Maritime Terrorism and Piracy:
The Development of Maritime Security and its Governance

Dr. phil. habil. Patricia Schneider

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Abstract (English)

My sons love to play pirate and Robin Hood, staging uprisings against the authorities. Outside of childhood games, however, piracy is not a romantic adventure but a bloody reality for those affected. No matter the location of the hotspots of maritime violence, Germany has been particularly affected. A large part of world trade is transported by sea, and German imports and exports make a major contribution. Like piracy, maritime terrorism is a form of maritime violence. Although few cases have been empirically validated thus far, the risk of maritime terrorism remains potentially high. Understanding the true potential of the global threat represented by maritime terrorism is important for maritime security governance. This book therefore endeavors to explore both the nature of this threat and the risk of maritime piracy, how it is dealt with, and future ocean governance frameworks.

The literature thus far has been unable to answer key political and scientific questions about maritime violence. This habilitation thesis – a post-doctoral thesis from the field of political science – aims to make a primary contribution to the field and to remedy this by offering a study that is empirical-analytical, theoretical and conceptual in nature and that extends the state of our knowledge (and can also be used politically). Its aim is to take stock of incidents of maritime violence: to analytically penetrate their causes and the nature of the governance measures put

in place to prevent them in a way that both presents innovative concepts and makes them more inclusive. The study's deep analysis and problematization of the empirical data (including new data), its examination of further case studies (including the first application of social movement theory to maritime violence), and its discussion of their implications for ocean governance are intended to complement and move the literature forward, thus advancing the scientific debate.

The ocean connects different political communities in a number of ways. Fishermen set out further and further in the search for satisfactory yields, the energy industry has moved offshore, and visionaries dream of artificial cities at sea. This increase in human activity in ocean spaces poses the question of whether these different activities require coordination and regulation, and what forms these should take. Furthermore, the oceans are a perfect illustration of global interdependence (as biotopes, habitats, but also in terms of ocean routes for the transportation of people and goods, communication, and exploitation). More and more is known about the harmful effects suffered by the marine environment, yet who can effectively be held accountable for marine pollution and for dealing with the effects of climate change? We encounter various crimes at sea (such as illegal fishing and waste dumping, but also piracy, terrorism, drug and people trafficking/human smuggling), with different regimes addressing these phenomena in different ways, often in the face of disputes over maritime boundaries and the use of resources. Nevertheless, the ocean space remains largely ungoverned compared to the situation on land. These different regimes (formal or informal) are characterized by different sets of constraints and power dynamics. How can the effects of globalization, such as pollution, security issues and needed mechanisms of conflict resolution, be addressed by complex global governance without impeding political and economic development?

A comprehensive ocean governance framework – including all relevant stakeholders – should contribute to the effective use of capacities, the conservation of natural resources in the interest of all, and better protection against state and non-state violence. It should contribute to building a world in which fewer and fewer people feel forced to resort to maritime violence in protest or for lack of other opportunities – a world in which piracy and other maritime violence has been banished, to a large extent, to the realm of harmless fairy tales. The book therefore ends with an outline of a model of ocean governance which seeks to unite various issues of concern in a comprehensive approach.

Keywords: Maritime Security, Maritime Terrorism, Maritime Piracy, Ocean Governance, Risk, Social Movements, Social Movement Theory, justice theory, peace theory, risk theory, Piracy Trial, maritime violence, Somalia, Nigeria, Germany, Indian Ocean, blacklisting, terror blacklists, Private Military Security Companies (PMSCs), justice, security, piracy, terrorism, ocean, Terrorism Databases, Global Terrorism Database (GTD), European Union (EU), United Nations (UN).

Abstract von: „Maritimer Terrorismus und Piraterie: Die Entwicklung Maritimer Sicherheit und ihre Regulierung" (im Original auf Englisch)

Meine Söhne lieben es, Piraten und Robin Hood zu spielen und Aufstände gegen die Obrigkeit zu inszenieren. Außerhalb von Kinderspielen ist Piraterie jedoch kein romantisches Abenteuer, sondern blutige Realität für die Betroffenen. Unabhängig davon, wo die Brennpunkte der maritimen Gewalt liegen, ist Deutschland besonders betroffen. Ein großer Teil des Welthandels wird auf dem Seeweg abgewickelt, und die deutschen Importe und Exporte leisten einen wichtigen Beitrag. Wie die Piraterie ist auch der maritime Terrorismus eine Form der maritimen Gewalt. Obwohl bisher nur wenige Fälle empirisch bestätigt wurden, bleibt das Risiko des maritimen Terrorismus potenziell hoch. Das wahre Potenzial der globalen Bedrohung durch den maritimen Terrorismus zu verstehen, ist wichtig für die Gewährleistung der maritimen Sicherheit (Maritime Security Governance). In diesem Buch werden daher sowohl die Art dieser Bedrohung als auch das Risiko der maritimen Piraterie, der Umgang damit und künftige Rahmenbedingungen für die Meerespolitik (Ocean Governance) untersucht.

In der bisherigen Literatur konnten zentrale politische und wissenschaftliche Fragen zur maritimen Gewalt nicht beantwortet werden. Die vorliegende Habilitationsschrift aus der Politikwissenschaft will einen primären Beitrag zum Thema leisten und Abhilfe schaffen, indem sie eine empirisch-analytische, theoretische und konzeptionelle Studie vorlegt, die den

Wissensstand erweitert (und auch politisch nutzbar ist). Ihr Ziel ist es, eine Bestandsaufnahme von Vorfällen maritimer Gewalt vorzunehmen: ihre Ursachen und die Art der zu ihrer Verhinderung ergriffenen Governance-Maßnahmen analytisch zu durchdringen, und zwar in einer Weise, die sowohl innovative Konzepte vorstellt als auch sie umfassender macht. Die vertiefte Analyse und Problematisierung der empirischen Daten (einschließlich neuer Daten), die Untersuchung weiterer Fallstudien (einschließlich der ersten Anwendung der Theorie sozialer Bewegungen auf maritime Gewalt) und die Diskussion ihrer Implikationen für die Governance des Ozeans sollen die Literatur ergänzen und vorantreiben und so die wissenschaftliche Debatte voranbringen.

Der Ozean verbindet die verschiedenen politischen Gemeinschaften auf vielfältige Weise. Fischer fahren auf der Suche nach zufriedenstellenden Erträgen immer weiter hinaus, die Energiewirtschaft hat sich ins Meer verlagert, und Visionäre träumen von künstlichen Städten im Meer. Diese Zunahme menschlicher Aktivitäten in den Ozeanräumen wirft die Frage auf, ob diese verschiedenen Aktivitäten koordiniert und reguliert werden müssen und welche Formen diese annehmen sollten. Darüber hinaus sind die Ozeane ein perfektes Beispiel für die globale Interdependenz (als Biotope, Lebensräume, aber auch in Bezug auf die Seewege für den Transport von Menschen und Waren, die Kommunikation und die Ausbeutung). Es wird immer mehr über die schädlichen Auswirkungen auf die Meeresumwelt bekannt, doch wer kann für die Verschmutzung der Meere und den Umgang mit den Auswirkungen des Klimawandels tatsächlich zur Verantwortung gezogen werden? Wir haben es mit verschiedenen Verbrechen auf See zu tun (z. B. illegale Fischerei und Müllablagerung, aber auch Piraterie, Terrorismus, Drogen- und Menschenhandel/Menschenschmuggel), wobei die verschiedenen Regime diese Phänomene auf unterschiedliche Weise angehen, oft angesichts von Streitigkeiten über maritime Grenzen und die Nutzung von Ressourcen. Dennoch bleibt der Meeresraum im Vergleich zur Situation an Land weitgehend unreguliert. Diese verschiedenen Regime (formell oder informell) sind durch unterschiedliche Sachzwänge, Ordnungsmodelle und Machtdynamiken gekennzeichnet. Wie können die Auswirkungen der Globalisierung, wie Umweltverschmutzung, Sicherheitsprobleme und notwendige Konfliktlösungsmechanismen angegangen werden?

Ein umfassender Ordnungsrahmen für die Meere – unter Einbeziehung aller relevanten Akteure – sollte zu einer effektiven Nutzung der Kapazitäten, zur Erhaltung der natürlichen Ressourcen im Interesse aller und zu einem besseren Schutz vor staatlicher und nichtstaatlicher Gewalt beitragen. Er sollte dazu beitragen, eine Welt zu schaffen, in der sich immer weniger Menschen gezwungen sehen, aus Protest oder mangels anderer Möglichkeiten auf maritime Gewalt zurückzugreifen - eine Welt, in der die Piraterie und andere maritime Gewalt weitgehend in das Reich der harmlosen Märchen verbannt ist. Das Buch endet daher mit der Skizzierung eines Modells der Meerespolitik (Ocean Governance Model), das versucht, die verschiedenen Anliegen in einem umfassenden Ansatz zu vereinen.

Stichworte: Maritime Sicherheit, Maritimer Terrorismus, Seepiraterie, Ocean Governance, Risiko, Soziale Bewegungen, Theorie der sozialen Bewegungen, Gerechtigkeitstheorie, Friedenstheorie, Risikotheorie, Piraterieprozess, Piraterie, Terrorismus, Maritime Gewalt, Somalia, Nigeria, Deutschland, Indischer Ozean, Schwarze Terrorlisten (blacklisting), Private Sicherheitsdienste (PMSCs), Gerechtigkeit, Sicherheit, Meer, Ozean, Terrorismusdatenbanken, Global Terrorism Database (GTD), Meerespolitik, Europäische Union (EU), Vereinte Nationen (UN).

TABLE OF CONTENTS

LIST OF CHARTS

LIST OF TABLES

LIST OF ABBREVIATIONS

AA	Auswärtiges Amt (Federal Foreign Office)
AEO	Authorized Economic Operator
AFP	Agence France-Presse (French Press Agency)
AK MarSi	Arbeitskreis Maritime Sicherheit (Interministerial Working Group for Maritime Security)
AMC	Africa Marine Commando
ARDE	Alianza Revolucionaria Democrática (Democratic Revolutionary Alliance)
ASG	Abu Sayyaf Group
ATS	Automated Targeting System
BAFA	Bundesamt für Wirtschaft und Ausfuhrkontrolle (Federal Office of Economics and Export Control)
BBK	Bundesamt für Bevölkerungsschutz und Katastrophenhilfe (Federal Office of Civil Protection and Disaster Assistance)
BDSW	Bundesverband der Sicherheitswirtschaft (Federal Association of the Civil Security Sector)
BG Verkehr	Berufsgenossenschaft für Transport und Verkehrswirtschaft (Professional Organization of Transport and Traffic Economy)
BKA	Bundeskriminalamt (Federal Criminal Police Office)
BLS	Bucerius Law School
BMBF	Bundesministerium für Bildung und Forschung (Federal Ministry of Research and Education)
BMF	Bundesministerium für Finanzen (Federal Ministry of Finance)
BMI	Bundesministerium des Inneren (Federal Ministry of Interior)
BMELV	Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz (Federal Ministry of Food, Agriculture and Consumer Protection)
BMP	Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia
BMUB	Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorensicherheit (Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety)
BMVBS	Bundesministerium für Verkehr, Bau und Stadtentwicklung (Federal Ministry of Transport, Building and Urban Development)
BMVg	Bundesministerium der Verteidigung (Federal Ministry of Defense)
BMWi	Bundesministerium für Wirtschaft und Technologie (Federal Ministry of Economics and Technology)

BND	Bundesnachrichtendienst (Federal Intelligence Service)
BPOL	Bundespolizei (Federal Police)
BPOL See	Bundespolizei See (Federal Police at Sea)
BReg	Bundesregierung (Federal Government)
BSH	Bundesamt für Seeschifffahrt und Hydrographie (Federal Maritime and Hydrographic Agency)
BSRBCC	Baltic Sea Region Border Control Cooperation
CBP	Customs and Border Protection
CBRNE	Chemical, Biological, Radiological, Nuclear and Explosive
CCC	Coalition Coordination Center
CCME	Central Command for Maritime Emergencies
CDU	Christlich Demokratische Union Deutschlands (Christian Democratic Union of Germany)
CESMA	Confederation of European Shipmasters' Association
CETIS	Center for Terrorism and Intelligence Studies
CFI	Court of First Instance
CFSP	Common Foreign and Security Policy
CGPCS	Contact Group on Piracy off the Coast of Somalia
CISE	Common Information Sharing Environment for the Surveillance of the EU Maritime Domain
CIA	Central Intelligence Agency
CMF	Combined Maritime Forces
CNA	Continental National American Group (CNA Financial Corporation)
CPI	Communist Party of India
CRIMGO	Critical Maritime Routes in the Gulf of Guinea
CSB	Chemical Safety Board
CSCAP	Council for Security Cooperation in the Asia Pacific
CSDP	Common Security and Defense Policy
CSI	Container Security Initiative
CSU	Chrisrtlich-Soziale Union in Bayern (Christian Social Union in Bavaria)
CTF	Combined Task Forces
C-TPAT	Customs-Trade Partnership Against Terrorism
DA	Designated Authorities
DHS	Department of Homeland Security
DIN	Deutsches Institut für Normung (German Institute for Standardization)

DIW	Deutsches Institut für Wirtschaftsforschung (German Institute for Economic Research)
DRC	Democratic Republic of the Congo
EC	European Council
ECHR	European Court of Human Rights
ECJ	European Court of Justice
EEZ	Exclusive Economic Zone
ELN	Ejército de Liberación Nacional (National Liberation Army of Colombia)
EPN	European Patrol Network
ETA	Euskadi Ta Askatasuna (Basque Fatherland and Freedom)
EU	European Union
EUCAP NES-TOR	European Union Mission on Regional Maritime Capacity Building for the Horn of Africa
ESS	European Security Strategy
EuGH	Europäischer Gerichtshof (European Court of Justice)
EUMSS	European Maritime Security Strategy
EUNAVFOR	European Union Naval Forces
EuroCOP	European Confederation of Police
FAO	Food and Agriculture Organization
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)
FAZ	Frankfurter Allegmeine Zeitung (German newspaper)
FDN	Fuerza Democrática Nicaragüense (Nicaraguan Democratic Force)
FDP	Freie Demokratische Partei (Free Democratic Party)
GAM	Free Aceh Movement
GAR	Gemeinsames Abwehrzentrum gegen Rechtsextremismus (Joint Protection Center against Right-wing Extremism)
GdP	Gewerkschaft der Polizei (Police Union)
GDP	Gross Domestic Product
GDV	Gesamtverband der Deutschen Versicherungswirtschaft (German Insurance Association)
GETZ	Gemeinsames Extremismus- und Terrorismusabwehrzentrum (Joint Extremism and Terrorism Protection Center)
GewO	Gewerbeordnung (Trade Regulation Act)
GLZ See	Gemeinsames Lagezentrum See (Joint Emergency and Reporting Assessment Centre)
GmbH	Gesellschaft mit beschränkter Haftung (Limited Company, Ltd)

GMPI	Global Maritime Partnership Initiative
GPS	Global Positioning System
GTAZ	Gemeinsames Terrorismusabwehrzentrum (Joint Terrorism Protection Center)
GTD	Global Terrorism Database
HIIK	Heidelberger Institut für Internationale Konfliktforschung (Heidelberg Institute for Conflict Research)
ICC	International Chamber of Commerce
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICS	International Chamber of Shipping
ICT	International Institute for Counter-Terrorism
IFSH	Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg (Institute for Peace Research and Security Policy at the University of Hamburg)
IFSMA	International Federation of Shipmasters' Associations
IMB	International Maritime Bureau
IMK	Ständige Konferenz der Innenminister und -senatoren der Länder (Länder's Interior Ministers' Conference)
IMO	International Maritime Organization
INLA	Irish National Liberation Army
IOR	Indian Ocean Region
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
IRA	Irish Republican Army
ISF	International Shipping Federation
ISIL	Islamic State of Iraq and the Levant
ISO	International Organization for Standardization
ISPS	International Ship and Port Facility Security
ISVG	Institute for the Study of Violent Groups
ISZA	Institut für strategische Zukunftsanalysen der Carl-Friedrich-von-Weizsäcker-Stiftung (Institute for Strategic Future Analysis at the Carl-Friedrich-von-Weizsäcker Foundation)
ITERATE	International Terrorism: Attributes of Terrorist Events
IUMI	International Union of Marine Insurance
IUU	Illegal, Unreported and Unregulated
JI	Jemaah Islamiyah

KI-BKA	Kriminalistisches Institut beim Bundeskriminalamt (Criminal Institute at the Federal Criminal Police Office)
KRZ	Krisenreaktionszentrum (Crisis Response Centre)
LNG	Liquefied Natural Gas
LR-MPRA	Long Range Maritime Patrol and Reconnaissance Aircraft
LSCI	Line Shipping Connectivity Index
LTTE	Liberation Tigers of Tamil Eelam
LÜKEX	Länderübergreifende Krisenmanagement Exercise (Crisis Management Exercises between the Länder)
MALSINDO	Malaysia, Singapore, Indonesia
MEND	Movement for the Emancipation of the Niger Delta
MILF	Moro Islamic Liberation Front
MIPT	National Memorial Institute for the Prevention of Terrorism
MNLF	Moro National Liberation Front
MSC	Maritime Safety Committee
MSCHOA	Maritime Security Centre – Horn of Africa
MSLtSt	Marineschifffahrtleitstelle (Naval Control of Shipping)
MSZ	Maritimes Sicherheitszentrum (Maritime Safety and Security Center)
NATO	North Atlantic Treaty Organization
NCAGS	Naval Cooperation and Guidance for Shipping
NCTC	National Counterterrorism Center
NDPVF	Niger Delta People's Volunteer Force
NDV	Niger Delta Vigilante
NII	Non-intrusive inspection
NPA	New People's Army (Philippines)
OAE	Operation Active Endeavour
OEF	Operation Enduring Freedom
PCASP	Privately Contracted Armed Security Personnel
PGIS	Pinkerton Global Intelligence Service
PIJ	Palestinian Islamic Jihad
PiraT	Piraterie und maritimer Terrorismus als Herausforderungen für die Seehandelssicherheit: Indikatoren, Perzeptionen und Handlungsoptionen (Piracy and Maritime Terrorism as a Challenge for Maritime Trade Security: Indicators, Perceptions and Courses of Action)
PKK	Partiya Karkerên Kurdistanê (Kurdish Workers' Party)
PLF	Palestine Liberation Front

PMOI	People's Mujahedin of Iran
PMSCs	Private Military Security Companies
PoC	Point of Contact
PPS	Physical Protection System
PSI	Proliferation Security Initiative
RAND	Research and Development
RDWTI	RAND Database of Worldwide Terrorism Incidents
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
RT	Registered Tonnage
SAFE	SAFE Framework of Standards by the World Customs Organization
SAR	Synthetic Aperture Radar
Sat	Satellite
SCP	Shipping Cooperation Points
SeeBewachDV	Seeschiffbewachungsdurchführungsverordnung (Sea Surveillance Act Implementation Regulation)
SeeBewachGebV	Seeschiffbewachungsgebührenverordnung (Sea Surveillance Act Fee Regulation)
SeeBewachV	Seeschiffbewachungsverordnung (Sea Surveillance Act)
SOLAS	International Convention for the Safety of Life at Sea
START	The National Consortium for the Study of Terrorism and Responses to Terrorism
STC	The Corsican Workers Union
SUA	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
SUCBAS	Sea Surveillance Co-operation Baltic Sea
SZ	Süddeutsche Zeitung (German newspaper)
taz	Tageszeitung (German newspaper)
TE-SAT	Terrorism Situation and Trend Reports
TEU	Twenty-foot Equivalent Unit
TFG	Transitional Federal Government
TKB	Terrorism Knowledge Base
TOPs	Terrorist Organization Profiles
TUHH	Technische Universität Hamburg-Harburg (Hamburg University of Technology)
TWEED	Terrorism in Western Europe: Events Data
UKMTO	UK Maritime Trade Operations

UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNFIL	United Nations Interim Force in Lebanon
UNEP	United Nations Environment Programme
US	United States
USA	United States of America
US CENTCOM	United States Central Command
USS	United States Ship
VBIED	Vehicle Borne Improvised Explosive Device
VDKS	Verband Deutscher Kapitäne und Schiffsoffiziere (Organization of German Shipmasters and Ship Officers)
VDR	Verband Deutscher Reeder (German Shipowners' Association)
WaffG	Waffengesetz (Weapons Act)
WFP	World Food Programme
WITS	Worldwide Incidents Tracking System
WMD	Weapons of Mass Destruction
WSP	Wasserschutzpolizeien (Water Police Service)
WSV	Wasser und Schifffahrtsverwaltung des Bundes (Federal Police, Customs and Federal Waterways and Shipping Administration)

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In June 2022, I successfully completed the habilitation process with the oral colloquium exam. Staying loyal to the topic, I changed in October 2022 into new waters from science into practice as Political Advisor to the Chief of German Navy in Rostock.

I   INTRODUCTION[1]

My sons love to play pirate and Robin Hood, staging uprisings against the authorities. Outside of childhood games, however, piracy is not a romantic adventure but a bloody reality for those affected. Like piracy, maritime terrorism is a form of maritime violence. Although few cases have been empirically validated thus far, the risk of maritime terrorism remains potentially high. Understanding the true potential of the global threat represented by maritime terrorism is important for maritime security governance. This book therefore endeavors to explore both the nature of this threat and the risk of maritime piracy, how it is dealt with, and future ocean governance frameworks.

In recent times, there have been direct hostilities between navies (and between navies and merchant ships). One example of this is the Kerch Strait incident of November 2018, when Russian coastguard patrol boats fired on Ukrainian naval ships in the context of the Crimea conflict (Kraska 2018). Another example is provided by the arrest of tankers by the British Navy and Iran off their coasts in July 2019, which led to an "International Maritime Security Construct" of seven nations (led by the US) to protect shipping in the Strait of Hormuz (Wiegold 2019; for legal concerns, Kraska 2019). As Wolff Heintschel von Heinegg observes: "The fact that some coastal States have shown, and continue to show, an increasingly aggressive conduct vis-à-vis the vessels of other States is undoubtedly worrying and detrimental to international (maritime) security" (Heintschel von Heinegg 2016: 464). At the same time, it is common to use "navies in foreign policy as a strategic tool of security policy" (Bruns 2018: 249). The current debate on (naval) power has given rise to an interesting perspective on maritime security in light of renewed geopolitical rivalries. Possible global repercussions have also been intensely discussed in the context of the South China Sea and the Arctic. Of equal importance is maritime violence by non-state actors. What is needed is an improved ocean governance system that can deal with the various dimensions of maritime security (Kerstin Petretto calls for such a system, for example, under the auspices of the United Nations; see Petretto 2018: 166). In general, maritime security "can be understood as a concept referring to the security of the maritime domain as a set of policies, regulations, measures and operations to secure the maritime domain" (Germond 2015: 137).

No matter the location of the hotspots of maritime violence, Germany has been particularly affected. A large part of world trade is transported by sea, and German imports and exports make a major contribution. [2]

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1   For information on which chapters were originally published elsewhere, see "Appendix B: Declaration on the use of previous publications by the author for this book."

2   "Over 90% of total world trade and almost 95% of the European Union's foreign trade, as well as almost 70% of German imports and exports, are the product of maritime trade". The "380 German shipping companies are ranked in third place worldwide when measured by the mass of transported goods. When calculated by number of containers, Germany is the world leader" (cf. German Fleet Command 2011: 53; author's translation). "German Ship owners still operate the largest container fleet in the world. At the beginning of 2011, there were a total of 1.776 container ships over 1.000 registered tonnage (RT), encompassing 62.3m tonnes deadweight and 5.27m twenty-foot equivalent units (TEU), i.e. over 32.1%

What is the current state of piracy and maritime terrorism? According to the International Maritime Bureau, worldwide attacks by pirates steadily increased until 2011; attacks off the coast of Somalia fell sharply by 2012, although attacks in West Africa are increasing overall. Worldwide attacks hit a 22-year low in 2017, with rising tendencies in 2018 (ICC 2018). The potential for attacks by Somali pirates remains: the situation on land is still unstable, and there is a risk that once naval missions and private guards on ships disappear, attacks will once again increase. The Gulf of Guinea has become a key piracy hotspot. It was the focal point of global piracy in 2018, accounting for 40 percent of all recorded cases (BPOL See 2018: 27). The region has witnessed the kidnapping of crewmembers (with preference given to Western crewmembers for higher ransom), the stealing of shiploads and robbery. Although this is very similar to the behavior of Somali pirates, the main differences are that ships are not safely detained on the coast for months and crewmembers are kidnapped, taken ashore and cared for by the same people in the Niger Delta, whereas piracy in Somalia involves a greater division of labor. When attacks against international merchant ships have failed, partly due to the security forces on board and defensive measures, they have quickly sought new targets nearby. A particular difficulty for Nigerian security forces is that the Niger Delta as a hiding place is difficult to control and the relevant forces are occupied with counter-terrorism operations. In addition, private armed security forces cannot be deployed in the same way as they are deployed in the Gulf of Aden, as Nigeria has banned their deployment on ships in its waters (BPOL See 2018: 30-42; BPOL See 2019: 35, see Chapter XVI.2).

While terrorism has been perceived as only one risk among many (alongside risks like nuclear proliferation), it has gained relevance in the migration-inducing contexts of regional conflicts (e.g. the Arab revolutions), failing states (e.g. Somalia), and expanding violence in ailing states (e.g. Afghanistan) (Giessmann 2013c: IV). Efforts to contain global terrorism have been undermined by the relocation of groups and the replacement of individuals, as well as the formation of new groups such as ISIS (Islamic State of Iraq and Syria or Islamic State of Syria and the Levant or Daesh) and Boko Haram (Nigeria) (cf. Institut for Economics and Peace 2014: 16, 19). The reason for this could be that "[t]he breeding ground for terrorism – political fragmentation, economic disruption, social injustice and the hatred that is fueled by their combination, together with policies of exclusion based on ideological, ethnic or religious difference – has not faded away" (Giessmann 2013c: IV). This holds true for piracy as well; it is a phenomenon that changes its characteristics and location, a reality that will never be fully eradicated.

