





MARIPOLDATA Ocean Seminar The Territories of Ocean Governance

24 March, 2021

Guest Speaker: Professor Dr. Kimberley Peters

A human geographer by training, Kim's work takes place in the context of the seas and oceans. Her work sets about exploring how power operates in the marine environment and how governance works (and fails). She has explored this in the context of pirate radio ships, prison hulks, deep-sea mining to vessel traffic management. She is also interested in theoretical approaches to understanding our (geo)political relations with sea and ocean spaces. Kim has published various books and papers on these topics. She was formerly a Reader in Human Geography at the University of Liverpool where she continues to hold an Honorary Fellowship. She is now Professor of Marine Governance at the Helmholtz Institute for Functional Marine Biodiversity (HIFMB), a new research institute combining the Alfred Wegener Institute and the University Oldenburg.

We welcome Professor Kimberley Peters to the MARIPOLDATA Ocean Seminar, who presents her work on "The Territories of Governance: Unpacking the Ontologies and Geophilosophies of Fixed to Flexible Ocean Management, and beyond."

Reading Material for the Session:

Peters, Kimberley. "The Territories of Governance: Unpacking the Ontologies and Geophilosophies of Fixed to Flexible Ocean Management, and beyond." Philosophical Transactions. Biological Sciences 375.1814 (2020): 20190458. Web.

World Ocean Review. Chapter 10: The Law of the Sea: A powerful instrument. Retrieved from: https://worldoceanreview.com/en/wor-1/law-of-the-sea/a-constitution-for-the-seas/

The monthly **MARIPOLDATA Ocean Seminar Series** offer a virtual space to get information and engage in exchanges on ocean governance issues, through presentations by international experts from academia, governments, international organisations and civil society.

To register: Please contact <u>ina.tessnow-vonwysocki@univie.ac.at</u>, indicating your name and institution. More information: <u>MARIPOLDATA Ocean Seminar Series</u>







1. General Context

- Current Ocean Governance is based on territorial logic
- The United Nations Convention on the Law of the Sea (UNCLOS) divides the ocean into different legal zones
- How the world is conceptualized defines how it is governed and therefore an analysis of the basis of current ocean governance is needed to understand future marine policies

2. An Introduction to Ocean Territories

Reading: World Ocean Review. Chapter 10: The Law of the Sea: A powerful instrument. Retrieved from: https://worldoceanreview.com/en/wor-1/law-of-the-sea/a-constitution-for-the-seas/

UNCLOS regulates the use of the ocean, as well as its protection. It does so, by establishing different maritime zones, granting coastal states territorial rights within the territorial seas (12 nm); further rights of control in the contiguous zone (up to 24nm), sovereign rights and jurisdiction activities, including economic exploitation (the exclusive economic zone up to (200 nm), after this it is the high seas.

Further, the seabed is also divided into zones, consisting of the continental shelf over which coastal state have the right to explore and exploit resources; and the so called "Area"- the seabed and subsoil thereof in areas beyond national jurisdiction under the principle of common heritage of mankind, meaning that an international body oversees seabed mining and benefits have to be shared.

There are two implementing agreements under UNCLOS:

- The 1994 agreement, regarding Part XI (regarding activities on the seabed)

- And the UN Fish Stocks Agreement (UNFSA), to manage migratory and straddling fish stocks.

These agreements seek to implement the provisions set out in the convention.

Currently, a new implementing agreement of UNCLOS is being negotiated: the BBNJ agreement (for the conservation and sustainable use of marine biodiversity beyond national jurisdiction).

One main pillar to conserve and sustainably use marine biodiversity will be the establishment of Area-based management tools (ABMTs), including marine protected areas (MPAs).

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Ina Tessnow- von Wysocki, April 2021







This shows that ocean governance is heavily based on maritime zoning and spatial management of the ocean.

This regards exploitation but also protection, which can be seen in the establishment of marine protected areas under the Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS).

UNCLOS, negotiated over around 20 years, now constitutes the legal framework for the oceans and provides the main guidelines for ocean governance.

3. Unpacking the Ontologies and Geophilosophies of Fixed to Flexible Ocean Management, and beyond

Peters, Kimberley. "The Territories of Governance: Unpacking the Ontologies and Geophilosophies of Fixed to Flexible Ocean Management, and beyond." Philosophical Transactions. Biological Sciences 375.1814 (2020): 20190458. Web.

