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This volume is one of the outcomes of the European Research Council-funded project *Sailing into Modernity: Comparative Perspectives on the Sixteenth- and Seventeenth-Century European Economic Transition*. The primary goal of this collaborative and comparative project is to investigate the legal and economic status of seafarers in the Mediterranean during the ‘long’ seventeenth century (1570–1730). Through a study of the contractual conditions and economic treatment of sailors active in the Mediterranean, the project is testing the hypothesis that differences in this regard were one of the factors in the ultimate success of northern European economies in their commercial penetration of the Mediterranean. This volume encompasses a much wider scope, as its goal is to present the current state of the art on these issues across a global stage. Essays by established academics and early-career scholars from three continents present research on three maritime regions – the Mediterranean, the Atlantic, and the Indian Ocean – over three centuries, with some of the contributions extending this chronological range even further.

When I originally conceived of this project, my primary concern was to evaluate whether – and how – different traditions of contractual law gave a comparative advantage to northern European economies in their penetration of the Mediterranean commercial zone. This was, and still is, a topical issue, given contemporary scholars’ interest in assessing the quantifiable effect that legal rules and their enforcement have on financial development today.<sup>1</sup> I am aware of the embedded danger of any historical analysis dedicated to the law and its developments, and also that attention to contemporary issues can obscure a proper understanding of the context and peculiarities of past legal–historical developments. At the same time, I believe that it is important to evoke present-day relevance. Contemporary globalising processes are raising jurisdictional issues which have similarities to those connected with early modern proto-globalisation. The cycle is at a different stage now, but the issues behind it are evocatively similar. While in the seventeenth and eighteenth centuries nation-states were ascending, today their role as primary generators of law appears to be in decline, as they face new challenges to the boundaries of their jurisdictions by intra- and supranational entities – the constantly evolving relationship between the European Union and its member states being a prime example of this phenomenon.

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<sup>1</sup> For a synthetic analysis of contemporary concerns in this field, with an eye to historical origins, see Siems, ‘Legal origins’.

Increased global circulation of men and goods in the sixteenth century forced early modern authorities to find new ways of extending their jurisdictions well beyond their boundaries. This happened through military actions and negotiations with local authorities, which both can be defined as ‘imperialistic’ and which frequently aimed at expanding territorial holdings but also fuzzier ‘areas of influence’. A further challenge for expanding European states was to maintain some form of control over the actions of their subjects. Lauren Benton recently provided us with an excellent analysis of the fundamental role played by seafarers in these processes. Her analysis was centred on the imperial dimension of geographic expansion, and she focused especially on the management of violence in oceanic ‘open spaces’.<sup>2</sup>

As Antonio Manuel Hespanha synthetically wrote, ‘this situation of legal pluralism or mixed jurisdiction was normal in the context of early modern political and juridical imagery. Several powers, several political status, several laws shared social space, none of them pretending the exclusive social regulation’.<sup>3</sup> This thesis has been accepted by scholarship and thoroughly investigated for its expression *within* individual states and with their colonial outposts. However its effects regarding relations *between* different states have been discussed mostly in regard to the situation outside of Europe, especially in the ‘Atlantic world’. This project is bringing to light new and interesting elements through analysis of seafarers’ employment conditions in the Mediterranean, a small and crowded space with an abundance of active and competing jurisdictions, frequently contested, sometimes shared, and in actual practice overlapping and jostling for primacy. The study of the strategies employed by seafarers in choosing between the multiple fora available to them is opening a most privileged window onto the interaction between economic activities and legal developments. As I and the co-editors have sought to show in this volume, the results of this type of study have implications not just for the Mediterranean but for broader questions about the early modern world, and they need to be placed in that larger comparative context. We are grateful to our contributors for providing this new perspective.

Maritime history, in its traditional incarnation, assumed a substantive homogeneity of maritime legislation, as the operational nature of life and work at sea was seen as a unifying factor above and beyond national differences.<sup>4</sup> In line with recent scholarship on mercantile law – another field where similarities for a long time were thought to trump local differences by positing the existence of a

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<sup>2</sup> Benton, *A Search*.

