



## India's maritime security governance challenges: A decade after "26/11"

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### ABSTRACT

Consequent upon the Mumbai attacks between 26 and 29 November 2008 ("26/11") by Pakistan-based terrorists, the coastal (and maritime) security construct in India witnessed significant developments; perhaps, like no other decade in the history of independent India. As a result, key areas which found particular focus were: strengthening maritime governance by establishing inter-agency coordination mechanisms; capacity-building and capability-enhancement of maritime security agencies; developing Maritime Domain Awareness (MDA) through electronic surveillance; greater oversight of activities in the maritime domain, particularly fishing; and, an inclusive approach to security by including communities and private bodies in the security-construct. These developments are indicative of a Whole-of-Government (WoG) approach to maritime security. As some major notable reports have indicated, despite these significant developments, challenges to maritime security governance remain. This paper encapsulates some of the salient developments since "26/11" and examines a few key findings from some of the studies, particularly on the aspects of maritime-security governance.

### KEYWORDS

"26/11"; coastal security; maritime security governance; Whole-of-Government; inter-agency responsibilities; inter-agency coordination; legislative framework

## Introduction

On 26 November 2008, commencing at about 2115 hours, a group of ten terrorists from Pakistan undertook *fidayeen* attacks at several locations in Mumbai.<sup>1</sup> The terrorists had sailed from Pakistan, hijacked an Indian boat, the fishing vessel *Kuber* en route, and, using the sea route, landed at Mumbai.<sup>2</sup> The siege ended with the last of the attackers being killed by security forces at about 0900h on 29 November 2008.<sup>3</sup> The terrorists killed 166 people and caused injuries, including grievous injuries, to another 238.<sup>4</sup> The dead included 18 policemen and 26 foreign nationals, while the injured included 37 policemen and 21 foreign nationals.<sup>5</sup> Damage to property was assessed to be over Rs 150 crore (Rs 1500 million).<sup>6</sup>

Subsequent to the attack, multiple agencies of the Union and State Governments (and Union Territory (UT) Administrations) have implemented a number of measures to strengthen maritime, coastal, and offshore security. Broadly, these measures include:

- Capacity-building and capability-enhancement of maritime security agencies, viz., the Indian Navy, the Indian Coast Guard, and, State Marine Police of respective coastal states;

- The strengthening of electronic surveillance and Maritime Domain Awareness (MDA) through the Coastal Surveillance Network (CSN) radar chain [under the Indian Coast Guard], the National Automatic Identification System (NAIS) chain [under the Directorate General, Lighthouse and Lightships], and, the National Command Control and Communication (NC3I) Network [under the Indian Navy];
- The strengthening of measures for inter-agency coordination – both policy and operational – by establishing multi-level coordinating committees and operations coordination centres;
- Increased monitoring of maritime activities, especially in the fisheries sector; and,
- The adoption of an inclusive, community-based approach to security, by integrating fishermen and local communities, as also private actors, into the security matrix.

This was not the first time that the sea route had been used to target India. Earlier, in 1991, arms and ammunition for the assassination of former Prime Minister Rajiv Gandhi, were smuggled through the sea route, and in 1993, too, arms and ammunition for the Mumbai blasts had been smuggled through the sea route. Operation *TASHA* (1990), a joint operation, off the coast of Tamil Nadu, and Operation *SWAN* (1993), a joint operation off the coast of Gujarat and Maharashtra, could be considered the forerunners of the present coastal security construct.<sup>7</sup> Layered patrolling by the security agencies, viz., the Indian Navy, the Indian Coast Guard, and the State Police; coordinating mechanisms between the security agencies and the State Government; and, integration of the coastal community, were some of the initiatives taken at that time. However, these arrangements were spatially localised and only undertaken off the affected coastal states.

The 2001 report of the *Task Force on Border Management*, under the Group of Ministers (GoM) to review the national security system, set-up in 2000 post the Kargil War (1999), is central to the development of the coastal security construct, after 2000. The setting-up of the Department of Border Management (DoBM) in the Ministry of Home Affairs (MHA) in 2004, and, sanction for the Coastal Security Scheme (CSS) of the MHA for strengthening coastal policing, were significant milestones in the development of the coastal security construct till “26/11.” Essentially, under the CSS, the Centre provided a financial outlay for coastal states/UTs to develop requisite infrastructure for coastal policing. However, the MHA undertook procurement of boats for coastal states/ UTs.

