



## The maritime security is a powerful tool for resolving a coastal state dispute: it provides a secure and safe systematic guideline.

Shah Md. Omer Farque Jubaer<sup>1</sup>

Syed Hasan Shahriar Rofi<sup>2</sup>

Shuvrangshu Roy<sup>3</sup>

Md. Atiqur Rahman Numan<sup>4</sup>

**Abstract:** In essence, this research paper looks at how security concerns have shaped the formation of the law of the sea, as well as how same interests are currently influencing how the law of the sea is interpreted and applied. In view of the shifting dynamics of exclusive and inclusive claims to ocean use, it contends that security interests should be given more weight in our understanding of the law of the sea. Security interests in the oceans have traditionally been linked to different governments' military interests, and this component remains important in inter-state interactions as well as internal state military priorities decision-making. While the safeguarding of sovereignty and national interests remains paramount in maritime security, there is growing recognition of a shared interest among states in responding to a variety of maritime security concerns. The grounds for addressing this topic reflect a deeper understanding and fear of maritime security, especially the possible impact of terrorist attacks on global trade if the maritime industry is targeted. A variety of legal initiatives have been launched in order to improve maritime security onboard ships, in ports, and at sea.

**Introduction:** In order to examine maritime security and the law of the sea, two fundamental questions must first be addressed: what is meant by "maritime security," and how does maritime security connect to the fundamental structure of the law of the sea? What actions are addressed and what interests are at risk in reacting to any perceived problem are influenced by the scope and meaning ascribed to the term "maritime security." Maritime security will invariably mean different things to different people. As a result, it should not be seen solely as a legal term of art, but rather as part of a larger picture of international relations and what is meant by the phrase "security." 'Security' is an expressive concept that refers to a feeling of safety and so escape from fear. Security becomes a cadre of legislative, executive, judicial, military, and police acts meant to respond to a common demand for order and protection from internal and foreign threats as it manifests itself in international decision-making. It is important to understand what constitutes a state's security interests, as these interests form the broad backdrop to a state's marine security (*Maritime*

<sup>1</sup> CEO at Hasty Head. Email: [smofjubaer@gmail.com](mailto:smofjubaer@gmail.com) ; [smofjubaer@yahoo.com](mailto:smofjubaer@yahoo.com)

<sup>2</sup> Director at Hasty Head. Email: [syedrofi188@gmail.com](mailto:syedrofi188@gmail.com)

<sup>3</sup> Director at Hasty Head. Email: [royshuvrangshu@yahoo.com](mailto:royshuvrangshu@yahoo.com) ; [shuvrangshuroy24@gmail.com](mailto:shuvrangshuroy24@gmail.com)

<sup>4</sup> Director at Hasty Head. Email: [atiqnuman@gmail.com](mailto:atiqnuman@gmail.com)



*Security and the Law of the Sea* )<sup>5</sup>. Threats to maritime security then act as a catalyst for action and change, influencing how the law of the sea is applied and developed. The fundamental idea of the freedoms of the seas, which is based on Hugo Grotius' conception of *mare liberum*, is the beginning point for any discussion of maritime law. The idea that the oceans, with the exception of a very short strip of water subject to coastal state sovereignty, are open to all users, and that any claims to ocean space or use should be considered as encroachments on the seas' freedoms, has shaped developments in the law of the sea. To begin, it's crucial to consider why and how the freedoms of the seas have held sway for 400 years, what this means for maritime security, and whether the need for more security is even necessary (Klein, N. (2015). *Maritime security* )<sup>6</sup>.

**Extensive construction:** To begin, it's vital to consider why and how the freedoms of the seas have held sway for 400 years, what this means for maritime security, and whether the need for further security measures is a challenge to the *mare liberum* notion itself. In general, it is devotion to *mare liberum*, as well as the more contemporary notion of the common heritage of mankind as it applies to the deep bottom that has secured the continued viability of inclusive interests in the regulation of ocean space and use. Exclusive interests, on the other hand, pose a threat to continued adherence to *mare liberum*, as evidenced by the phenomena of 'creeping jurisdiction,' in which certain coastal jurisdictions encroach on others. States must have law enforcement powers in order to respond to marine security threats. Despite the fact that this point is straightforward, the laws governing state jurisdiction are complicated due to the numerous rights and obligations recognized in various marine zones (Sovereignty at Sea )<sup>7</sup>. The authority states have in any given maritime area or over any single vessel, installation, or structure located at sea determines how activities at sea are regulated. The ability of a state to carry out law enforcement differs not just due to the various rights and duties that exist in different maritime zones, but also depending on the specific threat to maritime security that is being addressed. While there is a common interest in maintaining order at sea, acceptable answers to attain order have been thwarted by other interests, particularly the necessity of territorial integrity and the corollary of maintaining exclusive rights over vessels flying the state's flag. When it comes to preventing and responding to maritime security risks, this balancing act is always on the line. States have both prescriptive and enforcement jurisdiction under international law. Prescriptive jurisdiction refers to the capacity to enact laws and other regulations, while enforcement jurisdiction refers to the power to put those rules into effect through police and/or judicial action. States have the authority to exert jurisdiction based on the many ties that a specific activity may have with them. The most widely recognized bases of criminal jurisdiction are territoriality, nationality, passive personality, universality, and protectiveness. A state's territorial jurisdiction allows it to govern people and activities inside its borders. Nationality jurisdiction enables states to regulate the activities of people who are citizens of that country. A state may exert criminal jurisdiction over a person who

<sup>5</sup> Klein, N. (2011). *Maritime Security and the Law of the Sea*. Oxford University Press.

<sup>6</sup> Klein, N. (2015). *Maritime security* (pp. 14-28). Oxford University Press.

<sup>7</sup> Gammeltoft-Hansen, T., & Aalberts, T. (2014). Sovereignty at Sea: The law and politics of saving lives in *mare liberum*. Revised version published in *Journal of International Relations and Development*, 17(4).



has committed offenses that are damaging to its citizens based on passive personality (*The international law of the sea.*)<sup>8</sup>.

