The disciplined sea: a history of maritime security and zonation

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A rule is not order, it is just a description of some form of disorder.

Diego Morani, 2011[1]

It has been 25 years since the United Nations Convention on the Law of the Sea (UNCLOS) came into force.[2] Certainly, the regime of global maritime zonation it established did well to consolidate and harmonize the zero-sum territorial claims that had defined the politics of oceanic space since time immemorial. If, however, its drafters anticipated that ratification would end the history of the sea, they were mistaken. The history of the sea continues, albeit perhaps from a new baseline. In fact, since 1994 the spatial politics of the sea has continued apace, with greater insistency than ever before. Historical and cultural claims to maritime space not incorporated or permitted by the Law of the Sea (LOS) are once again emerging in the South China Sea.[3] One can also see the rise of particularistic interpretations that seek to extend maritime zones further into the high seas surrounding Latin America and Australia. Technological progress has added greater value to the articles concerning sovereign rights over the continental shelf. Zonal spaces with a military and/or environmental rationale are spreading in often remote but strategically important parts of the world. Temporary exclusionary zones that have no legal precedent are popping up in the waters where pirates and smugglers operate. And while littoral states seek to extend their control over their proximate seas and their reach into the high seas, new interpretations of the extent of the jurisdictional power littoral states possess within their allotted zones are also altering the political seascape. In addition, the establishment by UNCLOS of an exclusive economic zone (EEZ) has given birth to a new site of political economy, the blue economy, which fuels the need for greater coastal policing powers. More intensively and extensively than ever before in history, zones and the spatial power they exercise constitute the primary mode of political contestation at sea.

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[1] Diego Morani, *New Finnish grammar*, trans. Judith Landry (Sawrey, Cambs: Dedalus, 2011), p. 131.

[2] The United Nations Convention on the Law of the Sea was opened for signature on 10 Dec. 1982 in Montego Bay, Jamaica, and came into legal force on 16 Nov. 1994.

[3] Zhou Fangyin, 'Between assertiveness and self-restraint: understanding China's South China Sea policy', *International Affairs* 92: 4, July 2016, pp. 869–90; Katherine Morton, 'China's ambition in the South China Sea: is a legitimate maritime order possible?', *International Affairs* 92: 4, July 2016, pp. 909–40.

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What the zonal regime of UNCLOS has accomplished is to have placed a law-based matrix of good order over the continuing turbulence of maritime politics. As I shall argue, this development has changed the rationality underpinning spatial claims so that national interests at sea are legitimate only if they demonstrate correspondence with a normative understanding of global order. While this shift is central to understanding maritime politics in the twenty-first century, its origins are traceable to the strategies of imperial order initiated by Britain in the late eighteenth century. In effect it means that the traditional claims of sovereign ownership or exclusive control, based on military *dominium* or *imperium*, which framed the history of the sea, no longer carry a normative force. The new order at sea has evolved around the imperative of maintaining international security. The global zonal regime is a mode of oceanic governance that is anchored in the emergent and often contested logic of what constitutes maritime security: good order at sea.

We therefore need to understand the relationship between maritime zones, maritime security and global governance if we are to gain insight into contemporary political issues at sea. Zonation, it should be pointed out, has long been used as a way to bring certainty and rationality to the chaos of everyday life on *terra firma*. Zones are multifunctional, multidimensional spatial demarcations of legal authority and are used to manage movement through space. As I drive through various speed restriction zones in my car, I pass by land development zones, residential zones, industrial zones. I use postal coding zones as coordinates in my navigation device. Zones assign a function and ascribe a hierarchy of value to space. Describing their early use to police the outbreak of disease in urban France during the Middle Ages, Foucault demonstrated how quarantine brought order to the chaos of plague. It was an early example of how movement around a city could be regulated, calculated and planned for. It created a 'disciplinary' power wherein the healthy could move without fear of infection, 'in which each individual is constantly located, examined and distributed among the living beings, the sick and the dead'.[4]

This article is underwritten by the proposition that the zonal logic of maritime security is analogous to the spatial partitioning practices used to discipline the early modern city. If we were to extend the logic of zonation from its ubiquitous practice on land to the sea, it presents us with a possible future vision of the maritime sphere in which security at sea mirrors security on land, so that the entire maritime sphere is marked by a contiguity of permanent or contingent interconnecting, overlapping, multifunctional zones that regulate all free movement and usage of the sea. The birth of this vision of good order at sea, I argue, is to be found in the maritime zones that were constructed around Britain in the late eighteenth century.

This article details the evolution of zonation at sea in a bid to explore the origins of contemporary maritime governance. It applies a historical–spatial

[4] Michel Foucault, *Discipline and punish: the birth of the prison*, trans. A. Sheridan (London: Penguin, 1991), p. 197.

perspective to the recent article in this journal by Bueger and Edmunds.[5] By this I mean it will investigate the rise of the four domains of maritime security they identified—national security, marine environment, economic development and human security—through zones that have been created at sea to anchor them. Bueger and Edmunds's article further argues that maritime security is distinguishable from other forms of security by virtue of its possessing four characteristics. They argue that the practices, or dimensions, it creates are interconnected and interdependent; that they interlink the governance of land territory and the flux of ocean (liminality); that they transcend state-based interests (are transnational); and that they problematize, and effect change in, traditional conceptions of state-based jurisdiction (are cross-jurisdictional). Thus maritime security is 'generating novel forms of association, integration and cooperation between actors'.[6] What remains consistent about the application of security at sea, throughout history, is the focus upon security as a function of spatial control. Taking a spatial approach will enable this article to describe the types of space that emerge from the political norms and practices that arise within and around these domains of control.

Zones of liminality: transcending *dominium* and *imperium*

Of the four characteristics Bueger and Edmunds attribute to maritime security, the most significant, from a spatial perspective, is liminality. This is key to their proposition that maritime security practices differ from practices associated with other forms of security. Liminality refers to the ontological threshold between being on land and being at sea. The geopolitical theorist Carl Schmitt contrasted the two states of being by observing that *home* on land generally implies a dwelling with solid foundations in earth, while at sea it implies a more nomadic existence, aboard a vessel that must negotiate an unpredictable and tumultuous material.[7] The question of whether it is possible, or desirable, to bridge these two separate realms of human experience brings us to the heart of any historical–spatial analysis of maritime security and governance. Broadly, one can discern two tendencies in the historical narrative of global oceanic governance. The first includes the bundle of practices and discourses associated with *imperium*, which accepts that sea space is fundamentally a different phenomenon from land space. The sea therefore must be treated as a separate realm of human activity, a risky, apolitical space that is only amenable to minimal structures of governance. The second approach discernible in history includes the practices loosely associated with *dominium*, or legal and permanent sovereignty, which attempts to territorialize sea space, to extend state governance structures from land onto the maritime sphere. *Imperium*, on the other hand, relates to the strategic control of oceanic space, enforced through violence. *Imperium* treats the sea as an open and somewhat moral space whose freedom is beneficial to humankind, while *dominium* treats the sea as a domain of disorderly

[5] Christian Bueger and Timothy Edmunds, 'Beyond seablindness: a new agenda for maritime security studies', *International Affairs* 93: 6, Nov. 2017, pp. 1293–311.
[6] Bueger and Edmunds, 'Beyond seablindness', p. 1302.
[7] Carl Schmitt, *Dialogues on power and space* (Cambridge: Polity, 2015, first publ. 1954).

freedom, a source of threat to the certainty and security of the state system. It goes without saying that zones established at sea from a perspective of *imperium* would, in general, be girded by boundaries that are more porous and more conceptually fluid than zones that seek to mark out more permanent foundations for state *dominium*.

