

A void and a challenge: Rules of engagement at sea in a low-intensity conflict environment

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ABSTRACT

The armed forces are usually conversant with the rules on the use of force against the enemy in the traditional battle space. However, military forces are usually ill-equipped for this when the opponent is not a regular combatant but an un-uniformed person – a militant or even a criminal – operating in seemingly benign environs. This constitutes a serious legal void, particularly given the emerging environment wherein navies would be increasingly tasked to perform non-traditional constabulary functions. The trend is best exemplified by the case of the Indian Navy that was entrusted with the responsibility for the nation's overall maritime security, including coastal and offshore security. This paper examines the concept and the salient issues relating to rules of engagement (RoE) for maritime forces operating in the low-intensity conflict environment.

Introduction

In war, the armed forces of a country are pitted against the enemy forces. Undeniably, war is despicable, but the good thing is that since both sides are engaged in combat for their respective countries, it brings in an environment of certain order, leading from military discipline and known rules and norms of conduct of warfare, flowing from fairly well-established international laws, generically called the Law of Armed Conflict (LOAC). In contrast, in a low-intensity conflict (LIC) against non-state actors that armed forces are being increasingly engaged in in present times, the environment is rather “messy”, and the challenges are manifold. The foremost is the need to identify the “bad guy” among the innocent people, which is itself a demanding task. Something even more tricky is how to interact with them under various unknown conditions, such as how well they are armed, equipped and trained, and assuming that they would go to any extreme, including to resist being disarmed and arrested, attempt to escape detention, and even give up their lives for their ideological – albeit misguided – cause. What are the necessary measures – including in terms of the quantum of “minimum” force – necessary to “tame” the “guy”; in other words, what are the “rules of engagement” (RoE) for the military force?

In the maritime realm, wherein maritime security forces (navies and coast guards) operate to maintain good order and security, the LIC environment becomes even more complex. Firstly, the oceans and seas are inherently chaotic, and constitute an unregulated realm on earth. Another of the distinctive features of the maritime domain is that it

encompasses areas both subject to the sovereignty of one's own country (territorial seas), and also international waters, wherein maritime forces may encounter foreign-flagged vessels and citizens. For maritime forces to fulfil their mandate, therefore, they need to be thoroughly aware of not only of their own national laws and policies, but also the domestic laws of the country whose vessels and citizens they encounter, besides the texture of bilateral diplomatic relations with that country.

Purpose and aim

LIC operations in the maritime environment span a vast spectrum of missions, ranging from counter-terrorism and counter-piracy to counter-trafficking and prevention of illegal fishing. These missions have been conducted by all types of maritime forces, ranging from the small island states to the major naval powers. In the Indian context, since the Mumbai terrorist attacks of November 2008 via the sea, maritime security operations are being routinely undertaken by the Indian Navy (IN) and Indian Coast Guard (ICG) in the Maritime Zones of India (MZI).

In general, naval officers are well versed in RoE against military threats during wartime and “short-of-war” scenarios, which are also usually laid down comprehensively in official documents. However, the knowledge of peacetime RoE in the maritime LIC environment remains a “grey area” for most navies, including – surprisingly – those of the major maritime powers across the globe. Equally conspicuous is the lack of academic research on the subject and reference documentation that comprehensively addresses the emerging LIC challenge for the maritime forces. At the international level, the *San Remo Manual* (2009) is a valuable document on the RoE, but is not dedicated to the LIC challenge. A dedicated publication on the subject is necessary, not only for the maritime forces but also for the wider stakeholders in the maritime domain, including the shipping, oil and gas, and fishing communities.

The aim of this paper is to examine some salient issues relating to RoE for maritime forces in the LIC environment. The scope of examination is limited to the fundamentals of RoE, with specific reference to those in maritime LIC operations. In addition, with the help of some operational cases, the paper seeks to illustrate the complex issues and attendant challenges, in terms of balancing the operational necessity of use of force with humanitarian considerations.

Rules of engagement: the concept

At the outset, it is necessary to understand the concept of RoE, in general. RoE may be defined as “A set of directives issued by the higher authority in the military chain of command to authorise and guide operational commanders with regard to the freedom to use military force against an adversary in a specified scenario”. RoE are required to be formulated by the national government, though usually, the authority to do so is delegated to their apex military commanders.