Exclusive interests, on the other hand, pose a threat to the principle of *mare liberum*, as evidenced by the phenomena of 'creeping jurisdiction,' in which some coastal nations seek sovereignty and/or jurisdiction in neighboring waters beyond the rights they have under the law of the sea. To establish a shared interest and so improve order on the oceans, the law has accommodated these contradictory claims of exclusivity and inclusivity. When maritime security is viewed through this lens, it becomes clear that the measures taken to respond to maritime security concerns are frequently viewed as exclusive interests; the state responding to the threat is attempting to protect its own security interests. These arguments could be interpreted as special interests working against the larger goal of regulating ocean space and use. Individual activities frequently go against long-standing inclusive claims, such as the freedoms of navigation, over flight, and fishing. From this vantage point, the tension is all too familiar. Exclusive interests are attempting to trump inclusive interests in maritime freedoms, and there is opposition to endangering such liberties for the sake of exclusivity claims. In this approach, it may be argued that marine security issues necessitate a further realignment of the balance between exclusive and inclusive claims so that conflicting uses can be accommodated overall. Given the common interest in combatting a variety of maritime security concerns, it is claimed in this Research Paper that maritime security, properly defined and limited, may and should be considered as an inclusive interest (Sovereignty at Sea: The law and politics of saving lives in *mare liberum*)<sup>9</sup>. As with any other shared interest, all states should be concerned about ensuring that the essential efforts are done to ensure maritime security. While establishing that maritime security is an all-encompassing concern is relatively straightforward, determining how it is implemented in various settings is more complicated. To what extent, if any, does the law of the sea need to be changed to reflect the concept that maritime security is a shared concern among all states?

Is there a conflict between inclusive and non-inclusive interests? How can a balance be found, and how is this approach different from coming up with a new way to accommodate exclusive and inclusive interests? It may be necessary to balance an inclusive notion of maritime security with ongoing exclusive interests centered on military prerogatives for maintaining national sovereignty. These are the topics covered in this book, with the purpose of illustrating that viewing maritime security as an all-encompassing concern allows for valid legal changes in certain cases and reaffirmation of existing approaches in others. A better awareness of the threats to marine security should result in better responses. The remainder of this chapter delves deeper into the definition of marine security and describes the basic foundation of the industry. The remainder of this Research paper delves deeper into the definition of maritime security and outlines the essential framework of maritime law that underpins the analysis that follows.

**The concept of Maritime security:** Maritime security is a specialist field in the maritime industry, and safety officers must use best practices to protect their ship from both internal and external dangers. These threats come in a variety of shapes and sizes, and each one necessitates a

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<sup>8</sup> Tanaka, Y. (2015). *The international law of the sea*. Cambridge University Press.

<sup>9</sup> Gammeltoft-Hansen, T., & Aalberts, T. (2014). Sovereignty at Sea: The law and politics of saving lives in *mare liberum*. Revised version published in *Journal of International Relations and Development*, 17(4).



unique strategy for effective defense. Security threats aren't always hostile, but keeping the ship secure is always a top responsibility (The geopolitical dimension of maritime security )<sup>10</sup>. We'll go through some of the most common dangers to operations, how current officers are dealing with them, and what the future of maritime security might look like in this primer to maritime security. Maritime security is a broad phrase that refers to the internal and external security of ships. Terrorism, piracy, robbery, illicit trafficking of goods and people, illegal fishing, and pollution are all threats to ships and marine operations. The marine sector works hard to reduce both willful and unintentional dangers to maritime security through oversight, inspection, and preventive processes (*Maritime Security and the Law of the Sea* )<sup>11</sup>. As the industry develops and the marine sector expands, vigilance, enforcement, and training will be required to stay up with technological advancements and expanded threat opportunities. Several state and international organizations have developed to assist in the development of marine security standards. Because the maritime sector is so large, and screening the tremendous volume of commodities entering the country is difficult, every precaution to prevent malevolent exploitation is essential (Maritime security: issues and challenges )<sup>12</sup>. Security isn't just the responsibility of vessel safety officers; it's also the responsibility of the entire crew, which is why it's critical for firms to educate and train their staff so that their vessels have a higher chance of avoiding security risks.(Maritime Security and Geopolitics in the Indo-Pacific Region )<sup>13</sup>

The term "maritime security" has diverse connotations depending on who is using it and in what context. Defense perspectives on marine security, in line with the expansion of security interests, cover a wider spectrum of dangers than traditional ideas of sea power (*Global challenges in maritime security* )<sup>14</sup>. The goals of maritime security operations,' according to the US Naval Operations Concept, include ensuring freedom of navigation, the flow of commerce, and the protection of ocean resources, as well as protecting the maritime domain from nation-state threats, terrorism, drug trafficking, and other forms of transnational crime, piracy, environmental destruction, and illegal seaborne immigration. While maritime security isn't defined in a positive sense,<sup>15</sup> it does provide an indication of what can jeopardize it. It includes not only a variety of military activities that may pose a threat to the coastal state's security (such as weapons exercises, threats or use of force, or the launching, landing, or taking on board of any aircraft or military devices), but also fishing activities, willful and serious pollution, and research or survey activities(The disciplined sea: a history of maritime security and zonation )<sup>16</sup>.

**The common security issues and the law of the sea:** In order for enforcement jurisdiction to be exercised, a state must properly wield prescriptive jurisdiction. Even if a state adopts national law in conformity with its international law rights,<sup>17</sup> those laws do not always have full

<sup>10</sup> Germond, B. (2015). The geopolitical dimension of maritime security. *Marine Policy*, 54, 137-142.

<sup>11</sup> Klein, N. (2011). *Maritime Security and the Law of the Sea*. Oxford University Press.

<sup>12</sup> Szyliowicz, J. S., & Zamparini, L. (2014). Maritime security: issues and challenges. *Maritime transport security*.

<sup>13</sup> Khurana, G. S. (2019). Maritime Security and Geopolitics in the Indo-Pacific Region. *Artha Journal of Social Sciences*, 18(4), 71-86.

<sup>14</sup> Otto, L. (2020). *Global challenges in maritime security*. Springer.

<sup>15</sup> Jubaer, S. (2017). Legal decisions in terms of the criminal court system. *Criminal law bulletin*, 10.

<sup>16</sup> Ryan, B. J. (2019). The disciplined sea: a history of maritime security and zonation. *International Affairs*, 95(5), 1055-1073.

<sup>17</sup> Jubaer, S. M. O. F. The Democracy or a system of elected representation: Analytical affinities and trivialities.



enforcement powers. 6 This chapter concentrates on the enforcement components of jurisdiction, while also acknowledging the challenges that prescriptive jurisdiction can present. Both dimensions of jurisdiction are crucial to states' protection from maritime security risks, and this paper examines states' powers to take enforcement action against maritime security concerns in regard to various ocean spaces and activities (Security issues and the law of the sea)<sup>18</sup>.