History, however, shows us that boundary marking at sea is more contingent, unstable and contested than boundary marking on land. Identifying a clear distinction between zones that demarcate exclusive sovereignty (*dominium*) and zones that lay claim to military control (*imperium*) has not always been straightforward. Potter's historical study of freedom at sea relates that maritime dominion during antiquity was more generally a matter of military and commercial power (i.e. *imperium*) than a formal right: 'There is no evidence of a recognition of a legal concept of maritime dominion,' he writes.[8] Yet a desire for *dominium* certainly existed as an institution of antiquity. The ancient Athenians, in particular, sought *dominium*, and certainly claimed legal ownership, over their coasts and bays. Beyond that, they sought to create a space of security and established a 'wooden wall' of ships to defend their interests in the Aegean, maintaining exclusive usage of the sea from 423 BCE.[9] This primitive type of zone established by the Athenians was an early maritime buffer zone, if you like, concerned with protection, negative freedom and economic security. Jessup similarly finds evidence (mostly gleaned from Herodotus) of claims and practices among the Minoans, Lydians, Thracians, Rhodians, Phrygians, Cyprians, Phoenicians, Egyptians, Milesians, Carians, Lesbosians, Ionians, Carthaginians, Romans and Britons (among others) of proprietorial claims over sea space.[10] Epiphanes, the King of Syria, for instance, in 176 BCE laid claim to the Syrian Sea as an extension of his land empire. And 'Tyrian Sea' was a phrase used for the large body of water brought under the dominion of the Tyrian Empire.[11] The persistent desire to control activity around a polity's proximate waters is also found in Roman history. By using the pretext of a threat to its grain supplies, Rome under Pompey decided that, in order to maintain its order on the sea, all of the land around the Mediterranean would need to be conquered.[12] Pompey, interestingly, also divided the Mediterranean into districts—perhaps the earliest example of functional zoning in the high seas we have on record.[13]

Efforts to institutionalize *imperium* or assert *dominium* using zonation properly commences in early modernity with attempts by northern hemisphere powers to annex more modest areas of sea territory in the name of national and economic security. The principle behind these early and often tentative claims was that the limits of sovereignty were not defined by 'natural' borders and territory was not

[8] Pitman B. Potter, *The freedom of the seas in history, law and politics* (New York: Longmans, Green, 1924), p. 15.
[9] John R. Hale, *Lords of the sea: how trireme battles changed the world* (London: Viking, 2014).
[10] Philip C. Jessup, *The law of territorial waters and maritime jurisdiction* (New York: Jennings, 1927), p. 53.
[11] Pitman B. Potter, 'Freedom of the seas in ancient history: struggle for control in early civilizations', *Congressional Digest*, Jan. 1930, pp. 3–8.
[12] Philip de Souza, *Piracy in the Graeco-Roman world* (Cambridge: Cambridge University Press, 2002), p. 165.
[13] Douglas M. Johnston, *The theory and history of ocean boundary-marking* (Montreal: McGill Queens University Press, 1988).

limited to land. While one finds attempts by local communities to secure a belt of coastal seas from foreign vessels as far back as the eleventh century, legally based demarcations, deriving from central authorities, commence in the fourteenth century. The Italian jurist, Baldus de Ubaldis, who died in 1400, was an early advocate of sovereignty or *dominium* at sea. Addressing issues concerning the maintenance of order and the suppression of piracy, he argued for a boundary measuring two days' voyage from land (100 miles). De Ubaldus cited the practices of the Venetian thalassocracy which reserved the right to impose taxes on the use of their proximal sea. In the sixteenth century,[14] the French theorist of sovereignty Bodin observed that a state could impose its law on any vessel that approached within 60 miles of the shoreline, although it could not appropriate the vessel.[15] It was the Italian Protestant Alberico Gentili (1552–1608), in the early seventeenth century, who argued that not only jurisdiction but also *dominium* could be claimed up to a range of 100 miles.[16] Gentili's claim for expansive sovereignty was in fact a minority opinion. Before the seventeenth century, the dominant legal opinion appeared to be that boundaries could be set within which only minimal jurisdiction and military control could be projected. Maritime security, in our contemporary language, was not dependent upon ownership.

Arguing for a boundary of 100 miles from the coast of Britain, William Wellwood's *Abridgement of sea laws* (1613) explicitly evokes security and safety (rather than customary rights) to support his claim.[17] Safety is mentioned seven times in the text, security twice. Measuring approximately two days' voyage from the coast, Wellwood's claim goes far beyond what was becoming the norm among European coastal states, which was based on the field of human vision. Wellwood's claim is also interesting in that it is based on the need to manage declining fish stocks around the coast of Britain. Sovereign stewardship of a space, he argued presciently, would lead to a more rational use of sea resources.

Theoretical legal opinions, however, deviated from practice, which was determined by technologies of enforcement. The more pragmatic delimitation arguably derived from the 'land-kenning' practices of Scottish fishermen. This technique used the human range of vision (14 nautical miles) to determine the limits of Scottish fisheries.[18] A similar measure was instituted by Denmark in 1618 to prohibit fishing within sight of the Faroe Islands; this was also the method of delimitation favoured by Grotius, who argued that it was more practical than the imposition of imaginary lines drawn on abstract sea space.[19] Practical

[14] Thomas Wemyss Fulton, *The sovereignty of the seas* (Edinburgh: W. Blackwood and Sons, 1911), pp. 556–7 citing Baldus De Ubaldis, *Commentaria ad institutiones, pandectas et codicem* (Venice, 1577), pp. iii, 79.

[15] Julian H. Franklin, ed., *Bodin: on sovereignty* (Cambridge: Cambridge University Press, 2003).

[16] Lauren Benton, 'Legalities of the sea in Gentili's *Hispanica advocatio*', in Benedict Kingsbury and Benjamin Straumann, eds, *The Roman foundations of the law of nations: Alberico Gentili and the justice of empire* (Oxford: Oxford University Press, 2010), pp. 269–82.