While there has been considerable headway and focus on issues related to maritime and coastal security since “26/11,” the issue is inherently complex, and examinations of the existing construct have revealed several gaps. Amongst others, inter-agency coordination mechanisms, overlaps in responsibilities, and, limitations in the legislative framework, are some of the key issues that have emerged. This paper will focus on these governance challenges to maritime security.

## **Maritime security governance**

The concept of maritime security is relatively nascent, having its origins in the 1990s.<sup>8</sup> Conceptually, maritime security has linkages with geopolitics, national security, law enforcement, the economy (and development), the environment, diplomacy, and, human security. Contextually, maritime security has diverse interpretations.<sup>9</sup> Therefore, the study of maritime security governance is an emergent area, with differing contextual interpretations.

The concept of “coastal borders,” and coastal security, gained traction in India only after the GoM Report of 2001. However, it was “26/11,” which occurred seven years later, in 2008, that brought to the fore the compelling need to address coastal (and maritime security) challenges comprehensively through a Whole-of-Government (WoG) approach.

Nevertheless, there are a variety of ways in which maritime security and governance are viewed, and, to amplify this, an overview of four approaches are enumerated below.

### **Indian maritime security strategy**

According to the 2015 *Indian Maritime Security Strategy* (IMSS 2015), “maritime [security] governance relates to structured and coordinated actions to govern the maritime domain under India’s jurisdiction, with multiple agencies and functions involved.”<sup>10</sup> This essentially includes mechanisms for policy and review; centralised monitoring mechanisms; and, the legislative and regulatory framework.<sup>11</sup> The strategy document also highlights that the “legislative and regulatory framework for maritime domain requires regular review and revision, to identify and address any limitations.”<sup>12</sup>

### **US maritime security sector reform model**

The *US Maritime Security Sector Reform (MSSR) Guide* has defined maritime governance as “the exercise of government authority and responsibilities to define policy objectives and to establish and implement laws, policies, regulations, plans and governmental infrastructure to achieve national maritime security objectives.”<sup>13</sup> The document emphasises that maritime governance is more than just the legislative framework, and involves wide ranging cross-functional and multilevel actions.<sup>14</sup> Broadly, maritime governance includes, *inter alia*, the following functions:<sup>15</sup>

- *Maritime-agency organisation*: Inter-agency delineation of roles and responsibilities and ensuring inter-agency and inter-governmental coordination.
- *Maritime-law and policy*: The development, assessment, and refinement of maritime law, policy, and regulations.
- *Maritime Programmes*: The development and enforcement of regulations and standards in support of national strategies and goals.
- *Diplomatic and foreign affairs support*: Coordination between law enforcement and foreign affairs, so as to ensure the effective attainment of national maritime goals.
- *Maritime-agency outreach and stakeholder coordination*: Inputs and coordination for policy decisions from maritime security stakeholders and information-dissemination to those affected by maritime security issues.

### **Capacity-building approach to maritime security**

The “capacity-building” approach for maritime security encompasses capacities at provincial (district and states), national, regional (and international) levels.<sup>16</sup> At the national level, capacities are required in the form of:<sup>17</sup>

- *Institutional arrangements* such as the allocation of work between government ministries/ departments, as also between maritime security forces, law enforcement agencies,

and, intelligence agencies; committees at various levels; information and operational centres; and, cooperative arrangements between stakeholders;

- *Legal framework*, including legislation and regulations for empowering appropriate authorities; establishing jurisdiction over crimes; and, strengthening criminal, prosecution and/or extradition procedures and agreements; and,
- *Resources*, including capabilities of surveillance, patrol and response; training of personnel; integration of technologies for improving domain awareness, etc.

### ***Spaces, problems, institutions, and projects model***

A more recent model for mapping of the maritime security sector has been termed the *Spaces, Problems, Institutions, and Projects* (SPIP) model.<sup>18</sup> *Spaces* aims to identify the regulatory and physical maritime spaces of a country; *problems* aims to identify maritime insecurity issues in a country; after having identified the spaces and the problems, efforts to address the problems through *institutional* measures are examined; and finally, the mapping process identifies institutional reform *processes* and capacity-building *projects*.<sup>19</sup>

### **Overview of developments in India**

Aspects related to institutional arrangements for inter-agency coordination (and responsibilities) and the legislative framework for maritime security – some of the common elements in the four overviews above – have been part of the discourse of strengthening maritime security governance in India since “26/11” and are discussed in the succeeding paragraphs.