Security compliance is a difficult undertaking in today's marine sector since there is so much to consider and so many possibilities for a security breach to occur. Security officials must be watchful not just to prevent attempts to undermine the nation's laws and security, but also to protect themselves from local and internal threats. Small-scale attacks can nonetheless be dangerous to a marine enterprise, resulting in the loss of lives,<sup>19</sup> serious environmental damage, or property damage. Here are a few examples of these dangers (*Global Challenges and the Law of the Sea*)<sup>20</sup>.

1. **Thievery:** When transporting important products and resources, attempts to steal these goods from vessels are sometimes made at the local level. For this reason, security officers must remain watchful both in port and at sea to ensure the safety of precious and sensitive cargo.

2. **Trespassing:** When their vessel is in port, security guards must ensure that no unauthorized personnel board and tamper with sensitive equipment. A trespasser can interfere with cargo rigging and other sensitive gear, which might result in serious consequences at sea, even if the documented crew members carry out vessel operations correctly. Terrorism, environmental crimes, smuggling, and trafficking are examples of large-scale security measures that can occur on an international scale, usually as a result of more malicious activities than individual crimes (Maritime security—The need for a global agreement)<sup>21</sup>.

3. **Terrorist Threats:** Advances in telecommunications and international business logistics have broadened the number of options available to terrorists. Criminals have been known to try to transport deadly weapons and commodities through marine shipping channels. Terrorists employ transportation to further their cause since it allows them to transfer commodities and even people, and the marine shipping industry is a prime target. They utilize the shipping industry to undermine global, political, and economic security, as well as citizen safety. Terrorists might attack in a variety of ways, therefore security officials must be watchful and aware about them. Because the maritime shipping industry is by its very nature an international one, marine experts must do everything possible to safeguard their vessel and country against such dangers (Maritime security—Perspectives for a comprehensive approach)<sup>22</sup>.

4. **Illegal Maritime Trade:** Increasing maritime trade and economic globalization has the unintended consequence of facilitating the spread of transnational crime. Drug, guns, and people

<sup>18</sup> Larson, D. L. (1985). Security issues and the law of the sea: A general framework. *Ocean Development & International Law*, 15(2), 99-146.

<sup>19</sup> Jubaer, S. M. O. F. The of Artificial intelligence and Isaac Asimov's three laws of advanced mechanics in the United State of America.

<sup>20</sup> Ribeiro, M. C. D. C. M., Bastos, F. L., & Henriksen, T. (Eds.). (2020). *Global Challenges and the Law of the Sea*. Springer.

<sup>21</sup> Stasinopoulos, D. (2003). Maritime security—The need for a global agreement. *Maritime Economics & Logistics*, 5(3), 311-320.

<sup>22</sup> Feldt, L., Roell, P., & Thiele, R. D. (2013). Maritime security—Perspectives for a comprehensive approach. *ISPSW Strategy Series: Focus on Defense and International Security*, 2.



trafficking are already major business, and marine shipping is an important mode of transportation (*People of the desert and sea*)<sup>23</sup>.

International crimes will not go away any time soon, and marine security must play a role in preventing their spread. The more illicit cargo the shipping industry can intercept at the source, the less damage the shipment will cause once it arrives at its destination, as the illegal goods and weapons will be kept out of criminals' hands. It's tough for security to adequately inspect each of the hundreds of huge containers carried by each shipping vessel. Criminals are aware of this and take advantage of it. Smuggling networks will aim to circumvent security measures and the maritime industry because of its size and scope, which makes it an easy target. Smuggling is not limited to the shipping industry; criminals will occasionally try to smuggle their contraband across international boundaries<sup>24</sup> using other sorts of vessels. The oceans are highways for the import and export of unlawful products, just as they are for the transportation of a huge number of our goods. As seen by the numerous large-scale drug busts throughout the years, organized and international crime organizations employ the shipping industry to move massive quantities of their product ("Terrorism and Port/Cargo Security")<sup>25</sup>.

5. Piracy: Piracy may appear to be a relic of the past, but enormous ships carrying millions of dollars in cargo continue to attract thieves. Pirates and criminals in today's world are usually well-organized and have superior communication and technology. Crew personnel with adequate maritime security training and experience can safely prepare for and respond to a piracy attack (Terrorism on the sea, piracy, and maritime security)<sup>26</sup>.

6. Human Trafficking: Another major issue confronting international maritime security is human trafficking. Illegal migration has long been a problem in the marine sector, whether it's people fleeing political instability or those who have been trafficked.<sup>27</sup> Although it is difficult for the maritime industry to catch all illegal immigrants, adequate marine security tactics can help to reduce the problem (Maritime security post-9/11: Challenges and response)<sup>28</sup>.

7. Environmental Damage: Because large-scale commercial operations take place in the ocean ecosystem, occurrences that hurt the environment are unavoidable. Marine security personnel are responsible for ensuring that their vessel's operations cause as minimal environmental damage as possible. Proper safety and security protocols, especially in the petroleum industry, are the best strategies for avoiding disasters (*Maritime Security and the Law of the Sea*)<sup>29</sup>.

<sup>23</sup> Felger, R. S., & Moser, M. B. (2016). *People of the desert and sea: ethnobotany of the Seri Indians*. University of Arizona Press.

<sup>24</sup> Jubaer, S. M. O. F., Hoque, L., Sadi, S. H., Banik, D., & Haque, R. THEORY OF JUSTICE AND UNIVERSALLY ACCEPTABLE EQUALITY PRINCIPLE'S.

<sup>25</sup> Clyne, Robert G. "Terrorism and Port/Cargo Security: Development and Implications for Marine Cargo Recoveries." *Tul. L. Rev.* 77 (2002): 1183.

<sup>26</sup> Mednikarov, B., & Kolev, K. (2006). Terrorism on the sea, piracy, and maritime security. *Information and security*, 19, 102.

<sup>27</sup> Jubaer, S. M. O. F. 21ST CENTURY IS AN ERA OF ISRAELI VIOLENCE AND TERRORISM UNDER LEGAL OBSERVATIONS AND OBLIGATIONS: A COMPARATIVE STUDY.

<sup>28</sup> Ahmad, A. (2009). Maritime security post-9/11: Challenges and response. *Journal of the Institute of Strategic Studies of Islamabad (ISSI)*, 29(2), 87.

<sup>29</sup> Klein, N. (2011). *Maritime Security and the Law of the Sea*. Oxford University Press.



