



Governance in the Indo-Pacific

The Maritime Domain

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International governance is liable to be understood and interpreted in many ways. One could construe it in terms of the management of politics, security, or economics. Alternatively, it could rationalize interactions in areas where national interests overlap, both as a means of ensuring growth and of reducing conflict. Areas where state objectives intersect include outer space, the cyber domain, and the maritime domain, and they are collectively referred to as the global commons. International governance is a way of framing rules and a rules-based order to facilitate transparency, trust, and accountability while promoting a sense of public well-being.

This essay focuses on the theme of ocean governance in the Indo-Pacific, as a way of addressing security concerns in the contested littorals. In recent years, growing criminal activity in the maritime domain has caused a shift in the maritime discourse from a focus on traditional security to a greater consideration of nontraditional challenges. Amid growing contests over the management of the seas, policymakers and practitioners have come to view the oceans as a common resource. This has led to a more practical view of the possibility of a virtuous cycle of ocean development through multilateral cooperation.

Consequently, the idea of “holistic maritime security” has attained greater salience in policy-making. The concept isn’t new, but maritime practitioners have only recently begun to internalize it with greater attention to human-centric security, in particular the challenges of disaster relief and resource management. Now, more than ever, the discourse around maritime issues involves a discussion of the United Nations Convention on the Law of the Sea (UNCLOS) and its provisions for regulating ocean-based resource harvesting.¹ The blue economy is increasingly in focus, with many countries in the Indo-Pacific region outlining a vision for marine economic growth. Quad nations, Southeast Asian and East Asian states have declared a robust agenda for ocean health, and biodiversity and conservation are increasingly the subjects of policy deliberation. Maritime doctrines and procedures are being progressively recalibrated to enable operations in a climate-stressed world, where the rendering of service to citizens is as important as the mission to combat adversaries.²

MARINE GOVERNANCE: A WORK IN PROGRESS

The foregoing constitutes the larger context of India-US collaboration in the maritime commons. Both sides recognize the need for ocean governance mechanisms; nontraditional security cooperation between Washington and New Delhi in the regional maritime commons is a prerequisite for a broader strategic partnership. Yet, bilateral efforts have consistently fallen short of the required ideal. This isn't only because maritime management in South Asia is inherently hard. It's also because India and the US haven't worked together to solve problems of marine governance, so they have unintentionally made things worse in the maritime commons.

In India's case, the discrepancy in marine governance relates to the rampant exploitation of sea resources and New Delhi's attempts to push back against foreign military activity in the exclusive economic zones (EEZs). The country's Maritime Zones of India Act of 1976 also does not align with international conventions in a few areas. The act decrees that foreign warships must give "prior notice to the Union Government" before transiting through territorial waters.³ India also asserts its right to extend provisions applicable in the territorial waters to the "contiguous zone," regarded by UNCLOS as a part of the EEZ. Indian officials contend that "innocent passage" for foreign warships through India's territorial waters requires the assent of Indian authorities, if not explicit authorization. In the area of marine conservation, too, Indian efforts have fallen short of expectations, especially with regard to overfishing in Indian waters.⁴

For its part, Washington has appeared unready for a governance role in littorals. The US has yet to ratify UNCLOS, the "holy grail" of maritime governance. More crucially, however, the country is still regarded by many in South Asia as an extraregional entity.⁵ US hesitation to participate in marine governance activities also stems from a perception of a regulatory deficit in the eastern Indian Ocean. US policymakers know marine governance in Asia is a gray area where there is little transparency and accountability about marine resource extraction and an overt reliance on voluntary measures for compliance with international law. Furthermore, regional states have not invested in data collection technology, with the result that the true causes and extent of overfishing, biosystem destruction, and coral bleaching remain unknown. With a rising focus on deep seabed mining and marine resource exploitation, concerns about the decline in biodiversity have been growing.⁶ Not surprisingly, Washington has avoided engaging in negotiations over marine regulation.

The other area of concern is the lack of investment in ocean governance initiatives. Marine governance requires a substantial outlay of funds. Fighting crime, cleaning up oil spills, and clearing marine litter are expensive and require substantial budgetary and technical support. The process of removing marine plastics from the sea, for instance, requires advanced technology; enforcing fisheries bans requires constant surveillance and data collection; and law enforcement agencies require top-end assets to police protected zones and prevent illegal migration. Few governments in South Asia have made the necessary financial investments, and the private sector, too, remains wary of putting its money in areas where there are no guarantees of returns.

The foregoing is not meant to minimize the importance of traditional security issues. The maritime domain is witnessing growing territorial disputes, particularly in the western Pacific region, as well as disagreements over coastal states' jurisdiction within the EEZs. There is concern that China's jurisdictional creep in the South China Sea and its reclamation of disputed features are pushing an already bitter rivalry with other claimant nations and the United States to a new worrisome high. This adds urgency to the need for greater consultation and cooperation among regional powers over traditional security issues in the Indo-Pacific region.