<sup>3</sup> Hespanha, ‘Jurists as Gamekeepers’, 490, and bibliography therein quoted.

<sup>4</sup> On the ‘founding myths’ of maritime history see the considerations in Fusaro, ‘Maritime History’.

medieval pan-European *lex mercatoria* – this project from its initial conception posited the existence of variations between different countries’ legislations on maritime matters which were, indeed, the basis of fundamental differences in the performance of economic activities in different states.<sup>5</sup>

Even a preliminary analysis of the evidence emerging from Italian courts of justice regarding northern crews’ wage litigation leaves no doubt in this regard. When an English or Dutch seaman brought his case in front of these ‘foreign’ courts, the ‘law’ (in this case used in a wide sense to include customs and usages) used to argue seamen’s rights and their access to wages was the product of a different society – not the ‘home’ country of the actors. If we assume, in line with the ‘unifying’ literature, that maritime legislation existed in an independent sphere, shaped by universal conventions which made it the same all over Europe, then going to court in Venice, Marseille or Genoa as opposed to London or Amsterdam should have yielded exactly the same outcome. Yet this was not the case, and the extant evidence points to substantially different outcomes depending on where access to justice was sought.

So, although the common roots of maritime legislation are indeed to be found in the ‘holy trinity’ – *Lex Rhodia*, *Rôles d’Oléron* and *Llibre del Consolat de Mar* – it is clear that local variations existed and had a pivotal importance in shaping the outcome of court judgements. Different states’ social and political attitudes towards wage workers are an obvious starting point to continue these investigations, but political influence over market rules regarding sailors’ employment – such as the growing tension between the mercantile and defence sectors – is among the other variables that need to become part of the equation. Widening the scope of analysis from the Mediterranean to the globe allows us to improve our understanding of the issues at play and how they developed over a larger chronological and geographic stage.

Now that the European Research Council project of which this volume is a part is nearing completion of its first phase, these other elements are forcefully emerging as worthy of further analysis. First and foremost is the need to investigate the connection between different legal regimes, different national and regional labour markets and the development of a global labour market for seafarers, as it was this triple interaction which laid the foundations of international labour law. Crucial as it is, it is also important to highlight that this is only part of the story.

The existence of two main ‘markets’ for seafaring skills – a commercial and a military one – which were (and are) governed by rather different administrative structures and value systems, is certainly

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<sup>5</sup> References to the relevant bibliography are in my contribution to this volume (Chapter 2); see also Allaire (Chapter 5), Blakemore (Chapter 6) and Vanneste (Chapter 7).

one of the most widely recognised peculiarities of the maritime sector, though the permeability between these two markets emerges vividly also from some of the contributions to this volume for different regions and periods.<sup>6</sup> Once again, the complexities on the ground show that the situation was more articulated than straightforward competition between two sectors. In fact, there were many hybrid situations. Apart from the better known and relatively clear case of privateering, there were also the military escorts to the Spanish Atlantic fleet, whose crews were effectively taking part in Atlantic trade, and the employment conditions of the northern vessels providing operational support to the Venetian *Armata* during various Mediterranean conflicts of the seventeenth century, which also played an important role in raising wages for the north of Europe.

Therefore, in actual practice, we can see three separate but interconnected levels within the wider European maritime labour market: one of direct competition between international labour markets for commercial shipping, a second one which involved intra-national competition for human resources between commercial shipping and navies, and a third level which can be defined as a hybrid international market where merchantmen of different nationalities were employed by other states for para-naval purposes, this latter being an issue which also led to diplomatic incidents and heated debates in commercial and political circles.<sup>7</sup>

