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Maritime Justice: Socio-Legal Perspectives on Order-Making at Sea

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Abstract

Illicit maritime activities generate significant scholarly and policy attention. While diverse in nature, governance responses share many regulatory features. This introduction advances the notion of maritime justice, a socio-legal research agenda. Different from broader maritime security studies, it places law at the centre of the inquiry, studying maritime governance practices through the lens of regulation. Empirically, it covers operational, spatial, and structural junctions between illicit maritime activity and regulatory responses deriving from international and domestic law. Analytically, it is heterogeneous but holds a methodological commitment to studying everyday law enforcement practices of maritime security governance to disentangle its meanings and effects. The introduction posits the junction between illicit maritime activities and regulatory responses as a productive space to study the varied norms that shape order-making at sea, and vice versa.

Keywords

law enforcement; maritime crime; maritime justice; maritime security; socio-legal studies

1. The Socio-Legal Study of Maritime Security Governance

Piracy, illegal fishing, and drug smuggling are but three types of illicit maritime activity with major human, environmental, and economic costs. Over the past decades, maritime threats and crimes have been subject to increased attention in scholarship and policy. This thematic issue starts a conversation about how a distinctly socio-legal inquiry into maritime security governance may inform debates on crime, security, and order-making. We call it *maritime justice*.

Empirically, maritime justice covers the myriad operational, spatial, and structural junctions between illicit maritime activities on the one hand and the regulatory and law enforcement responses on the other hand, performed across geographies and under various constellations of international and domestic law. Maritime justice is a research agenda that emerges from maritime security studies, the body of scholarship that frames oceans and related spaces as sites of governance and examines the politics and practices of how maritime threats and crimes are sought addressed. Yet maritime justice places law enforcement at the centre of the inquiry and studies governance practices through the lens of regulation.

Analytically, maritime justice does not promulgate any disciplinary boundaries. However, its scholars unite in a methodological commitment to studying maritime insecurities and their regulatory responses from a socio-legal perspective. Hailing from anthropology, criminology, and law—but attributed to any scholar applying a practice-based study of law—socio-legal approaches have the benefit of being particularly sensitive to the everyday effects of maritime insecurity and how law enforcers respond, bridging substantive binaries such as licit/illicit, public/private, and sea/land.

The effort to delimit maritime justice as a distinct research agenda is born out of two observations. Firstly, (maritime) security implies protection from threats and crimes. Were it not for the law, whether it be codified or state practice, illicit maritime activities would not be illicit, and agents would not enjoy the authority to respond. It follows that law and enforcement stand as basic tenets of security governance. However, secondly, while legal scholarship and political science have delivered widely to maritime security studies on questions of maritime law, governance, and policy, the socio-legal perspective to deepen the understanding of their meanings and effects remains scattered (Larsen, 2022).

With this thematic issue, we advance a dedicated space within maritime security studies, which allows scholarship to specifically delve into the legal aspects as they play out in theatre. It invokes practice-based rationalities to the field as characteristic of socio-legal approaches and promises not only to uncover the practical effects of law enforcement but also to bring conceptual innovation of the constitutive, distributional, and agentive power of law (Larsen, 2023).

2. Defining Features of Maritime Justice

As with any scholarly term, maritime justice has no exhaustive definition. But its features of course need closer inspection. Maritime justice nests in the junction between *illicit maritime activities* and relevant *regulatory responses*.

Regarding illicit activities, "blue crime" has been suggested as a blanket term for transnational organised crime (Bueger & Edmunds, 2020). Yet we wish to encompass illicit maritime activities in all their expressions. We may think of illicit maritime activities according to three general categories: inter-state disputes and conflicts, non-state actors' militancy and terrorism, and maritime crimes and risks. Each category has distinct features, which are key to consider when examining the governance perspective. Firstly, not everything is an actual transgression of law. While illicit (n.d.) can be synonymous with "illegal," it is used here in its broader lexical meaning to describe activities that are disapproved by society writ large—whether criminal or merely immoral. Think of illegal, unregulated, and unreported fishing, the (il)legal status of which depends on the waters in which it takes place. Think of inter-state disputes over maritime boundaries or resources, which

may lead to claims that are deemed a transgression of law by one party but not the other—yet still producing significant tensions in the maritime domain. Secondly, while all three categories affect security in different ways, they have overlaps and are sometimes even interrelated. Think of the Chinese civilian maritime militia's aggressive behaviour in the South China Sea, or cartels smuggling drugs and relying on cooperation with port operators. We are thus dealing with complexes that are not neatly divided into legal/illegal, crime/policing, state/non-state, and public/private. Thirdly, while the most recognisable parts of illicit activities take place at sea, their planning and facilitation necessitate consideration of the land-based functions, drivers, and enabling conditions of maritime operations—on both sides of the law.

Regarding regulatory responses, the UN Convention on the Law of the Sea (UNCLOS; UN, 1982) provides a framework for peaceful co-existence at sea but is silent on crime save piracy and slavery. Regulation of illicit maritime activities is scattered across international law, often referred to as a patchwork. Add to that the necessity to invoke domestic regulation for enforcement purposes, and regime complexity (and complications) surely materialise. Even defining what is relevant law can be complicated, not to mention what guides law enforcers, and we see here the value of a socio-legal perspective to scrutinise the myriad connections and disconnections between applicable law and applied law (Larsen, 2023, pp. 5, 67–68).