THE WAY AHEAD: POTENTIAL FOR INDIA-US COOPERATION

From an India-US point of view, the question is what the two countries can do together to improve the management of the maritime commons. The answer isn't simple, especially since the focus of bilateral engagement in the past few years has been on traditional security and governance, and conservation has been an afterthought. The fact that the US and India haven't agreed on the issue of user-state rights in the EEZ (freedom of navigation and innocent passage) is another reason why they haven't been able to devise a joint plan for development and management in the maritime commons. To complicate matters further, Washington has opposed New Delhi's stand on fisheries in the World Trade Organization (WTO), further constraining dialogue around resource management and conservation.⁷ The US has led a move by developed countries at the WTO to scrap subsidies for fishermen. India has been at the forefront of a demand by developing nations for a balance between current and future fishing needs as well as effective special and differential treatment, keeping in mind the developmental needs of the people.⁸

In order for India and the US to work together better in the maritime commons, especially in the area of marine governance, they need to fix the imbalance between security and governance in their maritime talks. New Delhi and Washington need to give marine governance more attention and agree on how to interpret important parts of UNCLOS. While both sides understand each other's points of view, neither seems ready to compromise on its position relating to coastal state/user state rights in the EEZs.

The US freedom of navigation operation (FONOP) 130 nautical miles west of Lakshadweep in April 2021, and the misgivings it caused in New Delhi, were illustrative of the lack of alignment between the US and India in matters of maritime governance.⁹ When the USS *John Paul Jones* conducted the Lakshadweep FONOP, Indian observers saw it as an unnecessary provocation by the US Navy. The disquiet in Delhi was heightened by an unusual press release by the commander of the US Seventh Fleet that said the operation was held in India's exclusive economic zone "without New Delhi's prior consent as a way of asserting US navigational rights and freedoms."¹⁰ Many in New Delhi saw this as political signaling by the US, meant to repudiate India's position vis-à-vis coastal state rights under UNCLOS. The Pentagon sought to defend the military operation, terming it "consistent with international law," but Indian analysts interpreted the maneuver differently.

REGIONAL CAPACITY BUILDING AND HADR

New Delhi and Washington also need to do more regional capacity building. Both governments should make strengthening Indian Ocean littoral states the centerpiece of future collaboration. The focus should be on developing effective mechanisms for intergovernmental cooperation on maritime law enforcement in domestic zones in the Indian Ocean. Opportunities for planning and exercises around humanitarian assistance and disaster relief (HADR) exist, particularly in South Asia and other countries in the region comfortable with engagement. Such collaboration can develop effective mechanisms for intergovernmental cooperation on maritime law enforcement in domestic jurisdictions in the Indian Ocean. India and the US could partner in building flat-bottomed boats for island states for HADR purposes. Subsequent to the launch of the Indo-Pacific Maritime Domain Awareness (IPMDA) initiative by the Quad countries in Tokyo in May 2022, an opportunity has emerged for India and the US to cooperate on shared domain awareness and maritime governance in the Indian Ocean.¹¹

DOMAIN AWARENESS AND COOPERATIVE MISSIONS

India is already playing a key role in regional domain awareness initiatives. The Indian Navy has established an information fusion center for the Indian Ocean region and has also sought to expand the surveillance footprint by setting up radar stations in smaller Indian Ocean states. Bangladesh, Maldives, Mauritius, Myanmar, Seychelles, and Sri Lanka have already integrated into the wider coastal radar chain network. The Indian Navy's own surveillance efforts have grown significantly, with increased aerial surveillance and reconnaissance missions from the Andaman and Nicobar Islands.

India is also focusing on more cooperative tasks in the littorals, such as counterpiracy, counter-trafficking, and illegal, unreported, and unregulated fishing. Coast guard cooperation is an increasingly attractive option to assist regional states with their maritime challenges to advance security partnerships. Coast guards serve as a potent soft-power tool. As agencies focused primarily on law enforcement and safety, they are a useful regional instrument to enhance cooperation since they can work alongside other regional security agencies, without seeming to assert national interests or being overtly militaristic in conduct.

GREEN TECHNOLOGIES AND CLIMATE CHANGE

Transfer of green technology from the US to India would be helpful. India needs green technology for more efficient blue economy projects in fisheries, aquaculture, alternative energies, marine technology, and smart tourism infrastructure. In part, the failure to protect the marine environment in South Asia is attributable to the absence of trained personnel. Innovation and technological development in critical sectors have been lacking, and blue economy models have not been tested in field conditions. The US can help India with innovation and training to implement blue projects.

Climate change adaptation and mitigation is another area of potential collaboration. India and the US must collaborate in developing efficient low-carbon fuels, and in fortifying port infrastructure for extreme weather events and sea-level rise. The two countries should consider jointly training South Asian marine law enforcement agencies for disaster relief operations.

