Article

Clear skies or troubled waters: The future of European ocean governance

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Abstract

Ocean governance is a complex process that involves many stakeholders within, across and beyond states. It currently stands high on the political and public policy agendas of European states and the EU due to the importance of the sea from both an economic and security perspective. This article aims to present the current state of European ocean governance, discussing the current trends and proposing some recommendations as to how best to tackle the challenges. It suggests that the future of European ocean governance rests on the actors' ability to endorse a holistic approach that combines all aspects of sustainable development and security.

Introduction

'Ocean governance', as well as 'marine spatial planning', the 'blue economy' and 'maritime security' have all become what Bueger (2015), in reference to the latter, calls 'buzzwords', that is, they are terms that public authorities and private stakeholders employ frequently in their narratives to refer to the current regimes, processes and policies related to the management of maritime affairs.

'Governance' refers to a complex set of interrelated processes involving policy settings, decision-making, policy implementation, management, control and repression, and

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requires formal institutions and structures. Ocean governance has the aim of stewarding marine resources, organising maritime spaces in a way that enables various state and non-state stakeholders to operate under optimal conditions, as well as regulating, organising and monitoring human activities and flows of goods and people at or from the sea.

Over the past decade-and-a-half, ocean governance has gained high priority status on the political and public policy agendas of European states and the EU due to the importance of the sea from both an economic and security perspective. The EU has set up an *Integrated Maritime Policy* (IMP) (European Commission 2007; European Parliament and Council 2011), which aims to foster 'coordinated and coherent decision-making to maximise the sustainable development, economic growth and social cohesion of Member States' regarding maritime affairs and the maritime domain (European Parliament and Council 2011, art. 1); a *Marine Strategy*, which aims to establish 'a framework within which member states shall take the necessary measures to achieve or maintain good environmental status in the marine environment' (European Parliament and Council 2008, art. 1); and a *Maritime Security Strategy* (MSS) (European Council 2014), which aims to foster 'the maritime security interests of the EU and its member states against a plethora of risks and threats in the global maritime domain' (European Council 2014, 3). This article aims to present the current state of European ocean governance, discussing the current trends and proposing some recommendations as to how best to tackle the challenges. It concludes by presenting three scenarios for the future, and suggests that the future of European ocean governance rests on the actors' ability to endorse a holistic approach that combines all aspects of sustainable development and security.

Key traits

European ocean governance is characterised by the following three key traits, which are instrumental in shaping current and future policies and practices.

Governance is multidimensional

The scope of ocean governance is wide-ranging and encompasses various interlinked dimensions, each one related to specific aspects of human activity at or from the sea: the marine environment and resources protection, the maritime (or blue) economy (including fisheries, transport, energy and recreation), marine spatial planning, sustainable development, safety, maritime security and public engagement against crime (including piracy; terrorism; arms, drug and people trafficking; and illegal fishing). Tackling the various issues of these dimensions requires a comprehensive range of policy options, regulations, legislative acts, implementation, monitoring and repression processes, as well as the use of judicial, military, police, spatial planning, scientific and financial instruments.

Governance is multilevel

Ocean governance is a multilevel process with intertwined global, national and local dynamics at play. Indeed, on the one hand the sea is, by its nature, unbounded, marine

ecosystems are fluid, and the effects of pollution and fishing transcend boundaries. On the other hand, local issues (e.g. related to one specific marine basin) require local or specific solutions: there is no one-size-fits-all solution to maritime governance issues. At the highest level of governance, the international law of the sea limits and frames what actors can do at sea, and this varies depending on the area concerned. The UN Convention on the Law of the Sea is crucial, since it divides the sea into distinct marine areas with legal/jurisdictional implications. For example, states have jurisdiction over their exclusive economic zones when it comes to fishing rights, but they cannot prevent the free movement of ships.

In Europe, the EU constitutes an important source of regulations and norms applicable to member states, such as the rules of the Common Fisheries Policy and ship safety standards. Depending on the policy area, various institutional levels are concerned with maritime affairs, most notably the Commission (Directorate-General Mare), the Council (for Common Security and Defence Policy matters such as counter-piracy), and a variety of specialised agencies, which are responsible for governing specific aspects of maritime affairs, such as fisheries, safety or immigration. At a lower level, states and sub-state actors (such as local authorities) have legislative and executive powers. Within the EU, states also have responsibility for implementing EU regulations and making sure that rules are applied by the private sector. Finally, civil society is also part of the process of ocean governance via private for-profit activities, lobbying and public engagement (see below).

Governance is carried out by multiple stakeholders

In parallel with the distinction between public and private actors, there are three categories of stakeholders involved in ocean governance:

1. Economic stakeholders: shipping companies, ports, the fishing industry, ship-building companies and the tourism industry. These stakeholders mainly aim to 'use' the sea for profit.

2. Public and not-for-profit stakeholders: navies, police forces and other enforcement agencies; governments and local authorities; science consultants and non-governmental organisations (NGOs). These stakeholders mainly aim to regulate or manage activities at sea.