Presentation by Prof. Dr. Kimberley Peters

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TERRITORIES OF OCEAN GOVERNANCE GEOGRAPHY, PHILOSOPHY AND EFFECTIVE MARINE MANAGEMENT

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More examples



From Bing Images https://www.bing.com/images/search?q=world+map&qs=n&form=QBIDMH&sp=-1&pq=world+&sc=8-6&cvid=C29574F9043249E8A6D5492D5BF9FF1B&first=1&scenario=ImageBasicHover (accessed 10/12/2017)

A question

What do you notice...?













From Bing Images https://www.bing.com/images/search?q=world+map&qs=n&form=QBIDMH&sp=-1&pq=world+&sc=8-6&cvid=C29574F9043249E8A6D5492D5BF9FF1B&first=1&scenario=ImageBasicHover (accessed 10/12/2017)



https://commons.wikimedia.org/wiki/File:Imperial Federation, map of the world showing the extent of the British Empire in 1886.jpg Accessed 24/03/2021



From: https://i.pinimg.com/736x/8b/9f/99/8b9f997dac58726576f7355c53f7e433.jpg (accessed 15/10/2020)

Likwise...

- Whilst the world map unfolds at a certain point through our construction **other elements of maps are equally constructed.** Think of the nation state.
- The state refers to "areas of land (or land and water) with relatively well defined, internationally recognised, political boundaries" (Johnson et al. 2000, 788).
- The making of states requires the marking of territory. Drawing lines on a map.



Territory as a 'political technology'

- Such line drawing creates units of control "produced through **technical and legal means**" (Gray 2018, 259, citing Elden 2010).
- Just like the map, the **state** (and how it appears on maps) is not **natural.** Rather:

'Territorial thinking, the production of territories, and the employment of territorial strategies are bound up with **maintaining power** or with **resisting the imposition of power**...' (Storey 2017, n.p).



Image from: https://www.i-legalteam.com/2019/11/07/the-impact-of-brexit-on-cross-border-mergers-with-uk-limited-liability-companies/ (accessed 11/11/2020)

Example

Berlin Conference 1884-5 or 'The Scramble for Africa'

- States as **defined political units** of territory;
- Territory as a **bordered power container**;
- Territory as produced (i.e. it is not the same now, so nothing 'given' about it!) N.B Straight lines...



Two points....

- 1) The world maps remind us that there are **enduring** ways of thinking about the world that 'stick'. They become naturalised. This stops us seeing alternatives.
- 2) Within maps, states and their lines also become normative, rational, familiar to us. We carve spaces (sometimes literally on maps) into territories to mark out spaces of **governance and control**. This practise and its visualities also 'stick'. It becomes naturalised. This stops us practising alternatives.

Today's talk

How has mapping practice and its visualities, along with territory making practices on land, shaped how we know, understand and then manage the sea?

Outline:

- Section 1: Making solid ground at sea
- Section 2: Planning flexible ocean futures?
- Section 3: Navigating home



SECTION 1: MAKING SOLID GROUND AT SEA?



Three phases of ocean enclosure

We are now in the **Third Phase** of ocean enclosure, and the shaping of the oceans using spatial mechanisms of control.



From: Fairbanks et al. 2018, 148

Mare Clausum



John Selden. Image from: <u>https://en.wikipedia.org/wiki/John_Selden</u> (accessed 16/10/2020)

The Right and Dominion of the Sea. Image from: <u>https://www.abebooks.com/Mare-clausum-right-dominion-sea-tvvo/30399223748/bd#&gid=1&pid=1</u> (accessed 16/10/2020)

"states have the **right** to enclose and claim discrete areas of ocean space" (Steinberg 1999, 259).

Zones of the ocean under UNCLOS (1982)



Area based management tools



2021 United Nations Decade of Ocean Science for Sustainable Development

mages from: <u>https://en.unesco.org/ocean-decade</u> accessed 06/11/2020)





United Nations Decade of Ocean Science for Sustainable Development 2021 - 2030 ABMTs mark the **"functional enclosure"** of the oceans for their management (Lambach 2020).

They "feature prominently as an instrument" for action and have appeared in most major ocean directives for environmental protection (Lambach 2020). i.e. they are the **desired outcomes** of most acts of governance, i.e. UN Ocean Decade.

For example: "in the Call to Action of the 2017 UN Ocean Conference, the international community endorsed 'the use of effective and appropriate **area-based management tools,** including **marine protected areas** and other integrated, cross-sectoral approaches, including **marine spatial planning and integrated coastal zone management**' (United Nations General Assembly 2017: para. 13(j)).

