

International Order at Sea

How it is challenged
How it is maintained

Edited by
JO INGE BEKKEVOLD
GEOFFREY TILL



"*International Order at Sea*'s global perspective on maritime security provides important insights, not only on the challenges being faced by national decision makers, but potential solutions to some of the more intractable problems. Its mix of expert practitioners with leading theoretical analysts gives the reader a clear sense not only of what really matters in the maritime domain, but what most needs to be done for its future governance."

—Rear Admiral James Goldrick, Fellow, Seapower Centre and Lowy Institute, Australia

"The oceans have never been more important than they are today. Maintaining the security of shipping and other maritime interests is absolutely vital, especially in the context of an evolving international environment where great power rivalry is re-emerging. The most distinguished international team who have produced this book have made a major contribution to our understanding of this vital subject. It should be widely read."

—Professor Eric Grove, Wolverhampton University, UK

"Order at sea, or more accurately, disorder at sea has become routine fodder for nightly news. Bekkevold and Till have compiled a volume on this topic that "covers the waterfront", geographically and topically. This systemic look at problems and collaborative solutions, including the central roles China and Russia now play, is most welcome."

—RADM Michael McDevitt, Senior Fellow, Center for Naval Analyses, U.S.

This book examines how international order at sea is challenged, changed and maintained. The book surveys challenges to the international order at sea in the Asia-Pacific, the Indian Ocean Region, the Atlantic Ocean and the Arctic Ocean. It explores the interaction between and cooperation among leading, emerging and smaller naval powers, both naval and coastguard responses, required for the maintenance of good order at sea. Six broad and interlinked issues are identified that will influence the future international order at sea: the balance between the maritime and the continental domains; the balance between great power rivalry and cooperation; the contest between access and denial; the operational balance between preparing, building and training for warfighting as opposed to operations other than war; how to manage 'disorder' security challenges that very often transcends territorial waters and national boundaries; and finally, the balance between safeguarding national interests and contributing to collective efforts preserving the international order at sea.

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CHAPTER 1

International Order At Sea: What It Is. How It Is Challenged. How It Is Maintained

Jo Inge Bekkevold and Geoffrey Till

World seaborne trade has dramatically increased in line with the growth in the global trade of merchandise over the last two decades. The world merchant fleet has more than doubled since 2001, reaching 89,464 vessels with a total tonnage of 1.75 billion deadweight tons by January 2015. Around four fifths of total world merchandise trade is now seaborne (UNCTAD 2015, p. x). Securing sea lanes of communication is more than ever before vital to stability, economic growth, and development throughout the world. International order at sea is therefore an important, yet deceptively complicated concept. At first glance, it may mean little more than the nature and manner of what is done at sea as currently understood. Hence any major change, such as the rise of a new sea power which changes the relative status in the maritime pecking-order of the existing sea powers can be seen as impacting the current order of things. Or, again, the discovery of new undersea oil fields can change relative commercial priorities such that people find themselves to be in a new and rather different situation. On the other hand, the international order at sea can be threatened by

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'disorder' in the shape, say, of increased piracy, maritime terrorism, or some catastrophic weather event. In this book we examine how international order at sea is challenged, changed, and maintained and we focus on interaction and cooperation among leading, emerging, and smaller naval powers in order to maintain good order at sea.

Four vital and inter-connected attributes of the sea can be identified. These are the sea as a medium for the spread of ideas, as a medium for dominion and strategic maneuver, as a stock resource, and as a flow resource—a means of transportation and exchange. The sea has certainly been an important medium for information and the spread of ideas, and people have gone to sea not just to spread information but to gain it as well. The urge to explore, to find out what was over the far horizon, and sometimes to reach a better place, has been part and parcel of mankind's relationship with the sea. Maritime exploration was conducted partly in a spirit of high-minded scientific enquiry, and partly for commercial and strategic interest. Arguably because electronic means of communicating ideas are now so much faster, this historic attribute of the sea is significantly less important than it was (Friedman 2006), although the critical role of undersea cables and the continuing 'unknown unknowns' of the sea and its possibilities will compensate for this.

