</sup> This was a result of agreements to transfer piracy suspects between international navies and countries in the Western Indian Ocean region, cooperation between the shipping industry and law enforcement agencies to collect and preserve evidence, support to build regional prosecution and detention capacity, and agreements to transfer convicted pirates from countries in the region to serve their sentences in Somali prisons.

Within each of these three pillars, initial activities took place through coordination within each relevant sector. Mechanisms such as the Shared Awareness and Deconfliction (SHADE) initiative, which established a series of meetings for deconflicting naval operations, came into being at roughly the same time as independent naval operations were deployed.<sup>9</sup> However, it wasn't until the Contact Group on Piracy off the Coast of Somalia (CGPCS) was established as a formal multi-sector coordinating tool in early 2009 that there was a unified platform for coordination and strategy across the multiple different sectors.<sup>10</sup> While the individual pillars did what they could to address piracy within their own areas of responsibility, there was not a significant decline in Somali piracy until well after the CGPCS and associated mechanisms began to operate in a mature and inter-coordinated way. While establishing causality is difficult, there is a strong argument to be made that no sector had the capacity to eliminate piracy on its own; it required the coordinated activity of the different sectors working together.<sup>11</sup>



UAE Counter-Piracy Conference 2014

Almost all of the systems used for coordination, including both SHADE and the CGPCS, were structured as network institutions. Formally, these are defined by groups of actors interacting repeatedly without a structured hierarchy to make and enforce decisions.<sup>12</sup> Absent this central authority, network structures operate through information sharing and bottom-up coordination of the individual actors. In practice, the split between network and hierarchy is more of a spectrum than a sharp dichotomy, but in the case of piracy, the institutions involved leaned heavily towards the network side of this continuum.

This use of network structures is not unique to counter-piracy cooperation. States have incorporated network systems into their responses to a variety of security and non-security issues.<sup>13</sup> This includes informal networks of information-sharing and connection across borders,<sup>14</sup> as well as more formal systems intentionally

structured as networks to address specific issues, such as the recent effort to harmonize laws and enforcement around cyber-crime.<sup>15</sup> These networks have a number of advantages: their loose structure allows them to be more nimble in responding to issues than systems which require centralized decision-making, and the node-to-node structure that develops without a hierarchy allows for efficient information flow.<sup>16</sup> They also allow for an easier incorporation of multiple stakeholders, most significantly including non-state actors and the private sector.<sup>17</sup> This ability to incorporate non-state and non-traditional security actors is particularly powerful in addressing “soft” or “human” security challenges.<sup>18</sup> These challenges are issues which impact state security and civilian safety but are outside of the traditional military-to-military conflicts considered “hard” security issues. Resolving these challenges requires different skills and capacities than hard security issues, as they frequently involve issues of development, education, provision of public goods and services, ethnic tensions, and other tenets previously seen as being outside the purview of security.<sup>19</sup> This has been a challenge to some security institutions hesitant to expand their hard security missions,<sup>20</sup> but non-state actors are increasingly being identified as a way of extending system capacities to incorporate these skills.

The lessons from combating Somali piracy suggest that there may be particular added value in including network systems in addressing maritime challenges. Over the past ten years, there has been an increasing focus on maritime security as a unique domain with specific characteristics.<sup>21</sup> Network structures may be particularly effective at addressing these unique challenges, such as those associated with developing and maintaining awareness of the entities acting in a specific maritime region (also known as Maritime Domain Awareness, or MDA).<sup>22</sup> One of the strengths of network systems is their ability to share information,<sup>23</sup> and in the case of institutions with a counter-piracy mandate in the Western Indian Ocean, network structures were consciously used to maintain and enhance MDA. The Maritime Security Centre-Horn of Africa (MSC-HOA) was established as an information-sharing center designed to facilitate the flow of information between the navies operating

in the Gulf of Aden and the merchant vessels passing through, and has played an important role in facilitating cooperation among these actors.<sup>24</sup>