3. Tourists and coastal populations. These stakeholders are consumers of services, such as recreational activities, or rely on the sea for identity building (i.e. the sea is part of local populations' identity).

This proliferation of stakeholders (which is also linked to the multilevel element of ocean governance discussed above) means that there are concomitant forms of horizontal and vertical integration among policies and actors. The former refers to coordination and cooperation between similar types of actors operating at the same level of ocean governance: for example, cooperation between shipping companies or coordination between states' agencies. The latter refers to the coordination and cooperation between actors operating at different levels of ocean governance: for example, the fishing industry of

state A cooperating with the local authorities of state A and state B, the EU Fisheries Control Agency consulting with fishing companies or environmental NGOs cooperating with scientists to lobby governments.

Trends

Blue Growth

Blue Growth, or the blue economy, refers to maritime economic activities that aim to create profit while trying to follow the principles of sustainable development. Whereas small island states have played an instrumental role in promoting this concept, the EU's adoption of the Blue Growth narrative (especially since the Commission's 2012 Communication) has moved it to another level of policymaking and implementation. The Blue Growth agenda is a core element of the IMP; it represents the economic pillar, while the Marine Strategy is presented as its 'environmental pillar' (European Parliament and Council 2011, preamble 12). The Blue Growth narrative is thus framed within the concept of sustainability: 'The blue economy needs to be sustainable and to respect potential environmental concerns given the fragile nature of the marine environment. Efforts are needed to reduce negative environmental impacts of maritime activities' (European Commission 2012, 4).

Blue Growth indeed aims to align economic growth objectives (profit) with sustainable development goals, including the protection of the marine environment and the social well-being of the communities dependent on the sea for their livelihoods. Thus, the concept of the blue economy can be considered a positive step towards sustainable development in general and for coastal communities who strongly depend on marine resources for their livelihoods in particular. However, the Blue Growth agenda has a materialistic dimension despite its link to sustainable development: indeed we might wonder whether the sea is given such significant attention mainly for what it enables us to achieve on land, that is, economic growth (Germond and Germond-Duret 2016).

Maritime security

Based on the realisation that Blue Growth is only achievable if the maritime environment is safe and secure, the EU has started to take security considerations into account since the inception of the IMP in 2007. In 2014 the Council formally approved the MSS. The strategy acknowledges the links between the need to tackle current forms of maritime crime, the importance of securing and monitoring the maritime domain in view of implementing the Blue Growth agenda, and the environmental dimension of maritime security.

The main aim of the MSS is to secure the EU's maritime domain, which requires dealing with maritime crimes such as those mentioned above. However, for the EU, the overarching goal of maritime security is to contribute to 'better maritime governance' (European Council 2014, 8). This includes the launch of maritime capacity-building

missions in third countries (e.g. EUCAP Nestor on the Horn of Africa and EUBAM in Libya) that aim to strengthen the third countries' coastguard and ocean governance capabilities. The MSS also aims to address human smuggling and illegal immigration concerns. The existence of the MSS reflects the EU's geopolitical interest in controlling the sea in its jurisdiction, as well as its intention to become a global maritime actor (Germond 2015).

Territorialisation

In a bid to control and manage human activity and flows at sea, state actors, including the EU, have developed a practice of 'striating' the ocean, or at least portions of it. The UN Convention on the Law of the Sea has created distinct marine areas and jurisdictions. Marine spatial planning contributes to presenting the ocean as a grid, with all that this entails in terms of technical implementation of ocean governance. In addition, public authorities are aiming to survey and control the sea in a way that is as similar as possible to what happens on land. This is resulting in maritime surveillance practices as well as a growing territorialisation of the sea, even beyond the 12 nautical miles of territorial waters.

This practice of territorialisation also has geopolitical implications. Via regulations, directives and monitoring practices, the EU has the means to influence third-party states and their stakeholders (in marine basins such as the Mediterranean) because of the current imbalance in terms of political and economic power. The seas around Europe constitute maritime margins, that is, 'hybrid spaces, which legally are situated out of the Union but functionally inside its strategic zone of interest and competencies' (Germond 2010, 41). The Blue Growth agenda only reinforces this, since 'economic expectations for marine basins are beginning to acquire a dimension that turns the latter into crucial pieces on the geopolitical chessboard' (Suarez de Vivero and Rodriguez Mateos 2017, 26). As mentioned above, the MSS also contributes to this geopolitical dimension of ocean governance.

Civil society

A substantial number of non-state/private stakeholders are also part of the process of controlling/regulating the sea. Non-state actors are involved in day-to-day ocean governance: shipping companies, fisherfolk, marine environment NGOs, scientists and coastal communities are all part of the complex process of global ocean governance. Self-regulation, codes of conduct and the use of private security companies illustrate the importance of the civilian and corporate sector in ocean governance. The nature of the maritime milieu (compared to that on land) has resulted in a situation where civilian aspects of ocean governance have gained in importance compared to governmental ones.