**Security in the international system:** From an academic standpoint, the term "security" is interpreted differently depending on the theoretical school that employs it. The Copenhagen School, for example, recognizes that security is a socially constructed term and that discourse is an important component in the formation and identification of security challenges. A public policy problem can be categorized as non-politicized, politicized, or securitized based on the language that surrounds it. A non-politicized topic is one that is left out of policy discussions and neglected by policymakers. A politicized issue is one that has been identified as a matter of public importance, brought into the policy debate, and necessitates the use of public resources. A securitized issue is one that poses a threat to the state's continued existence. Issues that have been securitized are deemed to be of such urgent importance that they are elevated above the standard norms of political debate, and the state gains unique powers to take extreme measures to protect it. This approach highlights the importance of security in state decision-making, which may necessitate extreme measures to handle specific situations (The safety and security systems of maritime navigation )<sup>30</sup>.

Applying this theory to the post-9/11 maritime security situation, where the US and its allies have been seeking greater means to reduce the use of the oceans for terrorist purposes, it could be argued that they are ultimately producing an outcome that is not in their own interests, namely, the introduction of greater restrictions on the high seas' freedoms than has traditionally been accepted because of their utility to commercial and other military purposes (*Maritime Security in Southeast Asia* )<sup>31</sup>. While international relations scholars have looked at security issues from various perspectives, it has been acknowledged that in the post-Cold War and globalization era, security concerns are no longer centered on military interests, in terms of a state's ability to avoid war or otherwise prevail in any conflict. Globalization and the resulting interconnectedness of states have resulted in mutual vulnerability, as threats in one area of the world may have an impact on people in other parts of the world.<sup>32</sup> As a result of a growing awareness of a wide range of security risks, states' foreign and domestic policy issues may become increasingly linked. The term 'human security' has become increasingly popular as a way of concentrating attention on the requirements of individual people rather than just the state's security demands. Human security is defined as the absence of fear and the absence of hunger, and it can be jeopardized in any of the interconnected domains of security: economic, food, health, environment, personal, community, and political (Introduction to the special issue on maritime security )<sup>33</sup>.

While the idea of human security has been hotly disputed, these debates can at least be credited with creating a platform for thinking about security outside of a state's defensive or aggressive military posture. In line with this perspective, **Shah Jubaer** has noticed that risks to a state's security might be political, economic, sociological, and ecological in nature. In light of this expanded definition of security, a state's 'security interests' could be defined as those aimed at

<sup>30</sup> Urbański, J., Morgaś, W., & Kopacz, Z. (2008). The safety and security systems of maritime navigation. *The Journal of Navigation*, 61(3), 529-535.

<sup>31</sup> Guan, K. C., & Skogan, J. (2007). *Maritime Security in Southeast Asia*. Taylor & Francis.

<sup>32</sup> Jubaer, S. M. O. F. BASIC GUIDELINES TO COMPARATIVE CONSTITUTIONAL LAW: AN IDEOLOGICAL AND METHODOLOGICAL DISCUSSION.

<sup>33</sup> Lu, C. S., Chang, C. C., Hsu, Y. H., & Metaparti, P. (2010). Introduction to the special issue on maritime security. *Maritime Policy & Management*, 37(7), 663-665.



promoting invulnerability to foreign pressures that could imperil internal decision-making, community values, and governance.

The security tactics and security officials: Security interests in respect to ocean space and use have generally been aligned with a state's military interests, notably in terms of establishing or preserving state sovereignty as well as exerting influence over other nations or territories, in line with larger perspectives on security (The geopolitical dimension of maritime security, *Marine Policy* )<sup>34</sup>. Traditionally, security interests have included ensuring that a state's directly neighboring coastline territory was not used in a way that jeopardized the state's territorial integrity or political independence, or that the area's economic resources were not exploited by others. In this sense, the activity of vessels in a state's ports, internal seas, and territorial sea have been of immediate concern. Similarly, when analyzing a state's security interests, the mobility and capability of naval forces has been a major concern. Technological advancements that allow for the exploitation of ocean resources in locations far from the coast have justified assertions that a state's economic and environmental interests require protection, and have so broadened security perspectives. Because of the economic importance of both living and non-living resources, states have sought to safeguard not only the resources themselves, but also information about them(*International maritime security law* )<sup>35</sup>.

There are few common security tactics which are observed by the ship/vessel security officers:

1. Regularly examine the vessel: Every security officer on board must be vigilant and on the lookout for anything out of the ordinary in order to monitor and ensure security measures.
2. Oversee maintenance to increase security: It is the responsibility of officers to ensure that anything aboard the ship complies with the highest security standards.
3. Organize freight coordination and handling: When loading and unloading cargo, a security officer must follow protocol and guarantee that proper checks, as well as inspections of the vessel's stores and bunkers, are carried out.
4. Proposing changes: It is the VSO's responsibility to advise changes to the vessel's security plan to the corporate security officer so that a company-wide adjustment can be made to increase security.
5. Report problems: It is the security officer's responsibility to notify the company safety officer if anything goes wrong during a vessel audit so that corrective action can be taken quickly.
6. Assuring security awareness and vigilance: It is not only the VSO's responsibility to watch and be vigilant for anything unusual, but it is also the responsibility of other crew members. The safety officer should encourage the team to be on the lookout for threats and report them.<sup>36</sup>
7. Assuring security awareness and vigilance: It is not only the VSO's responsibility to watch and be vigilant for anything unusual, but it is also the responsibility of other crew members.

<sup>34</sup> Germond, B. (2015). The geopolitical dimension of maritime security. *Marine Policy*, 54, 137-142.

<sup>35</sup> Kraska, J., & Pedrozo, R. (2013). *International maritime security law*. Martinus Nijhoff Publishers.

<sup>36</sup> Jubaer, S. M. O. F., & Ahmed, J. Deficiency in Evidence Law Concerning Technological and Expert Support. *JournalNX*, 7(05), 1-10.





The safety officer should encourage the team to be on the lookout for threats and report them.

8. Organize security training: It is the responsibility of safety officers to instruct their crew members on how to act during normal and emergency security operations.
9. Security incidents should be reported and recorded in the following ways: It is the security officer's responsibility to notice and report any unusual circumstances to the senior security officer and the company security officer.
10. Ensure screening programs: The VSO should conduct screening programs such as transportation worker identity credential checks, which allow crew members to work around the vessel once they pass background checks.
11. Security equipment must be properly operated, tested, calibrated, and maintained, according to a security officer.
12. Supervise and assist crew members: A vessel's security officer must ensure that crew members are following the ship's security strategy and rules (*Lloyd's MIU handbook of maritime security*)<sup>37</sup>.