This illustrates a second added value of network structures in maritime security, relating to the relative visibility and impact of non-state actors. As mentioned, such actors are increasingly identified as relevant to security,<sup>25</sup> and this is potentially more true in the maritime domain than ashore.<sup>26</sup> There are significantly fewer actors operating in the maritime space than ashore, reducing the number of potential stakeholders and increasing the ability of coordinating systems to reach every significant actor. Network structures may also be valuable in addressing the relatively diffuse and fragmented nature of legal responsibilities at sea compared to those ashore.<sup>27</sup> In the maritime sector, the “global commons” nature of the sea means that there can be ambiguity about which entity is responsible for addressing legal questions. This intersects with capacity issues related to whether maritime actors are trained in law enforcement. Early in the response to Somali piracy, a lack of clarity about the legal responsibility and capacity to try pirates led to many pirates being captured and subsequently released.<sup>28</sup> This was overcome by improving coordination and information-sharing between national judicial systems, international navies, and international institutions, including the institution of cooperative agreements not reaching the full level of treaties but allowing for the transfer of prisoners between different entities.

In many ways, network systems incorporating multiple sectors appear to be specifically useful in addressing the challenges of the maritime domain. Lessons from counter-piracy institutions suggest that in addition to this general argument, specific design principles supporting security can be identified.

### *1. Low formal and political barriers to entry and immediate and obvious added value for participation facilitate engagement.*

New systems for coordination may face skepticism or political challenges in establishing initial participation. Because these systems’ impact comes primarily through their members’ activities, networks that do not attract key players in the problem space will not be effective. However, many actors will be leery of joining new systems. At best, such participation will be valuable but will impose additional administrative burdens. At worst, participating in these systems may be seen as contradicting political or security goals by legitimizing non-state actors or establishing cooperation with other states where there are political reasons not to have formal relationships. The more that networks can be structured to provide immediate and concrete value for participants and also allow them to feel that they may easily withdraw from participation, the more these concerns may be mitigated. One concrete example of this is found in the establishment of the SHADE mechanism. Due to geopolitical concerns, navies faced barriers to engaging in formal collaboration: the crowded space of navies acting in the Gulf of Aden included several states which, for larger political reasons, were unable to formally cooperate at a state-to-state level. The early structure of SHADE focused on deconfliction and information-sharing at the technical level, specifically to ensure that there was no hint of formal coordination at the political level.<sup>29</sup> As SHADE developed, this evolved into more active planning, but the initial limited focus on information-sharing and deconfliction allowed for obvious benefits for participation and low political barriers to entry.



*Naval vessels transit Gulf of Aden.  
Photo by US Navy.*

### *2. Incorporating all relevant stakeholders facilitates problem-solving.*

Counterpiracy systems incorporated stakeholders including military and security institutions, international organizations, and maritime industry representatives. Centers such as the MSC-HOA were set up as formal points of information-sharing between militaries and commercial vessels, and both the CGPCS and SHADE frameworks evolved from an initial focus on solely states as participants to systems that allowed non-state actors to work with



Danish Maritime Days conference, 2014.

them in some capacity.<sup>30</sup> This allowed these systems to tap into a much wider set of capacities than they could have if these actors had not been included. Because network institutions' impact comes from their participants rather than their institutional activities, the breadth and depth of the network becomes an important driver of the overall impact. Institutions which focus on too narrow a set of potential stakeholders run the risk of maximizing coordination among that limited set of actors but not addressing the whole of the problem.

The coordinated activity of counterpiracy actors through the CGPCS, SHADE, and other institutions in the counterpiracy space allowed for effective engagement with issues including vessel self-protection, naval interdiction, and shore-based systems.<sup>31</sup> Such a coordinated, whole-of-the-problem approach can be a valuable solution to security issues, and the heavy engagement of private-sector actors in the maritime domain makes this even more relevant when considering maritime rather than terrestrial security.<sup>32</sup> Systems which do not bring private-sector actors to the table are missing an enormous opportunity to extend the reach and impact of the system on resolving the problem. In the case of piracy, the engagement of the private sector played a significant role in buttressing naval responses and contributing to the decline of piracy: a survey of Somalis arrested for piracy found that they acknowledged armed guards and international navies as wholly separate issues that concerned them while they operated as pirates.<sup>33</sup>

### 3. *Formal governance systems should be developed enough for effective coordination but loose enough to avoid hierarchy.*

With a large number of stakeholders and low barriers to entry, coordination of network institutions can be a challenge. Institutional governance can't be so formal or burdensome that it puts unwanted obligations on network members, or these members will opt out of the system. At the same time, it must be strong enough to coordinate the commitments of different members and assist follow-through.