Target 11 of the 2010 Conference of Parties to the Convention on Biological Diversity (CBD) was to make **10 percent of the oceans into** *effectively managed Marine Protected Areas* (MPAs) by 2020" (Lambach 2020)

Tracing the spatial logics of governance

Governance practises for oceanic protection have often set about **defining spaces** – geographical areas – as the focus for management efforts, law, policy and tools.

Indeed, "Zones, areas, sectors. Borders, boundaries, limits. This, quite often, is the language deployed in relation to ocean governance" (Peters 2020, 1)

But why do we use them? How have they come to be?

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Research

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This paper offers a conceptual contribution to understanding ocean governance and the management of spaces for the protection of marine biodiversity, organization of extractive industries, the arrangement of global shipping and other 'blue-economy' uses. Rather than focus on one type of management technique such as a Marine Protected Area (MPA) or example of Marine Spatial Planning), or a site- or species-specific case study of governance, this paper offers a theoretical tracking of the uncharted territories of governance that foreground ocean management approaches. The literature on ocean govern ance and management techniques predominantly derive from scientific disciplines (which provide the basis for planning) and policy-related social science fields, leaving a lacuna in more critical discussions of ways of knowing and understanding the world that drive it. The paper argues the need to critically understand the ontologies (the regimes of what we believe exists) and geophilosophies (the geographically informed modes of thinking) of territor that underscore ocean management to make sense of its past successes and failures, its present functioning and its future directions. This paper argues that without critical consideration of the kinds of thinking-the ontologies and geophilosophies-that drive ocean management, it will lack the transformativ potential many hope it will achieve for sustainable development. This article is part of the theme issue 'Integrative research perspectives

This article is part of the theme issue 'Integrative research perspective on marine conservation'.



d by Kimberley Peters, Philip Steinberg and Elaine Stratford

TERRITORY EYOND TERRA



Spatial logics of governance

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PHILOSOPHICAL TRANSACTIONS OF THE ROYAL SOCIETY B

BIOLOGICAL SCIENCES

Integrative research perspectives on marine conservation Theme issue compiled and edited by Helmut Hillebrand, Heather Leslie and Ute Jacob



The tradition of 'territory' and the role of states!

We can trace western management approaches **back** to the 1400s to European expansion (Treaty of Tordesillas); to the 1600s (Mare Clausum) and beyond...

"the art of governing ... manifests in area-based plans and the marking of zones" (2020, 2)

In doing so, we **borrow** ways of managing space **from the land**, where we have **long** practiced zoning for purposes of control and legibility (map making). As such,

"The art of governing – in short - has been built on **solid foundations**" (Peters 2020, 4)

Why does this matter?

The land is a very different domain – it is (largely!) **fixed**, **solid**, **static** – we <u>can</u> build walls, erect fence, draw boundaries

The sea alludes these processes because it is (largely!) **fluid**, **liquid**, **moving** – it is more <u>difficult</u> to build walls, erect fences, draw boundaries.

Yet we persist in demarcating, zoning, bordering and enclosing the seas!





Area based management tools

Marine Protected Areas offer a

"defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

"MPAs aim to protect all the features of importance **within their boundaries**, including the overall health and diversity of the ecosystem and have a stated primary aim to this effect" (IUCN 2015, 4)



Image from: https://mpatlas.org/zones (accessed 04/11/2020)

Building a maritime motorway

A TSS is a **Traffic Separation Scheme**, an **Area Based Management Tool (ABMT)** designed to manage shipping traffic, predominantly for the purpose of **avoiding shipping collisions** and related **environmental disasters**.

"Their purpose is to route shipping to reduce traffic density, and usually lessen the incidence of encounters between ships on reciprocal or nearly reciprocal courses" (Oxford Reference 2020, n.p)



Image from: https://northsearegion.eu/northsee/s-hipping/international-routing-measures-for-shipping-imo/ (accessed 06/11/2020)

The Torrey Canyon



Torrey Canyon was a Suez-max oil tanker, one the largest of its time.

It collided with Pollard Rock on Seven Stones Reef between Cornwall and the Scilly Isles on **18th March 1967 in the English Channel**, the start/end of a marine bottleneck between Britain and Ireland and the Continent.

It spilled approx. **117 000 tons of oil** – almost its full load (120 000 tons).

The impact on the environment was **disastrous** around 20 000 sea birds were contaminated, many marine organisms died and miles of coast were covered in oil slick.