There are three key determining factors for formulating RoE. As the Venn diagram in [Figure 1](#) indicates, RoE must play within the ambit of the “law” (both international and national laws), which is the most important factor. The application of international law

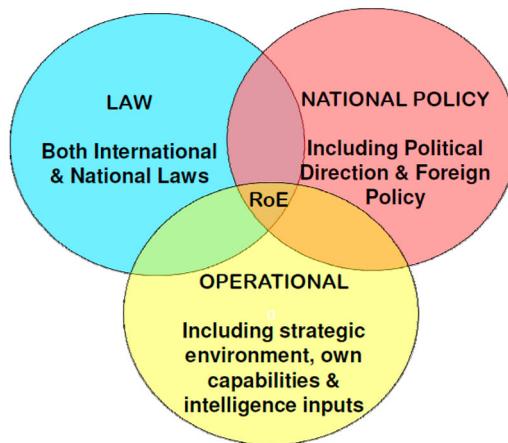


Fig. 1. Determining factors in development of rules of engagement (RoE).

will vary with the category of conflict within the entire “spectrum of conflict”, which ranges from “low-end” law-enforcement to “high-end” armed conflict, as follows:

- The first category is international armed conflicts (IAC) – the legal term for inter-state armed conflict – wherein the rules of international humanitarian law (IHL)¹ apply.
- The second is non-international armed conflicts (NIAC)² – a legal term for intra-state armed conflict – wherein a different set of rules of IHL apply.
- The third is low-intensity conflicts which have not crossed the “NIAC threshold” (including law-enforcement situations), where human rights law (HRL) applies.³ The scope of this chapter is limited to the third category.

The other factor is “national policy”, including political guidance and foreign policy. That’s one reason why the RoE “mindset” of different countries differs, leading to the distinction between “permissive” and “restrictive” RoE. On one end is the permissive mindset, where military commanders may do whatever is required except that which is specifically prohibited by RoE. On the other end is the restrictive mindset, wherein commanders are allowed to do only what is specifically allowed by RoE. While RoE of the United States are generally “permissive”, Japan and some Nordic countries follow more restrictive RoE. India has adopted a middle path.

Another determinant is the “operational” factor. It includes the military-strategic environment, own capabilities and intelligence inputs, including those on the capabilities and intentions of the adversary.

RoE for maritime LIC: general facets

The RoE for maritime forces operating in a LIC environment would vary based on, *inter alia*, the specific mission. Nonetheless, the general facets that are common to all LIC missions are stated below.

Operational backdrop

For being tasked for missions in the LIC environment, even if it is assumed that the maritime forces are conversant with the prevailing international and national laws, the commanders at sea would need to be made aware of the “operational backdrop”. Such a backdrop would provide them necessary guidance on national policy and the overarching policy objectives.

Human Rights Law

As stated earlier, the overarching international law governing RoE for LIC missions is HRL, which would need to be explicitly mentioned in RoE, and elaborated upon as required. The adherence to HRL may be exemplified by the case of the combined maritime forces (CMF) RoE for counter-piracy in the Gulf of Aden. According to the CMF RoE:

- Suspected pirates (SP) must be treated humanely. If the pirate vessel has been rendered unseaworthy due to disabling fire, the coalition warship must follow the provision of international law regarding rescue of persons in distress at sea.
- If the SPs are being let free after disarming,⁴ their vessel must be left with adequate food, fuel and navigational aids for them to return to the shore safely.

It is clear that in the two RoE provisions, the objectives of mission accomplishment are appropriately subjugated to the higher imperatives of HRL.

Rule of self-defence

As per the *San Remo Manual* (2009), individual and unit self-defence is part of “compulsory rules”, wherein the use of force – even lethal force – is authorised, but only “necessary” and “proportionate”⁵ force. However, it needs a clear definition of “hostile intent” and “hostile act”. A typical RoE usually says that “in determining whether an entity is demonstrating hostile intent, forces will use their best judgment and consider available intelligence, political and military factors, indications and warnings, and all other relevant information ...”. There is no checklist of indicators that will conclusively determine “hostile intent”. In the case of state-on-state armed conflicts, guidelines are only provided through exemplification of actions like aiming or directing weapons, adopting an attack profile, closing within weapon-release range, etc. In a low-intensity conflict environment, the determination of “hostile intent” becomes even more fuzzy, and may only be determined by the non-state actor’s response to proactive measures such as verbal queries and warnings, manoeuvres at sea and firing warning shots. The challenge may be elucidated by the following case:

- The counter-piracy RoE promulgated by the CMF in the Gulf of Aden stated that “in case of a misdemeanor or violent act by one of the suspected pirates (SP), use of force should be based on whether his action poses imminent threat of serious bodily harm or death to another person”. However, in case of a non-state actor, it may be very difficult to ascertain such threat. (Author’s discussions with Indian naval officers who have participated in counter-piracy operations in Gulf of Aden in coordination with the CMF, 12 June 2012.)

- As per the *San Remo Manual* of 2009, determination of “hostile intent” is based on the existence of an identifiable threat recognisable on the basis of two conditions, viz. “capability” and “intention”. In November 2008, while on counter-piracy patrol in the Gulf of Aden, the Indian frigate INS *Tabar* spotted what looked like a mother ship of pirates. The pirates were armed with guns and rocket-propelled grenade launchers (indicating “capability”). When the frigate demanded the vessel to stop, the pirate ship responded by threatening to “blow up the naval warship if it closed on her” (indicating “intent”⁶). The pirates then fired on the INS *Tabar*, which retaliated such that there was an explosion on the pirate vessel, which sank. The response of the Indian warship in self-defence was justifiable on the basis of the two indicators. However, such indicators are not always available to the on-scene commander, who has limited time to take a decision based on limited information.

Rules for mission accomplishment

In an LIC environment, maritime forces need to be well equipped with rules for mission accomplishment (beyond self-defence). While the rules will depend upon the specific mission and circumstances, in the generic sense, the key issue is whether the use of lethal force will be permitted for protection of individuals who are not a part of the maritime force (i.e. beyond self-defence). In the case of some countries or situations, the use of lethal force for mission accomplishment will be prohibited. Other countries will permit the use of lethal force to prevent the commission of a serious crime, possibly against specified persons.

For mission accomplishment, the *San Remo Manual* (2009) says that “deadly force can be used against persons posing an imminent threat to life”.⁷ Lately, however, maritime forces have preferred to use lethal force under the ambit of “extended self-defence”, rather than “mission accomplishment”. In May 2011, for example, USS *Bulkeley* (DDG 84) was part of the CMF tasked with a counter-piracy mission in the north-western Indian Ocean. While the ship was transiting the Gulf of Oman, it received a mayday call from the Panama-flagged crude carrier *Artemis Glory* that it was being chased by pirates. The crew of *Bulkeley*’s helicopter investigating the incident saw four individuals in a skiff firing at *Artemis Glory* using small arms. It then fired upon the pirate vessel and killed the four pirates. The use of force was justified by the principle of “extended unit self-defense” on behalf of the crude carrier.

The case also indicates an interesting evolution in the RoE relating to piracy, wherein an aircraft can now treat an attack on a merchant ship the same as if it is an attack against the particular aircraft.⁸ The question is that if such a norm is developed, could it be extended to unmanned aerial vehicles (UAV)?

“Positive” identification

The case of USS *Bulkeley*’s helicopter mentioned above clearly indicates how important it is to “positively” identify vessels engaging in unlawful/militant acts for application of force. The aspect of identification, therefore, is another important aspect that needs to be addressed well in RoE for LIC missions. The RoE would usually provide specific guidance on the means of identification to be employed in specific scenarios. The means may be

categorised as those “requiring a response”, such as “requests for identification and warnings”; and those “not requiring a response”, such as technological means like electro-optical and automatic identification systems.

Graduated use of force

The principle of “graduated use of force” is particularly relevant for the LIC environment. The RoE usually lay down the specific directives and guidelines of how the principle needs to be applied and what means are to be employed. In a generic sense, the RoE may lay down a graduated response encompassing means such as presence, verbal and visual warnings (including display of weapons), soft physical pressure, hard physical pressure, non-lethal weapons (such as batons) and lethal weapons (such as firearms).