In the case of piracy, the CGPCS used formal Chairs as a way of coordinating the leadership and strategy of the group. However, these roles were designed to ensure that no single nation or institution was in a position to dominate the decisions of the entire group. Decisions of the CGPCS were made by consensus, with working groups creating recommendations rather than binding decisions. The chairmanship of the plenary sessions was to be rotated "on a voluntary basis."<sup>34</sup>

The diversity of stakeholders and their perspectives was managed through parallel committees with technical specialization. This allowed for one way to manage the diversity of interests and capacities at the table. These included an initial four working groups, later expanded to five, which focused separately and specifically on naval, legal, shipping industry, strategic communication, and piracy financing issues.<sup>35</sup> Stakeholders participated in working groups focused specifically on issues of particular relevance to their interests and expertise, allowing them to focus their efforts while still participating in the larger institutional structure.

Because network systems frequently have little central authority to enforce decisions, it is easy for participating institutions to fail to follow through on their commitments, even when they are made with the best intentions. This issue can be addressed through the use of "backbone support institutions."<sup>36</sup> These act as information centralizers for the network, tracking activities of members and documenting commitments made and their follow-through.<sup>37</sup> It can also be addressed by passing the decisions made by network systems into more formal and hierarchical



Regional training centre under Djibouti Code of Conduct opens. Photo by IMO.

governance systems. For example, the development of “Best Management Practices” by the maritime industry as soft governance recommendations became formalized when it was released as a Maritime Safety Committee circular by the International Maritime Organization (IMO).<sup>38</sup>

## IMPLICATIONS FOR NEW SYSTEMS ADDRESSING IRREGULAR MARITIME MIGRATION

Irregular migration by sea is a global phenomenon fueled by a number of root causes ranging from refugees and asylum-seekers seeking to escape war, armed conflict, or discrimination, to migrants having been displaced by natural disaster, climate change, or poverty. While the total global number of migrants travelling by irregular means at sea is not known, up to 1,015,078 people are estimated to have arrived in Europe by sea in 2015 alone.<sup>39</sup> Southeast Asia, another region experiencing large-scale irregular migration by sea, had an estimated 63,000 maritime migrants in 2014 and 33,600 in 2015, with the majority crossing the Bay of Bengal and Andaman Sea.<sup>40</sup> These journeys are risky: the International Organization for Migration (IOM) has estimated that there have been at least 60,000 migrant deaths worldwide in the past 20 years, the majority of which occurred at sea.<sup>41</sup> In 2015, at least 5,400 migrants are estimated to have died or gone missing worldwide; more than 3,700 men, women, and children died in the Mediterranean, followed by Southeast Asia with an estimated 800 deaths.<sup>42</sup> Other maritime routes frequently used by migrants, such as the Gulf of Aden and the Red Sea, also claim a significant number of deaths every year. These data are likely to be an under-estimation, as good data on migration and death are difficult to collect, both on land and at sea.

In addition to the migrants themselves, irregular migration at sea impacts and involves stakeholders from multiple sectors. Governments are under obligation to use search and rescue services to render assistance to vessels and persons in distress. This is enshrined in the United Nations Convention on the Law of the Sea (UNCLOS), the International Convention for the Safety of Life at Sea (SOLAS), and the International Convention on Maritime Search and Rescue (SAR). Governments also have a duty to protect the rights of migrants and asylum-seekers, as laid out in the 1951 Refugee Convention. Furthermore, nations that have ratified the UN Convention Against Transnational Organized Crime and its protocols committed to criminalizing the smuggling and trafficking of humans, and to cooperating to bring those who commit such crimes to justice. Irregular migration is also a concern for most governments due to the lack of control over who enters their territory.