Image from: <u>https://www.dw.com/en/50-years-on-the-oily-legacy-of-the-torrey-</u> canyon/a-37993960 (accessed 31/10/2020)

The Torrey Canyon

Although arguments for ship routeing in the English Channel and Dover Strait began as early as **1959** through the work of Captain Oudet, the Torrey Canyon environmental disaster *accelerated* the case for a **clear ABMT to guide shipping**.

As Captain Oudet wrote after the disaster: Torrey Canyon was sailing in dangerous waters where she had no business to be. It was suggested that tankers and other very large ships **should be confined to routes free from danger,** that the courses actually made good should be properly checked and that speed limits should be imposed. (Oudet 1972, 56)



Making a maritime motorway

Later, in **1971**, further maritime disasters occurred, this time in the Dover Strait, where **4 ships collided** resulting the largest loss of life during peace time in this area (43 seafarers).

Efforts intensified to establish a formal ship routeing measure which would <u>separate</u> shipping into lanes, preventing collisions.

This meant dividing sea space into neat lanes, **like a motorway**. Ships travelling north-east or south-west would be **confined** to using only a particular lane.





Flat planning

From National Archives Kew, UK, BT 243 177 Oudet's maps of proposed TSS schemes



Areal zoning

From National Archives Kew, UK, BT 243 177 Oudet's maps of proposed TSS schemes



Laying roots/routes

From National Archives Kew, UK, BT 243 177 Oudet's maps of proposed TSS schemes

Grounded planning in mobile space





SECTION 2: PLANNING FLEXIBLE OCEAN FUTURES?

Developing dynamic and flexible approaches?

Most spatial marine management techniques (e.g., marine protected areas) **draw stationary boundaries around often mobile marine features**, animals, or resource users. While these approaches can work for relatively stationary marine resources, to be most effective **marine management must be as fluid in space and time** as the resources and users we aim to manage (Maxwell et al. 2016, 42)

Developing dynamic and flexible approaches?

The ocean... through its material reformation, mobile churning, and nonlinear temporality—creates the need for new understandings of mapping and representing; living and knowing; governing and resisting. Like the ocean itself, maritime [and marine] subjects and objects can move across, fold into, and emerge out of water in unrecognised and unanticipated ways. It is in this context that we advocate thinking from the ocean as a means toward *unearthing* [new modes of governance tools] (Steinberg and Peters 2016, 261–262)

Introducing the Bering Strait

The Bering Strait is a narrow seaway of **44 nautical miles positioned between the landmasses of Russia and the American archipelago of Alaska**. It was an area with little explicit marine governance, in part because it has not been a well-used global transport route (although it has, historically been a 'nexus' for localized trading, something typically ignored in contemporary governance developments). Yet with climate change, ice melt, and an increasingly viable passage emerging, vessel traffic is increasing and with it risks to marine life (Peters 2020, 6)





Situating biodiversity and society in the Bering Strait



https://www.washington.edu/news/2014/02/26/whales-ships-more-common-throughbering-strait/ (accessed 07/01/2021)

Almost the entire western Arctic population of **bowhead whales** travels through the strait twice a year. It also provides important food for the Pacific **Walrus, spectacled eider**, and **grey whales**. An estimated 12 million **seabirds** nest or forage in the area each year. The strait is also home to **indigenous communities** whose inhabitants have lived a traditional way of life along its shores for untold generations (Pew Trust in, Peters 2020, 6)

Building a motorway...

In 2010, the United States Coastguard (USCG) began a consultation regarding the implementation of a ship routeing scheme for the Bering Strait to guide increased shipping traffic. Although pertaining to mobility—guiding the movement of ships along a corridor— the technique of governance planned and proposed rested on the very static, fixed, territorializing and grounded modes of spatial management typical in marine environments(Peters 2020, 6)



Or something different?

The Marine Exchange of Alaska (MXAK), a nongovernmental, not-for-profit organization that has been operating since 2001, embodies a **networked approach to maritime domain awareness**. Through a process of **information dissemination to help guide users of the marine environment, it is also flexible and responsive to the very mobile and dynamic environment in which it operates**, sharing information in 'real-time' (Peters 2020, 6).







Dynamic and flexible governance?

"So my point is I think the best way to manage places like the Bering Strait is actually **send information** ... using this **new technology**, warn those at risk... you can say 'you can go through the Bering Strait but here's the guidelines now, just stay this far away from shore and ... we'll let you know where you can go when you get there because it's a **dynamic situation**" (Captain Ed Page, unpublished interview, 5 November 2016), from Peters 2020, 6.