[17] William Wellwood, *An abridgement of all sea-lawes* (London, 1613); digital edition, compiled and edited by Colin Mackenzie, 2011, available at http://maritimelawdigital.com/uploads/PDFs/Welwod-Sea_Laws.pdf. (Unless otherwise noted at point of citation, all URLs cited in this article were accessible on 8 April 2019.)

[18] Johnston, *The theory and history of ocean boundary-marking*, p. 7.

[19] Hugo Grotius, *The free sea, trans. Richard Hakluyt, with William Welwod's critique and Grotius's reply,* edited by David Armitage (Indianpolis: Liberty Fund, 2004), https://oll.libertyfund.org/titles/859, p. 347.

considerations also tended to frame the rationale behind early zonation, which was invoked, not merely for national security and defence purposes, but also to protect coastal fishing livelihoods. Accordingly, in 1598, the Danish monarchy ruling Norway declared an exclusive fishery zone measuring eight nautical miles.

Form following function, zones that were declared primarily for defence (i.e. *dominium*) reasons tended to be based upon the methods of delimitation propounded by Van Bynkershoek's 1737 thesis.[20] In this militarized national security construction, the sea was an extension of the land for purposes of defence. 'The fluidity of the sea', argued Van Bynkershoek, 'was not a bar to its possession and by taking possession of it the same right was acquired as by taking possession of the land.'[21] Having introduced the cannon-shot rule[22] in his 1703 book *De dominio maris*, Van Bynkershoek (1744) essentially sought to discourage warring powers from taking prizes within range of neutral harbours.[23] His system of measurement was concerned more with land defence than with sea defence, although the book does mention 'protected zones, fortified by coastal defences which demonstrate territorial authority over the sea'.[24] Vattel, a contemporary, agreed, adding that for security and welfare reasons sovereignty might be extended beyond the range of guns if fishery protection demanded it.[25]

In many respects these debates between the early modern security imaginaries were effectively ended by the British in 1736. Marking the birth of contemporary maritime security practices, in that year Britain introduced a series of Hovering Acts which established a maritime customs and excise jurisdiction within two leagues of its coast. By providing powers for the seizure of commodities and the forfeiture of vessels used for smuggling, this legislation, as Johnston has observed, 'represents zonal thinking at its most explicit'.[26] The zone it established is arguably the originary functionalist administrative security zone. Hovering zones were by nature malleable and sensitive to changing national interests. As Masterson points out, 'laws were adjusted to suit the nation's need'.[27] Between 1794 and 1798 Britain extended its customs barriers to encompass the Channel as integral to state territory, allowing, in 1802, for customs and excise duty boundaries to extend up to eight leagues (44 kilometres) out to sea.[28] During the same period, in 1753, Britain established a sanitary zone that overlapped the customs zone in order to manage

[20] Cornelius Van Bynkershoek, *Quaestionum juris publici libri duo*, vol. 1, photographic repr. (Oxford: Clarendon Press, 1930).

[21] Cited in Fulton, *The sovereignty of the seas*, p. 555.

[22] The principle *terrae dominum finitur, ubi finitur armorium vis* (the dominion of the land ends where the range of weapons ends), set at one sea league, which roughly accords to three nautical miles.

[23] Cornelius van Bynkershoek, *De dominio maris dissertation,* vol. 2, photographic repr. of the second edition, with an English translation by Ralph Van Deman Magoffin and an introduction by James Brown Scott (New York: Oxford University Press, 1923, first publ. 1744).

[24] Fulton, *The sovereignty of the seas*, pp. 556–7.

[25] Emmerich de Vattel, *The law of nations*, 6th American edn, edited by Joseph Chitty (Philadelphia: T. and J. W. Johnson Law Booksellers, 1844, first publ. 1758), chapter xxiii, pp. 125–31.

[26] Johnston, *The theory and history of ocean boundary-marking*, p. 53.

[27] William E. Masterson, *Jurisdiction in marginal seas* (London: Bailey Bros. & Swinfen, 1970; first publ. 1926), p. 58.

[28] Renaud Morieux, *The Channel: England, France and the construction of a maritime border in the eighteenth century* (Cambridge: Cambridge University Press, 2016), p. 181.

the quarantine of vessels sailing from areas where the bubonic plague had struck. This zone extended four miles from the coast.[29] These Acts, moreover, led to the first modern example of subzoned proximate sea in the Channel, dividing the sea into seven regional categories (the King's Chambers).[30] Legislation followed in Spain and Portugal in 1760 in which a belt up to six miles from land was demarcated for the purposes of customs, fishery protection, neutrality and jurisdiction.

The first innovation introduced with hovering zones was the capacity they provided to specifically target certain behaviour. In addition, the zone could be adjusted in response to the behaviour that was being controlled. Masterson summarizes the British zonation policy by emphasizing how this jurisdictional self-limitation was written into the legislation:

> To summarise, legislation from 1783 to 1802 extended jurisdiction over *certain* smuggling vessels of whatever nationality, and with no restrictions as to ownership, and over others owned wholly or in part by British subjects, for a distance of four leagues from any part of the coast. Shooting into a customs vessel within the same distance was made a felony, punishable by death. Off *certain* specified parts of the coast jurisdiction was extended over all vessels carrying *certain* cargoes, and all vessels of *certain* types and build, anchored or hovering within *certain* large areas of the sea called the King's Chambers.[31]

The second innovation that flowed from establishing a right to inspect vessels that have entered a specific zone was the concomitant claim of a right to pursue vessels that have fled that zone into the high seas. According to Masterson, writing in the mid-1920s, the principles embedded in hovering and hot pursuit legislation result in legitimating security actions by states well beyond the undefined limits of coastal waters.[32] This, of course, is an application of earlier arguments put forward by John Selden in his *Mare clausum* (1618), upon which British maritime mercantilism was based up to 1815.

As a measure of the zone's success, in 1805 an Act was passed which declared the entire 'British Channel' to be a customs jurisdiction, at which point, in Morieux's view, Britain's 'fiscal barrier became a true political and national barrier'.[33] In 1812 Norway and Denmark declared a similar four-mile zone that bound fishery protection together with the need for protection from belligerent foreign forces. Importantly, the size of these zones had little to do with cannon technology or with sovereignty. They mark the birth of a bifurcation in spatial thinking; a shift, in considering governance of the sea, away from the land mindset of *dominium* or the militarized justification of unilateral *imperium*. What they reflect is the beginning of a non-linear, fluid and, when operationalized, oceanic conceptualization of risk-driven spatial management.