The shipping industry is also implicated: the duty to render assistance to persons and vessels in distress at sea is a time-honored principle, and is legally enshrined in international legal instruments such as UNCLOS, SOLAS, and the Convention on Salvage. With the increase in migration at sea, this obligation has taken on new meaning: merchant vessels rescued more than 57,000 people in the Mediterranean from 2014 to mid-2015.<sup>43</sup> At the same time, a merchant vessel master cannot take actions that put his vessel and crew in serious danger. Additionally, modern merchant vessels are not equipped or designed to carry out rescue operations and accommodate large groups of people, further adding pressure on masters and crews who do encounter migrants in peril at sea. The massive scale of current migration patterns at sea, particularly in the Mediterranean, thus puts pressure on the shipping industry and vessel masters encountering migrant vessels, from humanitarian and security as well as cost perspectives.

Civil society actors are also stakeholders in this issue. While not necessarily directly impacted by migration at sea, a large and growing number of non-governmental organizations devote time and resources to providing humanitarian assistance to people moving between countries by irregular means, including the vessels deployed in the Mediterranean by Médecins Sans Frontières, the Migrant Offshore Aid Station (MOAS), and the Swedish Sea Rescue Society. In most cases, the interventions of civil society organizations are not the result of a legal obligation, but rather a moral imperative to provide help, as expressed

a The International Organization for Migration (IOM) uses the following definition for irregular migration: “Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term ‘illegal migration’ to cases of smuggling of migrants and trafficking in persons.” <https://www.iom.int/key-migration-terms>



by the Director of MOAS, Martin Xuereb, who said that “No one deserves to die, and we will do everything in our power to ensure that those who feel compelled to undertake this treacherous sea crossing in makeshift vessels do not drown.”<sup>44</sup>

“ [W]e will do everything in our power to ensure that those who feel compelled to undertake this treacherous sea crossing in makeshift vessels do not drown. ”

International systems are sometimes not well-aligned in addressing the problems presented by rendering humanitarian assistance. One illustration of this is the case of the *MV Tampa*. In 2001, Australian authorities denied entry to the merchant vessel, which had rescued more than 400 people from a sinking ferry at the request of the Rescue Coordination Centre (RCC) Australia.<sup>45</sup> Following a week of negotiations and the involvement of multiple agencies and states, the 400 migrants were taken to the island nation of Nauru where their refugee claims could be processed.<sup>46</sup> The *Tampa* incident

highlighted a lack of clarity about the responsibilities regarding the treatment of people rescued at sea, as well as a weak coordination and cooperation framework. As a result, the IMO proposed the establishment of a coordination mechanism to ensure an adequate response by UN organizations.<sup>47</sup> Importantly, amendments were made to both the SOLAS and SAR Conventions in 2004 regarding the treatment of persons rescued at sea which specified that states have a duty to cooperate to bring rescued people to a place of safety.<sup>48</sup>

Cases of such open confrontation between states and the maritime industry as occurred during the *Tampa* episode, however, are generally the exception, and there appears to be overall agreement that cross-sector cooperation is not only beneficial to helping save lives at sea, but also to coordinating efforts to target the criminal networks that benefit from facilitating the migration. The following section examines the current response to the dramatic increase in the number of people who cross the Mediterranean in order to reach European countries, as well as the situation with and responses to irregular migrations at sea in Asia, particularly the Bay of Bengal and the Andaman Sea.

## CURRENT RESPONSE AND RESULTS

The rapid increase in irregular migration flows at sea in the Mediterranean and Southeast Asia, improved data regarding the dangers facing migrants, and the public outcry by international organizations, the maritime industry, and civil society organizations about the loss of lives during these crossings have led to a growing number of initiatives designed to address the situation. The tables below represent a non-exhaustive overview of the diverse response initiatives launched by governments, IGOs, the maritime industry, and NGOs.