Although it is not as common as 'traditional' terrorism, maritime terrorism carries a high risk potential. The al-Qaeda terror network has repeatedly threatened to attack the Arabian Sea, the Persian Gulf and the Gulf of Aden. In addition, they supposedly support a training program

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of the worldwide container capacity. However, only 297 of these ships flew a German flag" (German Fleet Command 2011: 30, 53). A substantial amount of foreign trade is conducted through sea routes. Germany's transnational commerce along sea routes has increased exponentially over the past few years. Concerning imports, Germany plays a major role when supplying raw material. On the other hand, when looking at the export aspect, it is the security of the trade routes that is of major importance, mostly for exporting (automobiles and machinery) (cf. Engerer 2011: 27). It is feared that maritime violence across sea routes could cause serious delays. Today, the just-in-time division of labor is dependent on a set period of time with safe and planned sea connections. But the degree of damage surely depends on whether the sea routes are temporarily or entirely blocked, or, for example, whether consequential attacks take place. Dropping an established shipping route from the itinerary could make it impossible to find a suitable substitute route at short notice as entire regions would be cut off. In case of consequential loss, e.g. damage to equipment in an industry-specific sector, there is no insurance cover for such a situation.

specifically designed to prepare their soldiers for carrying out attacks on warships, cargo and cruise ships. There have been suggestions that a Yemeni group belonging to al-Qaeda has requested that the Somali al-Shabaab group help block the seaway between them and an important oil delivery route for Europe and the USA. Threats of blocking US shipments to Israel have also been made. In response to these and various other threats, Western intelligence agencies have called upon the Gulf States to increase security measures on ships, in particular oil and gas tankers.[3] The plans for what were to be Bin Laden's legacy, which were discovered after he was killed in May 2011, contained future maritime attacks. The plans included the capturing and detonation of oil tankers, the construction of which the terrorists had collected information on. An additional potential target was the infrastructure of oil and gas companies. The leaders of al-Qaeda wanted to prompt a severe economic crisis in the West. These plans were made in 2010, however, and it is not clear whether they were subsequently developed further.[4]

Two missile attacks on ships by Yemeni Houthi rebels in October 2016, one extensively damaging a ship in the Bab al-Mandab Strait, raised awareness of these waters once again.[5] With this said, as Anzinger (2014) points out, al-Qaeda "is of secondary concern for the Yemeni government, with secessionist insurgencies in the north and the south threatening the state's unity. Only a stable Yemen can effectively deny al- Qaeda a stable base in the long run. (...) Al-Qaeda's terrorism at sea, emanating from Yemen, has a tradition and method. Abu Mus'ab al-Suri, an eminent jihadi strategist, defined several choke points as a target and outlined methods for disruption: blocking the passages using mines or sinking ships in them, threatening movement at sea through piracy, martyrdom operations and weapons." He quotes Abu Mus'ab al-Suri according to the Arabic original from 2008: "On the Earth, there are five (5) important straits, four of them are in the countries of the Arabs and the Muslims. The fifth one is in America, and it is the Panama Canal. These straits are: 1. The Strait of Hormuz, the oil gate in

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3   See the following reports from 2010: RiaNovosti (2010), Reuters (2010), AFP (2010), Continental National Amercican Group (CAN) (2010).

4   Compare news reports: USA Today (2011), SomaliaReport (2011), Spiegel-Online (2011a).

5   "On October 1, an anti-shipping missile launched from the Yemeni coast severely damaged the *Swift*, a former U.S. Navy High Speed Vessel-2 sold to the United Arab Emirates in 2015 and now operated by its National Marine Dredging Company as a troop landing and logistics ship. The incident – the latest in a series of attacks by Iranian-backed Houthi rebels against shipping in the Bab al-Mandab Strait, the strategic chokepoint connecting the Suez Canal and Red Sea with the Indian Ocean – triggered the deployment of a trio of U.S. Navy warships to the area, but other measures may be needed to fully curb the threat. (…) Ansar Allah, the militant arm of Yemen's Houthi movement, claimed to launch several rockets at the *Swift*, releasing video of the attack through their al-Masirah television channel as proof. (…) Imagery shows very extensive damage to the *Swift*, which may be a constructive total loss. Casualties are likely high among the crew, which probably numbered between seventeen and thirty-five mostly non-Emirati contractors; UAE officials have noted that the ship was also ferrying wounded Yemenis" (Knights/Mello/Vaughan 2016). "On October 9, the destroyer USS Mason was unsuccessfully targeted by two anti-shipping missiles fired from Houthi-controlled parts of Yemen's Red Sea coast. The ship had recently joined the destroyer USS Nitze and the amphibious transport ship USS Ponce to patrol the area north of the Bab al-Mandab Strait, a deployment ordered in response to the destructive October 1 Houthi missile strike on the United Arab Emirates logistics ship Swift" (Eisenstadt/Vaughan/Knights 2016). On the nature of the Houthi Rebels, see Kronenfeld/Guzansky (2014), Ricotta (2016) and Schmitz (2015). Kronenfeld/Guzansky (2014:86) describe them as an originally "ideological, religious movement [that turned] into a classical guerilla movement seeking to establish autonomous Shiite rule in the northern provinces." In addition, they feel excluded because their region has "no significant natural resources and no access to the sea" (ibid: 87).

Control over strategic maritime passages is not only an issue that relates to fighting maritime violence by non-state actors but also a vital interest for states such as Iran, which gained influence over the Bab-el-Mandeb Strait through its relationship with the Houthi rebels in Yemen: "The Bab el-Mandeb Strait in the southern Red Sea (...) controls the maritime access of Saudi Arabia, Eritrea, Sudan, and Jordan, and is important for world maritime trade via the Suez Canal" (Maor 2015: 52).

the Persian Gulf. 2. The Suez Canal in Egypt. 3. The Bab el Mandeb between Yemen and the African continent. 4. The Gibraltar Strait in Morocco. Most of the Western world's economy, in terms of trade and oil, passes through these sea passages. Also passing through them are the military fleets, aircraft carriers and the deadly missiles hitting our women and children (…). It is necessary to shut these passages until the invader campaigns have left our countries" (ibid).[6]

In September 2013, the Al Furquan Brigades twice fired rocket-propelled grenades at ships to demonstrate that they could target the Suez Canal at any time, claiming that they carried out the attack "because the Suez Canal has become a safe passageway for Crusader aircraft carriers to strike the Muslims, and it is the artery of the commerce of the nations of disbelief and tyranny" (Barnett 2013).

Given the great importance of maritime trade to the world trading system, there are significant concerns about the ramifications of a possible terror attack. Until now, very few terrorist attacks on maritime targets have attracted much attention. Nevertheless, there are a few well-known examples of maritime terrorism, such as the hijacking of the Italian cruise ship *Achiile Lauro* by the Palestine Liberation Front (PLF) (1985), the al-Qaeda attacks on the *United States Ship Cole* (2000), the French oil tanker *Limburg* (2002) and the bomb explosion on the Filipino *Superferry 14* (2004) perpetrated by Abu Sayyaf. Some of these attacks, along with other scenarios, will be discussed in this book. The study will further highlight the common characteristics of such attacks, which can theoretically involve any of the following: a harbor with a large industrial production plant on an oil platform, a cruise ship, the smuggling of weapons of mass destruction in containers, and the targeted sinking of ships in order to block seaways. The potentially catastrophic effects of such scenarios would have serious repercussions for all involved in the maritime system. Putting these risks into perspective is one of the aims of this study.

The results of this study should be reviewed critically and contextualized. The 'securitization' approach of the Copenhagen School defines a security problem as a speech act that connects a political problem with a concept of security (cf. Daase 2011: 62; Buzan et al. 1998). To be clear, the aim of the book is not to establish the 'securitization' of maritime trade but rather to contribute to our understanding of the problems in this area and to address maritime violence in the (German/European/global) security discourse. German counterterrorism efforts occur primarily within the framework of the European Union, and thus in the spirit of normative multilateralism, which draws a connection between interests and values as a goal and method of German security policy (see Staack 2011b: 217). As part of a broader concept of security, transnational terrorism came into focus as a threat factor beyond that of classic military confrontation. In addition, the understanding of security as *'human security'* is entirely valid. This approach calls into question the absolute sovereignty of individual states and juxtaposes it with the protection of the individual, both in terms of integrity (freedom from fear) and in terms of basic socioeconomic needs (freedom from want). The inclusion of such an approach in the German understanding of security could, for example, lead to a shift of priorities in the Gulf of Aden towards trying to solve existing fundamental problems on land (cf. Debiel/Werthes 2005: 9-12).

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[6]   An open source translation of abstracts of Abu Musab al-Suri´s "The Call to Global Islamic Resistance" is available at: https://archive.org/details/TheGlobalIslamicResistanceCall, accessed 09 December 2016.

"Maritime security (…) has become a buzzword in the past decade" (Germond 2015: 137). The claim that the topic is becoming increasingly important is also reflected in the more frequent use of the term "maritime terrorism" in research and scientific articles over the past few years, including in the titles of published books and articles.[7] With this said, this increased use of the term "maritime terrorism" does not necessarily reflect an increase in the prevalence of maritime terrorist activities.

In addition, maritime violence is receiving increasing attention in security strategies. In the first European Security Strategy (ESS 2003), the threats stated were rather general and not yet related to maritime issues in particular: "Regional conflicts. These can have a direct or indirect impact on European interests, regardless of their geographical location. They pose a threat to minorities, fundamental freedoms and human rights. They can lead to extremism and terrorism and provoke state failure." The European Union (2008: 8) then issued the following statement: "The ESS highlighted piracy as a new dimension of organised crime. It is also a result of state failure. The world relies on sea routes for 90% of trade. Piracy in the Indian Ocean and the Gulf of Aden has made this issue more pressing in recent months, and affected delivery of humanitarian aid to Somalia. The European Union (EU) has responded, including with ATALANTA, our first maritime ESDP mission, to deter piracy off the Somali coast, alongside countries affected and other international actors, including NATO."

In 2014, the EU issued the European Maritime Security Strategy (EUMSS), in which, among other issues, piracy was explicitly mentioned: "Cross border and organized crime, including maritime piracy and armed robbery at sea, trafficking of human beings and smuggling of migrants, organised criminal networks facilitating illegal migration, trafficking of arms and narcotics, smuggling of goods and contraband" (EUMSS 2014: 7). It also clarified the purpose of maritime security: "Using all EU instruments within the comprehensive approach enables the EU to effectively address maritime security threats at and from the sea, tackle the root causes and restore good governance" (EUMSS 2014: 9). The European Union is cooperating with the African Union and welcomed the adoption of a binding charter on maritime security and safety in Lomé in October 2016, which shall be incorporated into the 2050 Africa's Integrated Maritime Strategy of 2012.

In the Global Strategy for the European Union of 2016, the importance of the Red Sea and interregional cooperation were also emphasized: "in light of the growing interconnections between North and sub-Saharan Africa, as well as between the Horn of Africa and the Middle East, the EU will support cooperation across these sub-regions. This includes fostering triangular relationships across the Red Sea between Europe, the Horn and the Gulf to face shared security challenges and economic opportunities" (EU Global Strategy 2016: 35).

In the same year, the German government issued a new White Paper, which, among other things, underscored the importance of trade routes and a secure supply chain but also mentioned terrorist and pirate attacks: "In the future, the prosperity of our country and the well-being of our citizens will significantly depend on the unhindered use of global information and communication systems, supply lines, transportation and trade routes as well as on a secure supply of raw materials and energy. Any interruption of access to these global public goods on land, in

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[7] The standard works in this area are Richardson (2004) and Greenberg et al. (2006). See also Stehr (2004), Nincic (2005), Raymond (2005), Ong-Webb (2006), Murphy (2006, 2009), Davis (2008), Lehr (2007), Stober (2010) and Sedlacek et al. (2006), Geise (2007), Farrell (2007), Chalk (2007a, 2008a), and Alexander and Richardson (2009).

the air, at sea, in the cyber and information domain, and in space involves considerable risks for the ability of our state to function and for the prosperity of our citizens. Besides terrorist attacks, other potential causes include piracy, forced political, economic and military measures, as well as failing states and regional crises. Increasing investments by various states in capabilities that deny third countries access to specific areas (anti-access/area denial) are particularly significant in this context" (German White Paper 2016: 41). The paper notes in particular that "[s]ecuring maritime supply routes and ensuring freedom of the high seas is of significant importance for an exporting nation like Germany which is highly dependent on unimpeded maritime trade. Disruptions to our supply routes caused by piracy, terrorism and regional conflicts can have negative repercussions on our country's prosperity" (German White Paper 2016: 50).

The following map provides a visualization of the sea routes that are of the greatest importance to Germany and Europe (here: Hamburg to Shanghai) and of the hotspots of maritime violence:

Source: © CC BY-SA 3.0, map taken from Satellite Image, NASA, 2002, amended by IFSH, 2016

The title of this book (*Maritime Terrorism and Piracy: The Development of Maritime Security and its Governance*) points to **two main research questions**: What is the **nature of the risk posed by maritime terrorism and piracy** as discussed in the context of maritime security? We can observe *different but also overlapping regimes of governance* in the context of these two types of maritime violence. What **governance defense measures** are being deployed, and are they suitable? *Using case studies, the following analyses how both phenomena are being countered on a global level. The study investigates both state and private security governance measures against maritime terrorism and piracy.*

To answer the main research questions, the work will start with the following subquestion: What **risk model** can be developed from **risk theory** and subsequently employed in this study? Can terrorists and pirates be understood as **social movements**, and if so, what are the possible benefits and limits of this approach? What conclusions can be drawn?

Because there have been few well-known maritime attacks in the past, the relevance of maritime terrorism is a matter of dispute. Some scholars view the phenomenon as exaggerated, whereas others consider it highly relevant. Lehr (2009: 55) observes that while there has been much hype around maritime terrorism, and while "maritime terrorism nightmare charts" (ibid: 57) fuel the threat perception, in fact there have been few such attacks and little impact overall. Bateman (2006: 80, 87, 91) likewise maintains that the high international interest is unjustified and that the maritime transport industry's level of concern is not proportional to the real dangers, such that the high costs are unjustified. By contrast, other scholars argue for the relevance of this field. Alexander (2009: 1, 16-17, 23-24), for example, suggests that the maritime domain is becoming increasingly attractive to terrorists and that the many different kinds of attacks make it imperative for states to cope with these different strategies by developing fitting responses. Onur Bakir (2007: 6) likewise emphasizes that "seaborne terrorism poses an unignorable threat" and that as terrorists further develop their maritime capacities, the threat continues to grow, especially the threat from al-Qaeda (ibid).

The following **sub-research questions** will be considered in Chapters 3-12:

What is maritime terrorism, and how **relevant** is it? Is the number of terrorist groups in the maritime domain too low to justify directing valuable **resources** to defense mechanisms? What are the **characteristics of the relevant actors and attacks** (the motives, methods and regional distribution of the terrorist groups)? How relevant are these groups **today**? Are the relevant **governance measures tailored** to the characteristics, motives, methods and regional distribution of the terrorist groups?

Other broader sets of **research questions** are examined in the following parts of the book:

The emergence of the transnationalization of the risk of violence, such as 9/11, created the need for **new mechanisms** to counter such tendencies. Does the new smart sanctions system of the UN (and consequently the EU) of placing people and organizations on or removing them from its **blacklist** conflict with human rights standards if we take into account legal and legitimacy considerations?

Why is **Germany** not taking the initiative and acting more as a leading figure in **maritime (trade) security related to the Indian Ocean Region** (within the framework of international organizations)? How **relevant** is maritime security in the IOR to Germany, and how is this reflected in **domestic** German politics and its **international** engagement?

The **legal regulation of private military security companies** (PMSCs) has become necessary due to the need to protect maritime trade from pirate attacks and hijackings. In order to prevent rogue firms from arising, minimum standards, as well as reporting and surveillance possibilities, have been created. Has Germany's **licensing procedure**, taken as a case study, fulfilled the hopes of ship owners, captains and scholars regarding an **effective and efficient controlling procedure**?

Since November 2010, ten **Somali pirates** have been tried at the Hamburg District Court. During this process, the extent to which **patterns of justification** were being sought to legitimize their acts became increasingly evident. The analysis of pirate attacks worldwide and of the proceedings (as well as the empirical and theoretical analysis of the "Robin Hood Narrative") should answer the following questions: How has the **number of attacks and hostages taken by modern pirates evolved** over the past several years in the **different world regions**? What **motivates Somali** pirates? Should the crews of maritime vessels traversing the maritime area put their lives at risk, and should they be **held liable for injustices caused by others**?

To sum up, the **research questions can be used to determine** the **risk** model factors developed later in Chapter 3. The determination of risk is based on the assumption that the damage potentials of piracy and maritime terrorism are defined by vulnerabilities on the side of the victims (passage in high-risk areas, relevance of vulnerability of ships/crews/passengers, trade, ports and coastal areas), alongside the capacities of the attackers (numbers, characteristics, methods). The probability of damage, however, depends on the perpetrators' specific motivations (motives, narratives, group dynamics and messaging) and their respective opportunities (regional distribution, national/international governance measures, private security teams, smart sanctions, prosecution). This can contribute to the **evaluation of the security governance measures** undertaken to reduce levels of damage, as well as the probability of potential dangers due to current pirate activity and maritime terrorism (see chart 40 in final chapter).

With regard to the study's **theoretical frameworks**, the concept of *security governance* is used to map governance actors and actions. This framework is complemented by *risk theory*, also with reference to concepts of security and securitization. *Social movement theory,* complemented by other concepts from the fields of philosophy, sociology and psychology, are used in the search for a common conceptual roof for terrorism and piracy. *Justice theory* has been central to Somali pirates' discussion of legitimization.

The study's **methodology** was chosen with the goal of having an impact on the breadth and depth of policy-forming and stakeholder involvement in mind. It is based largely on an *analytical-empirical approach, combining quantitative and qualitative approaches in a mixed method approach to comparing* databanks, listed events and perpetrator groups, analyzing the development of piracy incidents and threat scenarios, and assessing governance initiatives and actors, including through theory-oriented *case studies. Legal case analysis methods* were used in the interpretation of laws and judgments. All of this is based on the evaluation of *primary and secondary sources,* complemented by *interviews with relevant stakeholders and the modelling* of a risk theory model and an ocean governance model (see also Chapter 2, "Reflections on Methodology").

One reason for choosing a combined empirical and analytical approach was to counter the fact that "[h]istorically, the study of terrorism has suffered from a general lack of empirical data and statistical analysis" (LaFree/ Dugan/Miller 2015: abstract).

The debate on maritime terrorism is linked to debates on other forms of terrorism, but it also has certain connections to the debate on piracy. The state is represented particularly strongly in this field, with non-state actors, with few exceptions, being the primary recipients of governance efforts. A broad spectrum of incidents is discussed and scenarios are developed, including the role of non-state actors in the prevention of attacks. While only a few incidents have taken place, states have continuously expanded their efforts relating to maritime terrorism

alongside other (anti)terrorism efforts. Maritime terrorism thus provides an example of a comprehensive, preventive regime in governing security threats – even if the threat potential seems low. The same holds true for piracy. Although the number of incidents is higher, the impact is lower. Nevertheless, a vast number of measures involving state and non-state actors have been put in place to bring these crimes under control.

The **structure of the work** is as follows:[8]

After reflecting on methodology in **Chapter 2, Chapter 3** discusses the definition of maritime terrorism and how the phenomenon has developed in the modern world.[9]

Chapter 4 explores risk theory and outlines the risk model employed in the study.

Chapter 5 applies social movement theory to piracy and terrorism as a common conceptual roof. This study is the first to apply social movement theory (an approach more commonly applied to terrorism) to piracy. The chapter outlines the possible benefits and limits of using social movement theory to understand the cases of Nigeria and Somalia and further includes perspectives from other conceptual frameworks from philosophy, sociology and psychology.

The **Chapter 6** provides an explanation of the problems associated with the available data on terrorist attacks. **Chapter 7** then provides a categorization of the distinct groups of perpetrators, and a discussion of the results generated from the data is provided in **Chapter 8**.

Chapter 9 will present an overview of the most relevant perpetrator groups.

Chapter 10 then introduces an independent study of recent trends in global maritime terrorism (2010-2017) using a single database, the GTD, and outlines current perpetrator groups and attack characteristics.

Chapter 11 concentrates on typical scenarios developed from the case studies and compares them to other theoretical and plausible scenarios.

In order to outline the governance structures that have been developed to date in the area of maritime security, an overview of defensive measures that have already been implemented is provided in **Chapter 12**.

Chapter 13 broadens the research focus by looking at the practice of using terror blacklists for individuals and organizations in the context of a smart sanctions regime by the United Nations (UN) and European Union (EU) as a governance measure and the legal and legitimacy issues that arise from this.

Chapter 14 bridges the parts of the book that deal with (maritime) terrorism and the parts that deal with piracy, showing how both topics are included in the duties of authorities. "Case Study: The German perspective" is presented as an example of how actors cooperate in the

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[8] Chapters 1, 3-4, 6-9, and 11-12 are based on translated and extended versions of Schneider 2011a, Ehrhart et al. 2013, 2013a, 2013b, and 2013c, and Schneider 2013, 2013a, and 2013b; Chapter 10 will be published as Schneider 2020; Chapter 13 is based on Schneider 2014a; Chapter 14 is based on Schneider 2012b; Chapter 15 is based on Schneider 2014b; and Chapter 16 is based on Schneider/Winkler 2013 and Schneider 2013b, as stipulated in the declaration in the appendix.

[9] Earlier versions of (the part on risk and globalization in) the third and twelfth chapters on defense measures are found in German in: Ehrhart/Petretto/Schneider (2010) and are sections entirely written by Patricia Schneider. Some of the results on maritime terrorism were published in an English article (Schneider 2013c). The chapters have been partly revised and amended.

maritime security arena within a single state and considers possible explanations of Germany's deliberate restraint when it comes to taking on a more active role in the international community.

Chapter 15 focuses on private security companies at sea, again using Germany as a case study insofar as it has adopted the most sophisticated legal framework for regulating them thus far. This may serve as a role model for others in the future, although not all concerns could be sufficiently addressed.

Chapter 16 turns to the causes of piracy and looks at the justification patterns of Somali pirates, using justice and peace theory, before considering the Hamburg Pirate Trial as an example of the problems arising from prosecuting pirates in the ship owners' countries.

Finally, **Chapter 17** provides a comprehensive summary of the various points raised throughout this thesis and seeks to consolidate the insights gained so as to draw conclusions that might prove valuable for the drafting of future policies pertaining to maritime security. The conclusion contains a section on the relevance of maritime security for German's policy and research landscape and presents an Ocean Governance model.

Assessing and tackling the risk that pirates and terrorists pose to maritime trade were the objectives of the interdisciplinary **research project PiraT**.[10] As part of this project, the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) dealt with issues related to security policy. Within the framework of the project, several working papers aimed to provide a political and historical analysis of piracy.[11] This book presents the results of this research in the area of maritime terrorism and certain aspects of piracy.

To this end, this study expands on previous publications and translated articles by the author (many of which were written during the project) and contains additional chapters and new or updated sections, including bridge passages to complete the picture. The alternative option of writing a volume consisting of a selection of articles and a new introduction would not have allowed for the kind of sustained study that this book provides – one that can be amended, completed and brought up to date. Where material is taken from co-authored works, the study

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[10] The joint research project "Piracy and Maritime Terrorism as a Challenge for Maritime Trade Security: Indicators, Perceptions and Options for Action" (PiraT) was launched in April 2010 and ran until December 2012. The interdisciplinary endeavor combined political, legal, economic and technical perspectives for developing a comprehensive approach to maritime violence. Alongside the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), which led the project, the German Institute for Economic Research (DIW), the Hamburg-Harburg University of Technology (TuHH) and the Bucerius Law School (BLS) were involved. The Institute for Strategic Future-Analysis (ISZA) of the Carl-Friedrich-von-Weizsäcker Foundation was granted sub-contracts. Associated partners included, i.a., the German Shipowners' Association (VDR), the German Insurance Association, JWA Marine Ltd, the German section of the International Chamber of Commerce (ICC), the Criminal Institute of the German Federal Criminal Police Office (KI-BKA), and the trade union of the German Federal Police (GdP). The Federal Ministry of Research and Education (Bundesministerium für Bildung und Forschung, BMBF) provided a grant of just under one million euros to the project group within the framework of the German government research program for civil security "Securing the Commodity Chain." The wording of the project description can also be found in the abstracts/executive summaries of our PiraT-Working papers (Ehrhart/Petretto/Schneider 2011).

[11] Jopp and Kaestner (2011) occupied themselves with a historical observation of the Barbary States along the Mediterranean. Maouche (2011) analyzed piracy along the Gulf of Aden with special focus on Somalia's domestic issues, and Petretto (2011) analyzed the contemporary period of piracy on the basis of case studies on the Gulf of Guinea, the Gulf of Aden/Indian Ocean and East/Southeast Asia.

includes only those parts written by the author herself (otherwise, the material is set in quotation marks and cited fully). The text provides a clear indication of which parts were taken from which source throughout (see the detailed list at the end of the work). The databank created as a basis for this study on maritime terrorist attacks is not copyright protected and only uses open access data. It has been created as an Access Microsoft Office file and can be made available at any time.

The next section lays out the details of the research perspective that informs this study, including information on the process of knowledge acquisition it employs and its limits.

II   REFLECTIONS ON METHODOLOGY

In the following, this reflection on methodology will clarify the author's research perspective, outline the study's mixed method approach, its use of case studies and elite interviews, and its chosen modelling method.

1   Clarifying the Author's Research Perspective

The purpose of this section is to critically examine and clarify the author's research perspective. It would be dishonest, or perhaps an expression of self-deception, to deny the location-bound nature of all scientific inquiry.[12] Origin, gender, age, disciplinary background, research setting and other contextual factors can influence research decisions and interpretations. It is thus impossible to rule out subjective elements altogether. This is precisely why it is important to address the research perspective that underlies this study as an introductory theme. This perspective can largely be described as a political science approach with the following characteristics:

1)   It aims to describe and explain its subject of investigation in a systematic and verifiable manner, using empirical-analytical methods.

2)   It aims to have theoretical merit, in the sense of resting its conclusions on as broad an empirical basis as possible. The theoretical framework developed in this study can, of course, only capture partial aspects of "reality" by determining partial truths from the-oretical-analytical processing. Further limitations result from the fact that the data situation is problematic; all derivations or conclusions drawn from the data are subject to the proviso that they apply only if the data are correct and correctly interpreted. The derivations must therefore be followed with caution, and the limitations resulting from the data situation must be kept in mind.

3)   It aims to adhere to the strict separation of analytical-empirical findings and value judgements without in any way excluding evaluations if they are marked as such.

4)   Its epistemological interest lies in promoting a peaceful and collaborative governance approach to countering and preventing maritime violence and to restoring and preserving good order at sea. Its underlying value orientation thus lies in the normative tradition of liberal peace research.[13] Despite this value orientation, however, this work takes a strictly scientific approach. In addition, it develops an optimized concept of ocean governance from a normative and conceptual point of view.

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[12]   This section draws on a similar outline by the author in her doctoral thesis (Schneider 2003 143, 149).
[13]   See Michael Brzoska et al. or Patricia Schneider, Fanglu Sun and Steve Wood for a discussion of liberal peace strategies (Brzoska et al. 2019; Schneider / Sun / Wood 2019).

5) In keeping with this orientation, this approach does not limit itself to establishing the facts, both positive and negative, and explaining them theoretically. To the contrary, it offers conceptual policy proposals for remedying structural deficits. Rather than being based on arbitrary preferences, these proposals are oriented toward the given political context so as to offer realistic options.

The policy-oriented nature of this study can also be explained by considering its genesis. Part of its fabric was designed for the interdisciplinary research project PiraT, which aimed to develop a comprehensive approach to maritime violence. The project was funded within the framework of the German Government Research Program for Civil Security, which explains its focus on policy (see chapter I). Nevertheless, this book takes the results of the project as a starting point from which to expand. The deeper analyses and problematization of the empirical data (including new data), further case studies, additional theoretical concepts (including the first application of social movement theory to maritime violence), and the discussion of their implications for ocean governance are intended to advance the scientific debate.

6) The policy orientation of this work is based on the prior analysis of qualitative and quantitative data. This is because the study aims to take and further strengthen an evidence-based approach to policymaking. At the same time, it cannot be denied that perception plays a major role in security and policy issues and will continue to do so in the future. This is one reason why the experiences of practitioners were also relied on. This dilemma cannot be resolved completely and requires ongoing debate. When deciding on security measures, the focus is on preventing useless symbolic acts, wasted resources, and the unintended harmful consequences of state actions in the pursuit of certain courses of governance. At the same time, it is important to address the threat perceptions and needs of the various stakeholders in an inclusive manner. Both aspects – perception and facts – must be taken into account. The analysis aims to make a contribution to this. This is why this work relies on a mixed method research approach (see the following sections). Its goal is to incorporate the strengths of qualitative and quantitative methods and different theoretical frameworks (securitization, risk, governance, justice and social movement theories) to gain insights that are as numerous, valid, and as relevant as possible so as to mitigate the dilemma.