The Pax Britannica has been described by Carl Schmitt as constituting a spatial revolution, 'an event that marks a massive transformation in the material

[29] Johnston, *The theory and history of ocean boundary-marking*, p. 53.
[30] George Chowdharay-Best, 'The King's Chambers', *The Mariner's Mirror* 60: 1, 1974, pp. 92–6.
[31] Masterson, *Jurisdiction in marginal seas* (emphasis added).
[32] Fulton, *The sovereignty of the seas*.
[33] Morieux, *The Channel*, p. 182.

geographic conditions of human societies and their understanding of space'.[34] For Schmitt, suspicious of the globalism espoused by apologists for empire, the British maritime empire heralded an age of liberal universalism and promoted 'forms of law that could apply in all places'.[35] It represented, in his view, 'an exemplary application of the discriminating concept of war'.[36] In other words, maritime warfare was not necessarily directed at a hostile state's forces but could be directed at anyone: private citizens or neutral forces, combatants and non-combatants.[37] That is, the hostility of the empire was directed not at the traditional state-based enemy, but at forces which caused turbulence. Phenomena that contributed to turbulence and thus inhibited the freedom of the sea were seen not in terms of an enemy, but in terms of criminal activity.[38] These included piracy, slave trading, protectionism, illicit trading, cannibalism and other cultural usages of sea space considered barbaric or savage. Thus, the high seas were re-envisaged in terms of the implicit risks to a moral and economic conceptualization of progressive freedom.

Prior to gaining ascendancy over the seas, Britain demonstrated no interest in maritime international cooperation and law, and regularly displayed arrogance and rapacious belligerence at sea in the name of national interest. In many ways, Britain was a rogue state at sea, and when a League of Armed Neutrality was (re-)established in 1800 to build a maritime security regime in European waters, Britain reacted by dispatching a force led by Nelson to attack the Danish fleet in Copenhagen.[39] The Pax Britannica, therefore, is the narrative of a shift in the position of the British government towards oceanic governance. Having gained naval hegemony, Britain immediately adjusted its naval strategy to protect and expand its coastal empire in the south while maintaining the strategic security it had accomplished in European waters. This change was determined by a new economic policy of free trade which had been adopted in 1805 by the British government. The war-fighting components of the navy were significantly diminished in favour of frigates and smaller vessels.[40] The navy was transformed into a policing force whose function was to maintain the global order upon which the empire's material base relied.

Its first foray into global security was to combat the slave trade, demonstrating to the world a morally progressive, commercially advantageous approach to maritime governance. Moreover, in policing the Atlantic slave trade the British Navy maintained a stop-and-search regime on the high seas, a right to barricade ports and a prerogative to continually monitor and intervene in any activity at sea.

[34] Claudia Minca and Rory Rowan, *On Schmitt and space* (London: Routledge, 2016), p. 189.
[35] Minca and Rowan, *On Schmitt and space*, p. 200.
[36] Joshua Derman, 'Carl Schmitt on land and sea', *History of European Ideas* 37: 2, 2011, p. 183.
[37] Carl Schmitt, *The nomos of the Earth in the international law of the jus publicum Europeum* (New York: Telos, 2003, first publ. 1950).
[38] For an interesting discussion of turbulence, see Howard Caygill, 'Perpetual police? Kosovo and the elision of police and military violence', *European Journal of Social Theory* 4: 1, 2001, pp. 73–80.
[39] Bernard Semmel, *Liberalism and naval strategy: ideology, interest and seapower during Pax Britannica* (London: Allen & Unwin, 1986), p. 16.
[40] Barry Gough, *Pax Britannica: ruling the waves and keeping the peace before Armageddon* (Basingstoke: Palgrave Macmillan, 2014), pp. 6–7.

From 1815 it had gained the monopoly of force at sea, a force that, crucially, was now being exercised during peacetime. This was accomplished by an exemplary act of securitization when the British government equated piracy with slavery. At a conference held in London in 1817 the Foreign Secretary, Lord Castlereagh, proposed an international naval police to patrol the coasts of west Africa, and further proposed that slavery be considered an international crime against humanity subject to universal jurisdiction. Later, and against the vociferous opposition of the United States, Britain demanded that privateering (the use of corporate navies funded by prizes) be outlawed. In a series of essays and letters dating from 1878, P. H. Columb argued that the role of the navy under a free trade regime ought to be occupied solely in keeping open the great sea routes to and from the heart of the empire.[41] Command of the seas, the future Vice Admiral Columb argued, should be used to secure the sea as a space of free movement for capital.[42] Of course, in order to control the sea, the British found themselves policing the coasts of the global South. Between 1837 and the outbreak of the First World War, Britain was engaged in 230 'limited wars' in the colonized parts of the world.[43] These 'wars' were actually policing interventions that used the new technology of maritime security developed by the British to monitor and patrol the coastal zones and riverine routes of its empire—the gunboat.

In essence, the period of the Pax Britannica globalized Britain's hovering zone and in so doing extended the national security practices that pertained to this belt outwards into the high seas. It created the first global maritime security space and developed the jurisdictional authority to erect a regime of governance based upon risks and threats that were universally applicable, morally progressive (from the viewpoint of colonialism) and conducive to the unhindered circulation of global capital and military force. The Pax Britannica clearly evinces, in nascent form, the characteristics of twenty-first-century maritime security outlined by Bueger and Edmunds—cross-jurisdictional authority, interconnected risks, transnational solutions and liminality. These attributes were never present in the zones of *dominium*, which were treated as extensions of land authority, derivative of national defence, on European coastal waters. For the most part, these were neither perceived nor managed as liminal spaces.[44]

Morieux's study of the spatial politics of the English Channel documents the fluidity of boundaries at sea, the constant shifting and negotiation, interpretation and reinterpretation of space.[45] It provides plenty of evidence to suggest that practices favourable to the development of a globalist maritime security regime originated within the hovering zones. A good example is the 1834 mixed French–British Commission, which established a three-mile limit of exclusive fishing access on the British coast but also introduced police regulations to enable

[41] These ideas were published in book form in Philip Howard Columb, *Naval warfare: its ruling principles and practice historically treated* (London: W. H. Allen, 1891).
[42] Semmel, *Liberalism and naval strategy*, p. 88.
[43] Gough, *Pax Britannica*.
[44] The three-mile limit from the low-tide water mark was institutionalized among European states as standard during the 1881 Hague Conference, which agreed on exclusive fishing limits.
[45] Morieux, *The Channel*.

surveillance and monitoring to occur. Importantly, it established rules for the standardization of numbering and lettering of fishing boats and for the definition and regulation of fishing apparatus. Moreover, these regulations, which eventually became universal, were binding on all French and British fishing vessels in extraterritorial waters.[46]