The world's leading naval writers—people like Alfred Thayer Mahan and Sir Julian Corbett, however tended to focus rather more on the sea as a medium for dominion. The fact that so many coastal communities were and indeed still are fortified, shows that the sea can be a source of vulnerability to marauders from afar, and at the same time a springboard for aggressive maritime endeavor. Historic experience demonstrates all too clearly that the sea is a strategic highroad, a medium by which one group of people can come to dominate the affairs of another. The Portuguese are an especially good example of what the Greeks call a 'thalassocracy', an empire founded on mastery of the sea. The Portuguese first fought their way into distant geographic areas and then had to protect their investments there. Their soldiers were never sufficiently numerous to engage in major continental campaigns, so their 160 year empire in the Indian Ocean rested on a few garrisons in strategic places and on superior naval forces. When others, especially the Dutch and the English, began to accumulate greater levels of naval force, Portugal went into decline. For better or worse, the Europeans created new empires and changed the world. And they did it by sea. To make it all possible, they developed navies and naval strategy; a set of concepts of how to use naval force from which our

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understanding of all of the classic functions of sea power derive: Assuring sea control and thus being able to project power ashore in peace and war, to attack or defend trade directly and indirectly, and to maintain good order at sea. Although the Europeans provide perhaps the clearest example of the sea as a means of dominion, they are far from unique. Even the land-based Mongolians mustered naval fleets of several thousand ships—thanks to their control of Chinese shipbuilding capabilities at the time, to invade Japan, Vietnam, and even Java (today's Indonesia) in their quest to conquer Asia in the thirteenth century (Delgado 2009, Stuart-Fox 2003). For such reasons, Alfred Thayer Mahan famously concluded that:

Control of the sea by maritime commerce and naval supremacy means predominant influence in the world... [and] is the chief among the merely material elements in the power and prosperity of nations. (Livezey 1981, pp. 281–281).

Sea power had this great historic effect because its control, conferred upon those nations able to exert it, such huge economic and strategic advantages that they would prosper in peace and prevail in war. These days, indeed, the interest in the sea as a medium of dominion appears to be a global one.

As a stock resource, the sea has been important from earliest Mesolithic times, and we still harvest some 20 per cent of our daily protein from the oceans. More recently, other marine resources, especially oil and gas, have become economically crucial. Indeed, demand for all these things shows definite signs of outstripping supply, increasing the competitive element in mankind's exploitation of this attribute of the sea.

Finally, the relative safety and speed of the marine passage of goods and people by sea has made the sea crucial to human development, economically and socially, as a medium of transportation and exchange. This is as true now, as in the days of sail, or the dramatic new steamships that dominated global trade in the later nineteenth century. If anything, technology has made the connections tighter. The invention of the standardized container has further revolutionized the process. The result is a sea-based trading system that straddles the world and underpins the phenomenon of globalization which shapes the world order and helps determine its peace and security.

The rapid development of world seaborne trade has always depended on good order at sea. A relatively stable balance of power after the end of the Cold War, the strengthening of international regimes, and growing

economic interdependence are often referred to as the three main factors explaining the era of globalization and economic prosperity, experienced since the end of the Cold War (Ikenberry 2000, Keohane 2005, Paul 2012). These same factors have of course had similar positive effects on international order at sea and spurred on by a shared interest in economic growth and global prosperity, countries have sought to enforce maritime security and effective maritime governance.

Accordingly, countries with a stake in the globalized sea-based trading system would seem to have a common interest in the preservation of good order at sea and in the littoral more generally, thus providing the optimum conditions for trade. From this arises an interest and purpose common to most nations, in the development and if necessary the defense of the system against anything which might be a threat —threats which might range from extreme weather events at one end of the scale to an attack by states or groups hostile to the workings or the values of the system (Tangredi 2002). And indeed, Mahan reminded us that a global sea-based trading system *is* acutely vulnerable to such threats:

This, with the vast increase in rapidity of communication, has multiplied and strengthened the bonds knitting together the interests of nations to one another, till the whole now forms an articulated system not only of prodigious size and activity, but of excessive sensitiveness, unequalled in former ages. (Mahan 1902, p. 144).

In consequence he urged the establishment of a community of interests and righteous ideals to 'defend the system' (Mahan 1902, pp. 177–178). Dependence on sea-based transport can be a source of weakness as well as of strength and exemplifies, in Mahan's words, the "...commercial interest of the sea powers in the preservation of peace" (Mahan 1902, p. 99). While there is an assumption here that the resultant system is of universal good, there is also nonetheless, a competitive edge to globalization. The Manchester School argued that international trade was of mutual benefit, but they never said it would be of *equal* benefit. Accordingly, individual nations still have strong incentives to improve their place in the global system, relative to their neighbors. Hence, Sir Walter Raleigh's famous and much quoted observation:

Whosoever commands the sea, commands the trade. Whosoever commands the trade of the world commands the riches of the World, and consequently the world itself. (Platt 1989).