In the following, this reflection on methodology will continue in sections that outline the study's mixed method approach, its use of case studies and elite interviews, and its chosen modelling method.

2   A Mixed Method Approach

To answer the research questions and to test the hypotheses, a mixed method research approach was used for this work.[14] Udo Kuckartz understands mixed methods to be the combination and integration of qualitative and quantitative methods within the same research project (Kuckartz 2014: 33). Johnson and Onwuegbuzie (2004: 14-17) highlight the character of mixed method research as a third research culture and a practical and outcome-oriented method. Flick (2011) points out that that a mixed method approach can also include the combination of different theoretical perspectives.

The advantages of this approach, sometimes also called triangulation, are: The combination of the strengths of quantitative and qualitative approaches, while avoiding their weaknesses, will provide a better understanding of research problems and a firmer base for insights than either approach alone. The results should, therefore, be more comprehensive (Pickel 2009: 517ff.). The mixing of methods should lead to more robust, more generalizable results and allow for perspective-rich access to the object of study (Thaler 2015: 9). Schoonenboom and Johnson (2017: 110 explain: "[i]n all studies, the use of mixed methods should contribute to answering one's research questions. Ultimately, mixed methods research is about heightened knowledge and validity". Johnson and Onwuegbuzie (2004: 21) illustrated this in the following way: "Words, pictures and narratives can be used to add meaning to numbers. Numbers can be used to add precision to words, pictures and narratives. (...) [Used together they can] produce more complete knowledge necessary to inform theory and practice."

The disadvantages of this approach include: A mixed method approach is more costly and time-consuming. The researchers need knowledge about several methods and have to apply them without undermining the standards (Pickel 2009: 522). Therefore, "mixed methods designs are characterized by their complexity" (Schoonenboom and Johnson 2017: 122), also depending on the interdependency of their components (ibid: 123). The level of validity and generalizability depends on the appropriateness of the chosen research strategy e.g. with respect to sampling and case selection (Baur, Kelle and Kuckartz 2017: 20).

However, from a pragmatic approach, one can argue that the field of peace and conflict research is normatively too important and the social phenomena too much in flux and dynamic to have its results reduced to one method. "As we study the motivations and behaviors of violent individuals, groups, and states, it is beneficial to use all the methods at our disposal to understand violence and conflict and to work toward the normative goal of reducing the incidence of violence" (Thaler 2015: 1).

Therefore, I aimed to incorporate the strengths of different methodologies, in order to gain as much insight with as high a validity and relevance as possible. Despite the statistically low number of maritime terrorist attacks and the problems associated with the use of databases, certain empirical trends can be identified. These will be presented in later chapters, although their accuracy cannot be guaranteed. As the following will make clear, any extrapolation of these trends into the future is not without its own risks.

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[14]   I would like to thank student assistants Klaas Anders and Victoria Donnerbauer for their help when it came to researching the literature for sections 2-5 of this chapter.

In the following, I will highlight the most important strengths and weaknesses of the methods used and the reasons to use them. As correct use of the quantitative data collection and descriptive statistics will be problematized in the chapter dealing with the databases, I will concentrate on outlining case studies and expert/elite interviews.

3   Case Studies

"Case study research is one of the principal means by which inquiry is conducted in the social sciences" (Thomas 2011: 511). A case study refers to a unit of analysis and considers, for example, an event, such as a political program, an election, a revolution, a conflict, within its context (Jahn 2013: 325). Boundaries define the case by spatial, temporal, personal, organizational and other factors (Thomas 2011: 512).

The advantages of this approach include: Case studies enable a dialogue between ideas/theories, hypotheses and empirical evidence. The holistic view can incorporate historical reasons as well as culture-specific aspects into the investigation. The practical relevance of the cases can lead to the effect that the outcome influences politics, science or other problem areas. Case studies need comparatively few resources, are flexible and can be changed at short notice and are, therefore, practical for the implementation of research projects (Jahn 2013: 324). Furthermore, the particular strength of the case study is that it can present the outcome of the political process in a multifaceted and detailed manner (Blatter, Langer and Wagemann 2018: 184).

The disadvantages of this approach include: The selection of cases to investigate causal relationships remains a challenge (Blatter, Langer and Wagemann 2018: 215). Also, the (subjective) perception and interpretation of a case is influenced by the theoretical, methodological, empirical and cultural experiences of the researcher. These can lead to misperceptions and should, therefore, be taken into account. Last, but not least, by focusing on one case, the degree of generalization of case studies is very limited (Jahn 2013: 324, 326, 338).

Case studies aim at causal conclusions and explanations (Muno 2009: 122). That is why cases studies were used several times in this work. I will now outline the distinction between the subject and the object of the cases and clarifiy the purpose of the studies.

Different types of case studies were used for the second part of this book. The case studies were carefully selected and used to comprehensively analyze and explain the outcome of a political process. In the first case study, this was problem-centered for a newly introduced UN legal instrument, called blacklisting, also affecting EU policy. This was also the case for the study of new reglations for Private Security Companies at Sea. The German case study, a country study of the Somalian case, was selected as a crucial case for modern piracy and was more theory-oriented. The studies are limited by the theoretical, methodological, empirical and cultural experiences of the researcher. However, by explaining the risk and governance framework, as well as grasping phenomena as *social (movement) phenomena with the first case studies of Nigeria and Somalia* (Chapter V), the author tried to make the boundaries of her research as explicit as possible. Furthermore, as is typical for case studies, spatial, temporal and organizational restraints remain and their selective nature limits the generalization of the findings.

The second case study is in Chapter XIII on "Terror Blacklisting and its Deficit". It focuses on the emergence of the transnationalization of the risk of violence and the new mechanisms

targeting individuals to counter such tendencies. It analyzes the listing procedures, various judgements and complaints. All cases were used to derive political recommendations.

In Chapter XIV, the "Case Study: The German Perspective" is a country study. Country studies are a special category of case studies. They can have added analytical value by providing essential background information about a country and as an important source of inspiration for research. In case analysis, various strategies, such as process tracing and the combination of causal relationships and detailed narratives (analytical narratives), are possible (Jahn 2013: 333-336). The German case study is an analytical narrative of German security governance initiatives, which have put a large number of coordinating structures and mechanisms in place in order to limit the risks of maritime terrorism and piracy. It traces German initiatives, the actors and the development of policies, with respect to the Indian Ocean Region, as a case study to analyze the challenges of maritime security governance for national and international regimes.

Chapter XV problematizes the case of "Private Security Companies at Sea". It traces the developments and reviews the challenges of regulation efforts of the German legal licensing procedures. These represent an extreme case, being one of the most far-reaching sets of regulations worldwide. They are analyzed in the international context.

In Chapter XVI, "Somalian Piracy: Empirical Obervations, Justifications Patterns and Trials", we do find two case studies included. Somalia was selected as a country study because it is, in the author's opinion, a crucial case. It is a symbol of modern piracy because the Somalian model of piracy disrupted international trade more than previous models did. The chapter is divided into three parts. An overview of the empirical developments of pirate attacks worldwide is followed by a case study on the justification patterns of Somali pirates and a study of the judicial case, and finally, an analysis of the court proceedings against Somali pirates in Hamburg, including trial observation. The empirical analysis of pirate attacks is put in relation to the risk model from Chapter IV, just as was done in the previous chapters on maritime terrorist attack patterns and groups.

While most of the above-mentioned case studies are, despite being framed by risk and governance theory, mainly of an illustrative nature and process-oriented to be able to answer the research questions. The case study, looking at the motivation and justification patterns of Somalian piracy, is more theory-oriented. A theory-oriented case study "is the descriptive interpretation of complex real developments, in which the empirically determined facts and relationships are explained theoretically" (Muno 2009: 122, author's translation). For a theory-oriented interpretative case study, the case is selected in accordance with the interest in the case and not for the purpose of formulating a general theory. However, the case is interpreted on the basis of a theory. The theories serve to explain cases (Jahn 2013: 332) This case study challenges the thinking of legitimate acts of maritime violence and the Somali Robin Hood Narrative using the lenses of Justice theories and Irregular Just War Theory. In that sense, also the earlier Chapter V is theory-oriented with the aim to theorize maritime violence by applying social movement theory to terrorism and piracy in the cases of Nigeria and Somalia.

As has been shown, though the case study definies what is studied, this itself is not a sufficient methodological choice. One of the methodologies employed within the case studies used expert/elite inteviews, which will, therefore, be explained below.

4   Elite Interviews

An expert or elite interview is characterized by the fact that an interviewed person is assigned a specific position and concrete expertise. However, experts are not necessarily self-actors in the field, but may just as well be journalistic or scientific observers of the same. Guideline-based interviews can help to structure the process and compare the answers (Blatter, Langer and Wagemann 2018: 52, 54). Expert interviews can provide three different forms of knowledge: (a) operational knowledge about processes, rules and mechanisms in institutionalized contexts; (b) interpretation knowledge; and finally (c) contextual knowledge about other areas at the center of the study (Przyborski and Wohlrab-Sahr 2008: 121).

The advantages of this approach include: The expert can serve as an access medium to the organization and its representative and help to generate new knowledge that would not be possible to acquire without expert interviews. The expert knows background stories of developments and what rules apply, even where these rules are not formalized and may even conflict with formalized rules (Przyborski, Wohlrab-Sahr 2008: 119-120). A reflection process begins by considering the results of expert interviews, (Pickel 2009: 526). Interviews with observers of the field can be particularly suitable for testing the findings acquired in the course of the research process, to challenge them, supplement them or interpret them together (Blatter, Langer and Wagemann 2018: 53).

The disadvantages of this approach are: The key difficulty in interviewing experts is finding those people who actually have the appropriate expert status and knowledge (Przyborski, Wohlrab-Sahr 2008: 121). In addition, the information and knowledge advantage of the interviewees is often so great and the social or political position sometimes so exposed, that the balance of power in the research situation is more or less strongly influenced. Therefore, thematically intensive preparation is an important prerequisite for productively interviewing experts, not only to appropriately introduce oneself and the topic and to ask "good" questions, but also to present oneself as a serious, professional interlocutor (Blatter, Langer and Wagemann 2018: 55). The interaction effects can be seen as interfering or as productive elements. This presents special challenges to the sensitivity of the researcher to deal with the fact that the interview partners do not generally communicate in a neutral way, but can be influenced by assumptions, prejudices and such. It is not only the selection of the experts (including gender aspects), but also the "quality" of the experts and the interests of both parties, which have to be considered when judging the validity of results (Bogner, Litting and Menz 2009:7-10).

Expert interviews were mainly used for two case studies: For Chapter XIV "Case Study: The German Perspective" and for Chapter XV "Private Security Companies at Sea". One of the reasons for choosing the case studies was that the experts were accessible for the author, due to her networks and language abilities. The interviews with relevant stakeholders proved to be useful for testing and discussing the findings acquired in the course of the research process. They were also an important source of information, because it became evident during the course of this study that information pertaining to the roles, tasks and competences of relevant German actors was not easy to get. There are only a few open sources that describe the roles and tasks of German actors in sufficient depth. Moreover, the situation is currently in flux. Thus, it was, necessary to complement the secondary literature and limited primary documents with anonymized, guideline-based interviews with stakeholders (by phone, mail or in person).

When statements in the work are based on information from interview partners, this was indicated in the text.

5   Modelling

The author works twice with methods of modelling: for the risk model as a frame for the study and for the asessment model at the end of the study.

"Theoretical models belong to the standard instruments of political science" (Martin 2009: 37, author's translation). Thereby, modelling is understood as being analytical-explanatory, revealing plausible systematic causal relations. It abtracts from the reality by isolating the relevant components for the research question and by limiting influencing factors. Through its connection with empirical evidence, the model gains relevance and the ability to assess its validity (Martin 2009: 38-39, 41, 51).

The advantages of this approach include: A model serves as a "simplified representation of reality … to reveal the essence of what is going on" (Varian 2016: 82). This simplification helps to make reality accessible for scientific analysis (Martin 2009: 40).

The disadvantages of this approach include: Models can be criticized as being too simple, having unrealistic assumptions or not disclosing underlying assumptions. Whether a model is too simple mainly depends on whether valuable and checkable results, with emprirical implications, are produced (Martin 2009: 40, 42). For the future, it can be expected that, due to the improvement of available software, computational modelling will grow in importance for modelling complex political and social processes (Siegel 2018: 14f.).

Piracy and maritime terrorism are discussed in this study as risks. Essential factors were previously identified through a literature review and empirical studies. For the outlined risk model in Chapter IV, quantitative and qualitative parameters were combined and aspects referring to contexts related to actors and situations were incorporated. Vulnerabilities and capacities are particularly taken into account. The creation of indicators followed four categories: the damage potentials of piracy and maritime terrorism are defined by a) vulnerabilities on the victim's side, alongside the b) capacities of the attackers. The probabilities of damage occurrence, however, are a result of c) the perpetrators' specific motivations and d) their respective opportunities. The model aimed to help with the development of options for actions to coordinate key state and non-state actors. The operationalized indicators stem from the three disciplines - political science, law and economics. The reference object is "maritime trade", in general, and has some "reference to Germany" in particular.

At the end of the book, a model of ocean governance as an assessment framework is provided. It proposes the model for the integration of different maritime crimes into an optimized comprehensive ocean governance framework (see Chapter XVII, chart 41). However, "no assessment model or framework is value-free or neutral and all are value-based" (Statham /Kearney 1991:102). The model is based on values and policy definitions as outlined by EU and UN declarations and obligations, based on the rule of law. To do so, the following categories were developed: To enhance the understanding of the phenomena in a larger context than just maritime violence, the examination of four different dimensions was able to derive patterns

and trends of maritime crimes on spatial, societal, functional and material dimensions. Learning from the risk model, the governance measures can be assssed and classified under economic, political and ethical-legal perspectives.

The author proposes that the appropriateness of ocean governance measures could be judged in four dimensions: legitimacy of purpose (legitimer Zweck), suitability (Geeignetheit), necessity (Erforderlichkeit) and adequacy (Angemessenheit). More case studies of formal and informal mechanisms, also of regional ocean governance and various standards declared by the actors, should be carried out. This could test the validity of the model.

6   Conclusion

"Always keep in mind that methods are only a means to an end, not an end in itself" (Muno 2009: 122, author's translation). Using whatever works for the epistemological interest and to answer the research question is the pragmatic researcher's motto.

Chapter II, therefore, presented a mixed method approach to answering the research question. According to a pragmatic understanding of research, this prevents a narrowing of the methods used, which would be unacceptable for the research subject of (maritime) violence and governance efforts and its normative relevance.

By using a mixed method approach, the research topic could be viewed and analyzed from different angles. Neither a purely qualitative nor a purely quantitative method could have achieved the same result.

The empirical methods used statistical descriptions to analyze terrorist and pirate attacks, which are put in relation to the risk model from Chapter IV and the framework of maritime security and its governance. The transition of empirical data into a social construct was done in order to expose challenges.

The work is, therefore, based on a qualitative examination of the secondary literature and on analyzing political trends, as well as institutional patterns and processes. The secondary literature uses stems from the scientific discourse and reflects the contemporary development as well as its most important core elements. These were the starting point for the questioning of some beliefs and developing the field further. It includes a breadth of empirical methods to support the arguments, from quantitative data collection and descriptive statistics to interviews and trial observation. The data for the quantitative analysis could not be collected in the course of the work itself, so it was based on appropriate, comprehensive databases that were as accurate, as possible. This made it possible to investigate the research question and explore the subject of research, while ensuring the quality of the data and, thus, of the work. The analyzed quantitative data covered as much time as the datasets allowed.

The purpose and the scope of the various case studies in the second part of the book were clarified in this chapter to explain their appropriateness and relevance for understanding the research subject. The individual (country) studies cannot, however, be used for generalization, but rather for analyzing and explaining the dynamics of a political process in a comprehensive manner, complementing the empirical data, although limited by its usual spatial, temporal, personal and organizational boundaries. It was the goal to present patterns of action by relevant actors to learn more, from a political science perspective, about these social phenomena and

governance frameworks and to derive political recommendations. Expert interviews were carried out for the case studies to acquire necessary information as well as to confirm or challenge the previous findings and reflect on them.

As one of the standard instruments of political science, a model was developed at the beginning of the study to frame the risks of maritime violence and to facilitate the research process. It included quantiative and qualitative context-related parameters to achieve valuable results. It made the underlying assumptions explicit, which framed the research questions and hypotheses.

As an outcome of the study, a second model of a diffferent nature and for a different purpose was developed. It is meant to enhance the quality of understanding, but also to serve as an assessment framework of ocean governance policies. The author outlines the underlying values and research dimensions with some similarities to factors of the risk model. The model is an advancement and consistent further development resulting from the risk model, social movement theory and maritime security governance into a broader Ocean Governance Framework. However, to test the validity of the new model, more individual and regional case studies need to be carried out and should focus on the interdependence of patterns and measures, the assessment of appropriateness and the need for optimization for improved courses of action.

The next chapter will deal with the concepts of piracy and maritime terrorism.

III   MARITIME TERRORISM AND PIRACY: DEFINING THE PHENOMENA

The phenomena of piracy and maritime terrorism are subsumed under the general term of maritime violence, but each describes a different concept. The problems remains that there is enduring difficulty in distinguishing terrorism and piracy from other forms of crime and violence. Both types of activities can be placed on a continuum of illegal maritime behavior. Other phenomena in the category of illegal activity at sea would be, for example, trafficking/smuggling of drugs, arms, or people, illegal fishing, waste dumping or water pollution. As piracy and maritime terrorism potentially involve (the threat) of direct violence against humans, they contribute to the corrosion of maritime law and order even more strongly than the aforementioned crimes, making maritime security governance that strives for good order at sea a necessity. Moreover, they are currently perceived as politically relevant and are a cause for a number of political actions, another reason to concentrate on these phenomena.

In addition to that, most often neither of these two phenomena are excluded from the duties of authorities as will be outlined later (see chapter XI). This is because they use comprehensive terms to describe their tasks.

Therefore, I concentrate on both of these phenomena in this study and define sea piracy and maritime terrorism as maritime crimes, which are usually delineated along their motives.

With *piracy*, the separating line is usually that there are no further motives behind the crime, other than economic ones. However, in certain cases of piracy, one could also argue that these acts of piracy could be the expression of a socio-political disposition (see discussion in chapter XIV).

The definitions of terrorism and piracy have to be chosen in a way that work with the databases are possible, meaning that they will have to comply with their main principles. For example the IMB Piracy Reporting Centre which data I will use in chapter XIII follows the definition of piracy in the United Nations Convention on the Law of the Sea (UNCLOS).

The **piracy definition** of UNCLOS (article 101) is most commonly used:
"Piracy consists of any of the following acts:
  (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
  (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
  (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)."

However, as this definition does not include armed robbery against ships, which can occur within the internal waters and territorial sea of a coastal state, it is common practice to address the phenomenon by using the term "piracy and armed robbery". If the term piracy is used in this book it also includes armed robbery against ships, which constitutes an offense under the

1988 SUA Convention.[15] In this study, I use the term piracy as a synonym for "piracy and armed robbery". However, the relationship between political motivation and profit motivation and the law applicable to maritime terrorism and piracy remains contentious.[16]

There are suggestions that 'piracy' should be defined so that it includes acts of terrorism, through, for example, a broad definition of 'private gains'. This would clarify legal issues and allow for more effective law enforcement (cf. König et al. 2011, 23). [17] However, this is not done in this study.

Although it is hard to define both concepts, it is even harder to define terrorism. However, a generally accepted definition of terrorism is still lacking and it is still argued that one man's terrorist is another man's freedom fighter.[18] Giessmann (2013b) points out, that "[s]ometimes it is also difficult to separate legitimate resistance from intentional provocation and criminal activities" (p. 64) and that "equating armed resistance against state rule with terrorism is too simplistic" and causes problems in capturing human rights violations in non-international armed conflict (p. 69).

Decades of debates on typologies and definitions "have not enhanced our knowledge of the subject to a significant degree" (Laqeur cited in Hoffmann 1998, 39). Alex Schmid (Schmid 2011) listed 250 academic and political definitions of terrorism in a serious effort to find an academic consensus. He concludes with the following definition: "Terrorism refers on the one hand to a doctrine about the presumed effectiveness of a special form or tactic of fear-generating, coercive political violence, and on the other hand, to a conspiratorial practice of calculated, demonstrative, direct violent action without legal or moral restraints, targeting mainly civilians and non-combatants, performed for its propagandistic and psychological effects on various audiences and conflict parties" (Schmid 2011, 86).

The main characteristic of *terrorism*, as a working definition tailored to the needs of this study (with additional elements described below), is that its threat or use of violence aims to

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[15]   Petretto states that piracy commonly shows the following features: "The act of attacking or precipitating an attack on a ship, carried out by private (i.e. non-governmental) actors, whether within state territorial waters or on high seas. The primary intention of the attackers is to achieve material gain. The term is used as a generic category for various offenses ranging from theft and armed robbery to kidnapping, manslaughter and murder, all, however, taking place in the maritime arena" (Petretto 2011, 14; translated from German).

[16]   See, for example Tanaka 2015 and Guilfoyle 2014. They suggest that 'piracy' could be defined so that it includes acts of terrorism, through, for example, a broad definition of 'private gains' if one considered private not as a conceptual contrast to political, but rather to state sanction or authority. For example, Douglas Guilfoyle stresses that the suppression of unlawful acts against the safety of maritime navigation convention simply prohibits a range of violent acts associated with terrorism (without specifying a required terrorist motive), therefore "a pirate may be guilty of a 'terrorist' offence" (Guilfoyle 2014: 46) and a "wrongful course of conduct may be characterized as more than one offence" (ibid: 52).
Gerry Simpson (2007) points out that pirates and terrorists have in common that they are both outlaws labelled as hostis humani generis with pirates being the original enemy of mankind and international terrorists the latest. Their hostility against more than one sovereign resulted in (police) enforcement actions and a universal jurisdiction against them. He criticizes this as extra-legalism and argues that the outsiders are used to strengthen the sense of community. Tanaka argues instead that because pirates have been considered enemies of all mankind, "the suppression of piracy can therefore be considered as a common interest of the international community" (Tanaka 2015: 378). The same could apply to terrorists.

[17]   Arguments to define terrorism as akin to piracy are to be found in Burgess (2010). Categorizing Piracy and Terrorists as combatants is not instrumental and is therefore rejected (cf. Neuman/Salomon 2011).

[18]   For an overview of relevant definitions in the history of international law, see Saul (2005: 57-83). Furthermore, the most important UN-documents regarding the issue at hand are the UN-Conventions against the taking of hostages (1979), for the suppression of unlawful acts against the safety of maritime navigation (1988), for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf (1988), for the suppression of terrorist bombings (1997), for the suppression of the financing of terrorism (1999) and for the suppression of acts of nuclear terrorism (2005).

bring about political and or public change or advance political and ideological interests through the imposition of psychological pressure established through terror. This change is inspired either through the creation of fear, concussing public systems, destroying public faith in government or attracting media attention in order to exert pressure for political action.

Acts of maritime terrorism are, thus, also defined according to where they took place, just as a differentiation is made between air and sea piracy or between fighting on land, at sea or in the air.[19] For example, if an attack is launched on a harbor facility, a sea route (blocking it by sinking a ship), on an oil rig or on a ship (hijacking a passenger or cargo vessel) as part of a political aim, it can be described as maritime terrorism. While these cases are indisputable, there is widespread disagreement as to how far the definition of maritime terrorism can be extended. The main differentiation between terrorists and pirates are their motives, which are either politically driven or profit-oriented (Schneckener 2011, 471-472).

This can render it difficult to distinguish between incidents of maritime terrorism and piracy taking place in isolated situations because in both cases, among other things, similar approaches and tactics are used and they often differ only in terms of their ulterior motives (which may not be recognizable on the surface). For example, hijacking a ship with the intention of financing terrorist operations can be described as an act of political piracy (Eklöf Amirell 2006). The GAM (Free Aceh Movement, Indonesia) formerly engaged in this practice. Not only did they capture and hold foreign cargo ships and their crews (2001) for ransom, but they also tried to gain sovereignty over a section of ocean, declaring that they had the right to tax ships passing through (Eklöf Amirell 2006; Herbert-Burns / Zucker 2004).

In Somalia, Islamist terrorists are interested in the ransom money that pirates collect. In February 2011, Al-Shabaab captured several pirates because they had refused to give them a fifth of their revenue. It is assumed that Islamists are routinely involved in taking large portions of money. It is estimated that Al Shabaab received up to 30% in ransom money in 2009 and may, thus, have taken in up to US$27 million (cf. Kolb/Salomon/Udich 2011, 113-115). At the same time, Al Qaeda has repeatedly threatened attacks in the Arabian Sea, the Persian Gulf, and the Gulf of Aden, and supposedly supports a training program specifically designed to prepare its soldiers for carrying out attacks on warships, cargo ships and cruise liners (Raymond 2006).

Most of the literature related to a definition of maritime terrorism is based on the understanding presented in a single document, published in 2002 by the Council for Security Cooperation in the Asia Pacific (CSCAP). The definition given is: "maritime terrorism refers to the undertaking of terrorist acts and activities (1) within the marine environment, (2) using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel, (3) against coastal facilities or settlements, including tourist resorts, port areas, and port town or cities" (Prakash 2002). This definition is very vague, which is advantageous as it allows for the inclusion of the most diverse cases of maritime terrorism but, on the other hand, it also introduces a certain lack of focus into the analysis of the phenomenon. This can cause potential problems for the development of potential responses to maritime terror.

The definition by the CSCAP describes only the maritime area instead of defining terrorism. For this reason, a working definition of terrorism was presented, which should be seen as complementary to the CSCAP definition. In the following, the working definition will be further

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[19]   We find also a related differentiation to land, sea and air in the databases: "The GTD includes three types of targets related to transportation (...) (land, airports and aircrafts, and maritime). (...) [T]hey can multiply the destructiveness of attacks and increase the possiblilty of casualties. These attacks can also have an especially devastating economic impact because transportation is so central to commerce" (LaFree/Dugan/Miller 2015: 108).

refined. The groups identified for the empirical analysis of this study are groups that occasionally use terrorist practices in the maritime area. Not one of these groups is solely active in the maritime realm – all of them are based onshore and carry out attacks on land as well. These groups may believe their actions to be politically legitimate and may also use tactics that are not those of terrorists.

The CSCAP definition is kept very broad in order to include groups which use sea passages for the purpose of smuggling people (e.g. terrorists), weapons, and material across national borders. However, this also creates an overlap with what is generally referred to as organized crime. Although the term "maritime terrorism" loses a clear perimeter in the process, it remains widely used in this form (for example Murphy 2009) and smuggling is, therefore, also included in this working definition, which is somewhat more precise than that provided by CSCAP. There are some who decline the inclusion of smuggling activities for practical reasons, in order to concentrate solely on attacks.

