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Maritime Justice, Environmental Crime Prevention, and Sustainable Development Goal 14

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Abstract

SDG 14 "life below water" sets targets for the conservation and sustainable use of the oceans, seas, and marine resources, however, it is increasingly evident that its targets are unachievable without strengthened state-led maritime justice. This article examines the concept of "maritime justice" from an environmental crime perspective and explores the critical link between maritime justice and ocean crime resilience. The article addresses the relationship between maritime justice and SDG 14 and explores various approaches to progress maritime justice in order to better respond to environmental crimes at sea.

Keywords

environmental crime; maritime crime; maritime justice; ocean resilience; SDG 14

1. Introduction

At the UN Ocean Conference in 2022, the UN Office on Drugs and Crime (UNODC), through its border management branch, highlighted the importance of a criminal justice approach in addressing the environmental challenges faced by our oceans and seas (UNODC, n.d.-a). Maritime crime poses major threats to ocean sustainability and ecosystem resilience and leads to biodiversity loss (Lycan & Van Buskirk, 2021). In this respect, this article is premised upon a conception of maritime justice that resonates with the concept of maritime crime in that the focus is on responding to a transnational challenge through state-based regulation and enforcement of human maritime activity. To this end, SDG 14 "life below water" sets out seven targets and three sub-targets for the conservation and sustainable use of the oceans, seas, and marine resources (UN, 2015). However, SDG 14 is unlikely to be achieved unless states take urgent

action to strengthen maritime justice, and more specifically the regulatory and law enforcement responses to crimes that affect the marine environment. This article examines the emerging term "maritime justice" as a sibling to both environmental justice and marine justice. In doing so, we seek to highlight the interrelationship between the SDG 14 goals and maritime justice, as well as seek to draw on existing enforcement measures that have application in areas beyond national jurisdiction. This will highlight how, through the lens of maritime justice, some existing measures from a broad range of international instruments—the 1982 UN Convention on the Law of the Sea (UNCLOS), the UN Convention against Transnational Organized Crime (UNTOC), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention)—can be applied to combat the lack of enforcement measures under the environmental scope of maritime justice. The article then applies these existing measures to the examples of maritime piracy and marine oil spills. This analysis demonstrates the way that maritime justice can assist in progressing ocean resilience and provide better responses to tackling environmental crime at sea.

2. Maritime Justice From an Environmental Perspective

To assess the interrelationship between maritime justice, environmental protection, and SDG 14, it is first essential to establish what the notion of "maritime justice" entails. This involves several steps. First, the broad parent concept of "marine justice" must be situated within the overarching concept of "environmental justice." Second, a delimitation between the concepts of marine justice and maritime justice (the focus of this article) must be made. These terms are sometimes used interchangeably, but for the purposes of this analysis, maritime justice must be understood as having a different focus to the concept of marine justice. This may at first glance appear to be unnecessary parsing, but the need for differentiation is important when dealing with the anthropogenic aspects of regulation and law enforcement. The need for this differentiation also becomes apparent when one considers the dictionary definitions of the terms "marine" and "maritime" and the various conceptions of "justice" inherent in the environmental justice and marine justice paradigms.

2.1. Relationship of Marine Justice to Environmental Justice

Marine justice can be seen as a subset of the broader and equally diffuse concept of environmental justice (Bercht et al., 2021). Since the 1990s, the notion of environmental justice has expanded to include elements of "not only local pollution problems, but also to a much broader set of struggles against colonialism, dispossession, modernization, neoliberalism, and globalisation" (Martin et al., 2019, p. 235). Narrower definitions also exist. For example, the United States Environmental Protection Agency (n.d., paras. 13–15) defines the term environmental justice as:

> The just treatment and meaningful involvement of all people, regardless of income, race, colour, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people:
>
> - Are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers.

- Have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.

