The Security Institute for Governance and Leadership in Africa of Stellenbosch University organized in cooperation with the Centre for Trust, Peace and Social Relations of Coventry University a workshop on “The private/public dimension of maritime security”, which was held from 5-6 May 2016 at the Wallenberg Conference Centre, Stellenbosch. The focus of the workshop was on stimulating cooperation between universities, dedicated research entities and practitioners. During the two days the discussions centred around four panels dedicated to the privatisation of maritime security, coastal communities and maritime security, maritime crimes and interagency cooperation for maritime security.

Privatisation of maritime security

The first panel on the privatisation of maritime security examined the need for cooperation between the state and private security to police what is commonly, albeit erroneously, referred to as ungoverned spaces. This erroneous perception is aggravated by overlapping jurisdictions and misperceptions over regulation. The maritime space, however, should rather be viewed as being under- or weakly policed, which could be alleviated by outsourcing and possibly private maritime policing in the future. Scepticism surrounding the privatisation of security, legally a responsibility of the state, exists in spite of the overwhelming number of private security companies providing training to people on ships in preference to putting weapons on ships. The role of security on board ships is preventative and presently limited to combating piracy in the High Risk Areas. Companies providing preventative security may well be utilised in the future to provide security services to counter other challenges emanating in the maritime domain such as drug smuggling, migrant smuggling and illegal, unreported and unregulated (IUU) fishing. Apart from shipping companies the maritime industry encompasses a plethora of non-state actors including P&I clubs and non-governmental and non-profit organisations. These organisations also have a role to play in ensuring a safe and secure maritime domain. The inclusion of non-profit community-based organisations, such as neighbourhood watch, in coastal communities needs to be examined with a view to combining the involvement of governments and non-governmental organisations (NGOs) in ensuring a secure maritime environment. Highly sophisticated naval platforms are being used to deal with low intensity conflict which could be dealt with more cost effectively by private security. As all maritime problems are not necessarily security related, NGOs and governments involved in policing the maritime domain need to combine their efforts. This task could be supported by separating the various issues and approaching and dealing with them individually rather than collectively as maritime security. The use of private security to accompany ships transiting high risk areas could be reduced if these areas were to be periodically evaluated to assess whether they still justify being regarded as high risk. An inherent risk in declassifying such former high risk areas, however, is that crime could rapidly return at its former level.

Coastal communities and maritime security

Normally with maritime security, the focus is on the sea and not the ports. Landward security needs to be increased concurrently with heightened maritime security, particularly where the ability of navies are limited. Coastal communities are the first beneficiaries of what the sea has to offer and need to become involved in assisting with establishing maritime security. Government resources need to be mobilised to educate and sensitise coastal communities on the dangers of becoming involved in maritime crime and the consequences, which affect not only the perpetrators but their families and the community. Religious and influential business leaders need to get involved. Law enforcement agencies need to arrange road shows to educate communities on the necessity for a secure maritime environment and encourage residents in the communities to become involved in the planning and execution of strategies. Contractors may become
Maritime crime is not well defined and is often viewed as being mainly limited to piracy. The tendency to conflate crimes that occur in the maritime domain needs to be negated by a clear understanding of the elements constituting the separate crimes in order for strategies to be directed toward particular crimes. There is a need for accurate and confirmed reportage on the manifestation of the different crimes. Maritime crime and maritime incidents also need to be differentiated from each other. As there is a distinction between international law and domestic law, failure by states to pass domestic legislation enabling prosecution and punishment of the activities criminalised by the international instruments remains a challenge. In cases of overlapping of jurisdiction of international law and domestic law as well as the different crimes, the charge needs to be formulated with the most serious crime. The lack of legal definition at domestic level creates a serious void between the public and private sectors in countering and dealing with crime committed at sea. Dealing with crimes separately would stimulate discussion on maritime security by defining the challenges faced. There is also a need to ponder the future evolution of these crimes and strategies to address new challenges which may arise for role players in both the public and private sectors. An example of evolving crime is the use of increasingly sophisticated technology to commit cybercrime in the maritime domain.

Effective security at ports (inland waters) could deal with crimes which may otherwise escalate to the extent where they would have to be addressed in the territorial waters or on the high seas. Policing the ports effectively would be more cost effective than otherwise having to deal with the criminal activities at sea. Collusion between ships crews and perpetrators of theft in ports as well as at sea when the theft of cargoes is involved remain problematic. The need for information sharing between role-players in the public and private sectors was identified as was the need for focus groups to examine issues which remain a challenge. One of the areas identified which requires further examination is the use of technology to assist ship operators and law enforcement with the prosecution of perpetrators. An example of such technology is the use of video conferencing and e-mail to provide evidence on court dates where the crew members are not available to give evidence. To assist with the formulation of a maritime security strategy further discussion is needed on the nature of law enforcement and the difference between security operations and the defence of the sovereignty. Different crimes and their relationship as a threat to maritime security needs to be determined.