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While these days few would express the point quite so bluntly, such ideas reinforce the view that decision makers need to keep their powder dry against the re-emergence, rather like Dracula when the sun goes down, of the older, bleaker, harsher world of traditional national rivalries and prospective conflict. Hence, good order at sea cannot and should not be taken for granted.

CHALLENGES TO INTERNATIONAL ORDER AT SEA

Challenges to the established good order at sea can be identified by examining major changes in how the sea is used as a resource, as a medium for transportation, or as an area of dominion.

Changes in the constituents of sea power can have this effect too. In its provision of access to the sea and ports, or position close to strategic trading routes, geography shapes sea power (Mahan 1918/2008). Furthermore, a country's geostrategic context defines whether it has a maritime or a continental outlook and the will and need to develop naval capabilities and to become a sea power (Grygiel 2006, 2012). This may be influenced by external threat perceptions and the location of a country's economic center and political capital. St. Petersburg, for instance was built to transform Russia into a maritime nation, an example of a country changing its maritime geography through conscious policy. Another important characteristic and prerequisite of a sea power is technology and knowledge on shipbuilding, navigation and seafaring, both civil and military. Major relative changes in these indicators of sea power will also impact on the established order at sea.

Less dramatically perhaps, the rise in the relative importance in the global economy of the provision of financial and other services as opposed to the transport of manufactures or commodities brings with it the possibility of major change in activities at sea, as the successive global financial crises of 1997–1998 and 2008–2009 so graphically demonstrated.

It seems, then, that the current international order at sea is challenged in two main ways. First, top-down through structural changes as a result of global power shifts, changing threat perceptions, naval modernization, and changes in naval capabilities and an evolving interpretation and enforcement of the Law of the Sea. Second, international order at sea is challenged from the bottom-up through non-traditional security threats like piracy, terrorism, trafficking in WMD, unsustainable over-fishing, and environmental degradation. Piracy in the Gulf of Aden illustrates the

interdependence between the onshore and offshore in the maintenance of order at sea. The same is the case for maritime terrorism and trafficking in WMD. The importance of access to fishery resources is clearly illustrated by the fact that China in recent years has built one of the largest distant-water fishing fleets in the world, operating in Africa, South America, and Antarctica (European Parliament 2012). We have in recent years also seen an increased need for maritime support for humanitarian assistance and disaster relief (HADR), with many of the largest disasters taking place in Asia. Structural challenges and geopolitical shifts as well as the more non-traditional bottom-up security challenges are enforcing new duties and tasks being given to marines all over the world in their effort to maintain good order at sea.

One major structural change in recent years have been the shifts in economic growth and global production and trade patterns away from traditional centers of growth to the South and to Asia in particular (Yoshihara and Holmes 2007). Developing countries now contribute larger shares of international seaborne trade. In 2014, they accounted for 60 per cent of global goods loaded and 61 per cent of goods unloaded (UNCTAD 2015, p. 12). This shift in economy, production, and world seaborne trade is also reflected in the ownership and operation of the world merchant fleet. Five of the seven biggest merchant fleets in the world are Asian—Japan, China, Singapore, the Republic of Korea, and Hong Kong (China) in order of decreasing tonnage, and together they account for 36 per cent of the world tonnage. China is now the largest ship-owning country in terms of vessel numbers and the third largest in terms of tonnage (UNCTAD 2015, p. 36). Among the top 20 container ship operators, 14 are from Asia, 5 from Europe (UNCTAD 2013, p. 44). The country with the highest LSCI—an indicator of each coastal country's access to the global liner shipping network, is China, followed by another four Asian economies, Singapore, Hong Kong (China), the Republic of Korea, and Malaysia (UNCTAD 2015, p. 39).¹ This structural change has contributed to the rapid growth in global trade and to unprecedented economic development in Asia.