As can be seen from the definitions given, the broad concept of environmental justice prioritises a social justice perspective, with some scope for "the environment" to be accounted for as an independent object of consideration. Bennett et al. (2023, pp. 1–2) suggest that the concept of environmental justice has expanded globally and now encompasses "a broader set of environmental hazards and harms" from climate change to biodiversity and habitat loss and associated declines in ecosystem services. From a subject and spatial perspective, marine justice is a component of environmental justice narrowed to the ocean space, and in this context reflects and adopts the broad conception of "justice" inherent in the expansive notion of environmental justice. In this respect, the "most popular are tripartite conceptualizations of justice, which distinguish between distributional and procedural aspects and recognition" (Bercht et al., 2021; Schlosberg, 2009; Walker, 2009, 2012). Thus, much like environmental justice, marine justice can be understood as a broad and inclusive notion covering a similar range of justice conceptualisations, albeit focussed upon ocean space and its subjects, objects, and activities. Notably, environmental justice also incorporates an anthropogenic element focused on regulation and enforcement, as in the approach adopted by the UNODC to crimes that affect the environment (UNODC, 2021) as well as the UNODC's approach to sectoral crimes, such as those involving the forest (UNODC, 2020) and waste sectors (UNODC, n.d.-b). This genericism in the broad concept of environmental justice is also reflected in the idea of marine justice, which is why maritime justice, whilst drawing on similar concepts, allows for greater anthropomorphic precision, and thus a brief note on "environmental crime" as a component of environmental justice is warranted for comparative purposes.

In 2016, environmental crimes were the "fourth most lucrative category of crimes in the world after drug trafficking, counterfeiting, and human trafficking" (Aceves-Bueno et al., 2020, p. 1121; McFann & Pires, 2018; Nellemann et al., 2016). There is no universally agreed definition of the term "environmental crime" as its scope necessarily tracks with evolving concerns as to environmental vulnerability. Herbig and Joubert (2006, p. 96) speak of "conservation crime" as "any intentional or negligent human activity or manipulation that negatively impacts on the earth's biotic and/or abiotic natural resources resulting in immediately noticeable or indiscernible (only noticeable over time) natural resource trauma of any magnitude." Other academics, including Greene (2019) and Minkova (2023) have focussed more specifically on "ecocide" as a crime and have argued for its inclusion in the Rome Statute as the "fifth crime" prosecutable by the International Criminal Court.

Arguably, a broad interpretation of the term "environmental crime" would cover any illegal activity that targets or causes significant harm to the environment (Bueger & Edmunds, 2020). In the International Classification of Crime for Statistical Purposes, the UNODC (2015) divides environmental crimes into:

1. Acts that cause environmental pollution or degradation.
2. Acts involving the movement or dumping of waste.
3. Trade or possession of protected or prohibited species of fauna and flora.
4. Acts that result in the depletion or degradation of natural resources.
5. Other acts against the natural environment.

A categorisation of crimes can also be made in the maritime context. For example, Bueger and Edmunds (2020) employ the concept of "blue crime," which they argue has three key components:

1. Crimes against mobility (e.g., crimes that target shipping, supply chains, and maritime trade);
2. Criminal flows (e.g., the sea is used as a conduit for criminal activities, in particular smuggling);
3. Environmental crimes (e.g., crimes that cause significant harm to the marine environment and its resources).

An analysis of how regulatory and law enforcement responses to environmental crimes can assist in achieving SDG 14 and how this implicates the concept of maritime justice is clearly a useful project within the broader marine and environmental justice space. However, to explain how and why this is so requires a further set of definitional explanations. This is necessary to focus on what "maritime justice" entails and can offer. The following sections examine the concept of "marine justice" versus that of "maritime justice." But before undertaking this examination, it is important to first distinguish between the terms, "marine" and "maritime."

2.2. Marine Versus Maritime

The Oxford English Dictionary defines the term "marine" as "of, relating to, or characteristic of the sea; existing, originating, or found in the sea; produced by the sea; inhabiting or growing in the sea" (Marine, n.d.). This definition lends itself to a systemic and "all elements" understanding of ocean space, ocean subjects and objects, and ocean activities. By contrast, the word "maritime" is defined as "connected, associated, or dealing with shipping, naval matters, navigation, seaborne trade" (Maritime, n.d.). This definition has more of an anthropogenic focus, the emphasis being on regulation and enforcement in the context of human activity at and in relation to the sea. The differentiation between these two terms is also evident in the UNODC's choice of contextual labels for its marine-related work—for example, the Global Maritime Crime Programme and the Maritime Crime Manual for Criminal Justice Practitioners (UNODC, 2019). This further supports the argument that the term "maritime" tends to be associated with the regulation of activities and enforcement by humans—noting, of course, that the suitability of top–down and bottom–up maritime governance models differ across issues and population sets (Wilson et al., 2007).