Another classic tenet of the development of European shipping posits an evolution from 'seamen as shareholders' to their becoming mere wage-earners in medium- to long-distance trips, starting with the thirteenth-century expansion of maritime trade and ending with the sixteenth-century explosion of global seafaring. What is instead emerging from our project and from contributions to this volume is a stronger and more widely spread resilience of the 'venture' element as a part of total earnings even for medium- to long-distance trips well into the eighteenth century.<sup>8</sup>

Throughout the early modern period, technological advances in shipping and the growth of maritime commerce fostered a growing demand for skilled seamen, and this appears to have improved their potential income opportunities, in some cases granting them stronger contractual power at home and abroad.<sup>9</sup> The documentary evidence the project is bringing to light makes it apparent that, away

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<sup>6</sup> See especially Beattie (Chapter 10), Polónia (Chapter 12) and Phillips (Chapter 13).

<sup>7</sup> See Ressel (Chapter 8) and Pedemonte (Chapter 14).

<sup>8</sup> See Addobbati (Chapter 3) and Abela (Chapter 4) in this volume. Richard Blakemore is presently preparing an essay on this question.

<sup>9</sup> Fusaro (Chapter 2), Vanneste (Chapter 7), van Lottum *et al.* (Chapter 9), Lopez (Chapter 11) and Polónia (Chapter 12) discuss these issues in their contributions to this volume.

from the customs and legal traditions of their places of origin, and encountering new business and profit opportunities almost daily, captains, masters, shipowners and sailors maintained relationships that were constantly shifting as each sought to take better advantage of these opportunities. One of the corollaries of entering into new markets was the creation of new payment solutions and ‘entrepreneurial’ agreements that were quite different from those of their place of origin and those of their place of activity. To summarise, the economic and military environment of the Mediterranean acted as an enzyme for the development of alternative modes of maritime economic activity, and seamen of all levels developed techniques to benefit from these possibilities. Until now little was known about these activities, as the more diffused and lower value of their transactions made them less visible to scholars working with traditional forms of evidence, and seamen’s lower level of literacy made them less prone to written self-expression than merchants.<sup>10</sup> To investigate these activities fully it will be necessary to delve further into the extra-judicial solutions which were frequently pursued in ‘maritime’ litigation and whose extant material can provide us with evidence of crew members’ entrepreneurship.

Other categories of skilled workers have been the subjects of more in-depth investigations, and a more sustained effort has been put forward to analyse the development of their professions, as later they became the basis of industrial capitalism. In the middle of the twentieth century an illustrious list of historians turned their attention to non-elite groups and investigated what became to be known as ‘history from below’. An important part of this trend was the attempt to properly understand the origins of the industrial working class.<sup>11</sup> Seamen, and the study of their activities, remained at the margins of these historiographical concerns, mostly for reasons connected with that ‘uniqueness’ of the maritime environment mentioned above.<sup>12</sup> What is emerging is the need to analyse seamen under the rubric of skilled workers trying to maximise their opportunities – for profit and also for social promotion – and not, as was and is frequently the case, as no more than a rabble of unruly individuals with poor morals and a tendency towards heavy alcohol consumption.

The study of seafarers can also provide a fresh approach to the study of the state and social change, and analysis of seafarers’ litigation offers an important alternative viewpoint on state–subject

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<sup>10</sup> On the self–perception of early modern merchants see Jacob and Secretan eds, *Self-Perception*.

<sup>11</sup> For a recent reassessment of these issues see the contributions in Jacob and Secretan eds, *In Praise*, and bibliography therein quoted.

<sup>12</sup> This is also discussed in my contribution to this volume (Chapter 2); see the notes there for a link to relevant bibliography.

interaction and on how the variety of the 'law' granted a multiplicity of spaces for negotiation. It can certainly be argued that seamen, as protagonists of the social construction of state sovereignty, played a role comparable to that of merchants but, given their usually lower socio-economic status, this was less immediately evident. However, the scale of individual transactions should not be the sole determinant of their importance. Given the background of technological developments and the growing importance – real and perceived – of long-distance maritime trade as a fundamental element of states' reach, seafarers' working lives and professional status became the object of attention and legislative action on the part of their social superiors. Still today, the *de facto* capability of a state to exercise authority over its citizens remains an important element in the evaluation of the practical limits of sovereignty. In studying the past it can also be a litmus test of the balance of power between European states.<sup>13</sup> In analysing these processes, interaction between seafarers and the state is paramount, and it is crucial to keep in mind that as much as consuls were increasingly becoming representatives of state interests, merchants and seamen were not necessarily conducting their business along national lines, and their actions were not necessarily linked to the actions and policies of their states of origin.

