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Piracy in East and West Africa: Few similarities and many differences

Background

The maritime security situation in the Gulf of Guinea continues to be serious. From 2019 onward, over 90% of global kidnapping-for-ransom at sea attacks took place in the waters of West Africa. In contrast, piracy off the coast of Somalia has greatly diminished with no attacks in 2019 and 2020. When examining the situation in the East and the West, it is unsurprising that parallels are intuitively drawn between the 'successful'[1] anti-piracy efforts off the coast of Somalia and the current efforts in the Gulf of Guinea. This raises the question of whether anti-piracy measures off the coast of Somalia and East Africa can be applied to and in the Gulf of Guinea.

Discussion

While some similarities exist, the cases are quite different, with the main point being that the Transitional Federal Government of Somalia consented to international maritime "assistance in securing the territorial and international waters". In contrast, Gulf of Guinea states in general are less enthusiastic with the prospects of international naval presence in their territorial waters, as they are concerned with compromising on their sovereignty and therefore prefer to focus on capacity building, as this enables anti-piracy measures to remain in the hands of African states. This means that the West African states must play a more active role in combatting piracy vis-à-vis what was required of Somalia. Another difference pertains to the fact that international shipping makes more frequent port calls in the Gulf of Guinea compared to East Africa, with the average number of port calls in 2018-2020 to East African states being only half of the port

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[1] Success here refers to the fact that the number of hijacked ships off the coast of Somalia has fallen to zero, even though the pirates may have transitioned to other forms of maritime crime.

calls made to coastal states in West and Central Africa. Merchant shipping are arguably more exposed to attacks closer to the coast, and the number of port calls once again draws attention to the important role of West African states in maritime security. Attacks against merchant shipping previously took place close to the coast, although, the average range of piracy attacks has increased recently as pirates have adjusted their modus operandi in response to increasing awareness and counter-piracy measures closer to the coast.

The international naval presence off the East African coast, which was key in combatting piracy, faced relatively fewer constraints with regard to sovereignty. In the Gulf of Guinea, the prospect of a similar naval coalition seems unlikely. The difference relates to the applicable legal framework when crossing into the territorial sea of coastal states. The sovereignty aspect of anti-piracy activities is also relevant for the employment of armed guards, better known as "Privately Contracted Armed Security Personnel" (PCASP) on board merchant vessels, which the maritime industry is often calling for. Overall, fighting piracy is essentially transnational – even more so in the Gulf of Guinea with many littoral states – but cooperation is hampered by state concerns over compromising on their sovereignty. Cooperation must therefore happen within the framework of state sovereignty and a sustainable equilibrium must be created that allows stakeholder cooperation while avoiding compromises on sovereignty.

Denmark recently announced the deployment of a navy frigate to the Gulf of Guinea, to operate against piracy in international waters. While this complies with the provision of UNCLOS as it takes place in international waters, it has drawn some criticism or even uncertainty with emphasis on the sovereignty-aspect, although there is also an understanding within the region that the current situation is unsustainable. It is not the first time European navies have sent naval vessels to the Gulf of Guinea, but previous deployments often happen in cooperation with regional states amid national, regional, and international capacity building efforts. These include a broad range of activities such as training, education, funding, and exercises, which seeks to strengthen the capacities of states in the Gulf of Guinea to fight maritime crime. Despite these efforts, the international community is yet to turn the tide, although improvements have been made by the littoral states. Their navies and coast guards have been prioritised and have intensified patrolling near the coast. In response to this, pirates have shifted their activities farther from shore and into international waters. This illustrates their ability to adapt to countermeasures and highlights the potential advantages of European naval presence in the international waters – at least temporarily, by supplementing the efforts of the littoral states by providing vessels that can patrol in international waters.

Concluding remarks

If non-African navies are to contribute effectively, a framework must also be constructed as to include these vessels in information sharing and coordination with other stakeholders while not crossing redlines when it comes to sovereignty. A way of doing so is by connecting existing (and future) international coordination frameworks with the Yaoundé Architecture for Maritime Security (YAMS). The framework was created with the signing of the Yaoundé Code of Conduct in 2013, which recognized the transnational character of maritime crime. The signatories consisted of 25 West and Central African states that signed the agreement to facilitate cooperation on fighting threats to maritime security. While not fully implemented, it provides a solid foundation for inter-regional cooperation that enables politically authorised cooperation on the operative level. This is only possible because the agreement found a balance between political authorization and sovereignty concerns. Creating an operational link between the YAMS and non-African vessels, navies, or interventions can perhaps ensure coordination and information sharing without the associated

sovereignty compromise. Several international projects[2] already exist in support of the Yaoundé Architecture, such as exercises, capacity building projects, and dialogue projects[3]. Whether an operational link between the YAMS and non-African naval assets is politically and operationally feasible remains to be seen. YAMS serves as an example of how cooperation can be sustainably designed, as it seems to have satisfied sovereignty considerations while allowing transnational cooperation on the operational level. Based on this, it might be (politically) possible for a consensus to emerge on foreign naval contributions to maritime security. Before this can happen, several issues must be worked out. These include full implementation and funding of the current YAMS, as well as jurisdictional (handover and prosecution of suspects) and operational (information flow, point of contact, etc.) aspects,

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[2] See Stable Seas: Gulf of Guinea for an overview.
[3] The authors are engaged in planning and implementing these projects.