2.3. Marine Justice Versus Maritime Justice

The distinction between the terms "marine" and "maritime" is also reflected in the literature concerning "marine justice" and, more specifically, where "maritime justice" sits within this paradigm. Since 2016, the concept of "marine justice" has attracted considerable academic attention (Bercht et al., 2021; Martin et al., 2019) and is the broad overarching starting point for understanding what the narrower concept of maritime justice entails. Scholars have tended to conceptualise marine justice as the interaction between, time, knowledge, decision-making, and enforcement issues concerning ocean space (Martin et al., 2019). This transdisciplinary integrated approach to achieving marine justice relies upon a broad understanding of the terms "marine" and "justice" in a more systemic and distributive sense. Thus, one of the main objectives of marine justice is to provide a map for how to achieve an integrated and "all issues" sense of justice through an interdisciplinary approach to describing and facilitating interaction and balance. Indeed, the literature on marine justice appears to evidence three conceptions of "justice," namely justice by equity and balance,

justice by empowerment and recognition, and justice by a regulatory and enforcement process. The third conception of "marine justice" is most relevant to maritime justice, which is the focus of this article.

3. The Relationship Between Maritime Justice and SDG14

The adoption of the 17 SDGs and more specifically SDG 14 by the UN General Assembly in 2015 was a landmark step forward for marine justice, as it was the first formally adopted international set of sustainability objectives in the ocean context. Some commentary asserts that SDG 14 fails to adequately create a pathway for marine justice due to a lack of concrete ways to identify and measure progress (Haas, 2023) and neglects to effectively address "the fragmented institutional context which significantly impedes effective action to advance the goals of justice and sustainability at sea" (Armstrong, 2020, p. 239). The targets of SDG 14 are also described as "aspirational" and not strict in nature (UN, 2015). In addition, weak language and the presence of "escape clauses" in the SDG 14 targets have also been noted as barriers in motivating action towards the SDGs (Easterly, 2015), consequentially subverting the overarching need for marine justice. An example of an "escape clause" is that each government is responsible for setting its national targets (UN, 2015). This grants states considerable latitude in respect to fulfilling the targets and sub-targets of SDG 14. This critique is underpinned by an assertion that there has been a generalised shift away from regulatory public policy to voluntary arrangements by state and non-state actors for global sustainability purposes (Kuyper et al., 2018, pp. 5–6). While this debate is significant, it is beyond the scope of this article and will not be further addressed.

3.1. SDG 14 Targets and Sub-Targets

SDG 14 "life below water," sets out seven targets and three sub-targets for the conservation and sustainable use of the oceans, seas, and marine resources. Of these targets, only some lend themselves to a maritime justice analysis precisely because they focus on regulation and enforcement. For example, SDGs 14.1, 14.2, and 14.3 turn on the conception of justice as empowerment and recognition by giving presence and acknowledgement to otherwise voiceless subjects and objects such as the marine environment. Similarly, SDGs 14.7, 14.a, and 14.b evoke more readily the equity and balance conception of justice, as they focus upon the distributional aspect of marine justice, prioritising access to technology, and amplifying the voice of less developed states. By contrast, SDGs 14.4, 14.5, 14.6, and 14.c are underpinned by assumptions around regulation and enforcement and are thus amenable to a maritime justice analysis and approach. A brief description of these four SDGs is necessary to explain why this is the case.

SDG 14.4 requires coordinated global action by 2020 to

> Effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics. (UN, 2015, p. 24)

SDG 14.4 specifically calls for the regulation of human activity (fishing) with consequences for the marine environment and enforcement to achieve its target. Notably, the UN's *2023 Sustainable Development Goals Report* highlights that despite eight years of action since the introduction of SDG 14, there is still a growing

percentage of fish stocks being overfished, beyond biologically sustainable levels (UN, 2023a). This suggests that SDG 14 is highly amendable to a focused maritime justice analysis and approach.

SDG 14.5 mandates that "by 2020, [global action should be taken to] conserve at least 10 percent of coastal and marine areas, consistent with national and international law and based on the best available scientific information" (UN, 2015, p. 24). While this target aligns with marine justice broadly, the indicator listed under 14.5.1 "coverage of protected areas in relation to marine areas" relies heavily on the capability of states to establish, regulate, and enforce marine protected areas.

Similarly, SDG 14.6 requires that:

> By 2020, [global action to] prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation. (UN, 2015, p. 24)

This objective implicates regulation and enforcement as the mechanism to achieve this outcome, and indeed the specified indicator SDG 14.6.1 "degree of implementation of international instruments aiming to combat illegal, unreported and unregulated fishing" is clearly based on a regulation and enforcement approach. In this respect, the UN's *2023 Sustainable Development Goals Report* is more positive about SDG 14.6 than SDG 14.4. The report notes the uptake of the Agreement on Port State Measures (tripling its signatories since 2016 to reach 75 parties, including the EU, to effectively cover 101 states and 60% of port states) thereby signalling significant progress in combating illegal, unreported and unregulated fishing, and providing an example of a successful focus on the regulation and enforcement aspects of maritime justice in support of an SDG 14 target. While this is a positive development, it should not disguise the fact that stronger measures about regulation and enforcement remain necessary in order to meet the SDG 14 targets as a means of achieving the overarching goal of marine (and also maritime) justice.