### ***Reorganisation and responsibilities***

Consequent to the 2001 report of the GoM, the DoBM was set up in the Ministry of Home Affairs (MHA) in January 2004, to pay focused attention to issues relating to the management of international land and coastal borders.<sup>20</sup> The Border Management (BM) Division-II of the DoBM is responsible for matters related to coastal security.<sup>21</sup> The State Marine Police, which comes under the respective States/UTs is responsible, *inter alia*, for coastal policing and patrolling, the prevention of illegal fishing, fostering community-policing, and providing assistance to the Indian Navy and the Indian Coast Guard.<sup>22</sup>

Additional operational responsibilities entrusted to central security agencies after “26/11” are listed below:

- The Indian Navy was designated the agency responsible for overall maritime security, including coastal and offshore security; Naval Commanders-in-Chief (Cs-in-C) were designated Cs-in-C Coastal Defence, with the Indian Navy being assisted by the Indian Coast Guard, the State Marine Police, and other central and state agencies, for the coastal defence of the nation.<sup>23</sup>
- The Indian Coast Guard was entrusted with responsibilities for coastal security in the Territorial Sea, including areas to be patrolled by the State Marine Police, as also for the overall coordination between central and state agencies.<sup>24</sup>

- The mandate of the Central Industrial Security Force (CISF), which includes security of major ports in India, was broadened to also include the provision of security to the private sector, albeit under specified conditions.<sup>25</sup>

Therefore, while overall central policy coordination is the responsibility of the MHA, at the operational level, a tiered (or layered) model of surveillance/ patrol has been implemented across all coastal states.<sup>26</sup> The maritime element of the model, broadly in consonance with the maritime zones, essentially involves the State Marine Police as the innermost layer, the Indian Coast Guard as the second layer, and the Indian Navy as the outermost layer.<sup>27</sup>

### **Coordination**

The governance models discussed earlier have highlighted the need for mechanisms for monitoring and review, inter-agency coordination, and the establishment of committees at various levels. A brief overview of some of these coordination mechanisms is encapsulated in succeeding paragraphs.

#### **Policy coordination**

Overall, the DoBM/ MHA is mandated with the development of a “composite strategy” for coastal security, under the guidance of the Cabinet Secretariat. In August 2009, the National Committee for Strengthening Maritime and Coastal Security (NCSMCS) was constituted.<sup>28</sup> This committee, which is chaired by the Cabinet Secretary, includes secretaries to the Government of India, heads of stakeholder agencies, and, the Chief Secretaries/Administrators of coastal States and UTs.<sup>29</sup> It undertakes national apex-level review of mechanisms and policies for coastal and maritime security.<sup>30</sup> Also at the national level, the Steering Committee for Review of Coastal Security (SCRCS), chaired by the Secretary (Border Management), MHA, specifically monitors implementation of the CSS.<sup>31</sup>

In June 2016, the MHA issued directives for the constitution of Coastal Security Committees in all coastal States/UTs and districts, under the chairpersonship of the Chief Secretaries and District Magistrates respectively.<sup>32</sup> In addition, stakeholders also participate in the debrief of state-level coastal security exercises, which are chaired by the Chief Secretaries/Administrators of the concerned coastal States/UTs.<sup>33</sup>

Dedicated fora – such as Maritime States Development Council (MSDC), the National Shipping Board (NSB), the Offshore Security Coordination Committee (OSCC), and the Joint Venture Offshore Protection Advisory Committee (JVOPAC) – also facilitate discussions and policy coordination of sector-specific security issues.<sup>34</sup> Security-related issues, including coastal security, have also come up for discussion at meetings of centre-state advisory bodies, such as the Eastern and Southern Zonal Councils.<sup>35</sup>