On February 15, 2012, MV *Enrica Lexie* with a vessel protection detachment (VPD) of six Italian marines on board was sailing about 20.5 nautical miles off India’s Kerala coast. In daylight hours, the ship encountered the Indian fishing vessel *St. Antony*, and, mistaking it for a pirate vessel, the marines on watch opened fire, killing two Indian fishermen. Soon thereafter, MV *Enrica Lexie* was intercepted by the Indian Coast Guard and directed to Kochi port. The case is presently *sub judice*. Nonetheless, it has raised many questions, which are instructive:

- Did MV *Enrica Lexie* follow normative protocol on encounter with the “suspect pirate vessel” and use graduated force?
- Did it activate the ship security alert system and implement an emergency communication plan to report the attack?
- Did it take evasive measures and fire warning shots?

Rules for maritime law enforcement

In the LIC environment, many missions that maritime forces undertake may be grouped under the category of law enforcement to maintain good order at sea. Although the RoE would differ based upon the specific mission – which may range from counter-piracy and counter-trafficking to prevention of illegal fishing – there are at least three common aspects pertaining to the use of force for all such maritime law enforcement operations, as follows:

- Use of warning shots and disabling fire to coerce the errant vessel to stop/comply. In certain circumstances, the use of such force may be qualified based on foreseen circumstances, authorised by a more senior commander in the chain-of-command, or even prohibited.
- Boarding the vessel to confirm whether the activity it is engaged in is legal or otherwise. The measures may differ based on whether the boarding is “compliant”, “non-compliant” or “opposed”.
- Searching, disarming and detention of persons involved in illegal activity. The rules would specify the use of non-deadly force for this, and the use of non-lethal or lethal force to prevent escape.

Use of force

Notwithstanding that the RoE usually cover these aspects in detail, it remains a challenge for commanders at sea to satiate the mission imperatives with the requirements of HRL. For example, take the case of CMF RoE promulgated for counter-piracy in the north-western Indian Ocean. The RoE states that the coalition warships are required to seek Commander Task Force (CTF) 151 approval to approach the skiffs/dhows bearing SP. Also, the Commander Combined Maritime Forces (CCMF) is the approving authority for employment of active measures (including warning shots and disabling fire) to compel compliance. Further, “multiple shots” may be fired, unless their number is restricted by CCMF in initial approval. However, the key question is: On the basis of what information will CCMF/CTF 151 decide upon the employment of these “active measures”? It is unlikely that the CCMF/CTF 151 will always have adequate information to classify the individuals in the skiffs/dhows as “confirmed pirates”.

Another apt exemplification is the case of USS *Stephen W. Groves*. In May 2011, as part of a counter-piracy task force in the Gulf of Aden, this US frigate encountered *Jih Chun Tsai 68*, a Taiwanese fishing vessel. Since circumstances suggested that the vessel was being used as pirate mother ship, the warship correctly adhered to the RoE, using graduated force, including verbal warnings, warning shots in front of the bow, and also disabling shots. However, the occupants of the vessel responded by firing AK-47 rifles at the warship and then surrendered, but the captain of the Taiwanese fishing vessel was killed in the crossfire.⁹ According to international law, any vessel under the control of pirates effectively becomes a “pirate vessel”. Besides, the retaliatory AK-47 firing conclusively demonstrated a “hostile act”, necessitating the use of lethal force by the US frigate. However, is there a way the US warship could have prevented the killing of the Taiwanese captain? Is HRL not applicable in this case?

The complexity of the issue represented by the case of USS *Stephen W. Groves* above has compelled compromises while formulating RoE, which has adversely affected mission accomplishment. For example, the counter-piracy RoE promulgated for the CMF stated that

Once pirates have taken over control of a ship, commander is not authorized to use force or board it without consent of Flag State, Master or Ship-owner. If force is used with consent (or on request), collateral damage to civilian property and incidental injury or death of civilians is to be kept to absolute minimum. (Author’s discussions with Indian naval officers who have participated in counter-piracy operations in Gulf of Aden in coordination with the CMF, 12 June 2012.)

It was later revealed that the RoE was “diluted” at the behest of the ship-owners and ship-operators themselves, who did not want the rules to be more permissive, to avoid collateral loss of life.