Inter-agency cooperation for maritime security

Fragmentation leads to confusion and affects clarity in dealing with issues of inter-agency cooperation for maritime security. There are a large number of actors and stakeholders with different values, mandates and approaches involved. Uncertainty exists and there is an evolving profile of these issues. Sharing information is important but unless there is a cross organisational strategy it cannot be achieved. Foresight is important and scenarios and risks need to be projected. The tasks and capabilities of the relevant role-players such as government, private security and NGOs must be established. There is a need to create a desired future, since it creates hope and something that can be worked towards. The desired future should bridge organisational cultures and create shared meaning. Ethics should be discussed more often as it is missing from the discourse in South Africa. Certain principals in dealing with security issues need to be applied: the
use of foresight, the development of intervention, identification of capabilities and the transformation of the organisational story.

An integrated approach needs to be adopted and requires a certain level of speed to be effective. It also requires clarity on what needs to be achieved, how it can be achieved and the desired end result. It requires practical explanation and experience and must be measurable. To achieve an integrated approach the South African government initiated Operation Phakisa which brings together stakeholders from the public and private sectors, academia and civil society to collaborate in planning interventions for fast tracking economic growth in the ocean economy. The South African cabinet has also approved a Border Management Bill to coordinate the functions performed by the departments of state responsible for border management and has opened an inter-departmental Port of Entry Control Centre at the Cape Town harbour where all the relevant government services are represented to coordinate the management of the port.

Maritime Security Awareness (MSA) depends upon information and intelligence sharing. The African Union (AU) has a capacity development strategy. The aim of the 2050 strategy calls for international cooperation and coordination on maritime security. The AU has become a catalyst for growth across all sectors of maritime security. Possible gaps need to be identified and discussed. Among the challenges present are the protection of national interest, over classifications on the part of governments which hinders information sharing, and diplomatic, investigative and judicial issues. Cooperation and coordination is a challenge. The challenges include the protection of a country’s sovereignty, national interest and geo-strategic importance. When the sovereignty of Somalia’s territorial waters was under severe threat no mechanisms were in place to deal with rampant piracy. Structures and methods had to be created from the outside, underlining the gap in maritime security by not having interagency cooperation in place. Where interagency cooperation is present, agencies will have an existing platform from which to cooperate on matters at sea. States are too retrospective and this is a challenge. There is a need to be proactive in law enforcement. Good intelligence is necessary as opposed to reliance on past information or history. States need to overcome trust issues which may exist in order to share information, as a prerequisite to sharing equipment, cost, and common operating platforms. Countries can deem at any stage what is in their national interest and can have their policies changed and this is often disruptive for cooperation. Where governments do not have funding or resources, they can work on a business model to bring in the private sector, and by reaching a common understanding, without compromising national security.

**Capacity building in maritime security**

The availability of resources is necessary, but not sufficient in achieving the goals. In terms of maritime security capacity building, joint training, common understanding and local ownership are crucial factors in attaining success and achieving the developmental goals. This can be achieved through a community of stakeholders in maritime security that meet regularly to debate, discuss and mend differences. The current conceptual debate identifies two main approaches to maritime security: The traditional approach, which refers to territorial and interstate disputes as the primary task of the armed forces, and the contemporary approach which is mainly focused on organised crime, human insecurities and addressed by law enforcement. Regardless of which one it is there is a need for interstate and intra state capacity building, as well as inter-agency collaboration. Currently, one of the biggest security challenges in Europe is the refugee crisis. People are not being smuggled from a port, but from a simple coast with inflatable boats. Sovereignty claims prevent international organisations from intervening without the coastal state’s consent, because it is beyond their jurisdiction. Governments need to prioritise maritime security and develop a national maritime security strategy to address threats. Maritime security stakeholders from
government, academia, law enforcement, armed forces and think tanks need to become involved. Focus groups can be established to facilitate discussion on maritime security and foster a common understanding between the groups. Goals can be achieved by creating local ownership, improved communications, and joint training and education.

Reflection

The discussion during the workshop raised a host of questions and suggestions and highlighted the need for establishing and maintaining a network between academia and practitioners on maritime matters. To this end it is planned to set up a South African focus group to meet biannually to facilitate discussion on maritime security and foster a common understanding between the role-players.

Compiler: Prof H Fouché