From the USCG PARS, 2016

Ideological oceans (the trick of enclosure...)

"the drive to enclose the oceans **is not due to some greater effectiveness** of spatial instruments but because enclosure fits better with **prevailing late modern notions of legibility, control**..." (Lambach, 2020, n.p)

"The widespread deployment of enclosure is both an expression of changing relations between humanity and the oceans and will itself contribute to furthering those changes. For one, enclosure is built on principles like rationality, legibility and control making it a good example of the **managerialisation of the natural world**. For another **enclosure is irreversible**. Once common pool resources are enclosed, state and private actors are very unlikely to give up... (Lambach 2020, n.p)



Carceral seas?

Are we 'locked in' to specific ways of doing governance?

Are our seas becoming **'carceral'**, sites defined by spatiality and intent that can cause detriment or harm, instead of good?

"Indeed, such modes of demarcating space do not 'belong' at sea but have been transported there from the land and landed logics... This landed ontology and territorial geophilosophy is an underlying discourse of ocean governance **so powerful it is rarely questioned**" (Peters 2020, 4)



Different governance futures?

"An attention to zones, areas, sectors, borders, boundaries and limits; their ontological assumptions and stabilities in the realm of ocean governance may allow us to push those limits and to imagine – and in turn build – different governance futures" (Peters, 2020, 8)





THANK YOU

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4. Questions & Discussion

Spatial management

Ocean governance draws from land logic: It borrows the ways of governing that have been used on land, in a rather fixed environment and tries to apply this in a fluid, moving three dimensional space. It heavily relies on the logic of "drawing lines in the ocean" to manage ocean space and resources.

Effectiveness of spatial management varies, with "paper parks" on the one end, only existing on paper but not offering effective governance in practice. But there are also examples of area-based management tools that are not based on sectors, but rather look at different uses of the marine environment. Soft forms of governance were also mentioned, were networks of radar stations serve as information exchange, as well as cross sectoral debates.

Alternative Approaches to Ocean Management

There have been suggestions for alternative ocean management, which is not based on geography and territorial logic. This is particularly obvious in cases where species or prestige ecosystems are not in one place over time and observable, such as the "Costa Rica Thermal Dome". Dynamic marine protected areas are a way of re-thinking static area-based management tools, that cannot account for migrating species and a changing ocean (Maxwell et al., 2020). Another alternative approach is the real-time data and communication enabling knowledge on the marine environment and adequate environmental protection.

Challenges with flexible approaches

Alternative approached to ocean management remain rare and challenges of these flexible management tools are evident. In this regard, the question arises who can enforce jurisdiction over these tools if they are constantly adapting and changing position- thereby also move through different regional jurisdictions of **RFMOs** and other bodies and frameworks.

There might be legal limits to implement such approaches, a fragmentation and lack of communication among existing regimes that could hinder their implementation in practice.

Dynamic approaches that rely on technology might be fueled by capitalist logics after all and do not guarantee to be "better" way of governance.

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Ina Tessnow- von Wysocki, April 2021



Negotiating change





One can consider the spaces that currently exist to negotiate change to the law and the way ocean governance is framed and enacted. While formal United Nations negotiations are the obvious place where such negotiations would take place, there might be other for a where this is negotiated and where it is valuable to dedicate research to practices of negotiation and underlying discourses.

Literature recommendations within the session:

Bennett, Nathan James, Govan, Hugh, and Satterfield, Terre. "Ocean Grabbing." Marine Policy 57 (2015): 61-68. Web.

Chamberlain, Muriel Evelyn. The Scramble for Africa. 4. Impress.. ed. London: Longman, 1979. Print. Seminar Studies in History.

Lambach, Daniel (2020). The Functional Territorialization of the High Seas.

Maxwell, Sara M, Gjerde, Kristina M, Conners, Melinda G, and Crowder, Larry B. "Mobile Protected Areas for Biodiversity on the High Seas." Science (American Association for the Advancement of Science) 367.6475 (2020): 252-54. Web.

We thank Prof. Dr. Kimberley Peters for her eye-opening insights into ocean governance and all Ocean Seminar Series Participants for engaging in the discussion.

<u>Here</u> is an overview of the program for the Ocean Seminars Series of the first half of 2021.

We are looking forward to the upcoming Sessions!

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