Seizure and destruction of property

Another aspect usually covered in RoE for maritime law enforcement is that of seizure and destruction of property. The most pertinent example emanates from the recent proactive measures adopted by the Indonesian maritime forces to sink all foreign fishing boats illegally fishing in the waters under Jakarta’s sovereign jurisdiction. This has led to world-wide debate on the question of whether the practice is in conformity with international law. However, as noted earlier, the “legal” factor determining RoE is not restricted to

international law alone. Evidently, Indonesia's RoE conforms to its national Law No. 45/2009 on Fisheries. According to its Article 69, Paragraph 4, Indonesian authorities are allowed to burn or sink foreign fishing vessels conducting illegal fishing within the Indonesian fishing management area, subject to the sufficient preliminary evidence.¹⁰ This is an apt example, not only of the differences among states with regard to the fundamental tenets of RoE, but also of the sovereignty of states – drawn from the “Westphalian” concept – overriding the norms of international law to create RoE.

Hot pursuit

RoE for maritime law enforcement missions also address the aspect of “hot pursuit” of errant vessels. As a part of customary international law and Article 111 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the concept of “hot pursuit” recognises the right of a coastal state to pursue into international waters a foreign vessel that has violated its laws in waters within its jurisdiction. The right of “hot pursuit” ceases as soon as the vessel enters the territorial seas of its own country or of a third country.¹¹

In this context, the complexities of RoE may be best exemplified by the case of a fishery dispute between Denmark and the United Kingdom (UK). In 1962, the Danish fishery protection ship *Neils Ebbesen* found the British trawler *Red Crusader* illegally fishing in Denmark's territorial sea. The Danish boarding team boarded the British trawler to inspect and seize the fish catch. However, the British trawler's crewmen overpowered the boarding party, locked up the men, and shaped course to leave the Danish waters and enter its own (British) territorial sea at best speed. After a half-hour “hot pursuit”, the Dutch ship fired two 127-mm rounds ahead and astern of the trawler, signaling it to stop. Still in Danish waters, it opened fire using all guns, hitting the trawler with a 40-mm shell. Later, HMS *Troubridge* interposed itself between the vessels, (allegedly) enabling the trawler to escape. Contrary to common wisdom that would tend to implicate the British trawler and British warship for their “wrong-doings”, an international enquiry revealed that the Danish fishery protection ship had exceeded legitimate use of force. It should have resorted to other means (like disabling fire) before firing for effect. Furthermore, the conduct of the British warship was impeccable since it tried to avoid violence between the two vessels.

Rules for force protection/defensive operations

In the LIC environment, another generic mission that maritime forces undertake is force protection and similar defensive operations. Such missions are usually applicable to maritime terrorism scenarios, but may also apply to other maritime law-enforcement situations. The RoE issued for such defensive missions may also be conjoined with the mission for ensuring the freedom of movement of the maritime force (for undertaking other missions), or specified persons or specified vessels.

USS Cole incident

In October 2000, an Al Qaeda boat laden with explosives rammed against the USS *Cole* docked in Yemen's Aden harbour. As the consequent inquiry revealed, the US Navy

officer of the watch had seen the terrorist boat approaching the warship at high speed, but he did not open fire. The prevailing RoE for a US warship in harbour did not permit it. The result was the loss of the lives of 17 US navy personnel, and severe damage to the warship. Following this incident, many countries revised their RoE for force protection in harbour and at sea.

Revised RoE

In harbour, RoE usually provide for immediate neutralisation before a boat can come within ramming or boarding distance of the warship or another naval asset without waiting to verify the intention of the boat, and without cognisance of the risk of collateral damage (including civilian casualties). At sea, the warship has the advantage of time (based on lower relative speed) and manoeuvre, with an attendant leeway to identify a suspect vessel. Hence, the RoE usually provide for opening fire only if the suspicious vessel resists attempts at verification, or opens fire or seems to be planning to open fire.

Security zones

RoE for force protection/defensive operations usually incorporate layered security zones. The dimensions of each layer/zone and the measures permitted therein are based on various factors such as the nature of the threat and the anticipated warning time. For example, during the conflict between the Sri Lankan government and the Tamil Tigers, the Indian Navy's RoE for its forces specified a non-escalatory operational posture, wherein the mission objective was not to neutralise the 'Sea Tigers', but to maintain good order and freedom of navigation. Attendant to such a defensive posture was the RoE for force protection, which was based on promulgation of "surveillance", "warning" and "engagement" zones around the Indian warships, and classification of contacts as "innocent", "suspicious" and "hostile" based on their actions, ranging from response-to-warnings, to the demonstration of "hostile intent". The security zones and other advisories to civilian vessels operating in the area were promulgated through notices to mariners (NTM).