This economic shift may not be regarded as a challenge to the established order at sea as long as we define 'the international order at sea' as a condition that is only threatened by 'disorder' in the shape of piracy or inter-state war and not by a major change in the relative order or importance of its chief constituents. However, alongside Asia's increased role in the global economy and world seaborne trade we also see an increase in the defense spending of Asian countries. In 2012, military budgets in Asia

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surpassed those of NATO European states for the first time (IISS 2013, p. 6). The five biggest arms importers in 2008–2012 were all in Asia, with India leading, followed by China, Pakistan, South Korea, and Singapore (SIPRI 2013). We are in fact witnessing a global power shift, from the United States and Europe to Asia. A large proportion of the increase in defense spending in Asia has been channeled into the naval forces, not only in China, but throughout the region, resulting in a rapid increase in Asian naval capabilities, and one could argue that there are elements of arms race visible in the developing relationship of the American, Japanese, Indian, and Chinese navies (Till 2012). The combined shift of economic and military might to Asia could contribute to upset the established order, if the new naval powers decide to develop naval doctrines with priority being given to national interests rather than the protection of the global commons (Cole 2013).

THE OUTLINE OF THE VOLUME

The volume is organized into four parts. Part one of the volume introduces the concept of international order at sea, its main historic development, and evolving challenges to its established legal order. In the second part of the volume we present four regional perspectives on challenges to the international order at sea, in the Asia-Pacific, in the Indian Ocean Region, in the Atlantic Ocean, and in the Arctic Ocean. The third part of the volume explores naval and coastguard responses to the challenges and policies implemented to maintain good order at sea. In the fourth and last part of the volume the editors present some concluding observations.

Upholding the right balance between the rights of littoral states and freedom of navigation on the high seas may pose a continuous challenge to the maintenance of order at sea. The 1982 United Nations Convention on the Law of the Sea was supposed to establish such a balance, but an evolving interpretation and enforcement of the Law of the Sea could make this challenging. In Chap. 2, Mark Rosen looks at challenges to the Law of the Sea (UNCLOS), the most important regime for maritime governance. He discusses whether there are conditions at sea which threaten the framework which the framers of the UNCLOS envisioned and if there are forces at work which threaten to undermine the promise of the Public Order at Sea. He examines three systemic issues in oceans governance that may challenge the theoretical fabric of UNCLOS, the continued proliferation of excessive maritime claims, the decline in the concept of flag-state

control, and a permissive legal regime when it comes to maritime law enforcement. He discusses the global implications of these developments, and whether they have the potential to undo the careful balances that are established in the UNCLOS between the rights of coastal states and maritime states.

China's inclusion of sea power to add to its existing land power is perhaps one of the most fundamental geopolitical shifts in modern history, with major structural implications for regional developments (Erickson et al. 2009, Perry 2008). As a leading trading nation, being one of the world's top three shipbuilders with one of the largest merchant fleets, combined with a solid naval modernization, China has in recent years emerged as a maritime power. Furthermore, China is for the first time in its long history free from any major land-based threats to its security, and has over the last two decades shifted its geostrategic outlook towards the sea. Only once before has China managed to develop a true maritime outlook, during the late Song dynasty and early Ming dynasty in the thirteenth and fourteenth century (Lo 1957/2012, Grygiel 2006). As Asia and China go to sea, unsolved territorial disputes in the East China Sea and in the South China Sea have come to the forefront, and these disputes are fuelled by historical animosities and a strong focus on state sovereignty (Ikenberry and Mastanduno (2003, p. 11).

Against this background, it is only fitting that we start our regional survey in the Asia-Pacific. In Chap. 3, Øystein Tunsjø examines how China's rise and the global power shift affect international order at sea. In the following chapter, Andrew Erickson presents in more detail China's naval modernization, both in terms of strategies and capabilities, from the early 1980s and up to the present era of Xi Jinping. The economic rise of Asia has also in recent years led to an increased interest in the Indian Ocean Region as the oceanic link and sea-lines of communication between the east and the west (Kaplan 2010, Mohan 2012). The Indian Ocean is less characterized by strategic rivalry than the Asia-Pacific, but as Sarabjeet Singh Parmar elaborates in Chap. 5, the Indian Ocean Region gives India the full spectra of maritime security challenges, from changes in the military balance and a shift in geopolitics, to non-traditional challenges as piracy and HADR. India now has naval ships from a wide range of countries at its doorstep, including from China, the U.S., and a number of NATO countries due among other things to combined anti-piracy efforts. Parmar examines how India has shaped its maritime strategy and capabilities to meet these challenges.

