

ORGANISED AGAINST ORGANISED MARITIME CRIMES –THE NATIONAL MARITIME SINGLE POINT OF CONTACT-

Capt. Martin A. Sebastian RMN (R)
Centre for Maritime Security and Diplomacy (CMSD)
Maritime Institute of Malaysia

Abstract

There are three important maritime crimes that attracts attention. Smuggling /trafficking, illegal fishing and piracy/armed robbery. These crimes have become syndicated crimes, meaning they are often organized and have a transnational nature. When discussing how to address these crimes, six pertinent issues comes to mind. Firstly, maritime crimes are not a maritime matter. Though the crimes are done at sea, the locus of the crimes are on land ie the planning, funding and the feeding of/from the crimes. Secondly, syndicates that operate these crimes almost always collaborate with enforcement staff, which leads to corruption issues. Without addressing these issues, inter agency cooperation becomes a myth. Thirdly, law enforcement is about deterrence and disruption of the crimes. To affect this, industry and community support must be garnered. Fourthly, the digital age provides the technology to piece information jigsaws for better understanding. This creates a new advantage against organized crime networks. Finally, the remaining two issues are the lack collaboration with international organizations and the inability to affect successful conviction. Without conviction, the effort to arrest and indict criminals is a waste of time. When all these aspects are addressed we will arrive at a new initiative which will create a system which is organized against organized crime.

Introduction – The Land-Sea Nexus

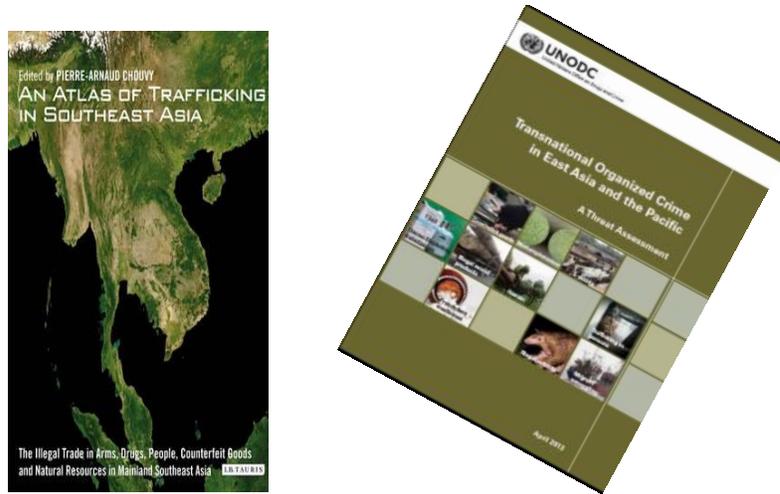


Figure 1: References on Transnational Crime

When addressing maritime crimes, it must be noted that these crimes have their locus on land. The land elements plan, fuel and feed these crimes. Syndicated crimes like smuggling/trafficking, illegal fishing and piracy/armed robbery for instance plan the logistics chain of the crime. It is a typical demand and supply story. Pure business, a shadow economy that runs parallel with the legitimate economy. The shadow economy takes advantage of the demand bypassing regulatory frameworks where costs are cheaper. Also, prohibited and controlled substances can be moved with ease in the shadow economy as cash is king!



Money that is laundered to support the shadow economy is done in a number of ways. There is no way a single agency or a single country can counter this. Maritime crimes thrive on this support as payment is needed all the way from informers to those who collaborate and conduct the crimes. In fact, if crimes are to be viewed closely, the ones that do the crimes are in fact victims as well. Victims of socio-economic disparity. These people become victims due to the socio-economic state of their nations and thus easy prey for unsavoury characters to use them in their logistics chain. There is a need therefore to go after those with ties instead of those with tattoos.