**Legal construction:** These latter concerns have fueled the phenomena of 'creeping jurisdiction,' which has resulted in increased claims to exclusive usage through the recognition of the Exclusive Economic Zone (EEZ) and continental shelf rights (Historical and legal aspects of maritime security.)<sup>38</sup>. The development of the law of the sea has thus seen the broadening of security interests from military concerns to political, economic, societal, and ecological concerns through the recognition of new maritime zones that accommodate states' desire for greater control over more ocean space and more ocean uses.<sup>39</sup> In these cases, nations' exclusive claims have been sustained in the face of inclusive claims trying to keep as much ocean area open to all users as feasible(*International maritime security law*)<sup>40</sup>.

Due to overlapping claims to maritime entitlements, governments' exclusive rights to larger swaths of ocean have fueled increased competition and tension between them. Because of the subsequent reduction in high seas areas open to all other users, the outer bounds of exclusive maritime zones may also be contested(Building the global maritime security network: a multinational legal structure to combat transnational threats)<sup>41</sup>. A state's security issues may be inextricably linked to defining and defending claimed maritime claims. Because of the connectivity of maritime operations with those on land that may compromise territorial security, security interests in the oceans have grown. Transnational crime, terrorist acts, and environmental damage may all involve maritime aspects, posing a threat to a country's territorial security. Because of [their] huge and mostly unregulated nature, the oceans have been deemed "especially susceptible to these types of danger situations(The geopolitical dimension of maritime security)<sup>42</sup>."

<sup>37</sup> Herbert-Burns, R., Bateman, S., & Lehr, P. (2008). *Lloyd's MIU handbook of maritime security*. Auerbach Publications.

<sup>38</sup> Bryant, D. L. (2004). Historical and legal aspects of maritime security. *USF Mar. LJ*, 17, 1.

<sup>39</sup> Jubaer, S. M. O. F. The global pandemic is changing international business strategies in relation different sectors.

<sup>40</sup> Kraska, J., & Pedrozo, R. (2013). *International maritime security law*. Martinus Nijhoff Publishers.

<sup>41</sup> Peppetti, J. D. (2008). Building the global maritime security network: a multinational legal structure to combat transnational threats. *Naval L. Rev.*, 55, 73.

<sup>42</sup> Germond, B. (2015). The geopolitical dimension of maritime security. *Marine Policy*, 54, 137-142. Chicago



When it comes to dealing with these security concerns, maritime factors take center stage. Efforts to increase border security will have a substantial marine focus for island governments or states with lengthy coasts (The International Maritime Organization and Maritime Security)<sup>43</sup>. Discussions on a country's 'maritime security' are frequently brought up in this context. Since the 1980s, the International Maritime Organization (IMO) has tackled maritime security issues through its Maritime Safety Committee. A contrast is made between maritime safety and maritime security in this context. Maritime safety refers to the prevention or mitigation of maritime mishaps caused by defective ships, unqualified crews, or operator error, whereas maritime security refers to the prevention or mitigation of unlawful and deliberate acts (*The IMLI Manual on International Maritime Law: Volume III: Marine Environmental Law and Maritime Security Law*)<sup>44</sup>. Within the IMO, the distinction has not always been clear, especially as the same word has been used for the safety' and security' in other languages, such as Spanish and French. The United Nations Convention on the Law of the Sea may be used as a point of reference for defining or at least understanding a phrase linked to the law of the sea when dealing with maritime security issues. Despite the nation's parties to UNCLOS wanting to resolve "all concerns relevant to the law of the sea," there are few references to security in the treaty, and no clear definition of what maritime security means. At most, UNCLOS' discussion of the right of innocent passage and identification of a series of acts that would be incompatible with that right and hence harmful to peace and good order can provide some insight into what security entails (UNCLOS and its limitations as the foundation for a regional maritime security regime)<sup>45</sup>.

**Complicating factors that must acknowledge:** When dealing with law enforcement actions to improve marine security, there are two problematic issues that must be understood right once. The first is the phenomena of "comfort flags" or "open registries."<sup>46</sup> Companies register their vessels in a state with different, and usually lower, standards in order to avoid being bound by the financial commitments, environmental standards, and/or legal requirements for operation of that state. Because the flag state typically has exclusive control over these vessels, efforts to compel more compliance with legislation aimed at improving maritime security may possibly be counterproductive to the flag state's interests (Fault lines in maritime security: Analysis of maritime boundary uncertainties in the Gulf of Guinea)<sup>47</sup>.

If responses to maritime security concerns are to be effective, flag nations must take their obligations seriously: 'Assigning nationality to ships is one of the most significant measures of maintaining public order at sea (Assurance of security in maritime supply chains: Conceptual

<sup>43</sup> Balkin, R. (2006). The International Maritime Organization and Maritime Security. *Tul. Mar. LJ*, 30, 1.

<sup>44</sup> Attard, D. J., Fitzmaurice, M., Martinez, N., & Hamza, R. (Eds.). (2016). *The IMLI Manual on International Maritime Law: Volume III: Marine Environmental Law and Maritime Security Law*. Oxford University Press.

<sup>45</sup> Bateman, S. (2007). UNCLOS and its limitations as the foundation for a regional maritime security regime. *The Korean Journal of Defense Analysis*, 19(3), 27-56.

<sup>46</sup> Deb, B., & Jubaer, S. M. O. F. THE STATUS, SOCIOLOGICAL, AND MEDICAL STANDARD OF THE FEMALE TEA GARDEN WORKERS UNDER THE LEGAL STRUCTURE OF BANGLADESH.