A further flaw in the CSCAP definition is the lack of differentiation between international and transnational terrorist organizations, comparing, for instance, Al-Qaeda to local insurgents/rebels/guerillas, such as the Palestinian Liberation Front or the separatist Liberation Tigers of Tamil Eelam (LTTE) from Sri Lanka. The 'Sea Tigers' were the marine division of the LTTE and fought against governmental naval forces from Sri Lanka and India. This 'missing' differentiation can be problematic because it overlooks substantial differences in characteristics, such as motivation and potential responses, which again can contain implications for strategic recommendations. Al-Qaeda's goal is to harm the Western world, whereas local insurgents, such as the Abu Sayyaf Group (ASG) in the Philippines, use, among other things, maritime terrorist tactics to fight their own government. They have a local agenda. The ASG gained notoriety as a result of their attack on the "Super Ferry 14" in 2004 which was carried out by hiding explosives in a television and caused the deaths of 118 people (Banlaoi 2007). The Jemaah Islamiyah (JI) is an Islamic terrorist organization with a regional agenda that wants to establish an Islamic sultanate in Southeast Asia and currently has bases of operation in Indonesia, Malaysia, Singapore and the Philippines. This organization is responsible for the bombings that took place in Bali in 2002 where 200 people were murdered. There are further speculations that they co-opted a vessel for training purposes and have also developed plans for attacking ships in the Straits of Malacca and Singapore (Abuza 2008, La Free / Miller / Yang 2013).

The substance of a focused and academic (non-political) definition of terrorism as a method for the use of violence should not be dependent on target groups or actors to which it pertains. Therefore, the working definition includes military and government targets, to which cases from all three databases (which will be discussed later) were applied. For a narrower definition of the working term "terrorism", only attacks on civilian targets could have been included, expressly in order to exclude the classic separatist groups. It is obviously difficult to exclude attacks against government militaries, especially in light of the most widely known event of maritime terrorism. Thus, attacks on military targets are also included in this working definition. The attack on the 'USS Cole' in the harbor of the City of Aden is such an example. Ordered by Al-Qaeda, this attack was carried out by a speedboat loaded with explosives which was detonated against the hull of the ship, causing heavy damage. Seventeen sailors were killed and 39 severely injured. Naval forces from several countries have been attacked by various belligerent or rebellious groups (e.g., the Spanish naval forces off the coast of Morocco or the

British Royal Navy, which was attacked by the Irish National Liberation Army, (INLA)). Another example of a bombing using a small boat was that of the Aden Abyan Islamic Army's, in which Al-Qaeda mistakenly attacked a French oil-tanker 'Limburg' in 2002 (1 dead, 12 injured, and 90,000 barrels of oil leaked out into the sea off the coast of Yemen). Allegedly, their original goal was to attack a US military vessel (cf. case study in the Research and Development [RAND] database, PiraT-ID 329).

Furthermore, the CSCAP definition does not differentiate between non-state and state terrorism. Clashes between government naval forces (meaning regular military forces) are bellicose acts and are, therefore, logically not defined as terrorist acts. Thus, they are excluded from the working definition.

It is worth examining however, whether the phenomenon of maritime state-sanctioned terrorism, initiated by naval forces, for example, should be discussed. A prominent example of such a case is the bombing of the Greenpeace ship 'Rainbow Warrior' in 1985 (in which the ship's onboard photographer was killed), for which the French government took responsibility. However, the biggest cause for concern in this context is state sponsored terrorism, e.g. from 'rogue states', or the involvement of intelligence agencies in attacks. Both aspects of (maritime) state terrorism and state sponsored (maritime) terrorism can generally be included in the conceptual working definition. Unfortunately, in this case study there is no empirical indication of the specific relevance of state terrorism to the maritime arena. In addition, the databases used, such as the GTD, do not include incidents of state sponsored terrorism, which are difficult to detect with open access information. This is why maritime state terrorism and state sponsored maritime terrorism are not included in the working definition. Fighting, which occurs between marine forces (or regular governmental forces) is a warlike act and is logically treated as a non-terrorist act. Therefore, this has also not been added to the working definition.

The actual importance of maritime terrorism remains controversial. There is wide-ranging agreement that several scenarios could have catastrophic consequences as, for example, Onur Bakir (2007: 3) noted. There is little consensus however, with respect to the likelihood of such attacks and the level of risk associated with them, as well as what the appropriate counter measures would be. As a reaction to the terrorist attacks of September 11, 2001, the military deployment, Operation Enduring Freedom (OEF) was launched. The operation also included the safety of the sea routes. Germany participated solely in conducting surveillance missions off the Horn of Africa, to prevent the trade and transport of drugs, weapons and ammunition. The last mandate expired on the 15th of December 2010. The German government announced in June 2010 that it would withdraw its military deployment from the international counterterrorism operation. The Minister of Defense, Karl-Theodore zu Guttenberg, justified the withdrawal by stating that it was 'due to the low terror threat in the sea vicinity of the Horn of Africa' (SZ, 23.06.2010). Nevertheless, the German army is still deployed to fight piracy near Somalia and weapons smuggling near Lebanon. The priority does not lie in the Horn of Africa as Germany's involvement in the fight against terror lies in the deployment of forces to the Mediterranean Sea: The German contribution to the North Atlantic Treaty Organization (NATO)-led forces in "Operation Active Endeavour" (OAE) was extended until 31 January 2015 (Federal Ministry of Defense, Bundesministerium der Verteidigung, BMVg 2014). The goal of the OAE's deployment along the Mediterranean is 'to protect, defend as well as deter and combat active potential terrorist activities. Therefore, a contribution is seen to be made concerning maritime terrorism' (Bundestag 2011; for Pro and Contra argumentation see Heid 2011). NATO states: "Keeping the Mediterranean's busy trade routes open and safe is critical

to NATO's security. In terms of energy alone, some 65 per cent of the oil and natural gas consumed in Western Europe passes through the Mediterranean each year, with major pipelines connecting Libya to Italy and Morocco to Spain. For this reason, NATO ships systematically carry out preparatory route surveys in "choke" points as well as in important passages and harbors throughout the Mediterranean. (...) While the mandate of Active Endeavour is limited to deterring, defending, disrupting and protecting against terrorist-related activity, the operation has had a visible effect on security and stability in the Mediterranean that is beneficial to trade and economic activity" (NATO 2014).

A month later (28.07.2010) a bomb went off on the Japanese oil tanker 'M.Star' in the Strait of Hormuz, causing minor damage to the ship. It is presumed that the 'Abdullah Azzam Brigades', an affiliate of Al-Qaeda (Winter 2011, 890-891), is responsible. The attack induced the BKA (Bundeskriminalamt, German Federal Office of Investigation) to write in its 2010 report on sea security that the threat of Islamist maritime terrorism is increasing. Potential targets are the Suez Canal, the Red Sea and the Gulf of Aden. Due to German obligations in Afghanistan, a threat against Germany could arise (cf. BKA 2011, 5-9).

Critics often justify their view that maritime terrorism does not pose a serious threat by pointing out that there have been relatively few cases of maritime attacks in the past. However, using the relatively broad definition presented above, there have actually been a few hundred attacks, as this book will show. Admittedly, this represents only a fraction of the total number of worldwide terrorist attacks over the past decades (cf. chapter 6, section 1); but a global threat amounting to hundreds of incidents does merit some form of strategic response.

Apart from the fact that there are more targets on land, it may be assumed that the comparatively low number of attacks at sea could be put down to the technical capabilities needed for maritime attacks, which are significantly more demanding than land-based operations. Nonetheless, the atypical, but successful coordination of the airplane attacks that took place on 9/11 demonstrates in the most drastic manner that complex attacks can be implemented. In light of those events, one can no longer argue that such a scenario is unlikely ever to happen again, as terrorists clearly have the potential to be highly trained and skilled. Furthermore, it is often assumed that maritime attacks are likely to spark less media coverage, but this is disputable, given the importance of a wide range of news channels and visual media that are available to us today and which are used as a form of propaganda to broadcast attacks. Moreover, piracy and maritime accidents have proven that newsworthy events at sea, including maritime violence, generally attract extensive media coverage. Symbolic targets can be hit with small boats carrying explosives or, for instance, a cruise ship could be hijacked. Cruise ships have been attacked several times in the past, with the last incident at the time of writing this book occurring in July 2014, where a German AIDA cruise liner was affected by shrapnel from rockets presumably fired by Hamas off the Israeli coast (Machan 2014). Even pirates have sometimes attacked cruise ships, such as Somali pirates did with the Italian cruise ship MSC (Mediterranean Shipping Company) "Melody" in April 2009 (Mail Foreign Service 2009). Furthermore, if attacks occur in the vicinity of a harbor, cameras are always likely to be nearby and can easily take pictures of the incident, which is not generally the case for an attack occurring on the open ocean.

The following is a working definition of maritime terrorism (including additional elements as described above) that was used for this study:

Working definition of maritime terrorism:
The main characteristics of (maritime) terrorism involve an ultimate political, ideological or religious goal that goes beyond the actual attack and is carried out by non-state actors, contrary to international law. The threat or use of violence is aimed at enforcing political and/or social change or the political-ideological interests of the terrorists, by means of psychological stress. This is accomplished by generating fear, disrupting the public order and the people's faith in their government or by catching the media's attention for the terrorist's issues, hence putting political actors under pressure. If the attacks occur in a maritime area, they fall under the category of maritime terrorism: This includes attacks from sea or land on ships or maritime infrastructure, such as oil rigs, and on passengers or staff. Any type of ship can be targeted, e. g. cargo ships, warships or passenger boats and cruise liners. Port cities, maritime facilities or coastal cities can also be targeted.

This definition is operationalized for the following work. It should help to define which cases qualify as "maritime" incidents and is, therefore, *used to filter the databases for relevant cases*.

In order to develop a preliminary understanding of what types of maritime attacks are happening, how frequently, and in which regions they take place, an empirical analysis will follow. This includes a presentation of the available terror attack databases.

In the following chapter III different schools of thought will be presented to serve as a basis for the debate on risk and security and were applied to the context of piracy and maritime terrorism.

IV RISK THEORY AND RISK MODEL

The purpose of this section is to develop the foundation for an analytical, security-based, **risk model** with a focus on the insecurities in question. In addition, starting points are assessed individually in order to ascertain how maritime trade security can best be strengthened and the risk reduced.[20]

Building on this, a number of (empirical) investigations of the perceived dangers to security will help to objectify risks. I will refer to developments of "newly"-perceived challenges. Even if piracy and non-state armed group violence is not new as such, trade in times of globalization makes societies more vulnerable and the transnational risk they pose cannot be dealt with on a state level and with state actors alone. After debating the challenges, I will deal with the idea of *risk* and a basic model for determining objective insecurity situations. I will conclude with a section on standards and terms of risk management.[21]

1 "New" Dangers and the Selected Risk Model

As illustrated in Chapter 2, the "newly"-perceived challenges in security policy detach themselves from more traditional concepts of international order and security policy and are attributed to an increasingly significant body of non-governmental actors in the context of a growing "post-national constellation" (Habermas 2006) in times of rapid globalization.

In addition, dangers often spread rather subtly and an early recognition of their respective significant indicators and causalities form part of an effective damage response. If they are different from place to place, as with case to case, a further problem emerges: a model of potential danger scenarios will involve a considerable degree of opacity. This distinguishes the new dangers from the traditional ones, as is emphasized by the state- and military-centered **threat scheme**. In that respect, Luhmann (2003: 166) admits that it is typical not to know enough about risks. The assumptions on which decisions and analyses rest can, of course, be challenged and will be revised at a later time. Ultimately, a decision should be made as to what degree of uncertainty (the majority of) society can live with (cited in BBK 2010: 20).

However, these difficulties still require us to estimate the degree of risk. According to Ehrhart/Petretto/Schneider 2013, 50-51, three points emphasize the main problems with the estimation of risk: the uncertainty dealing with risk prognosis, the social construction of risk and the challenge of risk formulas.

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[20] A shorter version of this sub-chapter was previously published in German; see Schneider 2013b.

[21] In that context, I shall refer to the new DIN-norm (cf. DIN-SPEC 91282: 2012) of November 2012, showing how project partners of a BMBF research project of the federal security research program agreed on 78 term definitions on security management of traffic infrastructures.

1.   Estimating risks always refers to an event yet to come. It deals with a future situation and its potential risk. Therefore, it is basically a matter of uncertainty.
2.   Society frames every risk through certain factors, assessments and social interrelations. Those assessments and the logic applied in each case can deviate and are often questionable.
3.   Science agrees on the current formula used to estimate risks. However, its cost-benefit-analysis is called into question. In addition, the indicators selected and their respective degrees of importance can be problematic.

Two schools of thought have served as a basis for the debate over risk. The first one is the Global Risk Management originating in Ulrich Beck's "(World) Risk Society" (Beck 1986/2008). It deals with the national and global consequences of modernization processes, which are increasingly difficult to determine, because of their rapidity and complex structures (Ehrhart/Petretto/Schneider 2013, 50). The second paradigm is based on Michael Foucault's classic thesis of *"Gouvernementalité"*. Herfried Münkler (2010: 8f.) builds on Ulrich Beck's concept of a '(Global) Risk Community', considering it to be a reflection of the prevalence of the topic of risk in our society. It should be noted here that ensuring citizens' safety from the risks and uncertainties of an industrial lifestyle as an objective of the state (security as a collective good) contradicts the increasing privatization of security. The latter is requested –and paid for – by individual customers, seemingly as a commodity that goes beyond basic needs (security as a private luxury).

Beck argues that global risks can be handled only by national states in the context of a consistently cosmopolitan approach that goes beyond the nation states. However, authors who have followed Foucault indicate that anti-risk policy, e.g. counterterrorist measures and establishing security authorities, remains an important instrument of national states. Risk policy constructs the necessity of a comprehensive precautionary policy of the state and also highlights citizen's responsibility. Globalization leads to a raised perception of alleged risk sources from which one should be protected, e.g. through the development of state and private surveillance measures in the fight against terrorism (cf. Aradau/van Munster 2007; Mythen/Walklate 2008).

Therefore, seen in perspective, it is necessary to determine which goal of ensuring security needs to be pursued and what can be defined as secure if, indeed, there be such a thing. According to Baldwin (1997), it may be helpful to reflect on the term *security* by posing the following questions:

1. For whom should security be provided?
2. For what values should security be provided?
3. How much security?
4. Against which threats?
5. What are the means?
6. What are the costs?
7. In what time frame?

Applied in the context of piracy and terrorism, the questions above refer to the security guarantee off the Somali coast and the Gulf of Aden, respectively, as well as the adjacent high risk area, further regions and maritime domains afflicted with terrorism:

1. First, security needs to be ensured for sailors of all countries who have to traverse these regions with their ships. Further, they literally represent maritime trade as such (i.e.

ships, transported goods and their owners), which subsequently concerns all citizens as consumers.

2. Second, from the perspective of trading nations, the protection of ships and their cargos comes right after crew safety, while ensuring the freedom and security of sea lanes must remain an ideal value of global trade. The attackers, from their point of view, would surely defend other values (e.g. coast protection, protection from illegal fishing, participating in riches by raising protective duties, enforcement of ideological goals).

3. Third, if all ships, including crew and cargo, could use all sea lanes without suffering damage, the extent of security conditions required to fulfill this would be established once and for all.

4. Fourth, PiraT is focused on threats from piracy and maritime terrorism.

5. Fifth, a choice of means, proportional to the threat in question, has to be established and should not contribute to an escalation of the situation at sea and on land. Measures aiming at one's own defense, but also preventive protective measures at sea, coupled to complementary measures on land, are suitable in this context. For example, different (inter-)national military missions have been implemented for several years to combat the two phenomena, just as private security companies have.

6. Sixth, questions of costs and, seventh, time spans are also of interest. To what extent does a society value a liberalized exchange of goods at sea, with the aim of stabilizing its economy? How much could measures against piracy and terrorism cost? In this context, the degree to which the sharing of costs should be split between state and private actors (through avoidance, technical security measures, insurance contributions etc.) and what state or international measures need to be prioritized, should be debated.

7. Finally, should the navy be utilized permanently or temporarily to achieve this?

On a more basic level, the "securitization"-starting point converges on the term of security. The 'securitization' approach of the Copenhagen School defines a security problem as a speech act, which connects a political problem with a concept of security (cf. Daase 2011, 62; Buzan et al. 1998). "Security" is grasped as a certain perspective value and aim, which merely competes with other aims and values. This starting point, originating in the discourse analysis, was complemented by Balzacq (2010) through a hybrid way of thinking, so that not only acts of speech, but also context and action are taken into consideration for the analysis. This enables the clarification of the political character of the measures at hand and the derivation of policy recommendations. According to Balzacq (2010), three main aspects serve as a general orientation for such an analysis:

1. Agent: Who are the driving actors (characteristics, positions of power)? What are the target groups?
2. Action: What language and which stylistic means are used strategically? What policy tools are utilized for securitization?
3. Consideration of contexts

The aspects named above can also be applied within the PiraT project. In total, four conclusions can be derived from these questions:

1. The use of the notion of security needs to be justified (e.g. by utilizing the Baldwin scales coupled with Balzacq).
2. Security concepts need to be delimited and made more precise by a) referring to actors (by revealing value systems and points of view), b) by concretely referencing risks (e.g. intended physical violence) and c) by calculating the use of means.
3. It must be made clear who is responsible for providing security, how this claim is legitimized, and how appropriate it is to enhance one's own security at the expense of others.
4. Prior to taking measures, it should be made clear whether the threat is constructed and imagined in perspective (in the sense of securitization), or authentic. If the threat cannot be supported by facts, one needs to find out a) why it is being constructed, b) by whom and c) how it can be "de-securitized".

I wanted to stress here the link between security concepts, risk perception/assessment and governance of risk. Therefore, in order to make decisions about the curtailing of risks, it is necessary to know their scope and forms of appearance. However, it must be clear that calculability does not yet mean controllability, as not all factors can be changed or only at costs that are too high. Moreover, on the one hand, a complete maximization of security is not possible (a residual risk remains) and, on the other hand, it can result in a "rigidity of society", which has to always adapt to changed environments in order to overcome fears and threats (Münkler 2010: 27, 30). Risks can, instead, be classified as potential future damage. Their registration is based on a combined consideration of their respective probability of occurrence as well as, in the case of damage, their expected consequences (Bechmann 1997; Wilson/Crouch 1982). If "risk" is thus formally defined as a product of "level of damage" and "probability of occurrence", it is distinguished from an imminent threat in a way that it is possible to significantly reduce the extent of both factors through risk-minimizing actions (Münch 1996; Daase/Feske/Peters 2002; Diprose et al. 2008). In other words: The term "risk" describes an open condition that can occasionally arise from the serious effects of damage. However, this condition simultaneously allows risk-reducing interventions, enabling the limitation or curtailing of damage by preventive initiatives. But this requires adequate risk analysis that permits effective options of action to be isolated in order to extract scopes of probability and/or, effect, as well of potential dangers, in short and advance notice.

Piracy and maritime terrorism are discussed in this study as risks. However, it is necessary to revise the classic risk formula in a way that allows for the particular character of actor-based scenarios. For that, terror risk research offers a possibility. It suggests two *modi operandi*, which are, by themselves, insufficient, but actually begin to complement each other rather effectively once their quantitative and qualitative parameters are combined (Daase 2005; Falkenrath 2001).

The first method is grounded on an analysis of motivational structures, capacities and scopes for development, in order to extrapolate conclusions from what has been done in the past for future actions and the means of attack likely to be employed (extrapolation method). This corresponds with the economic starting point of risk analysis (cf. Lund Petersen 2011: 6). The problem of the extrapolation method lies in the negligence of new developments or capabilities, as well as of possible transnational ties of different means and for different motivations. This makes the development of hitherto rather negligible attack scenarios, e.g. terror operations involving maritime trade, more difficult. Thus, the extrapolation method puts itself in jeopardy with respect to marginalizing risks linked to these scenarios.

Similarly, the second method of registration also remains imprecise. It follows the rather classic risk formula and is primarily focused on the potentially expected extent of damage in case of occurrences of different terrorist attack scenarios. As a result, the method's problem lies in the systematic overvaluation of worst-case-scenarios. That is, if the consequences of attack scenarios are perceived as unacceptably high, even a low occurrence probability results in only a slight mitigation of the one-sided modelled risk estimations.

Therefore, it makes more sense to further develop and to make the classic risk formula more precise by revising the constituting factors of analysis and linking elements of both methods with each other (Daase 2005; Gmelin/Nackaerts 1998). This access is also basically grounded on definitions classifying "risks" as possible future damage. However, it assumes that the specific respective probabilities of attacks cannot be measured by merely relying on statistical data on terrorism and piracy. Instead, it is necessary to objectify the probability of specific scenarios by evaluating qualitative factors as well. In addition, concrete motivations of actors and their scope for development to achieve their aims must be analyzed. This also applies to the expected extent of damage, which cannot be arbitrarily fixed for worst-case-scenarios. Rather, it is measured by the precise capacities of the attackers, as well as the vulnerability on the victim's side. Therefore, if "risk" (R) is usually formally defined as a product of "level of damage" (D) and "occurrence probability" (P), this approach specifically developed for risks of nuclear terrorism (Ackerman/Snyder 2002; Parachini 2003), allows us to significantly improve the indications for risk analysis:

From the formula "R = D x P", the following, mathematical expression can be constructed: "R = D (C + V) x P (M + O)".

"M" represents motivations, "O" opportunities and "C" capacities of the attackers, whereas "V" displays given vulnerabilities of the attacked reference object (Daase 2005). In that manner, it is aimed to objectify maritime risks, which are focused upon by the research project at hand.

To begin with, redesigning the classical risk formula may make indications of analysis more precise and, second the incorporation of all partial aspects referring to contexts related to actors and situations can create suitable starting points. This is proposed in order to develop precise options of actions to coordinate key state and non-state actors.

The work model ascertaining levels of risk addresses the reference object "maritime trade" in general and "reference to Germany" in particular, and is schematized by the following chart1.:

Chart 1.   Risk model PiraT
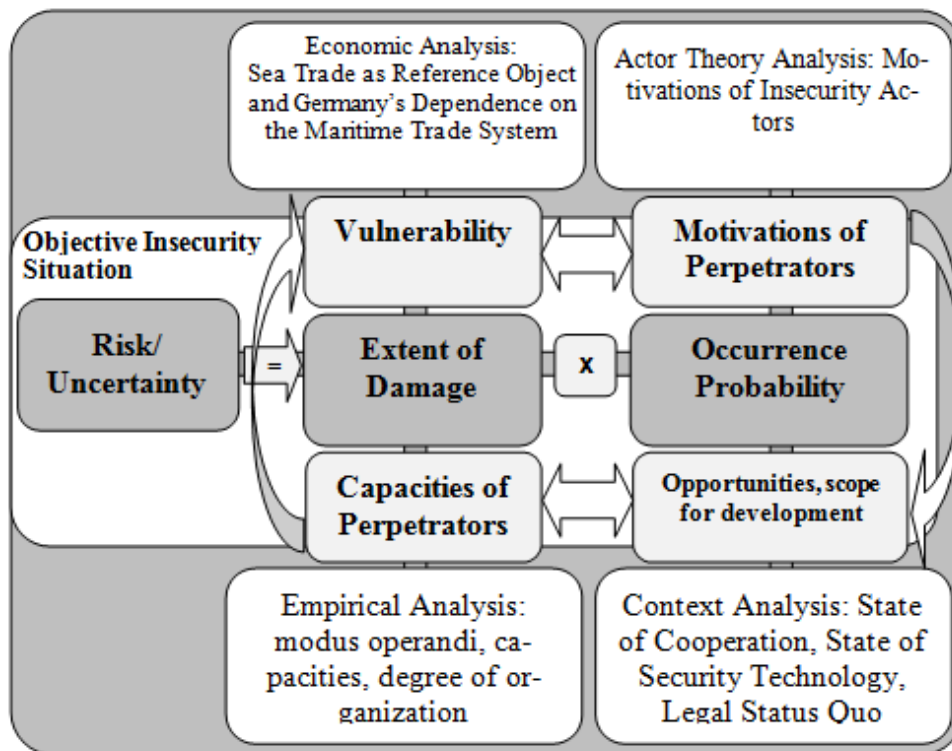
Source: Schneider(2013), 44; author's translation.

The determination of risk levels is based on the assumption that the damage potentials of piracy and maritime terrorism are defined by vulnerabilities on the victim's side, alongside the capacities of the attackers. The occurrence probabilities of damage, however, are a result of the perpetrators' specific motivations and their respective opportunities.

The creation of indicators follows these four categories, which need to be illustrated and measured as well as put into a complete picture. Indicators shall be isolated for a flexible risk analysis allowing for a discussion of specific disruption scenarios for specific maritime areas. From the indicators, options – as comprehensive as possible – for key state and private actors, incorporated into security solutions, can be developed. The purpose of this to reduce levels of damage as well as occurrences of probability for potential dangers, due to current pirate activity and maritime terrorism. The following section will discuss the building of indicators and their usage in different contexts.

2   Formation of Indicators and Risk Model

For Ehrhart/Petretto/Schneider (2013, 51), the task of forming indicators is of the utmost importance to be able to apply the risk model. An indicator links term level (e.g. objective security danger/risk) and observation level (actions of piracy/maritime terrorism). This link is conditioned by two factors: first, the reason for an indicator chosen and, secondly, the way an indicator changes itself.

According to Ehrhart/Petretto/Schneider (2013, 51-54, 58, 60-61), the risk model enables the combination of quantitative elements and qualitative analysis. This is needed because it is not sufficient to measure damage and occurrence probability by numbers. Both are considered as primary factors, which are elaborated by qualitative secondary factors, i.e. vulnerability of victims and capacities of perpetrators impacting levels of damage, as well as motivations of perpetrators and their opportunities, making occurrence probability more precise. The primary and secondary factors are also shown in the risk model above. The secondary factors are, as follows, operationalized by indicators of three disciplines: political science, law and economics. This is done in order to better determine and reduce risks associated with maritime terrorism and piracy.

Chart 2.   Breakdown of the PiraT's risk model's key terms
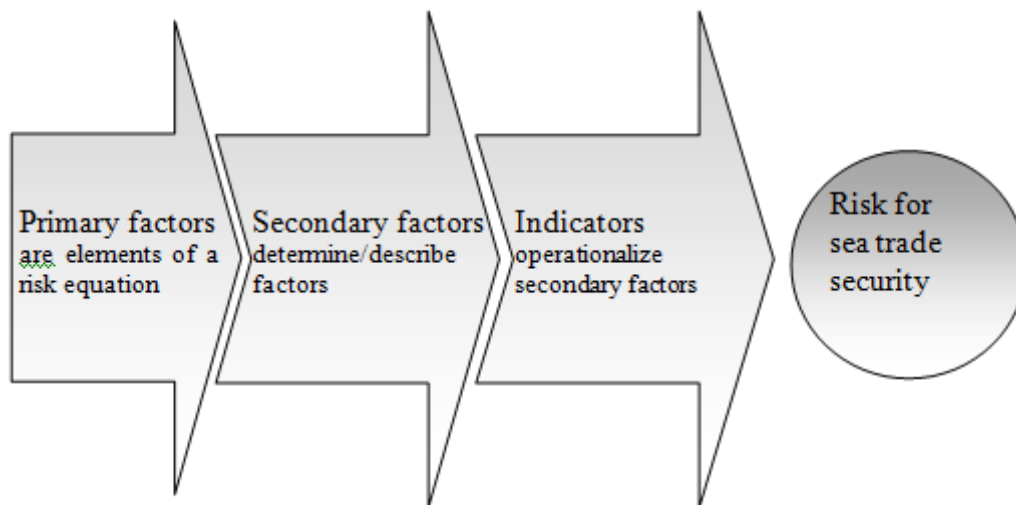
Source: Ehrhart/Petretto/Schneider (2013), 62; author's translation.