Paradoxically, the establishment of a nascent global maritime spatial security regime did not undermine the logic of zonation at the heart of maritime security. Benton's excellent recent study concludes that colonial European powers often 'placed other goals ahead of territorial consolidation, including the protection of commercial networks and routes and strategic responses to inter-imperial rivalry'.[47] What resulted, in effect, was a patchwork maritime empire composed of corridors that acted as conduits into enclave 'zones of legal variation'.[48] The Pax Britannica was an irregular pattern, an overlapping set of zones of legal anomaly, in which colonialists were more concerned with the administration of the local order than with the imposition of imperial sovereign control.[49] Thus empire, whether on sea or on land, was not a smooth, limitless space; it was an assemblage of places, a fragmented amalgam of zones of 'attenuated sovereignty' that were determined to a great extent by local geography.[50] The experience of empire appears perhaps to have demonstrated the political and legal limits of sovereign power, or at least to have shown that control is a function not of ownership but of a capacity, supported by force, to exercise the requisite moral authority. Maritime security, I argue, flowed from the imperial practice of maintaining order in heterogeneous, resistant and distant places that were governed by a security logic that operated from the same principle of *necessity* that animated hovering zones.

From Hovering Acts to contiguous zones

The hovering zone should be viewed as the progenitor of the US Tariffs Act of 1922, which permitted customs officials to board vessels up to four leagues from the coast. Alcohol prohibition had resulted in offshore smuggling in the United States, and Hovering Acts were reintroduced to enable the boarding of suspect ships within and sometimes beyond its territorial sea.[51] This led to the establishment of the US coastguard, which also borrowed the gunboat technology of the Pax Britannica as a tool of zonal security. In February 1924, as a mark of the need for

[46] Fulton, *The sovereignty of the seas*, p. 614. It is at this time that concerns also arose over ownership of the sea floor. This usually involved oyster beds, and in 1868 oyster fishermen from Wexford in Ireland were awarded exclusive access to beds located up to 20 miles out to sea (this created a fishing zone of 1,300 square miles). See Fulton, *The sovereignty of the seas*, p. 620.

[47] Lauren Benton, *A search for sovereignty: law and geography in European empires 1400–1900* (Cambridge: Cambridge University Press, 2010), p. 281.

[48] Benton, *A search for sovereignty*, p. 296.

[49] For a good example of zonation in a colonial context, see Renaud Morieux, 'Anglo-French fishing disputes and maritime boundaries in the north Atlantic (1700–1850)', in Peter Mancall and Carole Shammas, eds, *Governing the sea in the early modern era* (Los Angeles: Huntingdon Library Press, 2015), pp. 41–75.

[50] Benton, *A search for sovereignty*.

[51] The key case of the era concerned the seizure of the *Grace and Ruby* which lay anchored outside territorial waters.

more mobile and patrol-oriented kinds of vessels to exercise zonal maritime security, money was made available to purchase a 'rum fleet' of 223 cabin cruisers and 100 smaller motorboats.[52] In a paper written in 1923, the US jurist Philip Marshall Brown made the point eloquently when he argued that it was a 'primordial right of every nation to exercise a "protective jurisdiction" over its coastal waters in matters affecting its own safety and welfare'.[53] This jurisdictional right extends as far as is necessary, Brown argues, citing Kent's view: 'All that can reasonably be asserted is, that the dominium of the sovereign of the shore over the contiguous sea, extends as far as is requisite for his safety and for some lawful end.'[54]

At the same time as functionalist zones were being developed in the early twentieth century, the more militarized zones of *dominium* persisted as a practice of wartime security. There is little historical literature on the phenomenon, but Leiner's research traces a growing tendency towards the declaration of 'maritime security zones' as a unilateral state practice around the period of the First World War.[55] Japan, in 1905 during the Russo-Japanese War, declared 'defence sea areas', and Germany used the strategy of war zoning as a spatial weapon in the First World War, announcing 'closed seas' (*Seesferre*) around the British Isles.[56] In a wartime defence measure, Italy declared a defence zone of ten nautical miles in 1909 and in 1914 reasserted a three-mile zone beyond its territorial waters. Greece, Turkey, Ecuador, Chile and Argentina declared similar neutrality zones during this period.[57]

By the 1920s these zones had for the most part become obsolete, as the right of states to exercise some jurisdiction beyond their territorial waters during peacetime had been largely accepted by the Committee of Experts for the Progressive Codification of International Law,[58] which opined that 'beyond the zone of sovereignty, States may exercise administrative rights on the ground of custom or vital necessity',[59] though the opinion was not written into the final Covenant. However, the *necessity* of a 'contiguous zone' during peacetime divided the international community. An attempt to fuse the rationale of the contiguous zone and the military neutrality zone was made by the United States in 1939 in the form of the Declaration of Panama. This sought to establish an unprecedented (and

[52] Masterson, *Jurisdiction in marginal seas*, p. 211.

[53] Philip Marshall Brown, 'The marginal sea', *American Journal of International Law* 17: 1, 1923, p. 94.

[54] Brown, 'The marginal sea', p. 94, citing James Kent, *Commentaries on international law*, ed. J. T. Abdy (London: Stevens and Sons, Bell Yard, 1866).

[55] Frederick C. Leiner, 'Maritime security zones: prohibited yet perpetuated', *Virginia Journal of International Law* 24: 4, 1983, pp. 964–91.

[56] The 'closed seas' were later extended to encompass the seas around France, Italy, Greece, Asia Minor and north Africa. In 1940, when the German Admiral Doenitz attempted the same strategy, it would lead to his being found guilty of war crimes by the Nuremberg Tribunal.

[57] There has also been a long tradition of declaring zones for military exercises and target practice in which there is a voluntary temporary suspension of other uses of the sea. In 1973 France went beyond declaring a *zone dangereuse* during a nuclear test on the Muroroa Atoll, unprecedently creating a temporary complete exclusion zone for all shipping in an area of the high seas.

[58] This was established by the League of Nations Assembly to be a standing organ to examine international issues of legal contention. It convened in The Hague in 1930 to examine three pressing topics: (1) nationality, (2) territorial waters and (3) the responsibility of states for damage done in their territory to the person or property of foreigners. It is widely considered to be the first worldwide attempt to codify and develop whole fields of international law and its opinions eventually exerted a strong influence on governments and on the UN Charter.