Finally, SDG 14.c aims to:

> Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea, which provides the legal framework for the conservation and sustainable use of oceans and their resources. (UN, 2015, p. 24)

This target implicates regulation and enforcement by virtue of its focus on the implementation of "legal, policy and institutional frameworks [and] ocean-related instruments that implement international law," including the 1982 UNCLOS (UN, 2015, p. 24).

While the analysis in the previous sections has focused on four of the SDG 14 targets, this should not be taken to suggest that the remaining SDG 14 targets are immune to a maritime justice analysis and approach—clearly, they are not, as each implies an axillary interest in regulation and enforcement. However, it is these four targets (SDG s 14.4, 14.5, 14.6, and 14.c) as noted earlier that directly incorporate goals expressible in a maritime justice sense and which are thus the focus of the next stage of analysis.

4. SDG14, Regulation, and Enforcement

Taking into account SDG 14.4, 14.5, 14.6, and 14.c as outlined in the previous sections, how can a maritime justice approach work in practice to address these specific goals, including their targets and sub-targets? A key mechanism is to implement and employ the tools presently provided for this purpose in a perhaps expansive or innovative way—particularly noting the SDG timeframes, and this means it is vital to assess and utilise the current tools available rather than prioritising the creation of new instruments. While there are several instruments relevant to the maritime justice space, the scope of this article will be limited to an analysis of UNCLOS, UNTOC, and CITES. These instruments provide the basis for the enforcement of (environmental) crimes on land and at sea and regulatory action in respect of ocean space. Although there are some specific instances where enforcement is evident on the face of these instruments (e.g., Art. 110 of UNCLOS "right of visit"), it is essential to remember that enforcement is heavily dependent upon state action.

4.1. The 1982 UNCLOS

UNCLOS provides the basis for several regulatory tools. It is a clear "port of call" so to speak when assessing regulation and enforcement capacity. UNCLOS provides a framework of rules for determining the rights and duties of states concerning their use of ocean space (Lothian, 2022). With extensive ratifications (UN, 1982), UNCLOS provides states with the authority to undertake enforcement activities beyond domestic jurisdictional boundaries. For example, UNCLOS supports coastal states in their efforts to curb crimes such as illegal fishing in their Exclusive Economic Zone by providing states with regulatory and enforcement jurisdiction (SDG 14.4; UN, 1982, Arts. 56(1)(a), 62(4), and 73(1)). UNCLOS also imposes a general obligation on all states to protect and preserve the marine environment, including in areas beyond national jurisdiction (SDG 14.5; UN, 1982, Arts. 145 and 192). Legal capacity to enforce activities that venture between the high seas and domestic jurisdiction via UNCLOS also provides a conduit for remedies to respond.

4.2. UNTOC

Legal and illegal movement between borders has never been easier, nor more challenging to control for law enforcement. As noted in the foreword of the UNTOC, "If crime crosses borders, so must law enforcement" (UNODC, 2004). With near-universal acceptance, state parties to the UNTOC are obliged to cooperate generally (UNTOC, 2004, Arts. 26 and 27) and consider concluding bilateral or multilateral agreements to facilitate joint investigations of transnational organised crime (UNTOC, 2004, Art. 19). The UNTOC thereby provides states with a useful tool to build national regulatory capacity and limit legal obstacles to extend their jurisdictional arm further into the maritime domain enabling enforcement over criminal activities at sea. Given the well-established links between transnational organized crime and illegal fishing (SDG 14.4; see de Coning, 2011; Lindley, 2018), enforcement of environmental crimes at sea can be leveraged through UNTOC and UNCLOS as a conduit to extend state powers. As such, the potential to progress towards maritime justice aligning with SDG 14 may not be out of reach.

4.3. CITES

Another relevant instrument is the CITES. The purpose of CITES is to protect wild fauna and flora against over-exploitation through international trade and encourage international cooperation to achieve this (CITES,

1973, para. 4). The species listed within the CITES appendices link to the ocean space in two ways: species derived from the sea or species traded via the sea. States are obliged to take measures to enforce CITES, extending to and from land and sea (CITES, 1973, Art. 8) and the instrument links closely to SDG 14.4, 14.5, and 14.6. Species illegally fished or overfished (SDG 14.4) may be over-exploited to unsustainable levels, incentivised by (illegal) trade. The establishment of marine protected areas (SDG 14.5) and limiting certain subsidies (SDG 14.6) that exacerbate trade should also be regulated and enforced. These tools enable state parties to cooperate to achieve their obligations under CITES and SDG 14.4. CITES thereby draws from and aligns with UNCLOS to further its remit.