Table 1.   Primary and secondary factors: political science perspective

Primary factor: "level of damage"	
Indicators of secondary factor "perpetrator capacities"	**Indicators of secondary factor "victim vulnerability"**
Number of failed assaults (piracy) or attacks (terrorism), employed means and methods, selected targets, organization, networking with other actors, room of retreat, financial resources, armament, equipment, know-how, mobility, legitimacy	dependence on maritime trade/ sea ways, perception of own dependence dependence on measures of other actors, investment costs, direct economic damage, indirect economic damage, human costs (body/soul), political costs, active countermeasures of single actors, of states as well as the international community, passive counter measures of single actors, of states as well as the international community, secondary damage (e.g. environment, infrastructure)
Primary factor: "occurrence probability"	
Indicators of secondary factor "perpetrator motivation"	**Indicators of secondary factor "opportunities"**
economic motivation I (profit), economic motivation II (survive), political motivation, religious motivation, ideological motivation, personal motivation	geographical conditions of context, socio-economic conditions of context judicial conditions of context, political conditions of context, active counter measures of single actors, of states, as well as the international community, passive countermeasures of single actors, of states, as well as the international community.

Source: Ehrhart/Petretto/Schneider (2013), 63; author's translation.

Table 2. Primary and secondary factors: economic perspective

Primary factor: "damage level"	
Indicators of secondary factor "perpetrator capacities"	**Indicators of secondary factor "victim vulnerability"**
<u>Countries of origin</u> socio-economic situation (Gross Domestic Product (GDP) development, components of demand, production, labour market, distribution etc.) Incorporation of political and judicial situation (e.g. Failed States) influences: Possibilities of creating illegal structures • e.g. illegal infrastructure for commercialization of goods • illegal capital streams in the piracy business model	<u>Macro-perspective of affected peoples' economies</u> damage through attacks that have already occurred (global, for individual peoples' economies), Vulnerability of a country, e.g. due to degree of openness, its usage and dependence of maritime trade routes. <u>Micro perspective of affected maritime actors</u> costs through damage which occurred vulnerability, e.g. ship owner: kind of trade fleet, choice of sea route, number of passages through hot spots Measures taken to raise security and detection, on international and national level as well as through single maritime actors.

Primary factor: "occurrence probability"	
Indicators of secondary factor "perpetrator motivations"	**Indicators of secondary factor "opportunities"**
<u>Economic motives of pirates:</u> Simple model of piracy: • economic situation of potential pirates (e.g. comparing labor market and real wages in legal/illegal sector) • further motives: probability of detection and threatened level of damage Business model piracy • additional calculations (raises capacities of perpetrators, may raise readiness for attacks, tends to lower probability of detection). Comparing single-economic structures of incentives with socioeconomic situation in country of origin	see above "Perpetrator Capacities"

Source: Engerer (2013), 87, author's translation.

Table 3. Primary and secondary factors: law perspective

Primary factor: "damage level"	
Indicators of secondary factor "perpetrator capacities"	**Indicators of secondary factor "victim vulnerability"**
Regional differences as to ransom payments	Flag, coastal and port state regulations about the employing of armed guards (private soldiers, policemen)
Primary factor: "occurrence probability"	
Indicators of secondary factor "perpetrator motivations"	**Indicators of secondary factor "Opportunities"**
Design of national criminal law regime and enforcement of penal sanctions; regional differences as to ransom payments	National criminal law regime; policing competence of coast guards, regional structures of cooperation, international readiness for enforcement

Source: König/Salomon (2013), 70; author's translation.

3   Introduction to Risk Management: Standards and Terminology

In November 2009, the International Organization for Standardization (ISO) published the ISO 31000:2009 (in German: ÖNORM ISO 31000:2010). It summarizes a great number of individual standards and regional regulation of risk management and has set a new and world-wide benchmark. As an international norm, it is supposed to fix principles and general guide-lines. The Best Practice starting point, in particular, has been redefined by ISO 31000. The definitions of ISO and, complementarily, the definitions of the Federal Office for Civil Protec-tion and Disaster Assistance (Bundesamt für Bevölkerungsschutz und Katastrophenhilfe, BBK) serve as working definitions and the norm will be applied to our sphere. Figure 2 on the process of risk management is based on the named terminology and illustrates the processes taking place during action coordination and decisions about necessity and priorities of coping with risk. The box 'building interrelations' is placed at the very top, which is tantamount to the production of a context. This would comprise the factors to be collected, i.e. vulnerability, capacities and motivations of the perpetrators and their opportunities, analogous to the rough model above.

Chart 3. The risk management process
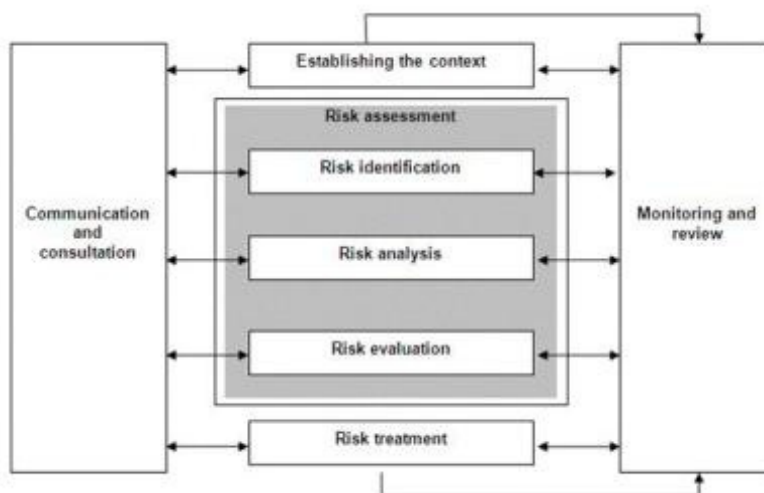
Source: ÖNORM (2010) 20; English version also found at Marble/Jira 2010.

Examining the figure, what stands out is, first, the importance of communication and con-sultation with internal and external stakeholders at each stage of the process and, second, the examination and implementation of plans for coping with risk. It is easier to apply these norms to individual organizations than to complex actor networks, which is a particular challenge.

An extensive study of the International Risk Governance Council, headquartered in Geneva, published in 2009, examined a vast number of failed risk management strategies within com-prehensive sectors. It categorized errors and illustrated the results in two figures (cf. Interna-tional Risk Governance Council 2009: 60f.). In order to avoid such erroneous risk management strategies, *PiraT* meets the needs of "required knowledge of facts" through its Working Pack-age 1, called "Objective Insecurity Situation" and, through Working Package 2, named "Sub-jective Insecurity Perceptions" meets the needs of "knowledge of perception". In addition, the acceptability of risks should be evaluated, complex systems understood, formal models used and stakeholders incorporated.

But the existence of standards is not limited to risk management. Methods of risk measurement also serve as examples. In 2010, for the first time, the (BBK) published a "method of risk analysis in disaster assistance" illustrating a homogenous structure for the federal government (Bundesregierung, BreG) and the German states on the basis of different danger estimations. However, this method is restricted to the stance of non-police and non-military civil protection. It is not, therefore, completely suitable for our sector. Yet one can lean on the methodology and the understanding of terms.

Inspiration could have been drawn from the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) while measuring standard parameters for risk analysis. Its measurement of damage follows two indicators: a factor of violence and one of economics. The violence factor measures the intensity of a pirate invasion by ascertaining/determining measures the intensity of a pirate invasion by weapons employed, treatment of the crew (killing, kidnapping or merely theft and or aborting the attack) and the number of pirates involved. The economic factor measures the intensity of a pirate invasion by ascertaining whether the whole ship was stolen or hijacked and what manner of property on the ship was stolen (ReCAAP 2010: 3ff.). These categories can also be applied to terrorist attacks.

4   Conclusion

Risk assessment is a necessary basis for governance and it has been shown which factors are most relevant in the context of maritime violence. The previous sections were designed to help measure risk assessment, develop indicators, but also to make use of a risk model to evaluate governance measures in the following chapters. By so doing, (inter-) national standards have been made fruitful and scenarios and parameters of damage can be rendered more precise and adjusted.

In chapter V, I will examine whether terrorists and pirates can be understood and theorized as social movements. Social movement theory is complemented by other concepts in the search for a common conceptual roof for terrorists and pirates, outlining its possible benefits and limits.

V Theorizing Maritime Violence by Applying Social Movement Theory to Terrorism and Piracy

1   Introduction

Terrorism has become a major international security challenge. Compared to the total number of terrorist attacks, incidents of maritime terrorism are relatively few and therefore less alarming, presenting a relatively low threat overall. In view of the great importance of maritime trade for the world trading system, however, the possible effects of terrorist attacks have raised considerable concern. Alongside kidnappings, incidents involving the bombardment of oil refineries, gas terminals, container ships and cargo ships (including at maritime choke points) have raised awareness about maritime attacks (see Chapters VIII and X). Joshua Reagan (2019) was able to establish an empirical connection between piracy and terrorism events. He discovered that in Indonesia, Nigeria and Somalia rising rates of terrorism were accompanied by rising levels of maritime piracy.

As Dirk Siebels observes, "[m]ost maritime security threats are transnational, yet they are mostly symptoms of land-based issues, for example bad governance or weak law enforcement" (Siebels 2019: 109). Modern piracy is an equally significant transnational risk that affects international shipping, crew and trade. Piracy and terrorism are usually distinguished on the basis of their motives, with the motives behind piracy being predominantly profit oriented. Since both phenomena use direct force against people, they contribute to the corrosion of the law of the sea and require broad efforts to establish maritime security for good order at sea, often in unregulated areas.

Given the complex factors at play in maritime terrorism and piracy, it would be useful to provide these two phenomena with a common conceptual roof – one that allows us to approach them not only as risk factors and addressees of security governance but also as realities to be contextualized and theorized. This shift is a response to a number of issues in the literature, including reflection on how to incorporate (maritime) terrorism into wider accounts of political violence and social protest and how to incorporate piracy and terrorism into wider accounts of maritime violence. Do pirate and terrorist groups have features in common, apart from their methods, which might help us to better understand them? Can terrorists and pirates be understood as social movements, for example? This chapter will explore this option and further outline the possible benefits and limitations of this approach, including a discussion of alternative conceptual frameworks.[22]

The two case studies discussed below briefly describe two contexts in which this approach can be applied: Nigeria and Somalia. These cases are useful points of focus insofar as pirate and terrorist groups are or have been active in the maritime domain in both countries, posing a problem for the international shipping community. While other such groups are active in other areas of the world as well, these cases are special insofar as pirate and terrorist groups in these countries have used powerful narratives to underpin an attitude of social protest to legitimize their violence. They can be considered "critical cases" in the sense that if our conclusion "is

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[22]   I am grateful to the student interns Gina Konietzky, Johann Kuchta and Sophie Schlopsna for research and editorial assistance with an early version of this chapter in 2015/16.

(not) valid for this case, then it applies to all (no) cases" (Flyvbjerg 2006: 34). If we cannot demonstrate the usefulness of social movement theory for piracy and terrorism in the case of Somalia and/or Nigeria, then it will most likely fail to be useful in other intermediate cases.

In the following, I provide a novel, systematic analysis of whether the characteristics and modes of social movement theory apply to these cases. After critically examining these characteristics and modes, and after having established the benefits of the use of social movement theory, I will build on my results to address the limits of this approach. I will draw on alternative perspectives from philosophy and sociology to provide a broader global social context and on political psychology to incorporate views on the inner dynamics at work at the individual and the group level. I will then discuss how findings from these disciplines can be linked to the social movement approach. My analysis closes by concluding that they can add to our understanding of these social phenomena.

The chapter is organized as follows. In section two, I introduce the characteristics of social movements to discuss whether pirate and terrorist groups can be characterized as social movements. In section three, I focus on how social movement theory, which largely focuses on peaceful protest movements, deals with violence. In sections four and five, I deal with the question of whether and how these modes and mechanisms can be applied to maritime violence in Somalia and Nigeria. In addition, I explore how alternative perspectives from philosophy and sociology (as described in section six) and political psychology (as outlined in section seven) can add to the explanatory power of social movement theory when it comes to terrorism and piracy. Finally, I briefly summarize my findings in a conclusion.

2   The Characteristics of Social Movements

How are social movements generally characterized? Can pirate and terrorist groups be characterized as social movements? In this section, I will draw on the work of two prominent advocates of social movement theory, Charles Tilly and Donatella della Porta, to answer these questions.

Social movement studies has become a distinct scientific field (della Porta / Dani 2015b: 1). Charles Tilly, a leading scholar in this area, focuses on social movements from 1768 to 2012, concluding that they mainly feature the following characteristics (Tilly 2012: 4-5): "a sustained, organized public effort making collective claims on target authorities (let us call it a *campaign*); [and] employment of combinations from among the following forms of political action: creation of special-purpose associations and coalitions, public meetings, solemn processions, vigils, rallies, demonstrations, petition drivers, statements to and in public media and pamphleteering (call the variable ensemble of performances the *social movement repertoire*)."

At first glance, it is not easy to apply these characteristics to piracy in general: campaigns are not the interest of "classic" pirates, who are usually described as (organized) criminals, striving only for economic profit and sustenance. They are not known for "consequential claim-making directed at authorities and other elites and power holders" (Alimni / Bosi / Demetriou 2015: 14). One could argue, however, that pirate groups who justify their actions with grievances and narratives about needed social change might also fall under this category, even if they are not actively engaged in political processes.

The characteristics of social movements are more easily identifiable in groups that engage in political violence, for example left-wing, nationalist, separatist and religious terrorism. Here, the terrorist group makes a specific claim on authorities and has a political aim. Its actions are

therefore largely political. While this holds true for terrorism in general, it is harder to extend this claim to groups who carry out maritime terror attacks, as they do not have a specific profile and are highly diverse. Terrorism offers a good basis for social movement theory. Most, if not all, terrorism has a political agenda or is intended to advance a certain political/ideological goal. With this said, Tilly makes a point of refraining from homogenizing terror. Political terrorism is a strategy that involves interaction among political actors, and it must be analyzed as part of a political process (Tilly 2005: 21). This complexity will become evident in the more detailed discussion of our case studies below.

Piracy does fall under Tilly's category of opportunism; as Tilly (2003: 131) himself points out, "opportunism […] includes most instances of […] piracy." It "appears with special frequency in the zone of high salience and low to medium coordination – the zone of opportunism" (Tilly 2003: 133). Piracy is a form of violence that "use[s] immediately damaging means to pursue ends that would be unavailable or forbidden to them under other circumstances" (Tilly 2003: 132). He does not specifically mention modern pirates, but his theories can be applied to them as well.

Tilly (2002: 6-7) also makes reference to opportunism in relation to terrorists; on his view, increased cases of kidnapping by terrorist groups demonstrate that opportunism is on the rise. As an example, Tilly presents cases of organized kidnappings by guerilla forces, where paid ransoms were used not to "fatten the purses of individual hostage takers" (Tilly 2002: 7) but to support the movement as a whole.

Eitan Y. Alimni, Lorenzo Bosi and Chares Demetriou offer a definition of social movements that departs slightly from Tilly's. On their view, "social movements are characterized by:

(1) informal interaction networks among a plurality of individuals, groups, and/or organizations based on a certain shared purpose and solidarity;
(2) frequent, albeit not the only, use of non-institutional forms of protest;
(3) consequential claim-making directed at authorities and other elites and power holders; and
(4) a focus on political and/or cultural conflict, with the aim of either fostering or preventing social change." (Alimni, Lorenzo Bosi and Chares Demetriou 2015: 14)

All these authors identify claim making as a common criterion. I would thus argue that pirate and terrorist tactics based on common aims directed at social change are also informal and non-institutional, and can therefore be categorized as social movements. With this said, what makes them distinct from many peaceful social movements is their use of violence. Although violence has been under-researched in social movement theory and aspects of (non-Western) violence have long been neglected, this chapter will draw on more recent research on political violence and social movements which seeks to fill this gap.

3   Violence and Social Movements

In this section, I will consider how different social movement theorists explain shifts toward violence. The strength of the approach consists in the modes of interaction that are used to explain certain violent dynamics, which will be discussed below.

Terrorism – a "tactic used in all types of conflict" (Marsden 2014: 19) – goes hand in hand with violence. Many authors prefer the term "political violence" to "terrorism" to avoid the stigma that comes with the latter (see for example Bosi / Malthaner 2015: 439). Lorenzo Bosi, Donatella della Porta, and Stefan Malthaner (2019: 133) define *political violence* as a

"heterogeneous repertoire of actions oriented at inflicting physical, psychological, and symbolic damage on individuals and/or property with the intention of influencing various audiences for affecting or resisting political, social, and/or cultural change." In addition, pirates resort to maritime violence (most often against crewmembers), including armed physical attacks, the destruction of property, kidnapping, mock executions of hostages during ransom negotiations, and even murder.

The critical theorist Lauren B. Wilcox has pointed out how violence can reshape our perceptions: "violence is also about social standing; it is used as a tool to reproduce hierarchies. […] [I]t forms and reforms our bodies and world" (Wilcox 2011: 203). Political science tries to capture different power asymmetries by viewing social movements "as an expression of collective power interacting with other coordinated powers, be they capitalism, state, counter-movements, or the plurality of civil society groups" (Cisar 2015: 50). We also find this aspect of interaction with other powers in those parts of social movement theory that deal with how a formerly peaceful movement can turn to violence. The shift to violence is "a process unfolding during contentious interaction, a possible outgrowth of a protest movement and mobilization campaign and, typically, under specific political circumstances" (della Porta 2002: 9).

Another well-known author who focuses on social movements is Donatella della Porta. Bridging "several disciplines, especially sociology and political science" (della Porta 2016: 2). Della Porta observes seven causal mechanisms at work in spiraling radicalization:
 (1) escalating repression from outside (the conviction that the oppression is too great to allow for a peaceful solution)
 (2) escalation caused by competition within
 (3) activation of militant networks
 (4) isolation and hierarchy within the organization
 (5) militarization of actions/practices within (oppression rather than reasoning)
 (6) ideological isolation (justification of violence to outsiders drops with level of isolation)
 (7) militant inclusion (coerced compliance with norm system, group identification) (2015: 365-379, author's translation).

Della Porta seeks contextual explanations, such as socioeconomic, cultural and political factors and their relational, constructivist and dynamic character. Spiraling radicalization can be seen to occur not only in terrorist groups but also with pirates when we consider them as social movements with political aims, as will be outlined in the Somali case below. Such groups may have originally been fueled by strong political motives/incentives which were then lost in the process. With organizational changes and the increased use of violence and profit seeking, these original driving forces now serve as propaganda to legitimate the use of violence. As a result, these groups tend to take on the characteristics of radicalized social movements and organized crime.

If we look at the development of social movement theory dealing with violence, we find many of these aspects of radicalization in the modes and mechanisms used by the social movements examined below. Bosi, della Porta, and Malthaner (2019: 134) stress that social movement studies has concentrated mainly on non-violent movements in Western countries. They make out two general approaches within social movement studies, which they apply to political violence: a classical approach, including resource mobilization theory and political opportunity structure theory, and a relational/dynamic approach.

The classical perspective emerged in the 1970s, sparked by a critique of *resource mobilization theory*, which held that protests cannot be explained as a reaction to grievances and societal friction alone because social-political conflicts occur in all societies. According to

this critique, protests require "movement entrepreneurs" who have the material resources and networks to exploit the potential for activism. Splinter groups who break away in times of limited resources, decreased mobilization and increased internal competition resort to violence to survive. Persecution and repression from outside can help to uphold and control the group (Bosi / della Porta / Malthaner 2019: 134-135). The self-reinforcing mechanisms of war economies must also be taken into account (Bosi / Malthaner 2015: 447).

In the 1980s, the *political opportunity structure* approach rose to dominance. It stressed that closed political opportunities can lead to escalation from non-violent to violent actions (Bosi / della Porta / Malthaner 2019: 134-135). Ondrej Cisar notes further that it viewed changes to the international context, including changing political and economic conditions, as potentially leading to additional opportunities for mobilization (Cisar 2015: 57).

Starting in the 2000s, the contentious political perspective criticized the previous approaches as being overly structural and static. It emphasized that the social environment is *dynamic and reshaped by interaction*, which can escalate or de-escalate conflict. Those who took this approach identified *three areas of interaction*: interactions between armed groups and the state, intra-movement and movement-counter-movement interactions, and the organizational dynamics of armed groups. In the first dynamic between armed groups and the state, violent actions might be used if non-violent means have been unsuccessful; the aim is to secure influence, which can be triggered by the closing off of opportunities (the *opportunities and threats mechanism*). Groups may want to provoke a worsening of the situation or an overreaction on the part of security forces to mobilize the population (*policing escalation*). The *institutionalization mechanism* involves the inclusion of the group's ideas or members in formal politics. The state might open itself up in cases of overwhelming mobilization or where there is a threatened loss of legitimacy and authority (Bosi / della Porta / Malthaner 2019: 136-139).

The second dynamic of intra-movement and movement-counter-movement interactions highlights competition among groups for power, attention, and resources (including members) during periods of lower protest activity. Radical flanks may adopt more militant positions, and different groups may outbid each other in terms of violence so as to demonstrate their power, thus attracting new recruits and increasing group cohesion. On the other hand, brutal forms of violence may repel broader audiences and provoke counter-attacks and the development of counter-movements (Bosi / della Porta / Malthaner 2019: 139-140).

The third dynamic consists in the organizational dynamics of armed groups. The *organizational compartmentalization mechanism* is similar to organized crime: on the one hand, centralization and hierarchical control is desired; on the other hand, clandestinity favors the formation of not only various independent groups but also splintering processes and internal purges. The *action militarization mechanism* concerns the tensions faced by groups who rely on violence, along with the way in which isolated groups who wish to survive might target the very social and political groups they had previously tried to attract (Bosi / della Porta / Malthaner 2019: 141-144). The *mechanism of ideological encapsulation* deals with the groups' own narratives: "Initially justified instrumentally, as the only way out against a powerful adversary, violence then increasingly becomes and existential response to a hostile environment" (Bosi / della Porta / Malthaner 2019: 143).

With this theoretical framework in hand, I will now turn to the cases mentioned above, the results of which will be mixed. Even given these mixed results, however, and even if not each of the social movement theory mechanisms are at work in the two cases, we can nonetheless draw general conclusions about whether such mechanisms apply to the case of Somali and Nigerian maritime violence. In the following, I will describe the groups involved in each of the

case studies, and I will analyze the possible explanatory power of the mechanisms highlighted by social movement theory. In addition, I will draw on further literature from social movement theory research, as well as the relevant literature on the cases.

4   Applying the Modes and Mechanisms of Social Movements: Nigeria

In this section, I will briefly discuss the case studies of Nigeria and Somalia to demonstrate the extent to which social movement theory can be applied to sea pirate groups and maritime terrorist groups. The different groups located in these areas use narratives to underpin an attitude of social protest to legitimize their violence. If they qualify as social movements, as assumed above, can the underlying principles of social movement theory help us to better understand the phenomenon of maritime violence?

Nigerian and Somali waters, or more broadly the Gulf of Aden and the Gulf of Guinea, belong to the countries most affected by maritime attacks in the present century. With 28 attacks between 2000 and 2010, Nigeria has been a hotspot of maritime terrorism.

Since 1997, the government of Nigeria has been in conflict with various rebel groups over autonomy and the distribution of revenues from the oil resources in the Niger Delta. The Movement for the Emancipation of the Niger Delta (MEND), founded in 2005, has been held responsible for a high number of attacks, including 28 maritime attacks from 2006 to 2010 involving the abduction of small groups of civilians, the abduction of civilian vessels, destructive attacks on ships, ship bombings, and attacks on maritime port facilities.[23] MEND is a network of separatist and ethno-nationalist groups, and the conflicts in which it is engaged have sparked a violent crisis over resources and the autonomy of the Niger Delta. The parties to the conflict include several Ijaw groups, the government, and multinational oil companies. This conflict has been triggered by environmental pollution by international oil companies and dissatisfaction with the distribution of profits (HIIK 2018: 82).

In 2009, following a presidential amnesty which aimed to reintegrate former fighters, the conflict de-escalated. Nevertheless, MEND continued to take hostages and to attack oil industry facilities at a lower level (HIIK 2010: 35-36). In 2018, the local population protested against the presidential amnesty program due to alleged corruption and lack of payments, threatening to attack oil infrastructure and security personnel (HIIK 2018: 82). Chibuzor Chile Nwobueze and James Okolie-Osemene (2018: 125, 131-133) view the DDR process as having been partly successful insofar as it offered training to the former fighters. They acknowledge the engagement of many stakeholders in the political process but call for efforts to better implement the Niger Delta Master Plan, with its focus on youth and human development and environmental sustainability.

In the period from 2010 to 2017, Nigeria did not make it into the top five hotspots category as it had "only" been home to four attacks (for example the abduction of two US sailors by the MEND in 2013). The MEND has become increasingly fragmented, less aggression has been reported, and other groups have emerged. The army has undertaken several operations in Niger Delta states to fight pipeline vandalism, illegal oil refineries, oil theft and kidnapping. The current focus of reporting and defense measures in Nigeria is the Niger Delta Avengers (NDA). They emerged in 2016 and have resumed armed attacks on oil industry assets and security forces in the Niger Delta (Obi / Oriola 2018). Another focus is the Islamist group Boko Haram,

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[23]   The attack figures for maritime terrorism up to 2010 are taken from the PiraT database (a collection of maritime attacks from three databases (GTD, WITS and RAND). The attack figures for 2010 to 2017 are taken from the GTD (Global Terrorism Database). For definitions of key terms and methodological approaches, see also Schneider (2019).

which is mainly active in the North of Nigeria and is not known to have committed any maritime attacks.

Cyril Obi and Temitope Oriola (2018b: 4) refer to local resistance as part of a "social movement for ethnic minority and environmental rights and resource control […] with a mix of progressive, opportunistic and retrogressive trends […] [and] with adverse implications for Nigeria's capacity to transform its oil wealth into real developmental dividends."

The splintering process (e.g. NDA's breaking away from MEND) demonstrates the *compartmentalization mechanism* highlighted by social movement theory. As Nwobueze and Okolie-Osemene (2018: 125) observe: "The resurgence of [the community-based] militant groups no doubt further positioned them as security providers who sought to protect their communities from unrestrained attacks by the security forces." New groups want to express the frustration of the communities by generating attention by stopping on- and offshore oil production (ibid: 126). One could argue that they thereby seek to force formal politics to include their ideas or members in the political process (*the institutionalization mechanism*). This has been partly successful as they are now members of the Pan Niger Delta Forum (PANDEF), which brings political and traditional leaders together to negotiate with the government on possible solutions to the crises in the Delta region (Oriola / Adeakin 2018: 151-152). Stopping oil production might also have been intended to provoke further overreactions on the part of the security forces (which were already known for their excessive use of force) in order to mobilize the group's audience (*policing escalation*).