[59] Cited by Leiner, 'Maritime security zones', p. 976.

ultimately theoretical) continental-sized 'zone of security' measuring 300 miles from the coast around America,[60] within which 'any hostile act, or detention, capture or pursuit, the discharge of projectiles, the placing of mines of any kind or any operation of war' was prohibited.[61]

In any event, during the negotiations around the 1958 Law of the Sea Conventions a contiguous zone allowing for customs, fiscal and sanitary regulation within a belt of twelve nautical miles offshore was finally agreed. Some states that would eventually join the Non-Aligned Movement, namely Yugoslavia, the Philippines and North Korea, pressed for peacetime national security to be included among the bases for regulation within this zone; but it was felt that this might interfere in freedom of movement and their plea was rejected. Overlapping this belt, and extending seaward to a total distance of 50 miles, was a zone covered by the Convention for Prevention of Pollution of the Sea by Oil of 1954, an early extension of jurisdictional authority in the high seas which afforded states the right to act in emergency situations at sea.[62] This Convention also added a third dimension to coastal and high seas zoning by awarding sovereign rights to seabed resources. These sorts of zones cannot be established in the absence of enforcement rights, which remained vague at the time. Nonetheless, the contiguous zone was created as a permanent zone residing in the high seas. Henceforth, the risk-based approach to governance on the high seas would see state-administered police zones with ostensibly functional jurisdiction expand around named threats (and technologically determined economic opportunities) that could be articulated as being of common interest to all humankind. Security would henceforth, with certain exceptions (e.g. Britain in the Falklands Conflict of 1982), not be framed within traditional national security discourse, in terms of an objective threat to the existential security of the state. Rather, the new construction of the ocean was formed around the expansive normative discourse of non-traditional threats, perpetual risks, crimes, and the necessity of permanent surveillance and patrolling. In an era of continual wars against drugs and against terrorism/communism, where war is not declared and where the enemy is framed as a universally illegitimate criminal actor, the distinction between wartime and peacetime security zones became irrelevant. This rationale institutionalized maritime security in terms of its focus on persistent threats that were inherently political and economic rather than existential.

Countries immediately commenced declaring exclusive fishing zones within which stocks would be managed, monitored and harvested rationally in areas structured around improvements in surveillance technology—Chile and Peru, for instance, declared zones extending to 200 nautical miles, while Iceland adopted a zone of 50 nautical miles from shore. During the 1970s, zoning practices that elided national and political economic security were increasingly discussed. Canada's declaration in 1970 of a 100-mile zone (for environmental protection in

[60] This 'zone of security' was more a diplomatic invitation than an exclusive police zone: belligerents were asked to gain permission prior to entry. The zone was operational for about two years.
[61] Daniel Patrick O'Connell, *The influence of law on sea power* (Annapolis, MD: Naval Institute Press, 1975), p. 163.
[62] Tafsir Johansson and Patrick Donner, *The shipping industry, ocean governance and environmental law in the paradigmatic shift* (London: Springer, 2015), p. 23.

the Arctic and for licence to exercise extensive control over transnational shipping) encapsulates the zonal jurisdictional logic that eventually informed the UNCLOS deliberations that led to the 1982 Law of the Sea. Tellingly, Canada had used the imperative of environmental security as justification for establishing a measure of national security from the United States. As Canada's Minister of External Affairs at the time explained later:

> The assertion of anti-pollution measures was an excellent way to get control of that area without being too provocative to the United States. It helped to protect the environment but I thought it a very clever way of making progress in the field of sovereignty.[63]

It is telling that the original blueprints for the establishment of an EEZ originated with regional actors—the Organization for American Unity and the African Union—that were seeking protection from the advanced industrial states of the northern hemisphere. First proposed by Caribbean and African countries, the concept of what South American states called a 'patrimonial sea' and Kenyans an economic zone of 'permanent sovereignty' sought to establish some measure of protection for their proximate seas.[64] D. P. O'Connell observes that South American states in the early 1970s were anticipating a 'massive predatory incursion' from North America.[65]

From a spatial perspective, UNCLOS III represents the Westphalian moment for the world maritime sphere. Almost wholly concerned with boundary-making and the establishment of functional zones for the purposes of economic and national security, it extended the state system into world oceanic space. However, the liminal difference between sea boundary and state border on *terra firma* remains distinct: rather than creating boundaries that create *dominium*, the Law of the Sea created a series of circles, extending from the coast, with ever-decreasing jurisdictional authority, that propel the law enforcement rationale of the contiguous zone further into the high seas. In effect, UNCLOS augments the legitimate power of state actors to police crimes that primarily affect the security of the land—customs, fiscal, immigration or sanitary—with powers to police crimes that affect the economic potential of the sea—pollution, fishery protection, conservation, seabed monitoring and so on: a purely maritime form of security.

While security was not mentioned in the final agreement, nor was it included as an aspect of the discussions leading up to it, the Law of the Sea is one of the earliest examples we have of the radical change in security discourse and practice that dominates twenty-first-century politics. The expansive discourse of non-traditional security was not available to the delegates in the 1970s and 1980s. During UNCLOS III, the word 'security' referred only to national security; it implied military security and other practices associated with the exclusive zonation that

[63] Cited by Clyde Sanger, *Ordering the oceans: the making of the Law of the Sea* (London: Zed, 1986), p. 59.

[64] See Lawrence Juda, *Ocean space rights: developing US policy* (New York: Praeger, 1975), p. 121: 'In 1972 an alternative approach to the regime for ocean space began to emerge.' The interest of the UN Seabed Committee was aroused by developments that occurred at the Santo Domingo Conference of Caribbean Countries on the Problem of the Sea, and at the African States Regional Seminar on the Law of the Sea, both of which took place in June 1972.

[65] O'Connell, *The influence of law on sea power*, p. 168.

marks the state system. The Law of the Sea, we can now say, brought into existence maritime security zones that imply a mode of security that is focused on criminals more than enemies, on the management of movement through space, on inclusive zonation and on economic potential, rather than on geopolitical strategy. What the chair of the conference called a new 'constitution for the oceans'[66] effectively decentralized the coastal *imperium* of the nineteenth-century Pax Britannica to littoral states. The Law of the Sea today works to systemically redistribute and realign police powers through global zones assigned on the basis of the littoral state's exposure to the ocean. In each zone—theoretically, at least, regardless of its context—uniform limited powers were awarded over named risks—ancient, novel and global—in order to secure economic activity on the fringes of the world's oceans. The territorial sea demarcates a zone of sovereignty whose boundary is relatively rigid, although the permeability of this border is increasingly determined by the demands of maritime security, particularly in instances of drug smuggling, pollution and piracy.[67] The contiguous zone is, as already described, a purely policing zone, wherein the principle of proportionality is expected to be exercised with regard to criminal activities. It is best understood as 'a buffer zone, intended to help enforce the laws that apply within the territorial sea'.[68] Coastal states are increasingly stretching their capacity to exercise police power through both preventive and repressive methods to govern named threats within this zone. The EEZ enables the state to exercise sufficient police power to protect its economic resources—primarily through control over fishing and pollution—and also enables the seizure of vessels. Some states argue that under customary international law the EEZ might be used to address wider security concerns.[69] Moreover, the EEZ is defined in a way that allows states to regulate the nature of ships and cargoes that are permitted to pass through it on the grounds of safety.[70] Beyond the EEZ, the continental shelf—an area up to 350 nautical miles from the coast—also affords some police powers (reasonable measures) to protect investments and critical infrastructure on the seabed. UNCLOS also established safety zones of 500 metres around artificial islands, installations and fixed structures in the high seas. The contemporary discourse of maritime security has in fact relegated national security to a minor spatial belt of state power, while elevating non-traditional understandings of security to the level of global existential threat. Maritime security, when viewed from a historical–spatial perspective, is the progeny of the *dominium* and *imperium* discourses.