5. Building Resilience to Address Environmental Crimes at Sea

While there is an ever-growing range of regulatory tools and mechanisms designed to support environmental protection, respond to or mitigate environmental crime, and promote maritime justice on the high seas, the key gap remains enforcement. In part, this challenge is associated with the enforcement preference to identify both a specific perpetrator and a specific victim, posing challenges to nominating "the environment" as the victim, although this is not uncommon in domestic jurisdictions where the environment is often considered to be an attribute of "the state." Another challenge relates to the difference between "incidental" and "deliberate" environmental crime, which complicates the attribution of a mens rea (unless such crimes are made subject to strict or absolute liability). The enduring prevalence and usefulness of the term "harm," rather than "crime" in this setting also remains relevant.

That said, attempts persist to progress a more comprehensive approach to this enforcement gap, such as the proposal for the crime of "ecocide" to be recognised under the Rome Statute or through the adoption of other instruments. However, this has not borne fruit to date. In 2016, for example, the International Criminal Court explicitly indicated a willingness to investigate prosecutable environmental harm, addressing this issue in a widely referenced policy paper (International Criminal Court, 2016). But there are jurisdictional limits to the International Criminal Court's current capacity to do so, given that only one provision of the Rome Statute specifically criminalises environmental damage (Art. 8(2)(b)(iv)) and only does so in the context of international armed conflict. Therefore, as it stands, the majority of comprehensive enforcement measures in relation to environmental crimes at sea are only applicable in areas under national jurisdiction. A brief overview of two key potentially applicable maritime justice-based options available in areas beyond national jurisdiction will thus illustrate these enforcement gaps, thereby indicating where additional maritime justice responses may be appropriate to achieve the goals of SDG14.

5.1. Piracy

According to Art. 100 of UNCLOS (UN, 1982), all states are required to cooperate to the fullest possible extent in the repression of piracy on the high seas or any other place outside the jurisdiction of any state. This obligation to repress piracy provides for universal jurisdiction and—via Art. 110 of UNCLOS (UN, 1982)—the capacity to board a pirate vessel without flag state consent. This is a powerful enforcement option, but it is only available in limited circumstances. That said, piracy may attract a maritime justice response in support of marine environmental protection in that the definition of piracy in Art. 101 of UNCLOS (UN, 1982), and specifically the reference in Art. 101(a) to "any act of depredation," could be used to incorporate environmental crime at sea so long as the other elements of piracy are met (Rae, 2014). For example, a scenario could arise

where an act of piracy morphs into an environmental issue or could be the cause of a major environmental disaster—such as where a laden vessel is left to steam or drift in the wake of a pirate attack and is no longer under the control of the master and crew, or the threat made for ransom is the release of a toxic cargo from the vessel under attack (Herbig & Fouché, 2013). Such a situation could have occurred recently (but fortunately did not) off the coast of Yemen, when the bulk carrier Rubymar was left to drift after a Houthi attack ("Ship abandoned," 2024). Additionally, using piracy to achieve an incidental environmental enforcement outcome will tend to focus on the perpetrator. This is useful, for while the environment is not a "victim" of the crime of piracy—as victimhood in piracy is traditionally understood—the fact is that counter-piracy enforcement can practically be used to achieve a conscious but jurisdictionally incidental outcome with respect to serious environmental crime situations.

It is also appropriate to note that failures of environmental protection have sometimes been claimed to be a source of piracy. For example, environmental damage caused by destructive fishing, overfishing, and alleged toxic waste dumping by foreign vessels within Somalia's Exclusive Economic Zone have been cited as causes for the piracy spike between 2008 and 2013, that extended to the Gulf of Aden and the Red Sea, as well as the western Indian Ocean (Lindley, 2020). In this respect it could be argued that a failure to regulate and enforce one component of environmental protection at sea in one marine area—waste dumping in the Somali Territorial Sea and Exclusive Economic Zone—has resulted in an increase in piracy, thereby causing a vicious cycle.