<sup>47</sup> Ali, K. D., & Tsamenyi, M. (2013). Fault lines in maritime security: Analysis of maritime boundary uncertainties in the Gulf of Guinea. *African Security Review*, 22(3), 95-110.



issues of vulnerability and crisis management)<sup>48</sup>. The financial stakes have reduced flag nations' willingness to fully accept their responsibilities in connection to their vessels. Because flag nations have failed to exercise appropriate authority over their vessels, efforts have been made to award other governments sovereignty over these vessels where practicable (The maritime labour convention: an adequate guarantee of seafarer rights, and impediment to true reforms)<sup>49</sup>. The acceptance of complete immunity provided to warships, as well as ships owned or maintained by a state and used purely for government non-commercial service, from the jurisdiction of any state other than the flag state, is a second complicating element for law enforcement (Taking trade and culture seriously: Geographical indications and cultural protection)<sup>50</sup>. This immunity does not preclude disobedience with substantive regulations, but it does preclude the exercise of jurisdiction and bodily intervention in the case of noncompliance. As a result, third-country rights in the face of foreign warships are practically non-existent. The reciprocal benefits of this arrangement are regarded as essential for a state's security (Alderton, T., & Winchester, N. (2002). Globalisation and de-regulation in the maritime industry. *Marine policy*, 26(1), 35-43.). An attempt to exercise law enforcement jurisdiction over a foreign vessel, on the other hand, could be construed as a threat or use of force against a foreign state's sovereign instrumentality. Although law enforcement capabilities at sea have been expanded, battleships and other government vessels continue to enjoy full immunity. Law enforcement powers against sovereign immune vessels are not available to the degree that any maritime security risks or breaches are state sponsored. Instead, issues involving the threat or use of force may arise, necessitating diplomatic or other means of dispute resolution. There has clearly been a rise in the amount of enforcement authority that may be used against vessels entering port (Sharing ocean resources—in a time of scarcity and selfishness)<sup>51</sup>.

Maritime Security and the law of the sea: Maritime security will require exclusive rights by governments in a variety of ways under the law of the sea. In the first instance, a state's military interests will usually be focused on ensuring the states own national sovereignty (*Maritime Security and the Law of the Sea*)<sup>52</sup>. These military interests are expected to include claims to conduct military exercises and weapons tests at sea, as well as ensuring the availability of critical navigational routes. A state's principal interest will be to secure its own border or borders against the illegal entry of specific persons (ranging from terrorists to other criminals to asylum seekers), vessels (presenting environmental dangers, for example), or goods (such as drugs, WMD and related material, or hazardous waste). Border security measures could be interpreted as exerting exclusive powers to control movement across a state's borders. There are claims to exclusive rights in vessels flying a single state's flag on the high seas. The rights of hot pursuit and visit place a

<sup>48</sup> Barnes, P., & Oloruntoba, R. (2005). Assurance of security in maritime supply chains: Conceptual issues of vulnerability and crisis management. *Journal of international Management*, 11(4), 519-540.

<sup>49</sup> Bauer, P. J. (2007). The maritime labour convention: an adequate guarantee of seafarer rights, or and impediment to true reforms. *Chi. J. Int'l L.*, 8, 643.

<sup>50</sup> Broude, T. (2005). Taking trade and culture seriously: Geographical indications and cultural protection in WTO law. *U. Pa. J. Int'l Econ. L.*, 26, 623.

<sup>51</sup> Van Dyke, J. M. (2000). Sharing ocean resources—in a time of scarcity and selfishness. In *Law of the Sea* (pp. 3-36). Brill Nijhoff.

<sup>52</sup> Klein, N. (2011). *Maritime Security and the Law of the Sea*. Oxford University Press.



direct challenge to a state's exclusive rights in this regard. While I do not deny that these exclusive interests exist in connection to maritime security, there are a number of aspects of maritime security that illustrate states' common interest in developing suitable responses to maritime security concerns(*International maritime security law*)<sup>53</sup>.

Traditionally, these concerns have been addressed as a struggle between exclusive and inclusive claims, with an accommodation sought on this basis. Coastal states have had exclusive interests in extending the territorial sea's breadth as well as claiming additional rights to defend economic interests through the EEZ. Those concerned in freedom of navigation and guaranteeing that any state with the capability, resources, and motivation may use the waters for transit as well as for certain peacetime naval actions are included in the inclusive interests.<sup>54</sup> The principles agreed upon in dealing with these military activities ensured the protection of the main security interests at risk at the time, both because the rules were particular enough to afford protection and because there was enough clarity in the rules to offer protection(*The international law of the sea*)<sup>55</sup>.

The principles agreed upon in dealing with these military activities ensured the protection of the key security interests at stake at the time, both because the rules were specific enough to protect navigational rights and because the terms were vague enough to allow the maritime powers to continue to act freely (*The disciplined sea: a history of maritime security and zonation*)<sup>56</sup>. The flaws in these regimes have resulted in ongoing debate, as evidenced by differing viewpoints on the permissibility of foreign navies conducting military exercises and activities in a coastal state's EEZ (especially controversial at the moment in relation to intelligence gathering, which is discussed in greater detail in), and the use of security zones, either in addition to claims of an EEZ or for the purposes of military exercises. If the passage of military vessels and military activities are seen to be among the inclusive interests to be protected, this focus may have an impact on how the remaining ambiguities are understood today. The perspective of the specific maritime zone involved, as well as the types of actions that may jeopardize the state's security It will be demonstrated that nations' enforcement powers are severely limited, with restrictions even in the territorial sea. Because parties negotiating UNCLOS were concerned that the coastal state may otherwise interfere with the freedom of navigation, law enforcement in the EEZ requires a clear definition of the coastal state's powers. Because of this, enforcement powers were limited to certain activities in the EEZ(*Solving the "wicked problems" of maritime security: are regional forums up to the task*)<sup>57</sup>.

In addition, due to the freedom of navigation and exclusive flag state control over vessels, law enforcement options on the high seas have been limited. The conditions for the right of hot pursuit and the right of visit reflect the governmental preference to limit cases of interference with

<sup>53</sup> Kraska, J., & Pedrozo, R. (2013). *International maritime security law*. Martinus Nijhoff Publishers.

<sup>54</sup> Jubaer, S. M. O. F., & Hassan, M. N. (2021). THE ROUTINE ACTIVITIES AND RATIONAL CHOICE THEORY: A CRIMINOLOGIST REFLECTION.

<sup>55</sup> Rothwell, D. R., & Stephens, T. (2010). *The international law of the sea*. Bloomsbury Publishing.

<sup>56</sup> Ryan, B. J. (2019). The disciplined sea: a history of maritime security and zonation. *International Affairs*, 95(5), 1055-1073.