#### **Operational coordination**

Subsequent to the “26/11” incident, four Joint Operations Centres (JOCs) have been set up: three at Mumbai, Kochi and Visakhapatnam under the respective Naval Flag Officers Commanding-in-Chief (FOC-in-C’s), and one at Port Blair under the Commander-in-Chief, Andaman and Nicobar Command (CINCAN).<sup>36</sup> These JOCs are jointly

manned by personnel from the Indian Navy and Indian Coast Guard and have been suitably equipped for their coordination functions.<sup>37</sup>

The NC<sup>3</sup>I Network, which links 51 stations of the Indian Navy and the Indian Coast Guard located across the mainland and island territories, was set-up in 2014.<sup>38</sup> The nerve-centre of the network, the Information Management and Analysis Centre (IMAC), is located in Gurugram, Haryana.<sup>39</sup> The network aids in developing a Common Operation Plot (COP), by fusing information from multiple sensors and databases.<sup>40</sup>

## Legislative framework

The principal international conventions that govern the maritime domain (including maritime security) include the United Nations Convention on the Law of the Sea (UNCLOS); the Convention for the Suppression of Unlawful Activities Against the Safety of Maritime Navigation, 1988 (also known as the SUA Convention) along with the associated Protocol for Suppression of Unlawful Acts against Safety of Fixed Platform, 1988 (also known as the SUA Protocol);<sup>41</sup> and, the International Convention for the Safety of Life at Sea, 1974 (also known as the SOLAS Convention) and its associated protocols.

While India has ratified the aforesaid conventions, India is not a contracting State to the SUA Convention and Protocol of 2005. In a statement at the 90<sup>th</sup> Session of the IMO Legal Committee on 09 May 2005, India recorded its reservations regarding the “incorporation of principles derived from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), of which it is not a State Party, into a Convention primarily meant to ensure the safety of maritime navigation.”<sup>42</sup>

The Territorial Waters, Continental Shelf and Exclusive Economic Zone and other Maritime Zones Act, 1976 (MZI Act, 1976), the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 (SUA Act), the Merchant Shipping Act, 1958 (MS Act) are enabling domestic legislations, which give effect to international conventions ratified by India. Specific sectors, such as fisheries and ports, are governed by their respective central and state legislations.

For the prosecution of offences in, or related to the maritime domain, provisions of the Admiral Offences (Colonial) Act, 1849; the Indian Penal Code, 1860 (IPC); the Unlawful Activities (Prevention) Act, 1967; the Arms Act, 1959; and the Customs Act, 1962 have successfully been invoked in domestic courts. These include trials of those accused in the perpetration of the Mumbai blasts (1993), the Mumbai attacks (2008), and, apprehended Somali pirates (2011).<sup>43</sup>

To strengthen the legislative framework for maritime security, there have been proposals for legislating an Anti-Maritime Piracy Bill, a Marine Fisheries Regulation Bill, a Coastal Security Bill, a replacement to the MS Act, 1958, and, for amendments to existing legislations to strengthen law enforcement. The Merchant Shipping Bill, 2016, introduced in the Lok Sabha on 16 December 2016 is yet to be tabled in the Rajya Sabha.<sup>44</sup> The Piracy Bill, 2012 was introduced in the Lok Sabha on 24 April 2012, but with the dissolution of the 15<sup>th</sup> Lok Sabha, the bill lapsed.<sup>45</sup> The Anti-Maritime Piracy Bill, 2018 has now been listed for introduction in the Winter Session of Parliament.<sup>46</sup>

## Maritime security governance: Key findings

It is quite evident that since “26/11,” significant efforts have been made to strengthen maritime and coastal security by designating responsibilities to key security agencies,

establishing coordinating mechanisms, and strengthening the overall legal framework. While progress is undeniable, independent examinations of the maritime security construct have revealed certain gaps. A few of these are discussed in the subsequent paragraphs.

### **Overall coordination**

The maritime security construct – shipping, ports, fishing, policing, maritime boundaries, etc. – transcends the Union, State and Concurrent lists of the Constitution. Consequently, it is a shared responsibility between the Centre and the 13 coastal states/UTs, necessitating close coordination between the union government and state governments, as well as with, and between, a large number of stakeholders, especially maritime security agencies.<sup>47</sup>

While a number of committees have been established across multiple levels of governance (and maritime sectors) for policy coordination, review and monitoring of the coastal-security construct, there is no “standing body,” at any level, to strategise, plan, oversee, and coordinate maritime security from a wider context (beyond coastal security).<sup>48</sup> Plausibly, an exclusive dedicated “standing body,” with a wider remit for maritime security, has significant advantages over committees that meet only periodically at best.