Whilst authorities like to run after smuggling or trafficking syndicates, there is little or no news on which sector uses the products. If humans are being smuggled or trafficked, then there is a need to identify whether they are being exploited by the

agro, construction, manufacturing or service sector. When these are identified, concerted efforts may be taken to stop the use of these illegal human capital. When addressing illegal fishing or destructive fishing, one must as well address where the detonators/explosives come from or how the cyanide is supplied. When addressing piracy/armed robbery, one might also want to find out how the pirated goods are distributed, how are they charged. Who is buying them.



All the efforts above requires cooperation between land and sea agencies. Coastguards, navies and police need to work hand in hand with other agencies as it is evident that we have organized crime but disorganized enforcement. Take narcotics for example, the police know the gangs, the coastguard know the routes and the customs know the entry points. If these agencies are to work together, certainly the logistics chain of narcotics can be broken.

Corruption – The cancer that ruins governance

One cannot deny that corruption has become part and parcel of day to day business in many countries. There are many names to justify it. Commissions, donations even gratitude. The point is that a system that is chartered to safeguard the well being of a nation can be easily destroyed by corruption. So how can we expect agencies to share information for a calibrated effort when

information can be leaked to syndicates by rogues in the system. Crime syndicates cannot operate without civil servants support and they pay for this support. This leads to many agencies blaming the lack of enforcement on turf war and lack of political will. Actually, it is just simple greediness by law enforcement officials. Instead of excuses that blame the government, it is timely for agencies to look inwards and blame it on lack of governance. Agencies can as well look outwards and obtain the cooperation of international organizations like Transparency International to weed out rogue enforcement staff. Agencies that do not have internal/external check and balance systems are prone to misgovernance leading to corruption and their inability to serve the public.

As civil servants income as well known, any lifestyle that goes beyond their income becomes suspect. Money garnered from corruption is either kept in financial institutions or used lavishly. Authorities have the ability to target rogue enforcement staff and freeze their accounts using the Anti Money Laundering and Terrorist Financing Act, pending conviction. Malaysia has included a clause in this act which even caters for "Unlawful Acts". Civil servants are not allowed to have other incomes and therefore freezing their accounts will create a major impact on potential rogues. In addition, name and shame policies will greatly achieve the deterrence that is required to weed out rogues from the system. Illegal funds that cannot be hidden and spent is not worth the risk. Moreover, systems like these in place will render higher cost of corruption thus rendering the cost of the shadow economy closer to the legitimate economy. It might not be a viable business!

When these polices and actions are in place, the system can be rebooted to deter civil servants from indulging in corruption thus cutting off the link with crime syndicate kingpins. When information is starved, better enforcement will follow, allowing for better inter-agency coordination of information and action.

Deterrence and Disruption– The role of community and industry

When discussing law enforcement issues with the authorities, there is often the hesitation to accept that a crime can be avoided. Agencies are often accused of being reactive that proactive to crimes. Agencies love to use the word “combatting” crime which are asset intensive and not intelligence intensive. Measures that are taken almost always are behind the criminal curve and criminals are always ahead of the law. It seems impossible to be ahead of the crime.

Law enforcement agencies have the ability to deter an disrupt crimes just like the counter terrorist agencies that can stop a bomb from exploding. These agencies have the ability to piece the intent and capability of the criminals if they work hard enough to identify the logistics structure of the crime. As mentioned earlier, the land-sea nexus and the counter corruption systems are some of the shortfalls that need to be addressed. Further, when the effort is to deter and disrupt crime, law enforcement agencies cannot depend on the whole of government approach as evidently there is a ‘hole in the government’. It is time for agencies to complement the industry and community into the deterrence and disruption architecture. This is needed because crime affects the socio-economics of a nation, the industry and the community are part of this system. The tax paying citizen has as much role to play in ensuring a crime free nation as the business entity. This is because crime affects businesses as well.

Community policing has been an old system for the police. These systems can also be used with the coastal communities. Fishermen, port workers, islanders and all those who depend on the seas can be factored to provide information to law enforcement agencies. Maritime crime syndicates that depend on local logistics will have to pay more for the risk of being arrested by law enforcement

agencies. This again adds costs to the shadow economy where it will not be lucrative to remain in that economy.