<sup>57</sup> Bateman, S. (2011). Solving the "wicked problems" of maritime security: are regional forums up to the task?. *Contemporary Southeast Asia: A Journal of International and Strategic Affairs*, 33(1), 1-28.



navigational freedom (Exclusive fisheries zones and freedom of navigation)<sup>58</sup>. When it comes to illegal fishing, human smuggling, and asylum seeker movement, law enforcement is becoming increasingly important. The taking of key resources from a state's waterways is a threat to environmental and economic security, according to a broader definition of maritime security (*State responsibility for interferences with the freedom of navigation in public international law*)<sup>59</sup>. Regional fisheries organizations have established plans to increase enforcement, and more policing resources have been allocated to this purpose. States are also concerned about the economic impact of illegal immigrants attempting to enter their country, as well as the obstacles created by the growing practice of people smuggling. States are allocating more money to their navies and law enforcement authorities in order to combat these perceived threats. When it comes to asylum seekers and people smugglers, government forces may be called in to assist in rescue attempts if the vessels transporting these people sink, or they may be employed to prevent such vessels from entering their area (Freedom of navigation in the Indo-Pacific region)<sup>60</sup>. The applicable legislation in these areas must be clarified in order to ensure that any enforcement powers are lawful. The requirement for information sharing is a necessary complement to intelligence collecting. This requirement has been incorporated into recent legal developments in the areas of counter-terrorism and counter-proliferation. In addition, information sharing obligations have been included into law enforcement regimes to combat piracy, illegal fishing, and drug trafficking. However, these typically have limits that detract from the usefulness of sharing knowledge to combat the challenges at hand. Another area where a focus on similar interests would benefit attempts to improve maritime security is information exchange (Navigation)<sup>61</sup>.

The applicability of UNCLOS during times of war, as well as the weight to be given to the treaty's "peaceful purposes" provisions, have been hotly debated. Some claim that in connection to the laws of naval warfare, a *lex specialis* has arisen; these rules guiding the conduct of hostilities are predicated on the existence of a war. Given the changing nature of armed conflict, a Manichean application of this body of law is no longer apparent: declarations of war are rare, the Security Council has a greater role in regulating the lawful use of force, and the so-called war on terror are all factors that blur the operation of these traditional rules (*Freedom of navigation in a post 9/11 world: security and creeping jurisdiction*)<sup>62</sup>.

Exclusionary zones were established as a result of this practice, and foreign flagged vessels were not allowed to enter the region. Environmental activists opposed to the weapons testing have ignored the danger or warning zones, attempting to utilize their presence within those zones to hinder or delay the proposed exercises, causing problems for states. In one such case, the US believed it was within its rights to create a limited 'launch safety zone' within the overall danger zone, from which vessels may be excluded, allowing the US to exercise its high seas right to safely fire a missile. While nuclear tests have a contentious legal status at the moment, it is obvious that weapons tests can be performed on the high seas in general if certain standards of reasonable, or

<sup>58</sup> Burke, W. T. (1982). Exclusive fisheries zones and freedom of navigation. *San Diego L. Rev.*, 20, 595.

<sup>59</sup> Wendel, P. (2007). *State responsibility for interferences with the freedom of navigation in public international law* (Vol. 11). Springer Science & Business Media.

<sup>60</sup> Kaye, S. (2008). Freedom of navigation in the Indo-Pacific region.

<sup>61</sup> Anderson, W. (2022). Navigation. In *The Law of the Sea in the Caribbean* (pp. 226-264). Brill Nijhoff.

<sup>62</sup> Kaye, S. (2006). *Freedom of navigation in a post 9/11 world: security and creeping jurisdiction*. Oxford University Press.



due, concern for other users are followed. These criteria can be met by establishing a warning zone, albeit that zone may be considered as interfering with other users' right to exercise their rights. If the exclusion zone is limited in size and duration, such objections should be irrelevant. The danger here is that once security zones are approved in this context, claims will be made that security zones can be formed for other purposes as well. This is the point that will be discussed next (Center for International Maritime Security)<sup>63</sup>.

**Security zones and recent perceptions:** Security zones, also known as exclusion zones, are commonly used in marine space during armed conflict. In a military context, security zones can be formed by belligerents to safeguard non-participant states and their shipping from belligerent activities, as well as by belligerents to mark a battle zone where neutral shipping may be at risk of collateral damage (International maritime security law)<sup>64</sup>. 244 Security considerations have traditionally justified the designation of marine zones in times of peace, and security zones can be seen as forerunners to the territorial sea and the contiguous zone in this regard. Despite the increased recognition of coastal state rights over maritime space that now exists, states have established security zones that do not necessarily align with the boundaries of recognized zones,<sup>65</sup> or are claimed in addition to the coastal state's other rights within these areas as a means of thwarting third-party actions (Maritime security)<sup>66</sup>.

In 1983, Nicaragua, for example, established a 25-mile buffer zone to thwart US covert operations. Security zones have also been declared by Vietnam and North Korea, while other states have included security zones in their territorial sea legislation. China, for example, has established a Military Warning Zone in the past. The goal of North Korea's 50-mile military boundary zone was to "reliably preserve the economic maritime zone while firmly defending the country's national interests and sovereignty (North Korea's 50-Mile Military Boundary Zone)<sup>67</sup>." Libya had instead declared the Gulf of Sidra a historic bay, claiming that the waters of the Gulf, which extend 100 miles from the coast, were a 'restricted region,' akin to a marine security zone. It is arguable that security zones beyond a coastal state's territorial sea are permitted as long as they do not obstruct commercial navigation or have a major impact on the region's ecology or resources. The declaration of such zones would have to meet the due respect criteria. The declaration of such zones would have to be evaluated against the due consideration criterion that applies to EEZ usage (The 50-Mile Military Boundary Zone of North Korea)<sup>68</sup>. In these situations, it appears that the coastal state will claim security zones rather than third states operating within the coastal state's EEZ, as the coastal state will have a strong argument that any such zone claimed by another country would inevitably interfere with that country's efforts to protect and exploit its marine resources. However, there appears to be little value in a coastal state proclaiming such a zone unless it is accompanied by some form of enforcement. This situation raises concerns about the

<sup>63</sup> Filipoff, D. Center for International Maritime Security.

<sup>64</sup> Forbes, A. (2015). International maritime security law.

<sup>65</sup> Jubaer, S. M. O. F., & Hassan, M. N. (2021). The political ideology and philosophy of Bangabandhu Sheikh Mujibur Rahman in the context of founding a nation. *World Bulletin of Social Sciences*, 2, 24-35.

<sup>66</sup> Klein, N. (2015). *Maritime security* (pp. 14-28). Oxford University Press.

<sup>67</sup> Park, C. H. (1986). North Korea's 50-Mile Military Boundary Zone: A Review. , 31(1), 88-97.