As Foucault's plague in the city is met by segmented order, so anarchy at sea is met by the cartography of disciplinary enclosures. It is a topography of order through which global risk-based governance objectives are translated into practices that aim to energize national surveillance and police order over the sea surface, the

[66] Tommy Koh, cited by Sanger, *Ordering the oceans*, p. 6.
[67] Natalie Klein, *Maritime security and the Law of the Sea* (Oxford: Oxford University Press, 2011).
[68] Timothy C. Perry, 'Blurring the ocean zones: the effect of the Proliferation Security Initiative on the customary international law of the sea', *Ocean Development and International Law* 37: 1, 2006, p. 36.
[69] Tullio Scovazzi, *The evolution of the international Law of the Sea: new issues, new challenges* (Leiden: Nijhoff, 2001), p. 162.
[70] Scovazzi, *The evolution of the international Law of the Sea*, p. 162.

column, the seabed and the skies proximate to the littoral state. From the perspective of disciplining state power, the zones function to restrain the coastal state from territorializing its proximate sea, to chart the primary risks which occur at sea, to outline the extent of law enforcement powers and to establish categorical standards of security that a state is expected to meet. In this sense the matrix of quarantine agreed at UNCLOS is designed to activate an approach to maritime security that, in the terms used by Bueger and Edmunds, is interconnected, liminal, transnational and cross-jurisdictional in respect of national, economic and environmental security. It remains to be seen if search and rescue zones (on which more below) establish a zonal regime of human security at sea. So far, however, human security is mostly provided by civil society actors that do not possess the direct capability to establish zones. Zonal jurisdiction is administered on behalf of state and interstate interests, which historically possess sanitation and buffer functions that are not always favourable to human security. The recent macabre case of thousands of asylum-seekers drowning while traversing the Mediterranean demonstrates the current limitations of state-administered human security at sea.[71]

The intensification and extensification of maritime security

According to de Nevers, one can readily distinguish between security practices within the confines of the global EEZ and beyond it.[72] Arguing that maritime powers differentiate threats directed at the state from threats directed at commerce, de Nevers observes that risks posed by activities such as migration, illicit trading and the movement of weapons of mass destruction are perceived to be direct threats to states in the high seas, whereas threats such as piracy are perceived to be threats to global commerce. While direct threats to the state tend to elicit a call to extend hard contiguous zone powers into the high seas, threats to global circulation result in more unmoored, nomadic spatial control practices. Beyond the global EEZ, where state jurisdiction peters out into a right to hot pursuit, security is found to operate on the global management of sea lanes, the conveyor belt for global capital moving between major trading ports.

However, the distinction drawn between maritime security as it is practised on either side of the global EEZ boundary is not defined as the draftees of UNCLOS imagined. In fact, within the EEZ zonation is undergoing a process of zonal *intensification*, while beyond the EEZ there is evidence of an *extensification* of zoning practices.

Intensifying zonation

Within the EEZ we have seen the emergence of intensive multidimensional subzoning, along with security sector reforms that require inter-agency networking

[71] Eugenio Cusumano, 'Migrant rescue as organised hypocrisy: EU maritime missions offshore Libya between humanitarianism and border control', *Cooperation and Conflict* 54: 1, 2019, pp. 3–24.

[72] Renée de Nevers, 'Sovereignty at sea: states and security in the maritime domain', *Security Studies*, vol. 24, 2015, pp. 597–630.

and investments in patrol vessels, civil–military cooperation, coastal aircraft, drone and communication tools, and technologies for increased maritime surveillance.[73] The EEZ, in short, is emerging as a key site of global political economic activity, and is seeing a significant investment by both states and regional organizations in administrative planning and enforcement/compliance infrastructures. Maritime spatial planning, for instance, uses zonation to bring certainty to the EEZ by establishing dedicated spaces for investment in marine energy, aquaculture, biotechnology, tourism and marine mineral resources. It subdivides the proximate sea into governable units and extends to the sea the land-use planning logic that has long defined the management of terrestrial space.[74] Maritime security in the EEZ, therefore, is anchored by the development of maritime policing, which, like terrestrial policing, is dependent upon new administrative planning and compliance regimes and civilian–military intelligence-gathering and processing centres.

Extensifying zonation

As we have seen, the historical scend of national security and its organic zonal logic of necessity have always pushed maritime security practices seaward. The traditional distinction, documented by de Nevers, between governance within the EEZ (where it traditionally rests on spatially anchored legal rights and responsibilities) and beyond it (where sovereignty is attached not to space but to the vessels that traverse that space) is no longer as clear as it once was. The high seas are increasingly zoned to the extent that they can be seen not as a 'blank slate, but as a complex patchwork of partly overlapping regulatory spaces'.[75]

One such set of zones comprised the 'high risk area' and the 'extended risk area', zones of exception created off the coast of Somalia in reaction to piracy attacks. As Bueger recounts, these zones resulted from pragmatic international cooperation wherein specific forms of extra-legal restrictions were inscribed onto oceanic space temporarily.[76] These 'pop-up zones' correlate to what other authors describe as 'liquid warfare', demonstrating the use of zonation to shape international security by employing 'remote technology, flexible operations and military to military partnerships'.[77] Such zones, that graft the functionality of a contiguous zone onto the high seas as a floating solution to risks at sea, will doubtless become more prevalent. Moreover, as Larsen and Jacobsen have observed, roaming coalitions with the capacity to demarcate zones have become a fixed presence on the high seas.[78]

[73] Barry J. Ryan, 'Zones and routes: securing a western Indian Ocean', *Journal of the Indian Ocean Region* 9: 2, 2013, pp. 173–88.

[74] For a fuller discussion, see Barry J. Ryan, 'Security spheres: a phenomenology of maritime spatial practices', *Security Dialogue* 46: 6, 2015, pp. 568–84.

[75] Aletta Mondré and Daniel Lambach, 'Securing ocean space', unpublished paper presented to 12th Pan-European Conference on International Relations, Prague, 12–15 Sept. 2018, p. 6.