Beyond the role played by non-state stakeholders in the daily practice of ocean governance, the participation of civil society at large has increased. This has implications for policymaking processes. For example, the release of the IMP in 2007 and the

development of an EU agenda for international ocean governance in 2016 both followed an intensive process of consultation across countries and among maritime stakeholders, which demonstrates that something of a bottom-up approach has been taken to maritime affairs policymaking.

Recommendations

In view of the current challenges facing European ocean governance, in particular the importance of securing the maritime domain, the role played by for-profit actors, the growing technicality of spatial planning and the current process of the territorialisation of the sea, this article offers two sets of recommendations: the first to foster a balanced version of sustainable development in the maritime domain, and the second to ensure that the placefulness of the sea (see definition below) is better accounted for.

Balancing sustainable development components

The Blue Growth agenda has an environmental and a social dimension, and the Marine Strategy and other instruments cover the need to protect the marine environment. The IMP and even the MSS recognise the importance of sustainability and claim to offer solutions that contribute to the sustainability agenda. However, the current sustainability narrative mainly centres on the concept of Blue Growth, that is to say that economic imperatives remain central, followed by environmental considerations. Putting sustainable development at the very core of European ocean governance is thus crucial. The concept of sustainable development brings together economic growth (Blue Growth), environmental protection (Marine Strategy) and societal/political components (MSS). This fits with the EU's overarching goal and self-attributed identity as a sustainable development champion.

In addition, since the EU's leverage ultimately rests on member states' willingness to act and to spend financial and material resources, it is in its interest to promote policies that have quantifiable results and whose outcomes member states, parliamentarians and public opinion in Europe can empathise with. This is increasingly important given the current context of rising doubts about, and challenges to, the EU's political project. Managing illegal immigration in the maritime domain and fostering maritime economic growth will certainly remain top priorities in the foreseeable future, but it may also be in the interest of the EU to frame its role and activities in the maritime domain as direct contributions to sustainable development, which is perfectly in line with the EU's identity.

Promoting a placeful approach to the sea

Current ocean governance policies and practices adopt a rather technical and placeless approach to the sea, which means that it is too often presented and treated as a void, a grid, a space devoid of human and social interactions. This is a mistake since it prevents stakeholders from fully taking into account the importance of the sea for coastal

communities, tourists and fisherfolk. Their identities are linked to the sea; they can feel a 'sense of place' and the sea is not a placeless entity devoid of social interactions.

A placeful approach to the sea (i.e. to consider the sea as a place of human and social interactions) would enable public and private stakeholders involved in ocean governance to move beyond the grid/void representation that tends to favour technical practices. Placefulness accounts for diversity and the need to avoid a one-size-fits-all solution to complex problems. It thus contributes to the overall goal of ocean governance.

Conclusion

The future of European ocean governance will depend on the degree to which maritime sustainable development and placefulness contribute to the adaptation to and the mitigation of the negative aspects of the key traits and future trends discussed above. Three possible future scenarios are presented below.

1. *'Clear sky' scenario*. Stakeholders across Europe adopt a placeful approach to the sea. Ocean governance policies follow a truly sustainable development approach. Cooperation and coordination between stakeholders at various levels is not only strong but also effective and aimed at tackling all sorts of issues, including fostering a balance between for- and not-for-profit interests. The maritime domain is safe and secure in a way that contributes to sustainable development at sea in a virtuous circle of stability, good governance, sustainability and social well-being.

2. *'Troubled waters' scenario*. The sea is considered and treated as a placeless grid, a void, a provider of resources and lanes of communication. The exploitation of marine resources is poorly regulated and slips out of control due to an imbalance between the economic, environmental and social imperatives of the Blue Growth strategy. There is poor coordination and cooperation between stakeholders defending vested interests, all the more so since the EU as a whole is increasingly challenged as a political project. The maritime domain is not safe and secure, especially from the point of view of vulnerable populations.

3. *Intermediate scenario*. There is a reasonable degree of cooperation and coordination taking place between stakeholders, resulting in a safe and secure maritime domain. However, for-profit strategies and policies are implemented rather than balanced sustainable development. The approach to problems is too technical, and its implementation does not pay enough attention to the needs of local and vulnerable populations.

As can be seen in the presentation of these three possible scenarios, cooperation and coordination between stakeholders is likely to work (except in the worst-case scenario, and even then there is a limited amount of cooperation between those actors that share a common interest in exploiting the sea). Thus, the key to the future of ocean governance is the need to secure a placeful approach to the sea and to avoid developing instruments that are too technical.

As of today, there is a clear acknowledgement by various stakeholders, including the EU and its member states, of the importance of the sea and of their responsibility towards it. There is also a well-developed institutional framework that spans the dimensions of ocean governance, marine areas and cooperation levels, as well as a variety of policies in place. Thus, the crucial next step could be to improve the ideational approach to maritime affairs by creating a better balance between for-profit and not-for-profit objectives and policies, and to recognise the placefulness of the sea. In sum, the key to European success will be the capacity of the EU to endorse a holistic strategy for ocean governance and maritime security which fully integrates the environmental, economic and security dimensions on the levels of ideas, objectives, policies and means.

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