The Niger Delta Avengers have accused national and Niger Delta politicians, as well as former MEND members, of enriching themselves. They portray MEND as criminals and sea pirates, declaring that they are more civilized than MEND because they carried out their attacks without killing anyone (Oriola / Adeakin 2018: 141-143). To underscore their standing as selfless agitators rather than terrorists or criminals motivated by greed, they "do not engage in conventional criminal activities such as illegal oil bunkering, kidnapping, extortion and pipeline protection racketeering" – limits that also help them to stand apart from MEND (ibid: 144). The focus on non-human targets is directed at garnering sympathy from local and international audiences (ibid: 150). It is therefore safe to say that they have not engaged in pirate activities. This may be taken by some as proof that they constitute a counter-movement formed as a reaction to the brutal force and criminal activities of their predecessors, as a reverse effect of *violent outbidding*. Instead of using more force to attract recruits and support, the group has chosen a less deadly path.

The Gulf of Guinea has also become a key piracy hotspot. It was the focal point of global piracy in 2018, accounting for 40 percent of all recorded cases (BPOL See 2018: 27). The region has witnessed the kidnapping of crewmembers (with preference given to Western crewmembers for higher ransom), the stealing of shiploads and robbery. They sometimes use hijacked ships as mother ships for their activity up to 170 nm away from the Nigerian coast. Although this is very similar to the behavior of Somali pirates, the main differences are that ships are not safely detained on the coast for months and crewmembers are kidnapped, taken ashore and cared for by the same people in the Niger Delta, whereas piracy in Somalia involves a greater division of labor. Incidents in other territorial waters in the Gulf of Guinea have also been attributed to Nigerian perpetrators. When attacks against international merchant ships have failed, partly due to the security forces on board and defensive measures, they have quickly sought new targets nearby. A particular difficulty for Nigerian security forces is that the Niger Delta as a hiding place is difficult to control, and the forces are occupied with counter-terrorism operations. In addition, private armed security forces cannot be deployed in the same way they are deployed in the Gulf of Aden, as Nigeria has banned their deployment on ships

in its waters. For a fee, teams of Nigerian Navy members, Navy escort boats and shipping yards/port areas protected by a consortium of Nigerian and British security companies may be used (BPOL See 2018: 30-42; BPOL See 2019: 35).

In the Niger Delta, basic supplies are limited and high pollution prevents traditional fishing, while the state finances itself through oil revenues or corruptly siphons revenue away to private pockets. Environmental cleanup and compensation efforts are either too slow or non-existent, which frustrates the population. Acts of sabotage against the oil industry, oil theft and illegal refineries have aggravated the economic situation, further deteriorating environmental conditions. Because illegal refineries are often the only source of income, there is little cooperation with security forces. Illegal fishing also continues to aggravate the supply situation on the coasts. Drug smuggling operations involve cooperation between pirates and terrorists on the one hand and corrupt security forces and politicians on the other (Kinzel 2019: 14-19).

To sum up, pirates use business models that highly resemble those used by MEND, although they are also criminal gangs who lack recognizable political demands. With this said, the example of the Gulf of Guinea reveals the difficulty of drawing a clear distinction between piracy and terrorism: Both involve a combination of motives, for example the distribution of revenues from oil resources and economic incentives. Some call Nigerian piracy "oil piracy violence" (HIIK 2018: 83), for instance. It is not clear, however, whether this combination of motives is the result of weak leadership and organizational frameworks or a byproduct of trying to guarantee income. It seems likely that pirate groups and rebels access the same people, with the same maritime skills, and use the same narrative to justify their crimes, i.e. the narrative that there is no other choice given the political, economic and environmental situation, with industry and governments playing the role of perpetrator.

It is arguable that "[e]conomic globalization is directly linked to its [detrimental] environmental consequences" (Diez / Bode / Fernandes da Costa 2011: 82). Environmental movements point to this fact and question how development and the sharing of costs and regulation are possible (Diez / Bode / Fernandes da Costa 2011: 83).[24] As we will see below, the case of Somalia likewise reveals the opportunities that arise from rising global maritime traffic, global inequalities and other effects of globalization, such as illegal fishing and waste dumping.

5   Applying the Modes and Mechanisms of Social Movements: Somalia

Somalia has been a hotspot of maritime terrorism (with 14 maritime attacks by al-Qaeda and al-Shabaab from 2000 to 2010 and 6 maritime attacks from 2010 to 2017). The Islamic al-Shabaab, who also carried out other land-based attacks, is thus responsible for most of the maritime attacks in Somalia. Al-Shabaab has targeted harbor maritime facilities and has carried out destructive attacks on ships. Its attacks have been directed against a port (with a mortar attack occurring in 2010) and port officials (in 2014) and include the abduction of crewmembers from a Kenyan vessel (in 2014) and Iranian sailors from a fishing boat (in 2016). There were many victims in an attack in 2016, where an explosives-laden vehicle detonated at a seaport.

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[24]   Other scholars have argued for the positive effects of globalization on violent protest. Süveyda Karakaya, for example, observes that "increasing levels of globalization lead to a preference for nonviolent campaigns over violent ones. […] Integration into the world increases the popularity of peaceful alternatives to achieve political goals" (Karakaya 2018: 315). He concludes that "[g]lobalization and increasing communication technology help to mobilize people and solve collective action problems" (Karakaya 2018: 331).

Al-Shabaab militias controlled large parts of the southern reaches of the failed state of Somalia and pledged allegiance to Bin Laden in 2009 (Bergen / Hoffman / Tiedemann 2011: 73). Their continued goal is the establishment of an Islamic state and participation in a worldwide jihad. Meanwhile, however, the group has lost control over many territories and is now focused on a hit-and-run strategy instead (Doboš 2016: 950). The African Union Mission in Somalia (AMISOM) has contributed to the decline of al-Shabaab's dominance. Instead of attacking military bases, al-Shabaab turned to urban guerilla warfare, bombing parts of the government and businesses that refused to pay dues to them (HIIK 2018: 87). The war over national power and the orientation of the political system continues. Al-Shabaab's attacks outside of the country, for instance in Westgate and Garissa, have led to military actions by Kenya, for example, and infrequent attacks in Kenya continue to take place (Jones / Liepmann / Chandler 2016: 8). At the same time, there have been military clashes between the IS and the al-Qaeda-affiliated al-Shabaab (HIIK 2018: 85). Al-Shabaab recruits from different clans and brings foreigners to Somalia to break up traditional power structures (Ingiriis 2018: 234). Pirate groups, on the contrary, are usually organized according to clan lines.

Using the example of al-Shabaab, a possible *nexus between terrorism and piracy* is often discussed in the literature. Stig Hansen (2013: 111-112) notes, for example, that Sharia has been newly interpreted to allow for the religious legitimation of cooperation between al-Shabaab and pirates. Although there is no proof of operational cooperation between al-Shabaab and Somali pirates (BKA 2011: 5), some authors suggest that the Islamists have benefitted from piracy ransoms, demanding up to 30% of the pirates' revenue (Kolb / Salomon / Udich 2011: 110-115; Lough 2011).

Piracy and armed robbery off the Somali coast have become a major concern for many states, threatening their economic and political interests. Since 2008, pirate attacks and ship hijackings in the Gulf of Aden and the Indian Ocean have increased drastically. Ship owners have suffered significant economic and human costs (Oceans Beyond Piracy 2010, 2011 and 2017) insofar as economic globalization has led to the increased use of seaways. The sea, and in particular the Indian Ocean Region, has taken on growing geo-strategic importance; it has become the focus of a new era of transnational organized crime, economic exploitation, sustainable transportation, and interstate rivalry (Schneider 2012b). According to the International Maritime Bureau, worldwide attacks by pirates steadily increased until 2011; attacks off the coast of Somalia fell sharply by 2012, although attacks in West Africa are increasing overall. Worldwide attacks hit a 22-year low in 2017, with rising tendencies in 2018 (ICC 2018). The potential for attacks by Somali pirates remains: the situation on land is still unstable, and there is a risk that once naval missions and private guards on ships disappear, attacks will once again increase.

Both al-Shabaab and Somali pirate groups are therefore good examples of *opportunism* in Tilly's sense. Both exploit the high density of maritime traffic near their country and weak state structures. Whereas pirate groups carry out armed robberies, kidnappings and hijackings for ransom for profit, terrorist groups aim to either disrupt trade, send a message to their audiences and challenge power structures or use the same criminal techniques as guerilla forces to finance terrorism. It was only possible for Somali pirates to keep the hijacked ships and kidnapped crew on board for months off the coast of Somalia during negotiations because the state was too weak to challenge them and because their narrative and profit gave them local support.[25]

Somali pirate groups are highly heterogeneous. Some are under the protection of a clan, and some are not. Some are greed oriented, while others are artisanal fishermen who capture ships

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[25]   On Somali Piracy understood as organized crime needing a certain level of lawlessness and economic stabil-ity at the same time see Anja Shortland and Sarah Percy (2013).

because of their grievances. With this said, they have a pattern of justification – the so-called Robin Hood narrative – in common.

In terms of the emergence of movements, the various narratives relied on by these groups can be an important factor in motivating action. According to Francesca Polletta and Beth Gharrity Gardner, a "narrative is an account of a sequence of events in the order in which they occurred to make a [normative] point. […] Audiences should feel an emotional connection […]. Narratives are forms of discourse, vehicles of ideology, and elements of collective action frames" (Polletta / Gharrity Gardner 2015: 535-536). Such narratives are designed to secure favorable media coverage and support. Whether they are successful and whether they lead to merely symbolic or genuine gains depends on the (cultural) context (ibid: 544).

There are four patterns of legitimization in the context of the Robin Hood narrative based on accusations of illegal fishing and the dumping of toxic materials. First, it is claimed that pirates act as a quasi-coastguard whose aim is to protect the Somali shore. Second, Somalis are said to be forced into piracy because of poverty and insufficient economic alternatives. These two allegations constitute the core of the Robin Hood narrative. Two other popular legitimizations are that illegal fishing is what sparked piracy in the first place and that there is "general anger" among Somalis regarding the behavior of the international community, which drives them to support piracy (Hansen 2009: 8-12). In its calls to the international community to combat Somali piracy (United Nations 2012: 9-10), the United Nations Security Council has rejected this narrative of a legitimate fight for survival. Nevertheless, regional experts have pointed out the importance of fighting "both resource and ransom piracies" (Weldemichael 2019: 204). It is not my aim here to deal with the shortcomings of the Robin Hood narrative (for a critique of this sort, both empirically and theoretically, see Schneider / Winkler 2013). Rather, I wish to stress that it fits well with social movement theory, which stresses that the use of narratives has cultural and strategic components, is an important element of identity, and can be crucial for the success of the movement (Polletta / Gharrity Gardner 2015).

According to *resource mobilization theory*, grievances alone are not sufficient to explain the development of a movement; what is necessary are entrepreneurs who have the relevant resources. Where resources become scarce, splinter groups take recourse to violence. If we look at the modus operandi of organized Somali piracy, this theory would seem to be confirmed. Modern-day Somali piracy is an elaborate undertaking in which individuals are only paid a small share while the bulk of the ransom goes to organizations/investors, who pay for and maintain mother ships and their crew to finance further pirate activities and hostage taking; piracy is thus better explained by taking resource mobilization theory into account. The risk of failure is currently too high, which is why most of the revenue gleaned from Somali piracy is currently invested in other areas of organized crime and illegal trafficking. In addition, al-Shabaab is strongly influenced by global jihad networks, as its affiliation with al-Qaeda shows. This flow of networks and contacts allows them to recruit inside and outside of the country, for example, and to pay their fighters a comparatively attractive salary. As a result, this case also reveals aspects of resource mobilization.

The *political opportunity structure approach* examines how closed political opportunities can lead to violent actions, and vice versa. Al-Shabaab has benefited from the fact that security forces are occupied elsewhere, for example; violent confrontations between Somaliland and Puntland forces weakened the fight against al-Shabaab, which then forcefully expanded its presence in these provinces in 2018, with Puntland being the most important starting point and base for terrorists and pirates (HIIK 2018: 86).

As a sign of *violent outbidding* over national power, a dynamic of intra-movement and movement-counter-movement interactions is evidenced in current tensions between al-

Shabaab and the so-called Islamic State in Somalia (ISS) (HIIK 2018: 85). Unlike al-Qaeda, with which al-Shabaab is affiliated, the IS has no known maritime strategy, although they do have certain motives in common.

The other side of the coin of *violent outbidding* is that brutal forms of violence can repel broader audiences and provoke counter-movements. This may be the case with Somali piracy. Violence against local fishermen and the consequences of piracy have helped to convince the local population to withdraw their support. Piracy can be held co-responsible for the collapse of the fishing sector, as pirates have stolen fishermen's "boats and catch, fighting and injuring or killing them in the process" (Weldemichael 2014: 217). In an interview, Saeed Mohammed Rage, Puntland's Minister for Maritime Affairs and Ports, emphasized that the Somali people are "the first victims of the pirates": "trade is decreasing in our ports, [while] our prices for foodstuffs [and] the prices for almost all goods are increasing rapidly" (Petrovic 2011, author's translation). Furthermore, Rage reports that "[f]ishermen no longer go out to sea because they are scared: they are scared of pirates, scared of navy forces and scared that private security companies on merchant ships will mistake them for pirates and shoot them" (Petrovic 2011, author's translation). Similarly, Andrew MacAskill and Pratap Patnaik (2013) report that fishermen have been mistaken for pirates by Italian marines, with deadly consequences.[26] Rage himself was captured by pirates, and many of Puntland's security forces have died attempting to defeat or detain pirates. Rage also notes that, because pirates are in possession of large sums of money, "prostitutes come to the villages where the pirates are and drink alcohol. (...) The pirates are destroying our culture" (Petrovic 2011, author's translation). Needless to say, the international audience has been repelled by the use of force against seamen, which has prompted many counter-reactions on various levels.

This goes hand in hand with the *action militarization mechanism* when groups use violence against those they wish to attract. This is true of Somali pirates who attack the fishermen they claim to protect (e.g. by hijacking fishing boats to use as mother ships to go further out to sea). This mechanism is also true of al-Shabaab: Rather than convince the population to adopt their ideology and fight for regime change, they bomb city businesses, for example, and use terror to collect taxes.

Social movement scholars often concentrate on progressive movements. As Bosi and Malthaner point out, however, "social movements, too, can be authoritarian and oppressive towards the civilian population." Social movement theory has learned from terrorism studies, for example, that "Islamist movements […] display a number of particular patterns and elements of mobilization, with respect to frames, justifications, and symbols, as well as with respect to safe spaces, key leaders and repertoires of action […]. [This can include] imposing notions of Islamist socio-cultural order and moral codes" (Bosi / Malthaner 2015: 445).

In this context, the *mechanism of ideological encapsulation* can also be applied insofar as it describes how group narratives were created to justify actions against a powerful adversary before violence became the existential response. The Robin Hood narrative may have played an important role at the beginning of Somali piracy, but soon maritime violence, and the profit to be made from it, became more important than change (until the cost grew too high due to countermeasures). It would seem that violence has become more of an aim than a means for al-Shabaab. The group has also been unsuccessful in convincing the population to adopt their

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[26] This refers to the ongoing controversy about the "Enrica Lexie" incident (Italy v. India). The International Tribunal for the Law of the Sea (ITLOS) ordered parties to suspend all court proceedings which might aggravate or extend the dispute (Case No. 24, Order 2015/5 of 24 July 2015).

notions of morality and order, to decide the fight militarily and to accept the ideological superiority and strategies of the IS in Somalia.

As an overview, the above-discussed findings regarding the application of the characteristics and modes of social movements to groups carrying out maritime violence in Somalia and Nigeria are summarized in Table 4:

Table 4. Overview of Application of Social Movement Theory to Cases

Social movement theory: Characteristics and modes	Somalia: Pirates	Somalia: Al-Shabaab	Nigeria: MEND, NDA, pirate groups, etc.
Characteristics	Pirates: usually not. here: Robin Hood narrative as claim making.	Claims: creation of an Islamic State, global jihad.	Claims: separatist and ethno-nationalist; ethnic minority and environmental rights narrative.
Mode: Zone/category of opportunism	Exploiting high density of maritime traffic and weak state structures; example: armed robbery/kidnapping/hijacking for ransom for profit.	Exploiting high density of maritime traffic and weak state structures; example: cases of organized kidnapping by guerilla forces for ransom to finance terrorism.	Exploiting on- and offshore oil infrastructure and maritime traffic; example: cases of organized kidnapping by guerilla forces for ransom to finance terrorism or profit.
Resource mobilization theory	Activism through resource-rich entrepreneurs; example: investors in pirate hijackings.	Example: global jihadist network, salary for fighters.	-
Political opportunity structure approach	-	Example: violent confrontations between Somaliland and Puntland forces weakens the fight against al-Shabaab, which can expand its presence in these provinces.	-
Interactions between armed groups and the state (area of dynamic interaction I): Opportunities and threats mechanism; policing escalation; institutionalization mechanism	-	-	Stopping oil production to provoke further overreactions on the part of security forces to mobilize its audience (*policing escalation*); force formal politics to include their ideas or members in the political process (*institutionalization mechanism*), e.g. Delta Avengers becoming part of the Pan Niger Delta Forum.
Intra-movement and movement-counter-movement interactions, (area of dynamic interaction II): Violent outbidding	Somali piracy has repelled local and broader audiences because of violence against local fishermen and international crews.	Example: clashes between al-Shabaab and Islamic State in Somalia over national power.	Delta Avengers as counter-movement to MEND because it was repelled by force and criminal activities as a reverse effect of *violent outbidding*; attracting recruits and support by being less deadly.
Organizational dynamics of armed groups (area of dynamic interaction III): Compartmentalization mechanism; action militarization mechanism; mechanism of ideological encapsulation	*Action militarization:* Somali pirate attacking fishermen they claim to protect; *Ideological encapsulation:* Robin Hood narrative less important than benefits of maritime violence.	*Action militarization:* al-Shabaab bombing businesses and targeting the population they want to convince of their ideology with the aim of using terror to collect taxes; *Ideological encapsulation:* for al-Shabaab, violence seems to have become more of an aim than a means.	Splintering processes (NDA from MEND) show *compartmentalization mechanism*.

By reviewing the characteristics and modes highlighted by social movement theory, this section has demonstrated that each of them can be applied to at least one of the two cases under examination. With this said, the table highlights that not all modes fit all cases and that even where the modes do fit, they do so to varying degrees. This suggests that the usefulness of this approach may be limited to cases where a strong narrative is used to underpin an attitude of

social protest to legitimize violence. Even where this condition applies, however, the approach has its limits when it comes to explaining maritime violence and its dynamics.

To address this, in the next sections I will examine alternative approaches from philosophy, sociology and psychology which, when set alongside the analysis provided by social movement theory, may be fruitful for a conceptual comparison of these phenomena.

6   Views from Above: Philosophy and Sociology

According to Yoan Hermstrüwer (2009: 38), Jürgen Habermas views terrorism as a result of economic inequality, which is accelerated and amplified by globalization. The victims of globalization use terrorism to close the gap between themselves and the winners. Jacques Derrida shows that terrorism attacks the order created by Western states but lacks a clear vision of the future (Hermstrüwer 2009: 50). Following Habermas's conception, piracy (and terrorism) can be viewed as an attempt to close the gap between the winners and the losers of globalization by obtaining ransom money, for example. The current global order as a whole is not improved by this, a notion that corresponds to Derrida's claim.

Terrorism, as embedded in a social movement, is based on a diffuse sense of grievance. This definition aligns with Habermas's understanding of terrorism, according to which it is a phenomenon that occurs as the victims of globalization try to minimize, close or transcend the gap between themselves and those who profit from globalization.

According to Jordi Comas, Paul Shrivastava and Eric C. Martin, grievance is thus the diffuse feeling of having been left behind by globalization. This feeling is also expressed by social movements: "In social movements, a sense of solidarity or unity enables the articulation and realization of profound (even revolutionary) changes in societies and across them" (Comas / Shrivastava / Martin 2015: 50). This definition of a social movement is again easier to apply to terrorism than to piracy, but the application is even harder than it was in Tilly's case. Whereas the aim of social change is only one of three aspects of social movements on Tilly's understanding, Comas, Shrivastava and Martin view this aim as central to social movements, although like Tilly, they also touch on further elements of social movements such as common identity and symbolism.

The Robin Hood narrative advanced by Somali pirates has indeed created solidarity within Somali society, and the call for an end to illegal fishing and waste dumping by other (non-) state actors incorporates the promise of a wealthier Somalia, able to benefit from its own resources. Economic growth can be viewed as essential to socio-economic expansion in the poor and conflict-ridden country while reducing the risk of conflict.

The concept of human security can also be used to address grievances as a motivation for terrorists and pirates. It concentrates on policing and aid programs and emphasizes freedom from want, using development strategies to prevent piracy instead of, or in addition to, military means of protecting humans from fear, as outlined by Lindsay Black and Yih-jye Hwang (2010). When talking about human security, Martin Murphy (2011: 8) focuses instead on crewmembers. Those who man merchant vessels have a right to well-being and "to be protected by their own governments and the maritime powers whose goods they carry". Private Military Security Companies, on the other hand, must observe the human rights of pirates while protecting the crew (Priddy / Casey-Maslen 2012).

As costly enterprises, terrorism and piracy face the same problems as social movements. They require a steady influx of resources, and in some cases participants are even willing to risk their lives. Colin Beck (2008) argues that some of the organizational structures of terrorist

groups are similar to those of social movements in the sense that they are based on a professional core that directs and manages all actions, assembles resources and provides leadership. Terrorist groups are mainly organizations and face the same issues as other organizations.

Christian Bueger and his colleagues analyze piracy with the help of practice-theoretical constructivism (Bueger / Gadinger 2015) and actor-network theory (Bueger / Stockbruegger 2016). Criminologists have produced valuable studies on countering and preventing violent extremism, concentrating on rational choice and the usefulness of deterrence perspectives. They take into account the dynamic nature of terrorist attacks by analyzing the space (e.g. with geospatial data) and time in which events occur, for example by employing group-based trajectory analysis, series hazard models and analysis of individual patterns (La Free / Dugan 2015: 7ff.).

Nikolai Brandes and Bettina Engels (2011) use the term "social society" to describe the societal sphere between state institutions and family structures and social participation in governance issues. They describe two dynamics at work between civil society and the state: authoritarian structures and the dismantling of public social services on the one hand, and the conceptualization of civil society organizations as independent organs for controlling government on the other. One could argue that social society is shaped by Somali pirates through the provision of protection and the chance to earn a livelihood. They offer a means of signaling to the government that certain members of Somali society are not happy with the status quo and seek change.

Finally, further studies show that the degree of mobilization also depends on the political context, e.g. regime types. As Sarah Marsden observes, "in states with low levels of political freedom and stability, terrorism is more often found alongside other forms of political violence in the context of wider conflict, enacted by larger groups, akin to guerilla armies," whereas "in politically free settings, smaller groups use terrorism against the state in settings best characterized as peacetime" (Marsden 2014: 19). Hatem Hassan and Suzanne Staggenborg (2015) use cases from the Middle East to demonstrate that "social movement communities" may prefer this informal mode of collective action because it leaves them less vulnerable to regime repression in a non-democratic system. They conclude that class and ethnicity theories are being replaced by approaches that focus on resources and opportunities. Nina Eggert and Marco Giugni also note that mobilization occurs "at the global and not only national or local levels" (Eggert/ Giugni 2015: 168).

In "partly free" systems (according to Freedom House index) or defect democracies, as S. Erdem Aytaç et al. show in the case of Turkey, "the government's ability to stanch information about its own actions is not nearly as developed as in fully authoritarian systems. […] [A] relatively well-informed and polarized public reacts powerfully, if sporadically, with moral outrage against official repression" (Aytaç / Schiumerini / Stokes 2018: 1221).

By contrast, societies with more just and accountable governments that take into account social and political concerns, as well as the provision of adequate education and job opportunities, incite fewer terrorist activities. This is also true of a wide range of social movements, as Brandes and Engles (2011) show in the case of African countries. Stephen Ellis and Ineke van Kessel (2009) indicate that a diaspora can be an important factor in this context, and Frederick Cooper (2009) points out that, among other things, protest has often been shaped by gender. In established democracies, some have observed a new style or wave of social movement that functions "by combining political engagement with their [the group's] own lifestyle […] [being] loosely networked and … [without] any particular leaders" (Ogawa 2018: 739, in the case of Japan). In this way, social movements get the attention of people who are

usually not interested in (party) politics and "re-ignite and revitalize democracy" (Ogawa 2018: 742).

Terence Ranger, by contrast, warns against politicizing African (often Christian) religious movements by secularizing them, claiming that they are "best seen as part of a complex historical processes [of (de-)colonialization]" (Ranger 1986: 15). These are all aspects that should be taken into account when analyzing terrorist and pirate groups as well. As pointed out in the traditional risk models dealing with the product of "level of damage" and "probability of occurrence," the incorporation of all partial aspects referring to contexts related to actors and situations can create suitable starting points. Historical aspects fit alongside the need for contextual explanations, such as socio-economic, cultural and political factors and their relational, constructivist and dynamic character, as highlighted by Donatella della Porta's approach to social movements.

7   Views from Within: Political Psychology

As Jerrold Post notes (2015: 290), there are no individual psychological or pathological characteristics that set terrorists apart from other individuals. The same can be said when it comes to pirates. In the context of group dynamics and identities, however, insights and concepts from political psychology may prove useful. Della Porta has already emphasized the importance of group dynamics and identities for social movements. Political psychologists have also analyzed group identities. According to the social cohesion model, "individuals join groups or movements because they are attracted to the perceived similarity between their attitudes, interests, opinions, etc., and those of the members of a group" (Zick / Wagner 1995: 57, author's translation). The social identity approach "postulates a conception of the human being, in which individuals try to simplify their perceptions and experiences of themselves and of other people cognitively, to help them to understand the world and act in it" (Zick / Wagner 1995: 59, author's translation).

Bernhard Leidern, Linda Tropp and Brian Lickel support della Porta's arguments by claiming that group dynamics *do* play an important role in (political) behavior and that groupthink aims at consensus. The more coherent the group, the higher the group identification. The differentiation between "us" and "them" can change a person's personal and social identity, and thus his or her conception of appropriate behavior. Group polarization can lead to extreme attitudes, and escalation can occur when decisions made by the group cannot be revoked. The groups present themselves as supplying identity, security, safety and, last but not least, power. External pressure such as threats and crises can result in increased group identification. This can take the form of realistic outside threats to material interests or resources, symbolic threats to one's worldview or culture, and threats to their distinctness. Consequently, this leads to irrational fears about foreign cultures and ideologies, facilitated by moral disagreement strategies and an escalating cycle of violence, rage and revenge. De-escalation is possible with enhanced understanding and empathy for others and/or out-groups and a critical assessment of the in-group (Leidner / Tropp / Lickel 2015: 238-247).

Followers of the explanatory model of resource mobilization view structural problems as a necessary but not sufficient condition for the emergence of social movements. According to the model, relative discrimination leads to the mobilization of resources if the political structures for opportunities are given. Moreover, tactical considerations come into play when deciding on non-violent forms of protest and/or political violence (Zimmermann 1998: 55).

Political psychology can therefore add to our understanding of group identities and dynamics in connection with the radicalization of terrorists and pirates. It adds the emotional aspects of threat perception, which take place not only on the material level but also on the symbolic level

of worldviews, motivating reaction patterns. It also highlights the importance of opportunity and resources.