5.2. Oil Pollution on the High Seas

The International Maritime Organisation's Intervention Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, otherwise known as the Intervention Convention, deals specifically with pollution or the threat of pollution from the sea by oil following a maritime casualty (International Maritime Organization, 1969, Arts. 1(1) and 2(4)). The Intervention Convention is a useful tool when it comes to incidental environmental protective measures, particularly where a ship has grounded, has become shipwrecked, has been involved in a collision, or is breaking up in weather and a spill could result creating significant environmental consequences. By the late 1960s, awareness of the serious threat of oil spilling into the marine environment posed by large crude oil carriers had become widespread. In particular, the 1967 Torrey Canyon disaster exemplified the scale of oil pollution damage from a modern-day supertanker, when more than 100,000 tonnes of crude oil was spilt off the southwest coast of Britain presenting a direct threat to bird and marine life (Cooper & Green, 2017). The Torrey Canyon disaster was undoubtedly the catalyst for the adoption of the Intervention Convention in 1969, and this authority now also finds a similar—although more ambiguous—expression in Art. 221 of UNCLOS (UN, 1982), which addresses measures coastal states may take beyond their territorial waters in response to a maritime casualty that damages or threatens to damage by way of pollution (Bartenstein, 2017).

While the environmental threat is incidental to the maritime casualty event, there is no requirement that the source maritime casualty be accidental. That is, an intentional act by a group to create the maritime casualty precisely to generate the environmental effect is still a matter covered by the Intervention Convention. Significantly, the threatened coastal state is offered a number of powers under the Intervention Convention. For example, Art. I provides that a coastal state can take "such measures on the high seas as may be necessary measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution" (International Maritime Organization, 1969). Art. V of the

instrument provides that these measures "must be proportionate to the damage actual or threatened" (International Maritime Organization, 1969). This is relevant from an enforcement perspective because whilst Art. III(a) of the Intervention Convention requires the acting (or threatened) state to consult with the flag state, this is not subject to the overarching primacy of the default need to receive flag state consent. That is, the acting (or threatened) state can still act, using this authority, without flag state consent, to prevent or mitigate grave or imminent environmental danger. Beyond this, the 2005 Protocol of the SUA Convention, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf in Art. 3bis provides an alternate legal avenue to address situations in which vessels may be used for potentially terrorist purposes, such as "placing of devices on board a ship which are likely to destroy or damage it" (International Maritime Organization, 2005). However, it must be noted that while it is in force, unlike its parent SUA Convention (International Maritime Organization, 1988), uptake of this Protocol has been limited (International Maritime Organization, 2005). Again, this provides an example of where an existing tool used for regulation and enforcement concerning one anthropogenic (maritime) activity can be useful to support a broader environmental protective purpose.

6. Conclusion

In seeking out an understanding of the intersection between SDG 14, ocean crime resilience and maritime justice, this article has explored the concept of "maritime justice" from an environmental crime perspective. The first section of this article sought clarity around the maritime justice paradigm and elaborated upon the theoretical link between maritime justice and ocean crime resilience. From there, the sections that followed considered the relationship between maritime justice and SDG 14 as well as exploring its relevance to building resilience to environmental crimes at sea.

Not all the targets set within SDG 14 deal with the issue of environmental crime, however, several avenues to enhance regulation and enforcement were touched upon to demonstrate how progress can be made towards maritime justice. Indeed, regulatory measures on the high seas are growing with the recent adoption of the Agreement under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (the BBNJ Agreement; UN, 2023b), the WTO Agreement on Fisheries Subsidies (2022), and the ongoing negotiations of a UN Treaty to end plastic pollution. Given the need to progress towards maritime justice in a timely manner, an analysis of these recent developments was intentionally left out of this article. Instead, the focus of this article was on existing mechanisms and tools. While a number of existing instruments provide support for the prevention of environmental crimes at sea and the protection of the marine environment, there remains a serious lack of enforcement.

Acknowledging that the deadlines for several SDG 14 targets have been missed, regulation and enforcement mechanisms and tools must be incorporated into future plans designed to achieve the SDG 14 targets and sub-targets, and as a consequence, the broader objectives associated with marine justice. The collection of articles within this thematic issue on maritime justice will no doubt provide fertile ground for exploring ways to overcome the gaps in regulation and enforcement of environmental crimes at sea to assist with the progression towards achieving maritime justice.

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Conflict of Interests

The authors declare no conflict of interests.