[76] Christian Bueger, 'Zones of exception at sea: lessons from the debate on the high risk area', 'lessons learned' paper of the Contact Group on Piracy off the Coast of Somalia (Cardiff: Cardiff University, 2015), http://www.lessonsfrompiracy.net/files/2015/10/Bueger-Lessons-from-the-HRA-debate.pdf.

[77] Jolle Demmers and Lauren Gould, 'An assemblage approach to liquid warfare, AFRICOM and the "hunt" for Joseph Kony', *Security Dialogue* 49: 5, 2018, p. 364.

[78] Katja Lindskov Jacobsen and Jessica Larsen, 'Piracy studies coming of age: a window on the making of mari-

Zones have also emerged that are premised upon the problematic of safety and rescue risks in the high seas. The global seas have been divided into 13 large search and rescue zones (SARs), within which lie subzones (search and rescue regions) for which states have been tasked with responsibility. The SAR zone of the United Kingdom flows directly from its EEZ and covers approximately 2 million square miles of the North Atlantic. Australia's SAR reaches to the coastline of Indonesia. The question arises how these zones of responsibility will evolve. Australia's extensive and highly contentious Maritime Identification Zone was overlaid upon its SAR. Established to monitor and interdict migrant boats up to 1,000 nautical miles from its coastline, this was, the Australian authorities insisted, 'not an extension of jurisdiction' but rather 'an extension of geography'.[79] Similar 'extensions of geography' have been claimed by Brazil and Chile on what they term their 'Presential Seas', in order 'to defend against any threats that may come from that common space, without weakening UNCLOS'.[80] While not legitimate under international law, these massive zones have been claimed on the basis of protecting marine ecosystems. They are not unlike the large zones carved out by Britain around the Chagos Archipelago, similarly established on the grounds of environmental need in order to create an exclusionary zone around a US military base in the middle of the Indian Ocean.[81] This zone in particular recalls the old exclusionary maritime security zones of the early twentieth century. However, large-scale maritime protected areas (LSMPAs) have been proliferating since Australia declared the Great Barrier Reef Marine Park in 2004.[82] The geopolitical advantage afforded by these zones and the problems they create for indigenous coastal communities arouse suspicions among many observers, some of whom conclude that 'the environmental responsibility is put forward by coastal states to re-enforce their sovereignties over sea spaces by implementing LSMPAs'.[83]

Zonation does not occur only on the planar surface of the sea—it is inherently a multidimensional practice that affords a regulatory reach into the skies above the sea, the water column below the surface and the seabed below that.[84] Far from being a benign and technocratic exercise, enclosure is a highly political practice. Its purpose is to facilitate surveillance and to enable the concentration of forces and resources. The main attribute of zonation is its functional malleability—the ability to turn an inclusionary area into an exclusionary place. The surveillance technologies and enforcement strategies that are being developed to police illegal fishing or conduct search and rescue operations in peacetime will doubtless be strategically invaluable during periods of conflict.

time intervention actors', *International Affairs* 95: 5, Sept. 2019, DOI: 10.1093/ia/iiz099.

[79] Clive Schofield, Martin Tsamemyi and Mary Ann Palma, 'Securing maritime Australia: developments in maritime surveillance and security', *Ocean Development and International Law* 39: 1, 2008, pp. 95–112.

[80] Dave Slogget, *The anarchic sea: maritime security in the 21st century* (London: Hurst, 2013), p. 261.

[81] Ryan, 'Zones and routes', p. 183.

[82] LSMPAs have been declared by Australia, Chile, Kiribati, South Africa, the UK and the US.

[83] Pierre Leenhardt, Bertrand Cazalet, Bernard Salvat, Joachim Claudet and François Feral, 'The rise of large scale marine protected areas: conservation or geopolitics?', *Ocean and Coastal Management* 85: A, 2013, p. 115.

[84] See Ryan, 'Security spheres'.

Conclusion

It was only towards the end of the twentieth century, when the practices associated with state intervention at sea multiplied and expanded, that the phrase 'maritime security' was coined. It was a term, in other words, which from the outset described an emerging perspective, a globalist intervention that sought to secure a new-found sense of responsibility and a realization that the sea had more inherent value for humankind than had previously been understood. Yet the disciplining logic of maritime security has not changed since time immemorial, any more than have the discursive issues that animate the protectoral claims it produces: fishing rights, conservation, foreign vessels and warships, piracy, smuggling and migration.[85] As an evolving set of practices, maritime security carries within its logic military themes from its past. It is also, nonetheless, a mode of security that is typical in the milieu of twenty-first-century security practices we refer to as non-traditional security. New security practices are immersive modes of governance that use policing powers rather than military might. They are not simply rational reactions to objective threats. Instead, they are applied in collaboration with civilian actors to shape society positively around a given imaginary of good global order.

This article identifies Britain's Hovering Acts as the original functionalist, law-based maritime architecture for economic, national and environmental security. This legislation marked a change of approach in oceanic politics that transcended the discourse of *dominium* and *imperium*. Over the following 350 years, zonation has been evolving as a mode of governing the turbulence of the maritime sphere. The contiguous zone located off the coast of littoral states—a direct descendant of hovering zones—is the exemplar model from which we can identify the key attributes of maritime security. These specify limited powers over particular activities at sea that are internationally agreed to cause turbulence. This model of demarcating space for the purpose of managing very specific problems is proliferating both intensively and extensively in the maritime sphere. The zones thus created constitute the fundamental practice of maritime security. In order to gain international legitimacy they are liminal, and pertain only to maritime insecurity; they are interconnected and overlapping; they are cross-jurisdictional, combating international manifestations of illegal or immoral turbulence; and they are as transnational as the ocean itself.

Freedom of movement at sea is increasingly a process of traversing these spaces—contingent and permanent, inclusionary and exclusionary—which are to be viewed as legible artefacts of contemporary maritime politics. As tools for the management of risk, they produce a security-oriented mode of governance that admits little democratic contestation. The technocratic nature of a zone during peacetime has the capacity to change radically in times of conflict owing to the rationale of necessity that undergirds its presence on the high seas. For this reason

[85] Pollution, however, is a very late modern risk that could be termed novel. The risk of non-state-actor aggression, or terrorism, is perhaps also a new addition to the canon of maritime-based threats to the state.

zonation—or, for that matter, maritime security—is not a benign phenomenon. Enclosures at sea create, as they do on land, novel forms of classification and differentiation; they result in new hierarchies of accessibility and usage; they produce new and ever more invasive technologies of surveillance; and they imprint new values on formerly abstract space.[86] In short, the intensification and extensification of maritime zonation signify a long evolving redistribution of spatial order at sea.

[86] See Francisco Klauser, 'Spatialities of security and surveillance: managing spaces, separations and circulations at sport mega events', *Geoforum*, vol. 49, 2013, pp. 289–98.