The example of layered security zones for other defensive missions is exemplified by the US Navy's promulgation of such zones around oil terminals in the Persian Gulf, soon after the Al Qaeda strike on two Iraqi oil terminals, Khor al-Amaya and Al Basra, in 2004.¹² The security zones comprise the 3-km "ship deployment zone" and the 2-km "exclusion zone" (Figure 2).

However, the provisions of revised RoE, including the "security zone" concept, are not devoid of challenges, as exemplified by the case of USNS *Rappahannock*. In July 2012, an Indian fisherman was killed and three other Indians injured off Dubai, United Arab Emirates (UAE), by shots coming from the US Navy's USNS *Rappahannock*. The US Navy statement said that "the vessel disregarded non-lethal warnings and rapidly approached the US ship".¹³ All four men were contract labourers from Tamil Nadu, who had been working as fishermen for a Dubai-based fishing company. Many such men may be new even to the maritime environment, let alone to the missions and compulsions of a naval force. Even if the US Navy had promulgated its "red-lines" through NTM, it is unlikely that the unfortunate contract labourers would have been aware of it.

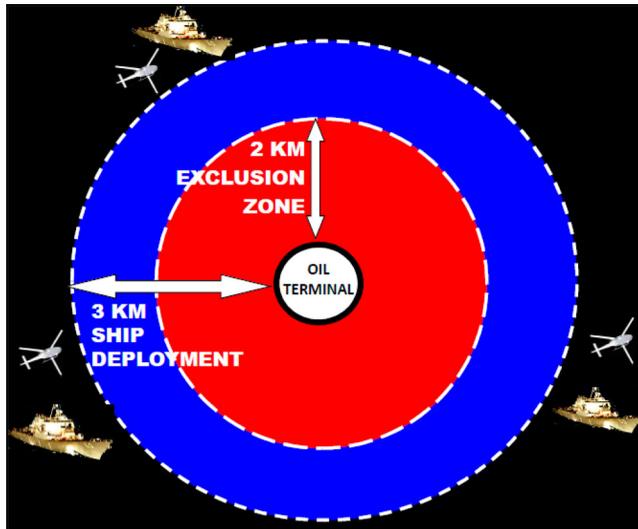


Fig. 2. US Navy's layered defence for Iraqi oil terminals, 2005.

Rules for multi-national operations

Given the emerging security environment in the Indo-Pacific region, there is an increasing need for maritime forces of regional countries and extra-regional forces to undertake multi-national operations in the LIC environment. The combined counter-piracy operation in the Indian Ocean is the most recent example. In the future, maritime forces may need to undertake joint/coordinated operations against maritime terrorism.

Traditionally, India has involved itself in multilateral military operations only under the flag of the United Nations (UN). The Indian Navy played a key role in the 1992–1993 UNOSOM III, *inter alia* de-inducting the beleaguered Indian peacekeepers from Somalia. The international mandate is the key factor in formulation of RoE for multi-national operations. Assuming that India's foreign policy will maintain its current course, the mission-specific RoE of Indian maritime forces will essentially hinge upon the relevant UN Security Council resolution. However, notwithstanding a common UN mandate, the challenges of formulating and implementing a combined RoE for naval missions in the LIC environment would remain. Such challenges stem from the differences in national policies in terms of political direction and foreign policy, as mentioned earlier.

Formulating combined RoE

As the matrix of RoE of three hypothetical participating states A, B and C (Table 1) clearly indicates, the “lowest common denominator” approach will usually be ineffective to meet mission objectives. Hence, as per practice, a compromise is reached through discussions/negotiations, wherein restrictions are placed on the permissive approach. This is easier than to liberalise a restrictive RoE. For some measures meant to achieve mission objectives (that are not anticipated for self-defence), the approval authority for the use of force is adjusted to an acceptably high level within the operational chain of command, or even to an appropriate national authority. For example, in the case of counter-piracy RoE

Table 1. “Lowest common denominator” approach to formulation of combined rules of engagement (RoE).