The Industry has a lot of intelligence that can be used by law enforcement agencies. Industries like the Malaysian Tobacco Company and the Malaysian breweries assist law enforcement agencies in identifying smuggling syndicates as the activities of these syndicates affect their business. Likewise, risk consulting companies provide information on crime which can be used by law enforcement agencies to find linkages in their own investigations. Media is a powerful tool which can report on the logistics of crime and their linkages to society. Agencies, industries and communities are a good combination towards a whole of nation (WoN) approach to win over crimes instead of whole of government approach which is at times flawed.

The Digital Age -The game changer

The digital age has made the globe smaller and business becomes easier to do. Technology in the digital age has given birth to social networks that can send text and graphics to a number of addresses in a second. Technology has also provided for large scale analysis and synthesis. Today's algorithms require inputs from information which will produce trend analysis. Systems can track IP addresses of suspects and track conversations and chats. Financial information is easily tracked when large scale transactions are conducted. Media becomes the final frontier in the digital age in this effort as the alternative media cannot be controlled by those in power. Abuses and exploits can be reported easily to the public. This deterrence is shunned by even the most powerful. Once the news is out, one has to do their best to counter it. Instead of countering it, many have decided to just withdraw. The digital age, when used effectively becomes the game changer, not only to piece complicated jigsaws, but to bring to attention, actions that require reaction, from the public if the government fails to react on it.

Therefore, in the digital age, society need not fear as community policing has created a new trend, report what you see!

Nations that want to invest in digital systems, will gain a lot by having a single maritime point of contact which is able to garner information from several support systems. This approach will create better understanding among law enforcement agencies on what they are and will be facing. Knowledge will develop into strategic depth, that will avoid fundamental surprise. These systems are already available in counter terrorism organisations, it will not be a problem for law enforcement agencies, from the land-sea nexus to utilize them.

International Organisations – External support for internal use

There are several international agencies that are already conducting capacity building programmes against maritime syndicated crimes. The United Nations Office of Drugs and Crime (UNODC), the World Custom organisation (WCO) and Interpol are some of the organisations that are able to support local law enforcement entities. However, it is best that these organisations are approached in a wholesome manner. This means, a nation has to bring to bear a single national maritime point of contact to interface with the multi faceted programmes conducted by these organisations. This approach will be more effective than many agencies trying to interface these organizations to either seek for funding or try to outshine other law enforcement agencies addressing the same threat.

In dealing with other nations, international organization make full use of the digital age in uploading their programmes and communicating their effort to the world. Their aim is to provide a better understanding of the threat at hand and the capacity building that is required to address the issues. As they say, charity begins at home, it is at home that nations should galvanise their efforts to be more organized than organized crime to counter maritime syndicated crime.

Conviction – Targeting the Endgame

In so far as law enforcement agencies are concerned, successful conviction is the essence of their service. More often than not, we read about arrests and indictment, we hardly read about successful convictions. In many cases, law enforcement agencies fail to successfully convict criminals for a number of reasons. Interference from people in power, corruption, insufficient proof or simply technicalities. Whilst it is easy to lament on the situation, it will be prudent for law enforcement agencies to take it upon themselves to better the situation. The systems owes it to the taxpayers and the society that depend on these agencies to provide for their well being. Trust of the public is key to law and order. If this trust is lost, then, in extreme cases, people have taken it upon themselves to create vigilante squads. Law and order breaks down then to the law of the jungle. Instead of providing service to the people, these vigilantes will turn into warlords creating mayhem as witnessed in many countries.



Conclusion

Where law enforcement is concerned, governance is the key and not just government. Agencies must find the best solution to conduct themselves professionally and provide for the well being of society. There is a need to be more organized than organized crime. There is a reason to factor the industry and community in the effort to deter and disrupt criminal syndicates. The digital age provides for a number of initiatives that are already being utilized successfully by many countries. It is timely for the collective sharing of these best practices to build coherent capacities. While criminal syndicates will always be ahead of the curve, law enforcement agencies must continue to create the deterrent and be relevant in the overall effort.