The GoM Report of 2001 had recommended the setting-up of an apex body for the management of maritime affairs to provide institutionalised linkages between the Navy, the Coast Guard, and the concerned ministries of the Central and State governments.<sup>49</sup> A 2014 report of the Standing Committee of Defence, noting the need for effective coordination amongst multiple agencies, recommended the establishment of a “Maritime Commission” or similar agency.<sup>50</sup> Likewise, the Public Accounts Committee (PAC) Report on the *Role and Functioning of Indian Coast Guard* (2015) also articulated the need for putting in place effective mechanisms for coordination amongst multiple ministries/departments.<sup>51</sup> In 2014, the Government, recognising the importance of coastal security, announced the government’s intention of setting up a National Maritime Authority (NMA).<sup>52</sup> Academia, think-tanks, and former Service-officers have all made similar recommendations.<sup>53</sup> However, the setting up of such a body is yet to occur.

Broadly, the recommendations for an apex-level body pertain to bringing together representatives of principal stakeholders in maritime affairs at the national level, on one platform. Such a body could facilitate a comprehensive, cohesive, and integrated approach to maritime issues, including wider areas of maritime security, by coordinating with multiple stakeholder-agencies on a continuing basis (rather than a periodic one). In addition, the need for a dedicated Maritime Security Advisor has also been frequently suggested.<sup>54</sup> Considering the increasing relevance of the maritime domain for development and security, and the complexities inherent in its governance, a dedicated advisor on maritime security could facilitate focused attention on maritime security issues, which could otherwise get diluted.

While the relevance of the NCSMCS is inarguable, a standing independent body will, perhaps, facilitate apex-level, single-point, day-to-day focus on cross-functional maritime issues, which may otherwise not be practicable. Considering the complexities involved, developing an apex-level body (and appointing a maritime security advisor) may, however, not be quite as straightforward.

### *Inter-agency responsibilities*

The management of coastal security in India is complex. While the DoBM/ MHA is responsible for all matters related to coastal borders, including those of island territories (excluding subjects allocated to the MoD and the MEA), the two principal maritime security agencies of the Union viz. the Indian Navy and the Indian Coast Guard, function under the MoD.<sup>55</sup> Notably, the decision to place the Indian Coast Guard under the MoD was taken after weighing several options. Further, while the MHA is responsible for the strengthening of border-policing, surveillance and patrolling along coastal borders, the State Marine Police themselves are under respective State governments/UT Administration, as law-and-order is a state subject, and not a central one.<sup>56</sup> Unlike land borders, which have dedicated border-guarding forces under the MHA for each of the land borders, there is no dedicated force under the MHA for “coastal borders.” In effect, the operational responsibilities are shared broadly between the Ministry of Defence (MoD) and the coastal states, while matters like implementation of the CSS, financial assistance to states/UTs for capacity-building, etc., fall under the remit of the MHA.<sup>57</sup>

While the Centre has a number of Central Armed Police Forces (CAPFs), under the MHA, none of these CAPFs have any dedicated maritime component for the patrolling of “coastal borders.”<sup>58</sup> Further, despite several proposals for additional central forces for coastal security, such as the proposed Central Marine Police Force (CMPF), Coastal Border Police Force (CBPF), and a Marine India Reserve Battalion (MIRBn), no progress is in evidence.

The Indian Coast Guard was raised as an “armed force of the Union for ensuring the security of the maritime zones of India, with a view to the protection of maritime and other national interests in such zone and for matters connected therewith.”<sup>59</sup> In the aftermath of “26/11,” operational responsibilities for coastal security, including that of operational coordination, have been delegated to both the principal maritime security agencies, viz., the Indian Navy and the Indian Coast Guard, with other agencies, such as the Coastal Police and Customs, assisting the principal agencies.<sup>60</sup> The present mechanisms for coastal security, while not being in conformity with the GoM’s overarching recommendation for “one-border-one-force,” has, nevertheless, evolved substantially since “26/11.”