### MEDITERRANEAN

	STATES AND IOS	INDUSTRY	CIVIL SOCIETY
Operational Response (SAR, reconnaissance, monitoring and surveillance, etc.)	<ul style="list-style-type: none"> <li>EU Naval Force (NAFOR) Operation SOPHIA<sup>49</sup></li> <li>Frontex Operation Triton<sup>50</sup></li> <li>Frontex Operation Poseidon Rapid Intervention<sup>51</sup></li> <li>NATO Standing Maritime Group 2<sup>52</sup></li> <li>Individual nations in the Mediterranean (Greece, Turkey, Italy, others)</li> </ul>	<ul style="list-style-type: none"> <li>Rescue operations by individual merchant vessels</li> </ul>	<ul style="list-style-type: none"> <li>Migrant Offshore Aid Station (MOAS)<sup>53</sup></li> <li>Médecins Sans Frontières (MSF)<sup>54</sup></li> <li>Swedish Sea Rescue Society<sup>55</sup></li> <li>Sea-Watch<sup>56</sup></li> <li>Proactiva Open Arms<sup>57</sup></li> <li>Watch the Med Alarm Phone<sup>58</sup></li> </ul>

MEDITERRANEAN, CONTINUED

	STATES AND IOS	INDUSTRY	CIVIL SOCIETY
Coordination and Cooperation	<ul style="list-style-type: none"> <li>• IMO High-Level Meeting to Address Unsafe Mixed Migration by Sea<sup>59</sup> and Special Session of MSC</li> <li>• Convening of Mediterranean SHADE mechanism<sup>60</sup></li> <li>• IMO/IOM/UNODC inter-agency information-sharing platform<sup>61</sup></li> <li>• UNHCR Dialogue on Protection Challenges 2014<sup>62</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Mediterranean SHADE mechanism participation</li> <li>• IMO High-Level Meeting to Address Unsafe Mixed Migration by Sea participation</li> </ul>	<ul style="list-style-type: none"> <li>• Mediterranean SHADE mechanism participation</li> <li>• International Institute of Humanitarian Law (IIHL) workshop with IOM and UNHCR<sup>63</sup></li> </ul>
Guidelines and Information Resources	<ul style="list-style-type: none"> <li>• Websites: UNHCR, IMO, IOM<sup>64</sup></li> <li>• Guidelines: Joint guidelines for merchant vessels by industry/IMO/UNHCR</li> <li>• IMO guidance</li> </ul>	<ul style="list-style-type: none"> <li>• Websites: ICS</li> <li>• Guidelines: Joint guidelines for merchant vessels by industry/IMO/UNHCR; industry-developed best practices for rescue at sea</li> </ul>	<ul style="list-style-type: none"> <li>• Websites: MOAS, MSF, Human Rights At Sea<sup>65</sup></li> <li>• Civil Society Recommendations on Protection at Sea<sup>66</sup></li> </ul>

While irregular migration at sea is a completely different problem from maritime piracy, many of the same actors are impacted by both. It became increasingly clear in 2015 that many of the lessons learned from bringing stakeholders from different sectors together offered practical tools useful for the international efforts to address unsafe mixed migration at sea in the Mediterranean. As an example, the IMO hosted a High-Level Meeting to Address Unsafe Mixed Migration by Sea in March 2015 for government and shipping industry organizations. In his closing remarks, the IMO Secretary-General used the success of the CGPCS as an example of the need to have a place to maintain international attention and efforts to tackle the continued migration crisis in the Mediterranean, and suggested that the IMO could perform such a convening and coordination function.<sup>67</sup> Since then, the IMO has addressed mixed migration at sea in its Maritime Safety Committee as well as through exhibitions and participation in conferences on the topic.<sup>68</sup>



A raft en route to Greek island, Lesbos. Photo by Spencer Platt/Getty Images

Additionally, inspired by a similar mechanism developed as part of the international effort to counter maritime piracy in the Somali region, a SHADE forum for the Mediterranean has been established to bring together public and private agencies and representatives involved in responding to irregular migration in the Mediterranean. The first meeting of this group was held in November 2015, and was chaired by the European Union’s Mediterranean Naval Force Operation SOPHIA.<sup>69</sup> A second meeting was held in May 2016, and was hosted and chaired by the Italian Navy.<sup>70</sup>

Last, similar to the counter-piracy “Best Management Practices” document, guidelines regarding rescues at sea for use by shipping companies, vessel masters, and crews have been developed and promulgated by industry and international organizations.<sup>71</sup> A number of initiatives have been launched to bring together concerned stakeholders to address the issue

of irregular migration at sea, including at the technical level and among agencies actively involved in rescue operations. It is outside the scope of this paper, however, to map and discuss these.