References

Aceves-Bueno, E., Read, A. J., & Cisneros-Mata, M. A. (2020). Illegal fisheries, environmental crime, and the conservation of marine resources. *Conservation Biology*, *35*(4), 1120–1129. https://doi.org/10.1111/cobi.13674

Armstrong, C. (2020). Ocean justice: SDG 14 and beyond. *Journal of Global Ethics*, *16*(2), 239–255. https://doi.org/10.1080/17449626.2020.1779113

Bartenstein, K. (2017). "Article 221." In A. Proelss, A. R. Maggio, E. Blitza, & O. Daum (Eds.), *United Nations Convention on the Law of the Sea: A commentary* (pp. 1512–1521). C.H. Beck. https://www.bloomsbury.com/au/united-nations-convention-on-the-law-of-the-sea-9781849461924

Bennett, N. J., Alava, J. J., Ferguson, C. E., Blythe, J., Morgera, E., Boyd, D., & Côté, I. M. (2023). Environmental (in)justice in the Anthropocene ocean. *Marine Policy*, *147*, Article 105383. https://doi.org/10.1016/j.marpol.2022.105383

Bercht, A. L., Hein, J., & Klepp, S. (2021). Introduction to the special issue "climate and marine justice—debates and critical perspectives." *Geographica Helvertica*, *76*, 305–314. https://doi.org/10.5194/gh-76-305-2021

Bueger, C., & Edmunds, T. (2020). Blue crime: Conceptualising transnational organised crime at sea. *Marine Policy*, *119*, Article 104067.

Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973. https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf

Cooper, T., & Green, A. (2017). The Torrey Canyon disaster, everyday life, and the "greening" of Britain. *Environmental History*, *22*(1), 101–126.

de Coning, E. (2011). *Transnational organized crime in the fishing industry, focus on: Trafficking in persons, smuggling of migrants, illicit drugs trafficking*. United Nations Office on Drugs and Crime. http://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf

Easterly, W. (2015). The trouble with the sustainable development goals. *Current History*, *114*(775) 322–324. https://doi.org/10.1525/curh.2015.114.775.322

Greene, A. (2019). The campaign to make ecocide an international crime: Quixotic quest or moral imperative? *Fordham Environmental Law Review*, *30*(3) 1–48.

Haas, B. (2023). Achieving SDG 14 in an equitable and just way. *International Environmental Agreements*, *23*, 199–205. https://doi.org/10.1007/s10784-023-09603-z

Herbig, F. J. W., & Fouché, H. (2013). Maritime piracy and conservation crime in Africa: Has the die been cast for an environmental disaster? *Acta Criminologica*, *26*(1), 37–48.

Herbig, F. J. W., & Joubert, S. J. (2006). Criminological semantics: Conservation criminology—Vision or vagary. *Acta Criminologica*, *19*(3) 88–103.

International Criminal Court. (2016). *Policy paper on case selection and prioritisation*. https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf

International Maritime Organization. (1969). *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969*. UN. https://treaties.un.org/pages/showDetails.aspx?objid=08000002801089a9

International Maritime Organization. (1988). *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*. UN. https://treaties.un.org/pages/showDetails.aspx?objid=08000002800b9bd7

International Maritime Organization. (2005). *The Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*. United Nations High Commissioner for Refugees. https://www.refworld.org/legal/agreements/imo/2005/en/65866

Kuyper, J. W., Linnér, B., & Schroeder, H. (2018). Non-state actors in hybrid global climate governance: Justice, legitimacy, and effectiveness in a post-Paris era. *WIRES Climate Change*, *9*(1), Article e497. https://doi.org/10.1002/wcc.497

Lindley, J. (2018). Nexus between unreported and unregulated fishing and other organised maritime crimes. In R. Smith (Ed.), *Organised crime research in Australia 2018* (pp. 78–86). Australian Institute of Criminology. https://doi.org/10.52922/rr202682

Lindley, J. (2020). Responding to Somali piracy by providing sustainable alternatives: Addressing the motivation to offend. *Crime, Law and Social Change*, *73*, 531–549. https://doi.org/10.1007/s10611-019-09866-1

Lothian, S. (2022). *Marine conservation and international law: Legal instruments for biodiversity beyond national jurisdiction*. Routledge.