RoE	State A	State B	State C	Lowest denominator
Use of force for individual self-defence	Yes	Yes	Yes	Yes
Boarding foreign-flagged vessels	Yes	Yes	Yes ¹	Yes ¹
Disabling fire	Yes	Yes	No	No
Use of force to secure release of persons	Yes	Yes	No	No
Use of force for protection of others	Yes	Yes	No	No
Search and detention of persons	Yes	No	No	No

¹ Only with approval of National Authority.

promulgated for the CMF, for boarding dhows, while CCMF is the approval authority, whereas compliant boarding of skiffs is authorised by CTF 151, some coalition warships are permitted to approach their respective higher national authorities to conduct boarding operations.

Concluding remarks

To respond to the emerging low-intensity maritime threats in the Indo-Pacific region, the multifarious legal challenges in formulation and implementation of RoE remain. These challenges are complicated by the lack of awareness of the important nuances of the subject. Such awareness is necessary, not only for the maritime security forces, but also for all others involved in all kinds of maritime activities – subsistence, commercial, scientific and so on.

Given the complexities of taking the correct decision with regard to the use of force in a maritime LIC environment, notwithstanding the advances in technology ranging from automated decision-making tools to unmanned combat vehicles and robotics, the human mind of the commander at sea will continue to hold the key to balancing operational necessity of mission accomplishment with humanitarian conduct.

Even like-minded countries have not been able to achieve a semblance of uniformity of RoE to collectively respond to the emerging low-intensity threats. Given the inherent differences of national philosophies, practices and policies, seeking any such uniformity may be utopian. Hence, as the best and only recourse, countries participating in multinational maritime missions in the LIC environment will need to accommodate national positions through politico-diplomatic engagement, driven by the spirit of win-win cooperation.

Notes

1. For details, see Gurpreet S. Khurana, *Porthole: Geopolitical, Strategic and Maritime Terms and Concepts* (New Delhi: Pentagon Publishers, 2016), p. 92.
2. NIAC includes civil wars, insurgencies, and armed rebellions wherein at least one of the participants is a non-state actor that is internationally recognised as having belligerent status. For details, see Khurana, *Porthole*, p. 139.
3. For details, see Khurana, *Porthole*, pp. 80–81.
4. The practice of disarming pirates and setting them free became a norm in the later years of multi-national anti-piracy operations off Somalia due to lack of legal assistance treaties among countries.

5. “Proportionality” in self-defence differs from concept of “proportionality” laid down in international humanitarian law (IHL) in an international armed conflict (IAC) that seeks to minimise collateral damage in war.
6. “Indian warship destroys Somali pirate ship”, Al Arabia News, 19 November 2008, <https://protect-us.mimecast.com/s/dqYaBRiql4qphQ?domain=english.alarabiya.net>; <https://english.alarabiya.net/articles/2008/11/19/60434.html> (accessed September 28, 2016).
7. San Remo Handbook on Rules of Engagement, International Institute of Humanitarian Law, Sanremo, November 2009, p. 5
8. “Rules of Engagement Change for Piracy”, Information Dissemination, May 19, 2011, <http://www.informationdissemination.net/2011/05/rules-of-engagement-change-for-piracy.html>
9. Zep Hu, Chou Yung-chieh and Elaine Hou, “Operation against Hijacked Taiwanese Boat Legal: US Navy”, *Focus Taiwan*, July 26, 2011, http://focustaiwan.tw/ShowNews/WebNews_Detail.aspx?Type=aPL&ID=201107260016 (accessed February 22, 2016).
10. Ahmad Almaududy Amri, “Is Indonesia’s ‘Sink the Vessels’ Policy Legal?”, *The Diplomat*, January 17, 2015, <http://thediplomat.com/2015/01/is-indonesias-sink-the-vessels-policy-legal/> (accessed February 22, 2016).
11. “United Nations Convention on the Law of the Sea”, *United Nations* website, p. 63, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf (accessed February 22, 2016). Also see Khurana, *Porthole*, p. 79.
12. “Raid Disrupts Iraqi Oil Exports”, *BBC News*, April 25, 2004, http://news.bbc.co.uk/2/hi/middle_east/3657599.stm (accessed February 22, 2016).
13. “TN Fisherman Killed, 3 Hurt in Firing from US Navy Ship”, *Indian Express*, New Delhi, July 17, 2012, p. 4; and “India Says Unfortunate, US Assures Probe”, *Indian Express*, New Delhi, July 18, 2012, p. 6.

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