8   Conclusion

Social movements are defined in many ways. One characteristic represented in many definitions is the endeavor to bring about (or prevent) social change. Most, if not all, forms of terrorism have a political agenda or are carried out in advance of a certain (political/ideological) goal that usually encompasses the prevention of, or the aim of bringing about, social change as part of a political process. Social movement theory can be applied to both phenomena if one concentrates on forms of piracy, such as Somali piracy, that justify their activity as a kind of protest and demand that current practices change. A case can also be made for certain Nigerian pirate and/or terrorist groups in the Niger Delta, who seek the redistribution of revenues from oil resources (often leading to theft, robbery and hijackings) and oil-spill cleanup measures, highlighting environmental damage and its consequences for society. With this said, in most regions of the world pirates do not make use of Robin Hood narratives. Social movement theory would therefore seem to apply to only a few cases, which itself reveals the multifaceted nature of piracy.

At base, and given this complexity, there are not only many differences but also a number of similarities between pirate and terrorist groups when it comes to their motivations, processes and the exercise of control, on both the psychological and the group level. The above demonstrates that traces of the modes highlighted in social movement theory can be found in the case studies of Somalia and Nigeria. This is a significant contribution to our understanding of piracy and terrorism; until now, this connection has not been traced in a systematic way in the literature on maritime violence. Not all modes fit all cases, however, and even where certain modes fit, they do so with varying explanatory power. The concepts highlighted by social movement theory would thus seem to be of use primarily where a strong narrative is used to underpin an attitude of social protest to legitimize violence. Even where this is the case, the approach has its limits when it comes to explaining maritime violence and its dynamics.

Given these limitations, the above examination of the benefits of social movement theory was supplemented with alternative perspectives from philosophy and sociology to include a broader global social context (views from above) and from political psychology (views from within) to include inner perspectives on the dynamics at work on the individual and the group level. The findings from these disciplines can be situated alongside the social movement approach to add to our understanding of these social phenomena. Political psychology can, for instance, add to our conceptual explanations of group identities and dynamics, identifying the emotional aspects of threat perception and reaction patterns, whereas philosophical and sociological approaches provide general discussions of grievances, inequality, globalization, human security, actor networks, regime types and historical processes of (de-)colonialization. These factors clearly have an impact on the agents of maritime violence.

The concept of social movements and the dynamics involved in their radicalization help to explain how control develops and how different types of rationalities and identities are united, and even blurred, over time. The character of a movement can change, for example, due to the level of brutality and isolation involved or the recruitment of different people (criminals, religious communities, nationalists, etc.), who tend to pursue different aims. Social movement theory provides "important heuristic tools for understanding the use of political violence as a form of militantism. In particular, they highlight the importance of political opportunities and threats as well as of available material and symbolic resources […]. [T]he relational perspective

allows understanding of the (endogenous and exogenous) dynamics at play" (Bosi / della Porta / Malthaner 2019: 144).

Providing a common conceptual roof so as to better understand terrorists and pirates in the maritime domain helps us to view these groups not merely as risk factors and addressees of security governance but through the lens of social protest and the mechanisms and dynamics outlined by social movement theory. This approach helps us to contextualize and theorize these phenomena from a perspective that can be broadened by other useful concepts. It would therefore be worthwhile to deepen this analysis in further case studies so as to highlight the benefits and conceptual clarity afforded by this perspective.

In the next chapter I will demonstrate further on how I researched the phenomenon of 'maritime terrorism' empirically.

1   Introduction to the GTD, WITS, and RAND Data Banks

In order to research the phenomenon of 'maritime terrorism' properly and empirically, the author initially intended to choose a consistent approach of working with the 'best' databases[27] available, which contain up-to-date information on terrorist attacks. Such an approach would have had the added advantage of being able to use the data bank's own analytical tools (e.g., the visualization of data bank results in pictures or maps). It was crucial to the selection of a database that the time period covered be as broad and as current as possible and that both national and international incidents be included. Furthermore, any database would have to allow for a search through the criteria of attacks so that 'maritime' incidents could be distinguished from other types of incidents. Given these criteria, only three databases were considered, all of which originate in the USA: the RAND (Research and Development) Corporation's database,[28]

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[27]   Unfortunately there is relatively little current literature dealing with terrorism databases. The most topical information available is found in: Schmid 2004, Drakos 2009, Wigle, 2010, LaFree 2010 and Bowie/Schmid 2011. A thorough study on lessons from the global terrorist database GTD, including a section on the evolution of media-generated terrorism databases including RAND and WITS by LaFree/Dugan/Miller (2015:12-25), see also LaFree 2015. In addition, Joshua D. Freilich and Gary LaFree (2016) give an overview on measurement issues in the study of terrorism and the most recent methodological innovations.

[28]   The RAND Co.'s data bank is compiled from three different databases: the "Terrorism Chronology Database"(1968-1997), the RAND-MIPT Terrorism Incident Database (1998-2008), and independently collected incidents since 2009. However, the period of collection varied from region to region (RDWTI). Rand announces on its homepage that it is complementing data from the last few years on an ongoing basis, and will be continually updating the data bank (http://www.rand.org/nsrd/projects/terrorism-incidents/about/, accessed on 04 October 2011). In addition, LaFree/Dugan/Miller (2015:10, note 6) point out that the RAND-MIPT database was "limited to international terrorist attacks, a small fraction of all attacks."

the GTD (Global Terrorism Database),[29] and the WITS[30] (Worldwide Incidents Tracking System) database.[31]

It quickly became clear, however, that these databases consist of very different lists of maritime attacks, which made it necessary to export any valid information out of the three databases into our own database for further analysis. This required significant additional effort, due to the need to compare and amend data in the course of its systematization[32] and preparation for visualization, before the results could be prepared for analysis. The differences among the databases can be explained as follows:

a) The definitions used by the databases differ from each other. As shown in the following section, there are indeed differences in the definitions but they are not that severe and thus do not comprehensively explain the divergences between the databases.

b) The databases differ in how they detect incidents in accordance with their respective definitions. In fact, there are many indications in case study literature on terrorism that all three databases are not fully reliable in their recording of relevant cases, due to the way the data was initially compiled. A general problem is the difficulty in data verification, as some databases (such as RAND, WITS) do not list sources for individual cases by contrast to GTD, often relying on reports from news agencies).

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[29] The "Global Terrorism Database" (GTD) is a data bank from the "National Consortium for the Study of Terrorism and Responses to Terrorism" (START), an institution run jointly by the U.S. Department of Homeland Security and the University of Maryland. The GTD began its work in 2001, when it took over the "Pinkerton Global Intelligence Service" (PGIS) database from a private security firm of the same name. PGIS, which is primarily made up of retired Air Force personnel, collected data, primarily from government documents and international magazines/journals, between the years 1970 and 1997, with the aim of identifying and describing terrorist acts. Since 2006, START has also been working with the "Center for Terrorism and Intelligence Studies" (CETIS) and the "Human Factors Division of the Department of Homeland Security" (DHS). In early 2008, analysts from the "Institute for the Study of Violent Groups" (ISVG) at the University of New Haven began to document terrorist attacks (beginning in April 2008), and in May 2010 began integrating these attacks into the data bank, accessed 4 November 2011).

[30] The "Worldwide Incidents Tracking System"(WITS) is a data bank from the "National Counterterrorism Center" (NCTC). The NCTC has been in existence since 2004 and is an American government organization whose purpose is the analysis of intelligence information and the fighting of terrorism (with the exception of the purely interstate terrorism). The information it collects and the knowledge derived from it is made available to the government and its intelligence services to support counterterrorism efforts, accessed 10 November 2011).

The WITS database has not been accessible since April 2012 and, according to a START press report of 16 November 2012, it has been discontinued: "Moreover, START will produce the statistical annex for the Department of State's congressionally mandated report, 'Country Reports on Terrorism 2012'. Data for the report was previously provided by the (WITS), which was scrapped by the National Counterterrorism Center in April 2012. As the 2011 report provided very limited information at only thirty-one pages long, hopefully the 2012 report will be more comprehensive."

[31] These are not the only data banks focused on terrorist actions. Other large data banks include the "International Terrorism: Attributes of Terrorist Events" (ITERATE) database and the "Terrorism in Western Europe: Events Data" (TWEED) database, which were not incorporated in research. The TWEED data bank includes incidents from 18 Western European nations (1950–2004), and is concerned only with national terrorism. Transnational terrorist attacks are not included. The ITERATE data bank includes cases between 1968 and 2007, and lists only incidents of transnational terrorism (see Drakos 2009: 7 f.), which limits it both in terms of time and in terms of content, meaning it does not merit inclusion in this context. The same is true for further sources. Prime example are the Terrorism Reports published by Europol (TE-SAT), which began to be published annually in 2007, but which limit themselves to cases in Europe and citizens of the European Union. There are further terrorism indexes, such as the "Monty Marshall Global Terror Index" (Deadly Terrorism Scale), which are, however, inadequate for inclusion because they generally contain only a ranking of countries according to the number of victims of terrorist attacks.

[32] The following fields were included in the PiraT data bank: Data bank from which the case was taken, number (identification number), date, city, country, perpetrator, weapon, injuries, fatalities, target type, region, attack type, case description. In designing these categories, the criteria of the GTD were used for general guidance, and the missing category designations in listings from other databases were added on a case-by-case basis. Repetitions (whether doubly or triply listed events) were expunged.

c) Another problem is the classification of 'terrorist' events. Often the background of acts is not clear. Especially the differentiation between economic and political motives behind these acts requires information that is often not available, such as, for example, about the perpetrator. Thus, encoders can interpret the available, incomplete information in different ways.[33]

d) The encoders detect the reference to the maritime dimension to differing degrees and are not always thorough enough to make this clear in the database entries.

LaFree/Dugan/Miller (2015: 22-24; 71-76) point out four limitations of the GTD database which should be valid for all similar databases:

a) the vagaries of media reporting in general,
b) the difficulty of distinguishing terrorism from other forms of crime and violence,
c) the lack of detailed information on important elements of terrorist attacks (e.g. problems of organizational linking and attribution) and
d) the challenge of maintaining complex databases over time.

It should also be noted that planned attacks that were never actually carried out because the perpetrators were caught beforehand are not included in these databases. (The criteria is a "out of the door rule") (LaFree/Dugan/Miller 2015: 127).

"In summary, although terrorist event databases such as the GTD are imperfect, they persist because they are useful" (LaFree/Dugan/Miller 2015: 24). In the future, the use of these databases will be enhanced even more by the possibility of integration with other important related databases, such as those on contextual data or countermeasures (LaFree/Dugan/Miller 2015: 234).

These considerations lead to the conclusion that despite and, maybe, even because of the limits of individual databases, the consolidation of cases from the three databases that fall under a common definition, may provide a clearer impression of the quantitative dimensions of maritime terrorism, than the individual databases themselves. This underlies the assumption that the three databases describe different parts of the overall number of cases. The aggregation of the cases recorded in the databases − while eliminating repeated entries – is thus a better approximation of the statistical population than what would be possible by using only one of the databases.

Naturally, these methods of database aggregation cannot solve the aforementioned problems either. Further, by combining all three databases, it is possible that not all relevant cases have been collected. Then again, coding errors in the direction of over-coverage beyond the criteria extracted in the definitions were added up. Overall, an aggregation of the existing data sets does not help to eliminate coding errors, as opposed to data collection one can perform on one's own. The coding problems could, if special attention were paid to maritime terrorism in the years that follow, lead to a greater awareness of the maritime reference to attacks. Therefore, all the following details should only be regarded as approximations of the empirical reality and should not be over-interpreted.

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[33] We can expect a growing level of quality and less coding errors for the GTD, as they refined enhanced the standards of the process of data collection using machine learning models and web-based interfaces with feedback loops from trained staff for classification. Also the rising number of reviewed articles (10,00-15,000 per month) as well as attacks (900-1,200 per month) and the extraction of data for over 120 variables set new standards for open-source databases (LaFree/Dugan 2015: 17-18; LaFree 2015: 124-125).

2   Database Categories and Problems with their Systemization

Initially, the approach should be outlined when searching through and categorizing groups. This can be described as follows:

a) First of all, incidents described as 'maritime' were taken from the RAND, GTD and WITS databases. Searching with RAND (RDWTI) and GTD, it was possible to detect different 'target types', such as 'maritime'. However, when analyzing the search results, it appeared that not all incidents listed under 'maritime terrorism' were found using this method.

b) When entering the keywords 'maritime', 'boat', 'ship', 'oil platform', 'tanker', 'vessel', 'carrier', 'container', and 'sea', the number of results increased. Using the same keywords, the targets and case description sections of the WITS database were also searched.

c) Multiple hits were then eliminated, for example, when the keywords were directed to the same case several times within a database. After the first stage, 581 cases were found in the database (RDWTI: 125, WITS: 104, GTD: 352).

d) Then, these cases were divided by perpetrator groups and closely examined. Only groups that carried out maritime attacks were analyzed (see the section on definitions). If the perpetrator remained anonymous (with the terrorist character of the attacks nevertheless being clear), the incidents were marked "Perpetrator: Unknown."[34] Terrorist groups did not have to be specialized in maritime terrorism; a single use of such tactics was enough to fall into this category.

e) At the second stage, all doubtful cases that lacked perpetrator descriptions (taken in context with a specific case) were analyzed. This reduced the overall number of cases to 419 (RDWTI: 114, WITS: 89; GTD: 216). This reduction of almost 30 percent of cases is due to a number of reasons: necessary generalizations, limited information, and distinctions (e.g. drug rings and pirates).[35] Other obstacles during the categorization were the different spellings of groups, different categories in TOPs and WITS and considerations when categorizing violent opposition movements.

f) The PiraT-Database was subsequently reviewed repeatedly. Cases were checked and adjusted (to 373 instead of 419).

g) 77 cases were identified that occurred on rivers without a port or access to the sea, within landlocked countries, despite applying the 'maritime' keyword. These cases were not considered for further evaluation and thus the total data set was reduced to 296 cases.

h) These were included in a separate PiraT database for further analysis. For this purpose, a separate system for data collection was developed.

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[34]   "Uknown perpetrators are as common as attacks committed by well-known organizations: (...) in just over half of the attacks in the GTD, the specific perpetrator organization responsible is unknown (...) [In addition,] a relatively small number of terrorist organizations is resaponsible for a high proportion of all attacks and fatalities" (LaFree/Dugan/Miller 2015: 71).

[35]   This way the databases can give some general information on the nature of the perpetrator, GTD calls this a generic category with "Palestinians" being the one most frequently used (LaFree/Dugan/Miller 2015: 79-80). However, in this study more specific information was needed.

The following data were collected from the databases and collated in the PiraT database: the case number for individual incidents according to the database from which the case was exported - number (identification number), date, city, country, perpetrator, weapon, injuries, fatalities, target type, region, attack type, description. The categories of the GTD database were largely applied and were the basis used to collect information from the other databases. Overlaps (double and triple entries) were filtered out.

The three databases differ from one another in their classification systems. Generally, what is categorized one way in one database is named differently in another. Some categories exist in one database, whereas they do not in the others. The following categories were ultimately chosen for analysis:

1. **Identification number**: While this number appears in the GTD and WITS databases, it does not in RAND, which makes working with the latter considerably more difficult. A PiraT-database reference number was therefore added.

2. **Date**: Appears in all three databases. Sometimes day, month, and year are included, and sometimes only the month or the year.

3. **City**: When the city or place of incident is known, it is included in all databases.

4. **Country**: Listed in all databases.

5. **Perpetrator**: If known, the name of the group responsible for the attack is included in all databases, albeit often with different spellings.

6. **Weapons**: Mentioned in all databases (although there are different methods of categorizing weapon type).

7. **Injured**: All three databases list the injured numerically, but there are a few problems with these figures. In the RAND database, contradictory listings are given in a few instances where the figure listed in the text on the incident does not match the figure in the database. The *GTD* uses the additional label "unknown" to circumvent this problem. While that may help avoid problems occurring from trying to account for missing persons, concrete figures are included in the same case descriptions where "unknown" appears in the database.

8. **Victims**: The number of victims is listed in all databases. There is a problem with the RAND database, once again due to contradictory entries in the listings. In addition, perpetrators are sometimes added to the numbers of victims. In the GTD, the death count among the perpetrators is often added to the number of victims, but this is not done consistently.

9. **Target**: All databases use different categories to indicate the target. In order to provide for consistency in this analysis, the categories used in the GTD were adopted. The author thus categorized the incidents from the other databases anew, according to the definitions used in the GTD. These added categories do not exist in the WITS or RAND databases or exist only in another form. In order to be able to compare the cases, it appeared logical to use a single system of categorization, as the characterization of a single event was sometimes different. The GTD's system was adopted because it defined its categories with the greatest precision.

10. **Region**: The categorization of regions was also adopted from the GTD, and the regions reassigned accordingly.

11. **Type of attack**: In classifying the type of attack, the GTD's categories were again used and cases were newly categorized and listed.

12. **Case description**: When available, case descriptions were taken from the individual databases. They are often very short, give an impression of incompleteness and are of variable quality with respect to the amount of information included.

Chart 4. Screenshot of the PiraT-database

Entführung ziviler Schiffe	○	Entführung von Passagierschiffen	○
		Entführung von Handelsschiffen	○
		Entführung der Besatzung	○
		Entführung (ohne genaue Beschreibung des Tathergangs)	○
Bombenanschlag auf Schiffe	●	Angriff Intern	●
		Angriff Extern	○
		Bombenanschlag ohne genaue Beschreibung des Tatvorgangs	○
Anschlag auf maritime Einrichtung im Hafen und auf See	○	Anschlag auf maritime Institutionen	○
		Angriff mit Hilfe eines Schiffes auf eine auf dem Wasser gelegene Institution	○
(Explosiver) Schiff zu Schiff Kollisionsangriff	●	Boote (meist Schnellboote) nähern sich Handelsschiffen, um durch Kollision Schaden zu verursachen	○
		Mit Sprengstoff beladene Boote nähern sich Handelsschiff(en) um durch Kollision und Explosion Schaden zu verursachen	●
Entführung ziviler Kleingruppen	○	Entführung von Touristen/Reisenden/Zivilisten	○
		Gezielte Entführung (Offiziellen/ Beamten/ Regierungsvertretern/ Mitarbeiter von Ölfirmen)	○
Seeminenverlegung auf maritimen Handelswegen	○		
Landbasierte Distanzangriffe auf den touristen Seeverkehr	○		
Angriff von See Richtung Land mit Schnellbooten	○		
Sonstiges	○	Waffenschmuggel	○
		In Brand gestecktes Boot	○
		Gefangennahme	○
Unbekannt	○		

The following **Table 5: Overview of terrorism databases and number of cases** shows the sample periods of the databases, and those of the sources used by each database. It is obvious that the databases have differences among themselves. The table reflects the state of data in cases in which the sample was taken from the databases. However, GTD is the only collection still ongoing and many more cases have been added since. Therefore, it is easy to agree with the statement that "GTD is currently the most extensive unclassified database on terrorism ever collected" (LaFree/Dugan/Miller 2015: abstract).

Table 5. Overview of terrorism databases and number of cases

Database	RAND Database of World-wide Terrorism Incidents (RDWTI)	World Wide Incidents Tracking System (WITS)	Global Terrorism Database (GTD)
Link	http://www.rand.org/nsrd/projects/terrorism-incidents/	https://wits.nctc.gov/Federal-DiscoverWITS/index.do?N=0	http://www.start.umd.edu/gtd/
Publisher	RAND Corp.: National Security Research Division, USA (Santa Monica)	USA National Counterterrorism Center (NCTC), USA	University of Maryland, USA (Maryland) The National Consortium for the Study of Terrorism and Responses to Terrorism (START), USA
Sample Period	1. RAND Terrorism Chronology Database: international terrorist incidents von 1968-1997 2. RAND-MIPT Terrorism Incident Database: domestic and international terrorist incidents von 1998-2008 3. Ongoing data collection: international and domestic terrorism, varying time frames across regions, ending on 31.12.2009[36]	January 1, 2004 - September 30, 2010	1. Pinkerton Global Intelligence Service (PGIS): 1970-1997 2. GTD1: 1998-2007 3. GTD2: through December 31, 2008
Number of Cases	Total: 40,129 Maritime: 99	Total: 74,306 Maritime: 61	Total: 87,710 Maritime: 175
Number of Cases in total	335 cases in total; of those -> 33 double entries and 3 triple entries-> potentially multiple entries (11%): <u>296 cases in total</u>		

Source: PiraT database

A fundamental problem in dealing with these databases is that, while they do indeed record all terrorist incidents and attacks, comparing the cases listed in the various databases is difficult

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36   "North America — complete through December 2009; Latin America and Caribbean — complete through December 2009; Africa — complete through February 2009; Europe — complete through December 2009; Middle East — complete through December 2008; South Asia — complete through December 2008; Afghanistan — complete through July 2009; Southeast Asia, East Asia, and Oceana — complete through December 2008; Former Soviet Union States and Central Asia — complete through December 2008; last updated 31 January 2011."
      Cf. http://www.rand.org/nsrd/projects/terrorism-incidents/about/coverage.html, consulted on 3 November 2011.

due to their varying definitions of what exactly constitutes terrorism. Nevertheless, the assessment of a particular case is always subjective. Table 6 highlights the key elements in an overview of the definitions of terrorism databases.

Table 6.   A brief comparison of terrorism definitions used by the databases[37]

Data Base: Criteria:	GTD	WITS	RAND	PiraT
Motive	Political, socio-economic, religious.	Political	Political	Political, ideological, religious.
Effects	Fear, coercion, or intimidation; an attempt at conveying a message.	Unspecified	Coercion of certain actions by creating fear, alarm, or through intimidation.	Fear, alarm or intimidation that might lead to pressure for political and/or social change; promotion of an ideology.
Type of Action	Violent acts that are outside the precepts of International Humanitarian Law, intentional act of violence or threat of violence.	Deliberate or reckless; attack does not fall into category of political violence, such as crime, rioting, or tribal violence. Terrorists must have initiated and executed the attack.	Violence or the threat of violence.	Threat or exertion of violence; outside the regulations of international law
Actor	Non-state actors	Groups or individuals	Groups or individuals	Non-state actors
Target	Unspecified	Civilians/non-combatants or their property	Generally directed against civilian targets	Civilians and governments (including military)

Source: Schneider (2012c), 17.

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37   My representation. Links to external definitions: http://www.start.umd.edu/gtd/faq/; http://www.start. umd.edu/gtd/using-gtd/; http://www.nctc.gov/witsbanner/wits_subpage_about.html; http://www.nctc.gov/witsbanner/wits_subpage_criteria.html; http://www.rand.org/nsrd/projects/terrorism-incidents/about/definitions.html, accessed 1 December 2012.

The terrorism definitions of the four databases (GTD; WITS; RAND; PiraT) are characterized using five criteria: motive; effect; action type; type of actor; and target. In terms of the assumed *motive*: While the PiraT database definition includes the definitions of WITS and RAND and while that of the GTD is similar, the definition of GTD is broader, as socio-economic motives are referred to. However, these were explicitly excluded from this study, in order to differentiate between acts of piracy and acts of terror.

Even though the PiraT definition of the *effects* of the attack is compatible with the GTD and RAND definitions (WITS did not specify), it is more specific. The "coercion" aspect described by RAND and GTD can fall within the political, social and ideological transition defined by PiraT.

With respect to the *type of action*, PiraT allows for a broad scope when describing threat or use of force[38], similar to RAND but, like GTD, stipulates that the act must be outside of the rules of international law. WITS excludes explicit criminality, tribal conflicts and political unrest.

With respect to types of *actor*s, both PiraT and GTD specify all non-state actors which, in principle, is consistent with WITS and RAND's "individuals or groups" designation.

In terms of the intended *target*, WITS and RAND stipulate civilian targets by definition but, nevertheless, all three data bases do cite attacks against military targets. The GTD states, that "the act was outside the precepts of International Humanitarian Law insofar as it targeted non-combatants" as one of three criteria, whereas only two have to be fulfilled (LaFree/Dugan/Miller 2015: 20). So they do include attacks against the military if they have not been combatants at the time or if the two other criteria (nature of goal and messaging to a larger audience) are met (LaFree/Dugan/Miller 2015: 20, 111-112).[39] Meanwhile, PiraT also includes attacks directed at governments or, more specifically, the military.

All in all, it can be stated that all databases face similar problems, and that their definitions of terrorism are somewhat vague, due to their wide scope. The descriptions are often incomplete and a variety of time periods are recorded. The sources are not (always) comprehensible und thus the classification of each individual act of violence recorded needs to be critically reviewed on a case-by-case basis with respect to its terrorist potential.

Despite all suggested definitions, the data can thus be characterized as being largely diffuse. A separate assessment, i.e. a recording of data, might help to eliminate some of the shortcomings mentioned above, but the costs of such a project would be prohibitive. Therefore, individual academics or small research groups remain the only viable options to ascertain tendencies of this sort. The PiraT database can, at least, be supplemented with cases that are not recorded

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[38]   The databases do not define any concrete thresholds of violence. A different assessment could be one of the possible reasons for the different number of collected incidents.

[39]   Sometimes it is difficult to clearly distinguish between them. For example, peacekeepers are often classified as diplomatic targets though they often include military personnel (LaFree/Dugan/Miller 2015: 106). Also "numerous attacks indiscriminately attack both combatant and noncombatant targets" (LaFree/Dugan/Miller 2015: 102).

in the other three databases used. Moreover, the case descriptions can be enhanced using information from other sources. Nevertheless, a constructive qualitative analysis of the empirical results remains indispensable, given the limitations of data currently available.

Compared to the absolute total number of cases amounting to tens of thousands – the number of documented maritime attacks, at only a few hundred, is relatively low. How this impacts the phenomenon of maritime terrorism as such needs yet to be clarified. Nonetheless it is necessary to analyze the previous incidents in order to arrive at a realistic image going beyond the much-discussed potential scenarios.

The purpose of data collection lies in the compilation of relatively comparable data on this phenomenon, which has hitherto barely been assessed in empirical evaluations. When working with the databases, it soon became obvious that such compilations are necessary and useful, but also that they must be approached with caution. Under no circumstances should they serve as adequate instruments for drawing full-fledged conclusions nor should they be used to declare superfluous any qualitative analyses of cases listed. This quantitative process thus requires intensive qualitative reworking. Nevertheless, the results of the databases can help to identify trends, which must be pursued further. For a more exact categorization, an individual consideration of incidents, according to groups and their motivation, will be necessary.

The next chapter will start with categorizing the terrorist perpetrators into particular groups according to their ideology, orientation, and the goals motivating their attacks.

VII CATEGORIZING TERRRORIST PERPETRATOR GROUPS

In order to complete a thorough analysis of the current data, it is first necessary to categorize the terrorist perpetrators into particular groups, as has been done in **Table 2: Overview of Categories by Perpetrator Group**.[40] Groups who carry out maritime attacks are categorized according to their ideology, orientation, and the goals motivating their attacks. These groups may believe their actions to be politically legitimate and may also use tactics other than those of terrorists.

Out of the three databases included in the PiraT project, the GTD (representative of the TOPs database, see below) and the WITS databases have diverging categorizations available, and the RAND database has none. However, to be able to evaluate the cases compiled in the framework of the PiraT-project, a single, uniform categorization is needed. Therefore, the different approaches had to be analyzed and summarized in a way that made sense. The GTD/TOPs and WITS approaches will be presented in the following section. Then the Europol categorization will be explained as a middle ground adopted for the purpose of this study.