Lycan, T., & Van Buskirk, L. (2021). *What we know about maritime environmental crime*. Safe Seas. https://www.safeseas.net/wp-content/uploads/2021/09/What_We_Know_About_Maritime_Environmental_Crime.pdf

Marine. (n.d.). In *Oxford English Dictionary*. https://www.oed.com/dictionary/marine_n?tab=factsheet#38078722

Maritime. (n.d.). In *Oxford English Dictionary*. https://www.oed.com/dictionary/maritime_adj?tab=factsheet#38088913

Martin, J. A., Gray, S., Aceves-Bueno, E., Alagona, P., Elwell, T. L., Garcia, A., Horton, Z., Lopez-Carr, D., Marter-Kenyon, J., Miller, K. M., Severn, C., Shrewry, T., & Twohey, B. (2019). What is marine justice? *Journal of Environmental Studies and Sciences*, *9*, 234–243. https://doi.org/10.1007/s13412-019-00545-0

McFann, S. C., & Pires, S. F. (2018). Taking stock in wildlife crime research: Trends and implications for future research. *Deviant Behaviour*, *14*, 118–135.

Minkova, L. G. (2023). The fifth international crime: Reflections on the definition of "ecocide." *Journal of Genocide Research*, *25*(1), 62–83.

Nellemann, C., Henriksen, R., Kreilhuber, A., Stewart, D., Kotsovou, M., Raxter, P., Mrema, E., & Barrat, S. (2016). *The rise of environmental crime: A growing threat to natural resources peace, development and security*. United Nations Environment Programme. https://wedocs.unep.org/handle/20.500.11822/7662

Rae, C. (2014). *Are environmental activists pirates? Precedent*, *120*, 28–31.

Schlosberg, D. (2009). *Defining environmental justice: Theories, movements and nature*. Oxford University Press.

Ship abandoned following attack off Yemen. (2024, February 19). *Baird Maritime*. https://www.bairdmaritime.com/security/incidents/piracy/ship-abandoned-following-attack-off-yemen

UN. (1982). *United Nations Convention on the Law of the Sea*. https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

UN. (2015). *Transforming our world: The 2030 agenda for sustainable development*. https://documents.un.org/doc/undoc/gen/n15/291/89/pdf/n1529189.pdf

UN. (2023a). *The sustainable development goals report: Special edition*. https://unstats.un.org/sdgs/report/2023/The-Sustainable-Development-Goals-Report-2023.pdf

UN. (2023b). *Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction*. https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=_en

UN Office on Drugs and Crime. (n.d.-a). *Crime, corruption, maritime insecurity and the environment: Why a criminal justice approach is necessary to protect our oceans*. https://www.unodc.org/unodc/frontpage/2022/August/crime--corruption--maritime-insecurity-and-the-environment_-why-a-criminal-justice-approach-is-necessary-to-protect-our-oceans.html

UN Office on Drugs and Crime. (n.d.-b). *UNODC approach to crimes in the waste sector*. https://www.unodc.org/res/environment-climate/resources_html/UNODC_Approach_to_Crimes_in_the_Waste_Sector.pdf

UN Office on Drugs and Crime. (2004). *United Nations Convention against Transnational Organized Crime and the Protocols Thereto*. https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/united_nations_convention_against_transnational_organized_crime_and_the_protocols_thereto.pdf

UN Office on Drugs and Crime. (2015). *International classification of crime for statistical purposes (ICCS)*. https://www.unodc.org/documents/data-and-analysis/statistics/crime/ICCS/ICCS_English_2016_web.pdf

UN Office on Drugs and Crime. (2019). *Maritime crime: A manual for criminal justice practitioners*. https://www.unodc.org/documents/Maritime_crime/19-02087_Maritime_Crime_Manual_Second_Edition_ebook.pdf

UN Office on Drugs and Crime. (2020). *UNODC approach to crimes in the forest sector*. https://www.unodc.org/documents/Wildlife/UNODC_Approach_Crimes_Forest_Sector.pdf

UN Office on Drugs and Crime. (2021). *UNODC approach to crimes that affect the environment*. https://www.unodc.org/documents/Maritime_crime/UNODC_Approach_to_Crimes_that_Affect_the_Environment.pdf

United States Environmental Protection Agency. (n.d.). *Learn about environmental justice*. https://www.epa.gov/environmentaljustice/learn-about-environmental-justice

Walker, G. (2009). Beyond distribution and proximity: Exploring the multiple spatialities of environmental justice. *Antipode*, *41*(4), 614–636. https://doi.org/10.1111/j.1467-8330.2009.00691.x

Walker, G. (2012). *Environmental justice: Concepts, evidence and politics*. Routledge.

Wilson, J., Yan, L., & Wilson, C. (2007). The precursors of governance in the Maine lobster fishery. *Proceedings of the National Academy of Sciences*, *104*(39), 15212–15217. https://doi.org/10.1073/pnas.0702241104

WTO. (2022). *Agreement on fisheries subsidies* (WT/MIN(22)/W22). https://www.wto.org/english/news_e/news22_e/wtmin22w22.pdf

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