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While Asian navies modernize and upgrade their capabilities at a rapid speed, European navies have in recent years mostly downscaled and shifted their priorities to out-of area constabulary duties. In Chap. 6, Gade and Hilde examine the development of NATO's maritime strategy and discuss how well suited are the naval capabilities of NATO Europe in meeting contemporary security challenges, including Russia's military modernization and the implications of the U.S. rebalancing towards the maritime theatre in the Asia-Pacific.

Besides territorial claims affecting a country's territorial waters or Exclusive Economic Zone (EEZ) and continental shelf claims, geography is normally regarded as a constant in the maritime domain. The opening of the Suez and Panama canals in 1869 and 1914 respectively changed international shipping however, and the opening of the Arctic Ocean to shipping and potentially natural resources extraction represents no less than a change in the geography of the oceans, and may become a game changer for seaborne trade and have significant geopolitical implications. For instance, such a development would give Russia a new dimension to its foreign and security policy, and China and other Asian countries the ability to position themselves as new stakeholders in this region. The Arctic region had great geopolitical and strategic importance during the two world wars and the Cold War, but lost most of its strategic value to great powers after the demise of the Soviet Union. Of course, a sustainable commercial use of the so-called Northern Sea Route between Europe and Asia belongs to the distant future, but the topic still merits closer examination. In Chap. 7, Katarzyna Zysk introduces the ongoing changes and increased activity in the Arctic Ocean and analyzes the current and potential future security challenges and threats, both of traditional and non-traditional character that have a bearing on Arctic maritime security, and which have the potential for preserving good order and safety at sea.

The next part of the volume mainly looks at naval and coast guard responses to maintaining international order at sea. Geoffrey Till in Chap. 8, argues that the navies of the twenty-first century are engaged in, and preparing for, two apparently different concepts of battle. The first is the battle for strategic dominance familiar in naval history, the overcoming of enemy resistance in a set-piece engagement in order to fulfil the maritime objectives of the state. Here we are thinking of 'decisive battles' like the Trafalgar's and Midway's of the past—even if, these days, the perceived consequences of full-scale war have increased the relative emphasis on deterrence and the prevention of war rather than simply conducting it.

But there is a second newer concept of battle, less dramatic perhaps, but in its way potentially as important, and this is the day-to-day battle against so-called bottom-up challenges. Navies are able to extend their repertoire in this way because they have always been flexible instruments of state policy. Even so, the equipment and required skill sets of this second kind of battle may well differ from the requirements of the first, and accordingly in times of finite naval resources, priorities have to be set and painful choices made. In Chap. 11, Jo Inge Bekkevold and Ian Bowers examine in more detail the battle for maritime security and how military operations other than war are reflected in the naval strategies of selected countries.

In Chap. 9, Bernard D. Cole shows how U.S. maritime rights and interests have developed following the end of the Cold War and the U.S. post-Cold War search for a maritime strategy. Cole elaborates on various aspects of U.S. global missions at sea, U.S. positions on maritime sovereignty issues in the Asia-Pacific, and naval and maritime relations between the U.S. and China, both from a cooperative and a competitive perspective. Cole's exposé of the U.S. navy and priorities is followed by Chap. 10 where the two Chinese scholars Chu Hao and Chen Qinghong discuss the importance of naval cooperation and conflict management in the South China Sea.

In Chaps. 12 and 13, we look at the role of maritime security forces and coast guards in maintaining international order at sea. Sam Bateman discusses the evolving role of coast guards in the Asia-Pacific region, while Arild Skram and Jo Gade show how the Norwegian Coast Guard for many years has been a vital instrument for the political and military leadership in conflict management. One of the main tasks of the Norwegian Coast Guard is enforcement of fishery regulations and management of fisheries, and the authors bring to the fore lessons learned, including incidents from the special relationship between Russia and Norway in fishery protection, and how important such cooperation is for successful conflict management.

NOTE

1. The LSCI is generated from five components that capture the deployment of container ships by liner shipping companies to a country's ports of call: (a) the number of ships; (b) their total container-carrying capacity; (c) the number of companies providing services with their own operated ships; (d) the number of services provided; and (e) the size (in TEUs) of the largest ship deployed.

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