The overlap of roles and responsibilities amongst the agencies involved in coastal security (and consequently jurisdictional overlaps as well) has led to an impression amongst some that the present construct is “disorganised.”<sup>61</sup> Some analysts have opined that the mere reallocation of duties between the Navy and the Coast Guard has only compounded the problem.<sup>62</sup> Echoing similar sentiments, a 2014 report of the Department-related Parliamentary Standing Committee on Home Affairs stressed the need for a clear hierarchy of command at the national level.<sup>63</sup> Despite these reservations, some overlaps are, perhaps, inevitable even in an otherwise seamless medium.

In May 2018, the MoD rejected a suggestion by the MHA to bring the Indian Coast Guard under the MHA.<sup>64</sup> One of the reasons for the MHA proposal was the need for greater coordination between the Indian Coast Guard and other central agencies under MHA.<sup>65</sup> Reportedly, in addition to the other wide-ranging responsibilities of the Indian Coast Guard, the need for better coordination between the Indian Navy and the Indian

Coast Guard was also one of the reasons for not accepting the MHA proposal.<sup>66</sup> In sum, there are contrasting views on how best to achieve coordination amongst all stakeholders.

Following the “9/11” incident, the US Government established the Department of Homeland Security (DHS), in 2002, by combining 22 different federal departments and agencies into one unified integrated cabinet agency. The agencies included, amongst others, Customs, Immigration and Naturalisation Services, Transportation Security, Emergency Management, Coast Guard, and the Secret Service.<sup>67</sup> In contrast, after “26/11” a more conservative approach was adopted in India by broadly retaining existing mechanisms, but designating specific additional responsibilities for coastal security. Considering the differing national dynamics, responses to even apparently similar situations will invariably be different.

Typically, navies and coast guards operate across the military, diplomatic, constabulary and benign roles, with the military role being the *raison d'être* and preponderant role for navies.<sup>68</sup> This is true across the globe.<sup>69</sup> Practically, most navies and coast guards employ “hybrid models,” with wide diversity even within a given hybrid model.<sup>70</sup> Hybrid models, or models of shared responsibility, such as for coastal security in India, are driven by multiple factors such as economics and legacy, and reflect a degree of pragmatism in the effort to effectively leverage national capacities in support of maritime security.<sup>71</sup>

In India, the principal role of the Indian Navy is “war-fighting”, and that of the Coast Guard is the “security of maritime zones”, and the “protection of maritime and other national interest in such zones.”<sup>72</sup> The present hybrid model of coastal security and border management has indeed established itself as a pragmatic working model. However, from a long-term perspective, considering increasing security challenges in the wider Indo-Pacific, and the growing capacity and capabilities of the Indian Coast Guard, it would only be only appropriate for the Indian Navy and the Indian Coast Guard to focus on their principal roles, and provide mutual support when necessary. In any case, as both agencies evolve, they would need to recalibrate mutual engagements for effective and efficient utilisation of resources. In this scenario, the raising of another central maritime security force, or shifting the Indian Coast Guard under the MHA, remain arguable propositions.<sup>73</sup>

### **Operational coordination**

At present, a major limitation of the NC<sup>3</sup>I Network is that it integrates only two maritime-security agencies, viz., the Indian Navy and the Indian Coast Guard, but not other stakeholders of the maritime security construct. In January 2010, the Indian Navy brought out an approach paper for a comprehensive approach for National Maritime Domain Awareness (NMDA).<sup>74</sup> The approach paper broadly encompasses a COP of the maritime domain across all agencies.<sup>75</sup> The project aims to pool all available resources into one big network (a network of many networks). The Draft Project Report (DPR) for the NMDA project was prepared in August 2010, and the NCSMCS accorded its Approval in Principle (AIP) in November, 2010.<sup>76</sup>

Clearly, to strengthen inter-agency operational-coordination for maritime and coastal security, the NC<sup>3</sup>I Network needs to expand to include all stakeholders. Further, for operational effectiveness, there is a need for the integration of information from *all* available sensors, databases, and information/ intelligence sources, into one system, rather than

being distributed across multiple independent systems. The NMDA project is also likely to facilitate integration of the key naval concepts of MDA and COP into the operational philosophy of all stakeholders within the coastal security construct. Thus, the NMDA project has the potential of ushering a digital revolution in national maritime security affairs.