## SOUTHEAST ASIA

	NATIONS AND IOS	INDUSTRY	CIVIL SOCIETY
Operational Response (SAR, reconnaissance, monitoring and surveillance etc.)	<ul style="list-style-type: none"> <li>SAR operations by individual nations</li> </ul>	<ul style="list-style-type: none"> <li>Rescue operations by individual merchant vessels</li> </ul>	<ul style="list-style-type: none"> <li>Fact-finding mission by MOAS in the Andaman Sea<sup>72 73</sup></li> </ul>
Coordination and Cooperation	<ul style="list-style-type: none"> <li>UNHCR, IOM, and UNODC 10-Point Action Proposal for the Bay of Bengal and Andaman Sea<sup>74</sup></li> <li>Special Meeting on Irregular Migration in the Indian Ocean hosted by Thailand<sup>75</sup></li> </ul>		
Guidelines and Information Resources	<ul style="list-style-type: none"> <li>Websites: UNHCR, IMO, IOM</li> <li>Guidelines: Joint guidelines for merchant vessels by industry/IMO/UNHCR</li> </ul>	<ul style="list-style-type: none"> <li>Websites: ICS</li> <li>Guidelines: Joint guidelines for merchant vessels by industry/IMO/UNHCR; industry-developed best practices for rescue at sea</li> </ul>	<ul style="list-style-type: none"> <li>Websites: MOAS</li> </ul>

In Asia, the number of maritime migrants crossing the Bay of Bengal tripled between 2012 and 2014. The situation reached crisis proportions in the spring of 2015, with thousands of migrants being held on vessels at sea, in some cases after being denied disembarkation and towed back out to sea after entering the territorial waters of destination countries in the region.<sup>76</sup> This “maritime ping-pong” led to strongly worded statements in the media and in press releases by several international organizations.<sup>77</sup> Additionally, the Office of the UN High Commissioner for Refugees (UNHCR), IOM, and the United Nations of Drugs and Crime (UNODC) released a joint 10-point action proposal for the Bay of Bengal and Andaman Sea calling for better coordination of regional efforts to address the situation. Following the international pressure, Thailand hosted a Special Meeting on Irregular Migration in the Indian Ocean in late May of 2015. This meeting led to a number of recommendations, including strengthening information-sharing mechanisms to provide accurate data on the whereabouts of migrants and vessels stranded at sea and strengthening data collection, analysis, and information sharing on irregular maritime migration among countries in the region.<sup>78</sup> The number of migrants traveling by sea in Southeast Asia declined sharply in the second half of 2015, according to interviews conducted by UNHCR, due to increased scrutiny by authorities not only in the arrival ports but also in departure countries, as well as heightened awareness of the risk of death or imprisonment.<sup>79</sup> Evidence of the risks facing migrants in Southeast Asia includes accounts of violence, including rape, against migrants and the discoveries in May and August 2015 of multiple mass graves on the border between Thailand and Malaysia.<sup>80</sup>

The special meeting emphasized inter-governmental cooperation frameworks and did not mention a role for non-governmental sectors other than the “vital role of the private sector in eliminating contributing factors that enable unsafe irregular migration and give birth to criminal elements preying on vulnerable migrants.”<sup>81</sup> Given the obligation merchant vessels have to render assistance to persons in distress at sea, and the private sector being highlighted by Southeast Asian nations, it would appear that the shipping industry can play an important role, in particular in acting as “eyes and ears” on the sea to add to the

accuracy of data regarding vessels stranded at sea. Yet, when MOAS deployed the *MY Phoenix* to the Andaman Sea in the fall of 2016, they were allegedly met with resistance from regional authorities and ultimately decided to abandon a planned search and rescue operation following extended delays in successfully clearing two UAVs (drones) through Thai Customs.<sup>82</sup> With the legacy of the *Tampa* case and the difficulties faced by MOAS in their efforts to increase the maritime situational awareness needed to gain a better baseline for estimating the number of migrants in the Andaman Sea, however, it is unclear if and how the private sector can play a larger role in supporting efforts in this region.