Washington and New Delhi need to come up with a plan for managing the oceans that is attentive to the needs of coastal communities and that strikes a balance between economic growth and marine conservation. One way to do that is through spatial zoning and marine spatial planning in ecologically sensitive zones. India could rely on Australia, a Quad partner, for some direction in this regard. The Australian government's efforts at preserving the Great Barrier Reef as a "marine park" serve as a useful example of the importance of marine spatial planning. India could plan a similar project around its Andaman and Nicobar Islands, which contain some of the world's most diverse marine and coastal ecosystems.

THE INDO-PACIFIC OCEANS INITIATIVE TEMPLATE

Taking a cue from the Quad's IPMDA initiative, India and the US should think about working together with countries in the Indian Ocean Rim Association (IORA) to implement sustainable practices for marine governance. The US could help states in the region change their manufacturing processes by giving them tools for sustainable development that use green technology. An India-US partnership in the Indo-Pacific Oceans Initiative (IPOI) could prove critical. The central goals of the joint initiative could be as follows:

- Discuss ways to build partnership and regional consensus, generate ideas, and advance practical cooperation under the maritime ecology and conservation pillar of the IPOI.
- Improve understanding of marine pollution dynamics in the Indo-Pacific, including tools to better understand the spatial and temporal distribution of microplastics and the detection of floating marine plastic.
- Develop innovative approaches to building the circular economy focused on recycling, reuse, and refurbishing.
- Explore possibilities in which the IPOI could link with existing regional mechanisms and arrangements, in particular, the Association of Southeast Asian Nations (ASEAN), IORA, and the Pacific Islands Forum.
- Deepen institutional links between researchers, businesses, and the government on maritime issues to improve US-India cooperation.

CONCLUSION

Indian and US policymakers ought to place conservation and ecosystem maintenance front and center of their maritime agendas. They must redouble efforts to collectively tackle the

regulatory landscape. The only way forward is to coordinate their approaches. It's relevant that while regional states have been eager to leverage the blue economy for diplomatic purposes, their propositions have so far been little more than declarations of noble intent. India and the US must put something substantive on the table and lead by example.

NOTES

1. "UNCLOS 'Laws of the Seas' at Heart of UN Security Council Consensus, China Onboard," *India Today*, August 10, 2021, <https://www.indiatoday.in/india/story/unclos-law-of-sea-un-security-council-maritime-security-open-debate-india-presidency-1838903-2021-08-09>.
2. Forest Reinhardt and Michael Toffel, "Managing Climate Change: Lessons from the US Navy," *Harvard Business Review* (July–August 2017): 102–11, <https://hbr.org/2017/07/managing-climate-change>.
3. See section 4 of "The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976," https://legislative.gov.in/sites/default/files/A1976-80_0.pdf.
4. "TN Fishing Vessels Scouring Kerala Waters: Boat Owners to Hold Protest," *New Indian Express*, June 17, 2022, <https://www.newindianexpress.com/cities/kochi/2022/jun/17/tn-fishing-vessels-scouring-kerala-waters-boat-owners-to-hold-protest-2466502.html>.
5. Steven Groves, "Should the US Ratify the UN Convention on the Law of the Sea?," Heritage Foundation, June 13, 2022, <https://www.heritage.org/global-politics/commentary/should-the-us-ratify-the-un-convention-the-law-the-sea>.
6. "As India Plans Deep Seabed Mining, Concerns about Marine Biodiversity Emerge," *Scroll*, July 5, 2021, <https://scroll.in/article/999265/as-india-plans-deep-seabed-mining-concerns-about-marine-biodiversity-emerge>.
7. "EU, US Oppose India's Demand for Special and Differential Treatment in Fish Subsidy Talks," *Economic Times*, July 17, 2021, https://economictimes.indiatimes.com/news/economy/foreign-trade/eu-us-oppose-indias-demand-on-fish-sops/articleshow/84484635.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.
8. "US, EU Oppose India's Subsidy Cut Waiver Proposal," *Economic Times*, October 3, 2020, <https://economictimes.indiatimes.com/news/economy/foreign-trade/us-eu-oppose-indias-subsidy-cut-waiver-proposal/articleshow/78452359.cms?from=mdr>.
9. "US Navy Ship near Lakshadweep: New Delhi Conveys Concerns to Washington," *Business Standard*, April 10, 2021, https://www.business-standard.com/article/current-affairs/us-navy-ship-near-lakshadweep-new-delhi-conveys-concerns-to-washington-121040901163_1.html.
10. Abhijit Singh, "Not on the Same Page at Sea," *The Hindu*, April 13, 2021, <https://www.thehindu.com/opinion/op-ed/not-on-the-same-page-at-sea/article34304977.ece>.
11. "Quad Set to Launch Maritime Security Initiative in Indo-Pacific," *Times of India*, May 24, 2022, <https://timesofindia.indiatimes.com/world/us/quad-set-to-launch-maritime-security-initiative-to-track-dark-shipping-in-indo-pacific/articleshow/91758120.cms>.



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