### **Legislative issues**

The GoM Report of 2001 had recommended the “tightening” of laws and procedures, including a comprehensive review regulations relating to the undertaking of maritime surveys in the Indian Exclusive Economic Zone (EEZ).<sup>77</sup> The 2015 PAC report on the Indian Coast Guard highlighted a number of issues with respect to the legal framework, especially with respect to law enforcement. The issues highlighted in the report included the extant need for prior-approval from the Central Government for the prosecution of offences under MZI Act, 1976; the lack of enforcement-action under the MZI Act, 1976, as also under fisheries-legislations of coastal States; the need for laws regulating deep-sea fishing; and, the slow progress on the proposed bill for a Marine Fisheries Regulation Act (MFRA).<sup>78</sup>

The PAC was of the opinion that “ambiguity in laws could be one of the most frustrating aspects in the functioning of an organisation.”<sup>79</sup> Further, considering the responsibilities of the Indian Coast Guard, the legislative framework needs to be strengthened through amendments to legislations, and amplifying rules, regulations, etc.<sup>80</sup> The PAC also opined that the matter needed to be taken-up at the highest levels.<sup>81</sup>

Unlike the Indian Coast Guard, which is the principal maritime law enforcement agency, the Indian Navy is essentially a defence force, with a secondary constabulary role.<sup>82</sup> However, considering the responsibility of overall maritime security, including coastal and offshore security, there is a case to review the legal mandate for the Indian Navy to discharge its constabulary mandate effectively. Notably, with the increasing conflation of maritime threats, there is a corresponding increase in the conflation between maritime law enforcement on the one hand, and maritime security on the other.<sup>83</sup>

A report of the Standing Committee on Defence, in 2015, acknowledged the “need for better coordination and legal basis for action by [the] Indian Navy.”<sup>84</sup> It also recommended that the Coastal Security Bill under consideration should be progressed on priority.<sup>85</sup> Earlier, in 2014, the Standing Committee on Defence, had concurred with the suggestion to empower the Indian Navy and the Indian Coast Guard to take suitable decisions and action under the MZI Act, 1976.<sup>86</sup> Overall, the Committee acknowledged the inadequacies in the legal framework, and desired tangible remedial action.<sup>87</sup>

As already explained, in the aftermath of “26/11,” agencies such as the Indian Navy and the Indian Coast Guard were given specific responsibilities for coastal security. Clearly, preventing a similar incident would entail agencies involved in coastal security to approach, visit, board, search, seize, arrest, and if necessary, use force against suspected terrorist-vessels. Further, to strengthen maritime security in general, there is a pressing need to act against illegal activities and crimes at sea in all its forms – piracy, armed robbery, illegal fishing, pollution, illegal surveys, etc. Therefore, the legal mandate of maritime security agencies needs to be reviewed in the context of likely threats and consequent actions required from security agencies to thwart such threats. It is evident that supporting-actions that need to be taken in pursuit of national security interests need to be supported by an adequate legislative framework.

## Conclusion

Maritime Security Governance, *per se*, does not have a universally accepted definition, and varies in scope depending on the interpretation. The current institutional mechanisms for maritime security in India have evolved over the past four decades. In the aftermath of “26/11” the Government has taken several initiatives to strengthen maritime and coastal security, and accelerated progress has, indeed, been made over the past decade, by adopting a WoG approach. This notwithstanding, studies and reports on the existing mechanisms have revealed significant lacunae, as also areas that need strengthening. Inter-agency coordination mechanisms, the legislative framework and delineation of responsibilities between agencies are key amongst these. Having examined these elements, four overarching recommendations of this paper are: (1) the establishment of a single-point apex-level body for maritime affairs; (2) clear delineation of responsibilities between multiple agencies; (3) strengthening capabilities for effective operational coordination; and finally, (4) a review of the legislative framework. There is no gainsaying the fact that, despite the gains that have been made, strengthening maritime security, including coastal security, will necessitate periodic revisits of existing mechanisms for maritime security governance.

## Notes

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## Disclosure statement

No potential conflict of interest was reported by the author.

## Notes on contributor

*Commander Himadri Das* is a serving Indian Naval Officer. The views expressed are his own and do not reflect the official policy or position of the Indian Navy or the Government of India.