## PROPOSED NEW MECHANISMS

In some ways, the situation in the Mediterranean resembles that faced by counter-piracy stakeholders in late 2010/early 2011. At that point, intra-sector cooperation was well-developed, but overall efforts had not reached full levels of synergy across lines of actors and efforts. The recent implementation of the Mediterranean SHADE mechanism and the IMO's call for multi-stakeholder coordination provide further impetus to consider what such a framework could look like. In Asia, action by regional countries ended the immediate crisis of spring 2015; however, hundreds have already died at sea while the root causes leading to widespread mixed migration at sea still exist. So far, the focus has been on government-to-government cooperation, and the experience of MOAS in Southeast Asia highlights the continued challenges to establishing more broad multi-stakeholder cooperation.

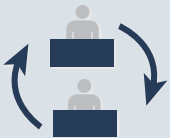
While the specific setup would depend on local/regional preferences and particular characteristics of the problem, a cross-sector cooperation framework based on the lessons from the CGPCS could possess the following characteristics:



***Non-Binding and Minimally Formal:*** Keeping a cross-sector cooperation mechanism informal and non-binding allows participating nations and organizations a larger degree of flexibility to participate and alleviates potential sovereignty concerns. This would be particularly relevant in the case of irregular migration at sea in both the Mediterranean and Southeast Asia where, by its very nature, the flow of migrants will cross territorial waters—and in most cases, also international waters. At the same time, there must be systems in place to ensure that the system generates formal motion. These can take the form of designated backbone organizations, such as the IMO, or engagement with more formal governing entities, such as the UN Security Council.



***Inclusive:*** Compared to piracy, irregular migration at sea involves perhaps an even wider and more varied group of non-state actors who contribute to international efforts in a variety of ways, including carrying out SAR operations and collecting data regarding the criminal networks behind the migration flows. These groups should be invited to participate in relevant meetings based on transparent selection criteria.



***Rotating Chairmanship:*** A rotating Chairmanship would ensure that the administrative and financial burden of convening meetings would be shared, and perhaps more importantly, it would enhance the sense of ownership among actors.



***Frequency:*** A key lesson from the CGPCS has been the value of announcing upcoming meetings at the end of each plenary. While the frequency of meeting has varied (and decreased over time), the knowledge that the group would meet again arguably heightened the sense of urgency to deliver updates on progress and served to maintain international focus on the issue of maritime piracy.





**Technical Working Groups:** Allowing technical experts from all sectors to cooperate in working groups was one of the major innovations of the CGPCS and would likely be equally beneficial for the issue of migration at sea. More specifically, such working groups could focus on:

- Operational issues such as SAR coordination, including the roles of industry and civil society, as well as MDA and analysis of migration patterns.
- Targeting criminal networks, including sharing data regarding criminal networks as well as law enforcement protocols for evidence collection and sharing across borders and between stakeholders.
- Public diplomacy and messaging to promote greater public awareness as well as deconflict and coordinate messaging efforts.
- Legal issues related to irregular migration at sea, including human rights as well as legislation to target criminals for prosecution and incarceration.
- Improving stability, economic development, and addressing other root causes on shore.

## CONCLUSION

While all maritime governance and non-traditional security issues have unique elements, in broad strokes there are lessons that can be drawn from how other challenges have been addressed. When considering maritime security specifically, this may be particularly true: the operational challenges of working in the maritime sector have broad similarities across many different issues. This opens the door for looking carefully at how institutional responses have been structured in the past as a way of solving current crises. Our analysis suggests that network structures incorporating multiple stakeholders can be an important tool for addressing maritime security issues, and further has identified some specific design principles that may maximize the impact of these systems, particularly in global commons such as the high seas. Putting these into place in the context of irregular migration will require a willingness to be flexible with the structures and the tools available for addressing security issues, and for multiple stakeholders to see themselves as relevant to solving the problem. However, the history of counter-piracy operations suggests that this is not only possible, but likely to be effective and self-reinforcing.

## NOTES

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