Such a multi-faceted theatre has implications for how maritime justice is conceived. The scope of law enforcement and regulatory responses stops short of naval warfare, but necessarily includes warships, as these are mandated in international law to suppress maritime crimes and are generally equipped to police beyond territorial waters—but not only. Coastguards and maritime police also play roles, invoking different legal paradigms and bringing both military and civilian expertise into the picture with distinct lines of command and operational cultures. The marketisation of force also applies at sea, and both public and private actors bring their services and security imaginaries to the maritime domain. Domestically, port authorities, judicial functions, and maritime agencies introduce horizontal lines of enquiry. International organisations and NGOs promote larger agendas of coordination, development, and sustainability, which bring questions of vertical integration in complex patterns of regulatory action. Cross-cutting all of this, legal sources—hereunder the extent of criminalisation—affect the type of possible response(s). But so does the political-institutional design to implement regulation and the ever-evolving technological mechanisms to support operations—both licit and illicit.

Maritime justice is thus a composite term, rather than a conceptual definition. And a moving target at that. The adjective "maritime" implies distinct social, spatial, and material dimensions but with geographies necessarily extending onto land. The noun "justice" connotes regulatory responses and different forms of redress that set it apart from both policy management and executive military operations. It goes beyond distributive action and the immediate connotations of justice, such as adjudication and advocacy. It broadens the focus to cover regulatory practices across public and private law enforcement and security agents. This invokes diverse questions about (cross-territorial) jurisdiction, patterns and changes in authority, and the status of legality and equity. Maritime justice therefore also presents a research agenda of practical and ethical import that begs the question: justice for whom? And this question, importantly, relates to both sides of the law.

3. Setting Sail

The contributions in this thematic issue are the first scholarly efforts to operationalise the notion of maritime justice. Geographically, they anchor the analysis in diverse waters of the world and address varied legal aspects of maritime security. Thematically, they show at once the breadth of possible scholarly discussions and the urgency of addressing maritime justice.

Lindley and Lothian (2024) take us to the vast expanses of the Pacific Ocean, increasingly vulnerable to organised crimes. Maritime justice is here a desired end state; the authors reflect on how existing regulatory frameworks in international law provide tools for the region's diverse nations to strengthen resilience towards maritime crime through concerted efforts. Maritime crime, they emphasise, knows no boundaries and operates across jurisdictions. Responses require regional approaches, especially with differing ratification and enforcement status across the region.

In a northern European context, Boelens and Eski examine an innovative Dutch policing approach. They focus on its ability to enhance maritime justice, defined broadly as reducing the impact of crime on society (Boelens et al., 2024). If the aim is to reduce societal harm rather than merely preventing crime, they find that innovative collaboration is not enough. It requires new performance indicators, procedures, etc. across organisations. Indeed, as long as "catching criminals" is what counts, reducing societal harm through prevention will not be a defined goal, even if this is what truly enhances maritime justice.

VandeBerg et al. (2024) inject affect into the discussion of maritime justice, asking how fear shapes plausibility in piracy prosecution. Looking at Kenyan trials concerning Somali piracy, they reveal that little material evidence was part of court cases. Instead, fear seemed to move judicial decisions along a certain evidentiary trajectory, that is, towards culpability. In discussions on maritime justice, they flesh out an area of research begging further research.

Schandorf (2024) raises the discussion of maritime justice to the global level. She takes us into the machinery of international law-making, specifically the birth of maritime zones in UNCLOS—a precondition for even establishing rights and obligations in addressing maritime crime and insecurity. She posits UNCLOS as an agent of maritime justice and shows the state–state power relations expressed in negotiations. Given the current (re)turn to geopolitics in international relations, Schandorf (2024) rightly posits that it deserves much more attention to avoid the reproduction of power imbalances. It intelligently places us back at the starting blocks of defining what is maritime justice.

Finally, in a forward-looking piece, McLaughlin et al. (2024) broaden the scope. They examine the relation between maritime justice and ocean resilience, specifically relating to SDG 14 "life below water." They ask how we may learn from responses to maritime crime to plug the enforcement gap concerning environmental crime. Here, maritime justice is an international imperative, and they explain how it can assist a stronger response to tackling environmental crimes in the maritime domain. Maritime justice is already proving useful, beyond itself.

4. Future Perspectives

Maritime justice is descriptive as well as prescriptive. It promises to explore both mundane practices and the normative underpinnings of law and governance in efforts to create, improve, and maintain order at sea. Its scholars build a common terminology founded in socio-legal rationality with which to create typologies of ocean governance that are distinctly legal—and understand their mechanisms. It is a research agenda that facilitates cross-pollination between scholarship and practitioner environments. It holds policy implications, uncovering best practices and bringing inspiration for innovative ways of addressing specific illicit maritime activities. This thematic issue hopes to inspire an avenue of research that can be broadened and deepened by scholars with similar methodological orientations. To give further granularity to the politics and practices in the field of maritime security.

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Conflict of Interests

The author declares no conflicts of interests.

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About the Author

Jessica Larsen is an anthropologist and senior researcher at the Danish Institute for International Studies in Copenhagen. Her expertise includes issues related to maritime security operations and law enforcement at sea, the geopolitics of ocean governance, and the politics and geoeconomics of maritime infrastructures. Methodologically, Larsen's work draws on global political ethnography and is based on qualitative data collection. She has conducted fieldwork among law enforcement and naval practitioners in East and West Africa, where she has lived, worked, and travelled since 2009. Her research is used to inform policy-makers through commissioned work for the Danish Ministries of Foreign Affairs and Defence, as well as the UN and EU bodies.