A few final words are needed on the nature of the extant evidence on these issues. Evidence connected with courts of justice, especially those concerned with civil (as opposed to criminal) law, is particularly useful in the analysis of everyday activities and 'horizontal' interaction, indeed providing a wealth of material on these issues. Documentation produced by trading company officers and employees or by seamen themselves is equally rich – albeit rarer. Both types of sources require delicate handling and a constant appreciation of the peculiar biases embedded in them. The limits and dangers of judicial evidence are well known to scholars, as actors had many different agendas which influenced their statements, testimony and even the selection of the court itself; however, litigation on labour disputes needs even more careful attention. When jobs and reputations were on the line, and actors' status was as fragile as it was for seafarers, the reliability of the sources needs to be aggressively questioned, as is true in all cases of litigation characterised by asymmetrical hierarchical positions amongst players, where social and financial capital consequently plays an important role in shaping evidence.

Expressions of self-perception and self-justification also deserve particular care and attention; maritime networks and activities might not have followed clear national boundaries, but ethnic

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<sup>13</sup> Compare, for example, the changing relationship between Britain, Genoa and Livorno in the seventeenth and eighteenth centuries, as shown across Fusaro (Chapter 2), Addobbati (Chapter 3) and Pedemonte (Chapter 14) in this volume.

stereotypes based on geographical origin abound in the sources, and their importance will have to be directly confronted in future works regarding seafarers in a global labour market.<sup>14</sup>

I thought about all of these issues at first mostly in terms of juxtapositions between different national approaches to the legal status and financial treatment of seamen. The thesis I wanted to test was that amongst the reasons for northerners' success in the Mediterranean lay a straightforward issue of financial comparative advantage: as the northerners paid their crews less frequently, they enjoyed a larger availability of capital to support the business cycle. In short, I was reasoning that, wages being a relatively non-elastic cost, less frequent payments had the immediate effect of increasing available capital to invest and therefore increasing potential profits from trade. With hindsight I can see that I was falling straight into a category which Marcel van der Linden called that of 'methodological nationalists', those who 'consider the nation state as the basic, self-evident analytical unit for historical research'.<sup>15</sup> Over the last two years, through archival work and some truly stimulating and fruitful conversations and debates, my views have changed considerably. I am pleased about this. These are exciting times to be a socio-economic historian, as new approaches are providing us with a clearer view of how pre-modern economies functioned. Recent studies point in the direction of cooperation playing a very important role – side by side with competition – in pre-1800 world exchanges, something which becomes particularly evident with maritime interactions, which were (and to a great extent are) supported by dynamic, collaborative and self-organising and regulating networks.<sup>16</sup> The portrait of maritime economic activities which I see emerging from the papers of Mediterranean courts of justice, and which is fully supported in the comparative contributions to this volume, confirms the early modern era as a true testing ground of proto-globalisation.

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<sup>14</sup> These issues are discussed especially in Fusaro (Chapter 2), van Rossum (Chapter 15) and Yóu (Chapter 16).

<sup>15</sup> van der Linden, *Workers*, 7.

<sup>16</sup> For this approach see Mukherjee, *Networks*; and Cátia Antunes' ERC Starting Grant on 'Fighting Monopolies, Defying Empires 1500–1750: a Comparative Overview of Free Agents and Informal Empires in Western Europe and the Ottoman Empire'. See also Polónia's contribution to this volume (Chapter 12) and bibliography quoted therein.