<sup>68</sup> Park, C. H. (1978). The 50-Mile Military Boundary Zone of North Korea. *American Journal of International Law*, 72(4), 866-875.



legality of policing activities. In either case, battleships and government ships would retain their protection. Because of the ambiguity that surrounds these zones and their propensity to exploitation, the establishment of security zones has not been widely acknowledged under international law. Nonetheless, the use of information zones, which are crucial to security, has been deemed important and has received different degrees of approval (Maritime security zones: prohibited yet perpetuated)<sup>69</sup>. At the end of 2004, Australia declared a 'Maritime Identification Zone,' which required gathering information from all vessels intending to enter Australian ports when they were 1,000 miles from the coast, as well as all vessels within Australia's Exclusive Economic Zone, whether or not they intended to enter an Australian port. Vessels that failed to submit this information risked being intercepted by Australian naval or government ships. Following concerns from neighboring countries, Australia dropped the word "zone" in favor of "Australian Maritime Identification System," which is supposed to operate on a voluntary basis rather than under threat of interdiction. While Australia's efforts in this area were divisive, the policy goal has been fulfilled to some part thanks to recent developments at the International Maritime Organization (IMO), which has supported a Long Range Information and Tracking (LRIT) Regulation.<sup>70</sup> This Regulation allows states to gather data from vessels up to 1,000 miles away from their coast, and this system might be seen as a 1,000-mile maritime information zone that is presently in effect around states. These Zones first appeared in the 1950s and 1960s, and there has been renewed attention in their application since September 11<sup>th</sup> (Securing maritime Australia: developments in maritime surveillance and security. *Ocean Development & International Law*,)<sup>71</sup>. This practice demonstrates that security zones for the sake of identifying vessels and aircraft, even if not designated as such, are gaining acceptability and represent a common desire in improving maritime domain awareness. The avoidance of such a designation is justified given the restricted powers that states acquire under the LRIT Regulation, the focus on vessels rather than the maritime area itself, and ongoing worries about 'creeping jurisdiction' into high seas areas. It is legal to employ flight information zones to follow the movement of ships across greater swathes of maritime space. Air Defense Identification Zones (ADIZs), which spread outward from various coastal states, have been classed as lawful uses of the high seas, notwithstanding their claim to rights over areas otherwise open to freedom of overflight (Navigating the transition to ecosystem-based management of the Great Barrier Reef, Australia, *Proceedings of the National Academy of Sciences*)<sup>72</sup>.

**Concluding Remark:** Many countries' national security depends on their military presence in the high seas. This is something that Riesman acknowledges: 'Gunboat diplomacy' and 'showing the flag' are antiquated ways of expressing the truth that an inherent aspect of political power at whatever level of social organization is the public assumption that an actor has the capacity and willingness to employ force to maintain or extend vital interests (Maritime security—Perspectives

<sup>69</sup> Leiner, F. C. (1983). Maritime security zones: prohibited yet perpetuated. *Va. J. Int'l L.*, 24, 967.

<sup>70</sup> Jubaer, S. M. O. F., & Moumi, A. S. (2021). *The Global Administrative Law: A Comparative Study*.

<sup>71</sup> Schofield, C., Tsamenyi, M., & Palma, M. A. (2008). Securing maritime Australia: developments in maritime surveillance and security. *Ocean Development & International Law*, 39(1), 94-112.

<sup>72</sup> Olsson, P., Folke, C., & Hughes, T. P. (2008). Navigating the transition to ecosystem-based management of the Great Barrier Reef, Australia. *Proceedings of the National Academy of Sciences*, 105(28), 9489-9494.



for a comprehensive approach )<sup>73</sup>. While this display of power theoretically reflects a common interest shared by all ocean-going governments, the fact is that not every state has the same military capability, therefore policies that favor the passage and activity of navies disproportionately benefit the more militarily capable states(*Securing" the Commons": Towards NATO's New Maritime Strategy*)<sup>74</sup>. Nonetheless, the community's interest is based on the existence of political alliances between more and less powerful governments, as well as the need for relative freedom of action for a state's own naval forces, regardless of their size. In times of peace, military actions and the passage of warships are limited due to a coastal state's interest in defending its land territory and resource entitlements. The differing transit regimes in the territorial sea, straits, and archipelagic waterways, as well as the due respect obligation in the EEZ, reflect this<sup>75</sup>. The navigational rights and military activities of one state on the high seas must be exercised with proper regard for the rights of other users. 'Only when claims go beyond need and neglect their impact on others do they become reflective of special interest, and hence necessitate rejection.' To ensure an adequate balance between diverse claims, how this plays out in each given context must be reviewed, and it may be that more specific rules will need to be established in order to preserve a stable world order. This latter strategy has been used to address nuclear weapons transportation, use, and testing (*Maritime security: an introduction*)<sup>76</sup>.

Coastal states are increasingly concerned about operations at sea that could have serious consequences for law and order on land, according to current maritime security concerns. These threats normally do not jeopardize rights related to the passage of warships, particularly their immunity. Greater understanding of coastal states' law enforcement authorities may be required, and this problem is addressed in the next chapter. In light of better technology and the growing relevance of intelligence collection, the difficulties of balancing exclusive and inclusive interests for conducting military missions outside the territorial sea have not remained fully static.<sup>77</sup> At this point, it should be noted that statements of security zones have been driven by a common desire to know what is being done, where it is being done, and by whom. While the concept of a marine zone for security reasons is frequently dismissed as a further encroachment on maritime liberties, it is plausible that informal zones are being developed and accepted for informational purposes. The acts that may be taken as a result of acquiring this knowledge are then problems of law enforcement for the states involved(*Maritime security in the South China Sea: coordinating coastal and user state priorities. Ocean Development & International Law*)<sup>78</sup>.

<sup>73</sup> Feldt, L., Roell, P., & Thiele, R. D. (2013). Maritime security—Perspectives for a comprehensive approach. *ISPSW Strategy Series: Focus on Defense and International Security*, 2.

<sup>74</sup> Smith-Windsor, B. (2009). *Securing" the Commons": Towards NATO's New Maritime Strategy*. NATO Defense College.

<sup>75</sup> Herbert-Burns, R., Bateman, S., & Lehr, P. (2008). *Lloyd's MIU handbook of maritime security*. Auerbach Publications.

<sup>76</sup> McNicholas, M. (2016). *Maritime security: an introduction*. Butterworth-Heinemann.

<sup>77</sup> Jubaer, S. M. O. F., & Hassan, M. N. (2021). THE ARTIFICIAL INTELLIGENCE FOR THE COMMON LEARNERS: A COMPARATIVE LEARNING APPROACH. *Web of Scientist: International Scientific Research Journal*, 2(05), 333-3525.

<sup>78</sup> Rosenberg, D., & Chung, C. (2008). Maritime security in the South China Sea: coordinating coastal and user state priorities. *Ocean Development & International Law*, 39(1), 51-68.