The **Global Terrorism Database (GTD)** approach categorizes the various clusters using the **Terrorist Organization Profiles (TOPs)** database.[41] TOPs summarize all religious motivations together in one category, while the political motives are divided into nine categories. The criteria to which this selection is subject is not, however, explained further.[42] The Worldwide

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40   Two alternative approaches for categorization are put forward by Alexey Muraviev and Andreas Graf. Graf (2011: 17) distinguished between Political Piracy, Economically oriented Maritime Terrorism, Maritime Terrorism and Maritime Insurgency. Muraviev (2007: 81) subdivided the preliminary level (spontaneous opportunity or a planned attack, or thirdly the category of economically motivated attacks). Muraviev's example does not allow for the categorization of perpetrators, but for the categorization of attacks..

41   Both databases are made available online by the National Consortium for the Study of Terrorism and Responses to Terrorism (START). „TOPs present data collected for and by Memorial Institute for the Prevention of Terrorism (MIPT), based in Oklahoma City, through March 2008. (…) 2004-2008, the Department of Justice and the DHS provided support for the creation and ongoing maintenance of the Terrorism Knowledge Base® (TKB®), developed and sponsored by the MIPT (...). The project ceased operations on March 31, 2008", http://www.start.umd.edu/start/ data_collections/tops/, accessed 27 September 2011.

    „GTD began in 2001 when researchers at the University of Maryland obtained a large database originally collected by the Pinkerton Global Intelligence Services (PGIS, 1970-97). In April 2006, the National Consortium for the Study of Terrorism and Responses to Terrorism (START), working with the Center for Terrorism and Intelligence Studies (CETIS), received additional funding from the Human Factors Division of the DHS to extend the GTD beyond 1997. In Spring 2008, analysts from the Institute for the Study of Violent Groups (ISVG) at the University of New Haven began documenting terrorist attacks, as of May 2010, data have begun to be integrated into GTD." http://www.start. umd.edu/gtd/about/History.aspx, accessed 27 October 2011.

    A newer database that did not excist during the creation of my study is the "Big, Allied and Dangerous (BAAD)" project. It could be intersting to compare their infromation on the characteristics of the groups with my categorization, though not all of the groups I looked at might be included, as the number which was analysed by BAAD is restricted. However, the "online platform features updated, vetted and sourced narratives, and relationship information and social network data on 50 of the most notorious terrorist organizations in the world since 1998, with additional network information on more than 100 organizations. Funded through the Department of Homeland Security's Science and Technology Directorate's Office of University Programs, the underlying BAAD database was created and is maintained by the Project on Violent Conflict at the University at Albany's Rockefeller College of Public Affairs and Policy." http://www.start.umd.edu/baad/database, accessed 23 October 2016.

42   Cf. http://www.start.umd.edu/start/data_collections/tops/, accessed 24 September 2011.

Incident Tracking System (WITS) database takes a different approach in terms of its categorization. The religious motives are differentiated according to religion and focus, and divided into seven categories. Political groups are organized according to ideology, thereby foregoing a left-right categorization. The WITS database does not provide further description for this categorization.[43]

The European Policing Bureau, Europol, based in The Hague, is one of the agencies for police and judicial cooperation in criminal matters of the European Union, and is tasked with facilitating the cooperation between EU member states in the fight against international organized crime. Since 2007, it has published the **EU Terrorism Situation and Trend Reports (TE-SAT)**[44], which provides broader criteria for a possible summary of the above-mentioned categories used by the databases. By contrast to the latter, TE-SAT is defined according to criteria that allow for categorization of cases that need yet to be identified. TE-SAT distinguishes five categories that are used as a basis for this study, and further extended in two cases as described below:

– **Islamist terrorism:**
   TE-SAT/ **PiraT**: People or groups that evoke a certain interpretation of Islam to justify their actions [45]
– **National/Separatist terrorism:**
   TE-SAT: People or groups that are striving for international recognition or political independence, motivated by nationality, ethnicity and/or religion[46]
   PiraT: Here the underlying Europol categorization has been expanded, in order to be able to also include groups whose actions are justified as aiming at a change of government in their own country.
– **Left-wing and anarchist terrorism:**
   TE-SAT: People or groups that want a complete political, economic or social change of regime along the lines of an extreme left model. They often act according to a Marxist-Leninist ideology. Anarchist groups are normally revolutionary, anti-capitalist and anti-authoritarian. In many countries, however, no differentiation is made between anarchist and extreme-left groups.[47]
   PiraT: Here the underlying Europol "left-wing terrorism" categorization has been expanded beyond "and anarchist", in order to be able to include groups whose actions are justified by a pursuit of anarchy.

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43 Cf. http://www.nctc.gov/witsbanner/wits_subpage_faqs.html, accessed 24 September 2011.

44 Europol, EU Terrorism Situation and Trend Report TE-SAT 2010;
    http://www.consilium.europa.eu/uedocs/cmsUpload/TE-SAT%202010.pdf, accessed 25 September 2011.

45 Ibid., p. 9, wording in original document: "Islamist terrorism is perpetrated by individuals, groups, networks or organizations which evoke a certain interpretation of Islam to justify their actions."

46 Ibid., wording in original document: "Ethno-nationalist and separatist terrorist groups such as ETA (Euskadi ta Askatasuna) and PKK (Partiya Karkerên Kurdistanê) seek international recognition and political self-determination. They are motivated by nationalism, ethnicity and/or religion."

47 Ibid., wording in original document: "Left-wing terrorist groups seek to change the entire political, social and economic system of a state according to an extremist left-wing model. Their ideology is often Marxist-Leninist. The agenda of anarchist terrorist groups is usually revolutionary, anti-capitalist and anti-authoritarian. Not all Member States distinguish between activities of left-wing and anarchist terrorist groups in their contributions. For this reason, both categories are discussed in the same chapter of this report."

- **Right-wing terrorism:**
  TE-SAT/ **PiraT**: People or groups that want a complete political, economic or social change of regime along the lines of an extreme right model. They often act according to an ideology based on a national-socialist/neo-Nazi mindset.[48]
- **Single-Issue terrorism:**
  TE-SAT/**PiraT**: People or groups that attempt, by using violence, to gain influence over society and cause change to a certain policy or course of action.[49]

Most of the categories utilized by the databases could be gathered, based on the Europol approach. In order to integrate all religious groupings, it was necessary to supplement the Islamic Group category with other religious groupings, and to add the category of 'Unknown Perpetrator'. **Table 7: Overview of Perpetrator Group by Category** outlines three databases and their respective classification systems, while also presenting the categories thus derived for the PiraT Database.

Table 7. Overview of perpetrator group by category

TOPs (GTD)	WITS	Europol/ PiraT-Databank*
Religious	Islamic Extremist (Shia)	**Islamist terrorism**
	Islamic Extremist (Sunni)	
	Islamic Extremist (Unknown)	
	Christian Extremist	Other religious terrorism
	Hindu Extremist	
	Jewish Extremist	
	Other Religious Extremist	
National/Separatist	Tribal/Clan/Ethnic	**National/Separatist terrorism**
Anarchist	Secular Political/Anarchist	**Left-wing and anarchist terrorism**
Communist/Socialist		
Leftist		
Right-Wing Conservative	Neonazi/Fascists/White Supremacists	Right-wing terrorism
Right-Wing Reactionary		
Racist		
Anti-Globalization	Environmental/Anti-Globalization	Single-issue terrorism
Environmental		
	Unknown	**Unknown**
* The grey highlighted changes complement the Europol categories for the PiraT Database.* Only the perpetrator groups in bold (3 categories plus unknown) were found in this maritime survey.		

Source: PiraT database

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48 Ibid., wording in original document: "Right-wing terrorist groups seek to change the entire political, social and economic system following an extremist right-wing model. The ideological roots of European right-wing extremism and terrorism can usually be traced back to National Socialism."

49 Ibid., wording in original document: "Single-issue terrorism is violence committed with the desire to change a specific policy or practice within a target society. The term is generally used to describe animal rights and environmentalist terrorist groups."

In categorizing the groups, cases were found in only three of the six categories (plus unknown). There were no cases in "other religious" groups, "right wing" extremist groups and "single issue" groups (such as anti-globalization or environmental activists) which played a role within the maritime domain.

1   Problems with the Categorization

A few problems were encountered in allocating groups to certain categories. In order to outline and define all terrorist groups, it was necessary to simplify, summarize, and separate the categories. The problems that were confronted most frequently in this work will be defined briefly in order to allow a transparent portrayal of the issue.

It is not always possible to ascertain whether the motive stated by the terrorist group is genuine or fake, aimed at distracting from the actual motive and/making them sound legitimate so as to gain support (recruitment, group cohesion, finances). Nevertheless, the author used the motives that the respective groups had self-declared when sorting them into categories. The author also sought the advice of several regional experts to help make the final decision about which motives seemed to be dominant. [50] Because the interviewed experts sometimes recommended the inclusion of two combined motives this resulted in establishing multiple categories However, there are further reasons why it is difficult to be 100 percent sure of a terrorist group's motives: First, their motives are likely to change over time due to changes in the political, economic or security situation. Second, there may be varying motivations within the group. The lower level members may have simple motives, such as supporting their families or taking revenge, whereas the more senior members may have more strategic goals and ideological or politically motivated agendas. This could only be analyzed using micro-studies of terrorist cells and perpetrator surveys, which were not possible for this study.

Assigning the groups according to the above-mentioned categories had some difficulties. In order to keep the categorization of terrorist groups usable and clear, it also – inevitably – had to be simplified, consolidated and sorted. As the number of groups totals 51, only those are included that engaged in more than three attacks during the time period studied. An **Overview of the Total Number of Groups** can be found in **Table 8:**

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[50]   I would like to thank my colleagues from IFSH for discussions and advice, in particular in relation to the categorization of groups: Dr. *Margret Johannsen* (Middle East), *Torsten Geise* (Asia), Dr. *Eric van Um* and *Dennis Bangert* (Irish and Spanish groups).

Table 8. Overview of total number of groups

Total
51 Groups (excluding the category of „Unknown") between 1968-2010
24 Groups (excluding the category of „Unknown") between 2000-2010
Groups 1968-2010:
15 responsible for at least 4 attacks
36 Groups responsible for fewer than 4 attacks
Groups 2000-2010:
5 Groups responsible for at least 4 attacks
19 Groups responsible for fewer than four attacks

Source: PiraT database

The results of the **Categorization of the Groups with more than 3 Maritime Terror Attacks** can be found in **Table 9 (for 1968-2010)** and in **Table 10 (for 2000-2010)**.

A group can display more than one characteristic (for example, national/separatist und left-ideology), hence some groups are named more than once.

Table 9 shows the assignment of groups in the PiraT categories. Additionally, the PiraT-database listed a total of 67 attacks by *unknown perpetrators* between 1968 and 2010. These are not listed in tables 4, 5, 6, and 7 because of the difficulties associated with categorizing the attacks. These incidents mainly took place in Sub-Saharan Africa (20 attacks), in the Middle East and North Africa (12 attacks), as well as in Southeast Asia (10 attacks).

Table 9. Categorization of groups linked to more than 3 terrorist attacks (1968-2010)

National/ Separatist terrorism							
Name	Activity by Country	Activity by Region	Activity by time period	Total Attacks	PiraT	TOPs (GTD)	WITS
Movement for the Emancipation of the Niger Delta (MEND)	Nigeria	Sub-Saharan Africa	2006-2009	28	National/ Separatist terrorism	National/ Separatist	Secular/ Political/ Anarchist
Irish Peublican Army (IRA)	Ireland, Northern Ireland	Western Europe	1978-1990	7	National/ Separatist terrorism	National/ Separatist	
Basque Fatherland and Freedom (ETA)	Spain, France	Western Europe	1979-1991	8	National/ Separatist terrorism; Left-wing and anarchist terrorism	Communist/ Socialist, National/ Separatist	
Democratic Revolutionary Alliance (ARDE)	Nicaragua	Central America & Caribbean	1984	5	National/ Separatist terrorism	Other	
Nicaraguan Democratic Force (FDN)	Nicaragua	Central Americ. & Caribbean	1984-1987	12	National/ Separatist terrorism	Other	
Al-Fatah	Israel	Middle East & North Africa	1978-1993	4	National/ Separatist terrorism	National/ Separatist	Islamic Extremist (Sunni)
Hezbollah	Lebanon, Egypt, Israel	Middle East & North Africa	1984-2006	8	National/ Separatist terrorism; Islamist terrorism	National/ Separatist, Religious	Islamic Extremist (Shia)
Polisario Front	Algeria, Mauretania, Morocco, Western Sahara	Middle East & North Africa; Sub-Saharan Africa	1977-1987	12	National/ Separatist terrorism	National/ Separatist	
Anti-Castro Cubans	United States, Puerto Rico, Peru, Cuba, Bahamas	North America; Central Americ. & Caribbean;	1968-1994	10	National/ Separatist terrorism		

		South America					
Liberation Tigers of Tamil Eelam (LTTE)	Sri Lanka	South Asia	1988-2009	42	National/ Separatist terrorism	National/ Separatist	Secular/ Political/ Anarchist
Free Aceh Movement (GAM)	Indonesia, Singapore, Malasyia	Southeast Asia	2000-2005	7	National/ Separatist terrorism	National/ Separatist, Religious	Secular/ Political/ Anarchist
Abu Sayyaf Group (ASG)	Philippines, Malaysia	Southeast Asia	1998-2009	9	National/ Separatist terrorism; Islamist terrorism	National/ Separatist, Religious	Islamic Extremist (Sunni)
Basque Fatherland and Freedom (ETA)	Spain, France	Western Europe	1979-1991	8	National/ Separatist terrorism; Left-wing and anarchist terrorism	Communist/ Socialist, National/ Separatist	

Islamist terrorism							
Name	**Activity by Country**	**Activity by Region**	**Activity by time period**	**Total maritime Attacks**	**PiraT**	**TOPs (GTD)**	**WITS**
Al-Qaeda	Iraq, Yemen	Middle East & North Africa	2000-2004	6	Islamist terrorism	Religious	Islamic Extremist (Sunni)
Hezbollah	Lebanon, Egypt, Israel	Middle East & North Africa	1984-2006	8	Islamist terrorism; National/ Separatist terrorism	National/ Separatist, Religious	Islamic Extremist (Shia)
Abu Sayyaf Group (ASG)	Philippines Malaysia	Southeast Asia	1998-2009	9	Islamist terrorism; National/ Separatist terrorism	National/ Separatist, Religious	Islamic Extremist (Sunni)
Moro National Liberation front (MNLF)	Philippines	Southeast Asia	1975-1992	7	Islamist terrorism; National/ Separatist terrorism	National/ Separatist, Religious	Secular/ Political/ Anarchist
Al-Shabaab	Somalia	Sub-Saharan Africa	2007-2010	7	Islamist terrorism		Islamic Extremist (Sunni)

Source: PiraT database

Table 10. Categorization of groups with more than 3 terrorist attacks (2000-2010)

National/ Separatist terrorism							
Name	Activity by Country	Activity by Region	Activity by time period	Total maritime Attacks	PiraT *(double categorization possible)*	TOPs (GTD)	WITS
Liberation Tigers of Tamil Eelam (LTTE)	Sri Lanka	South Asia	2000-2009	17	National/ Separatist terrorism	National/ Separatist	Secular/ Political/ Anarchist
Free Aceh Movement (GAM)	Indonesia, Singapore, Malasyia	Southeast Asia	2000-2005	7	National/ Separatist terrorism	National/ Separatist, Religious	Secular/ Political/ Anarchist
Abu Sayyaf Group (ASG)	Philippines, Malaysia	Southeast Asia	2000-2009	7	National/ Separatist terrorism; Islamist terrorism	National/ Separatist, Religious	Islamic Extremist (Sunni)
Movement for the Emancipation of the Niger Delta (MEND)	Nigeria	Sub-Saharan Africa	2006-2009	28	National/ Separatist terrorism	National/ Separatist	Secular/ Political/ Anarchist

Islamist terrorism							
Name	Activity according to Country	Activity according to Region	Activity according to year	Total maritime Attacks	PiraT *(double categorization possible)*	TOPs (GTD)	WITS
Al-Qaeda	Iraq, Yemen, Hormuz	Middle East & North Africa	2000-2010	6	Islamist terrorism	Religious	Islamic Extremist (Sunni)
Abu Sayyaf Group (ASG)	Philippines Malaysia	Southeast Asia	2000-2009	7	National/ Separatist terrorism; Islamist terrorism	National/ Separatist, Religious	Islamic Extremist (Sunni)
Al-Shabaab	Somalia	Sub-Saharan Africa	2007-2010	7	Islamist terrorism		Islamic Extremist (Sunni)

Source: PiraT database

2   International Organizations' View of Perpetrator Groups

One could question whether the named groups are identified differently as terrorist groups on the basis of their methods, in particular by the EU and UN. Given that there is the possibility to compare categorizations, we also compared the above-listed perpetrator groups with the different listings of terror groups from official agencies.

Thanks to the *Security Council Committee established pursuant to Resolution 1267 (1999) concerning Al-Qaeda and the Taliban and Associated Individuals and Entities,* also known as the *Al-Qaeda and Taliban Sanctions Committee,* such a list has already been formulated.[51] This Committee administrates a list with individuals or groups which have had sanctions imposed due to their connection to the Taliban and/or Al-Qaeda. The UN includes five[52] out of the 10 which were labeled by PiraT as Islamist groups, or 50% of our list. Based on the European Council's Common Position 2001/931/CFSP, of 27 December, 2001, on the application of specific measures to combat terrorism (Council of the European Union 2001), the European Union established its own list of people, organizations and corporations involved in terrorist activities. This list, including changes between 2002 – 2012 (Council of the European Union 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012), was also compared with the groups labeled as terrorists in PiraT's database.

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[51]   The Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Osama bin Laden, the Taliban, and other individuals, groups, undertakings, and entities associated with them: http://www.un.org/sc/committees/1267/pdf/consolidatedlist.pdf, accessed 1 October 2012).

[52]   This includes the following groups: Abu Sayyaf Group (ASG), Aden Islamic Army, Al Qaeda, Armed Islamic Group (GIA), Islamic Jihad (Ideological Grouping), Jama'at al-Tawhid, Salafist Group for Preaching and Combat (GSPC).

Table 11. PiraT groups according to UN, EU und Europol[53]

Nr.	Group	UN	EU	Europol[54]	UN, EU, Europol
1	Al Qaeda	Yes	-	Yes	Yes
2	Al-Shabaab	-	-	Yes	Yes
3	Islamic Courts Union	-	-	Yes, as "Islamic Courts Council"[55]	Yes
4	Islamic Jihad (Ideological Grouping)	Yes	Yes, as "Palestinian Islamic Jihad", "PIJ"	Yes, as "violent jihadist terrorist groups"	Yes
5	Salafist Group for Preaching and Combat (GSPC)	Yes	-	Yes[56]	Yes
6	CPI-Maoist	-	-	-	-
7	National Liberation Army of Colombia (ELN)	-	Yes, as "Ejército de Liberación Nacional"	-	Yes
8	New People's Army (NPA)	-	Yes	-	Yes
9	The Corsican Workers Union (STC)	-	-	-	-
10	Abu Sayyaf Group (ASG)	Yes	-	-	Yes
11	Hamas	-	Yes	Yes,[57] referring to "militant arm"	Yes
12	Hezbollah	-	No,only "Hezbollah-Mujahideen"	-	-
13	Jama'at al-Tawhid	Yes	-	Yes	Yes
14	Moro Islamic Liberation Front (MILF)	-	-	-	-
15	Revolutionary Armed Forces of Colombia (FARC)	-	Yes	Yes[58]	Yes
16	Africa Marine Commando (AMC)	-	-	-	-
17	Bakassi Freedom Fighters	-	-	-	-
18	Egbema One	-	-	-	-
19	Free Aceh Movement (GAM)	-	-	-	-
20	Free Papua Movement	-	-	-	-
21	Liberation Tigers of Tamil Eelam (LTTE)	-	Yes	Yes	Yes
22	Movement for the Emancipation of the Niger Delta (MEND)	-	-	-	-
23	Niger Delta People's Volunteer Force (NDPVF)	-	-	-	-
24	Niger Delta Vigilante (NDV)	-	-	-	-
Total		5	6	9	12

Source: Schneider (2012c), 26.

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53   My presentation. For sources see reference in previous footnotes.

54   Europol does not compile a list, rather it identifies the groups by name in the test of the TESAT-Report.

55   Europol TE-SAT 2010

56   Europol TE-SAT 2007, 2009

57   Europol TE-SAT 2010

58   Europol TE-SAT 2009, 2010, 2011

Of the 24 groups categorized by PiraT that have been active since 2001, six can also be found listed on the EU Council's revised Common Position 2012/333/CFSP (Council of the European Union 2012) of 25 June 2012. Thus 75% of groups are not listed by the EU.

In **Table 11,** the groups categorized by PiraT and active since 2001 are listed, and their citation by the UN, EU and Europol is noted.

In the above-mentioned TE-SAT report from Europol, some groups are explicitly named in connection with the categories discussed. Six of these groups are documented in the PiraT database, a rate of inclusion of 9.84%. Overall, considering multiple entries, 12 out of 24 groups are found in selected sources from the UN, EU and Europol, meaning that 50% of them are not listed (see Table 8: Overview of the Motivations of Groups active since 2001). The PiraT database here covers 9 national/separatist groups, that is, 11% of the PiraT database, while the other lists cite merely one group. A different picture emerges for the category of left-wing or anarchist terrorism. Only 50% groups of the PiraT database were not named in the three lists. The Islamist groups are even more consistent. Here, the three lists covered 8 out of 10. That is, only 20% of the groups covered in the PiraT database were not named. A possible reason for this lies in the clear focus of the international community on Islamist terror groups since 2001, whereas other politically oriented groups were rather marginalized.

Table 12. Overview of the motivations of groups active since 2001[59]

Category	Total Number of Groups (1968-2010) (PiraT)	Number of Active Groups since 2001 (PiraT)	Number of Active Groups since 2001 (as listed by Europol, UN and EU)	Proportion of listed groups compared to groups within PiraT database (since 2001)
National/Separatist terrorism; National/Separatist plus left wing	27	10	2	20%
Islamist terrorism; National/Separatist plus Islamist terrorism	13	10	8	70%
Left-wing and anarchist terrorism	11	4	1	25%
Total	**51**	**24**	**12**	**50%**

Source: Schneider (2012c), 27.

Once the groups have been categorized, the data can be evaluated. In the next section preliminary conclusions are drawn with figures illustrating the data.

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59 My presentation. For sources see reference in previous footnotes and PiraT database.

VIII   ANALYSIS OF THE AVAILABLE DATA: EMPIRICAL OBSERVATIONS

This section will give some examples of charts aimed at assisting with the interpretation of the information taken out of the databases. The conclusions drawn from this analysis can be re-evaluated in the future by expanding the database to include more recent cases and by analyzing the data in a qualitative manner.

The following charts are used to explain the differences between individual databases or their combination in the PiraT database. Only a few cases were recorded in more than one database. Under the assumptions made above, concerning the requirements for an aggregated collection, it is argued here that the PiraT database delivers a better overview of the relevant events when compared to the individual databases.

This is also assumed for the years 2009 and 2010, where there are only numbers from GTD and WITS databases. Had data from RAND been available for these years, the number of cases would probably have been higher.

1   Number of Attacks

In addition to the tables in chapter four, the following graphs highlight the empirical trends.

Chart 5: **Number of attacks 1968-2010**, shows the number of attacks between 1968 and 2011, which is the complete time period studied. If an incident occurs in more than one database, it is listed in the chart as falling under the 'additional databases' category. For example, the last RAND incident from 2008 is included in this category. The chart shows no clear trends. However, peaks are seen in 1984 and 2008/9. The increase between 2005 and 2009 is assumed to be due mainly to the fact that cases from WITS were compiled as an additional database, even as the RAND calluses were omitted. However, a new peak also exists independently of the WITS cases from 2008. Thus, it cannot be foreseen if the total number of cases will stabilize at a higher level.

Chart 6: Number of attacks, 2000-2010, shows the time period of the last ten years which is the most important period for the current risk analysis. It is also clear which records originate from which database. This clearly show cases in need of differentiation from each other. Furthermore, sum totals of attacks per year are also provided. No trends are apparent.

Chart 5. Number of attacks, 1968-2010
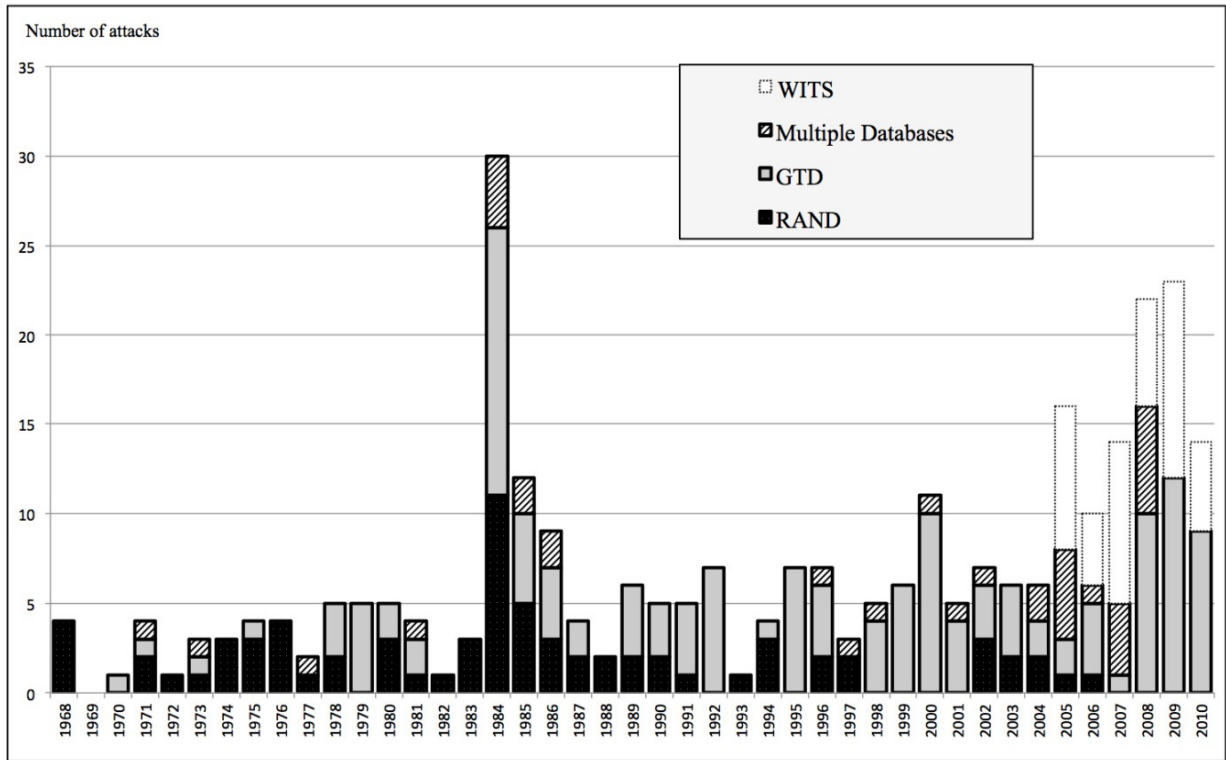
Source: PiraT database

Chart 6. Number of attacks, 2000-2010
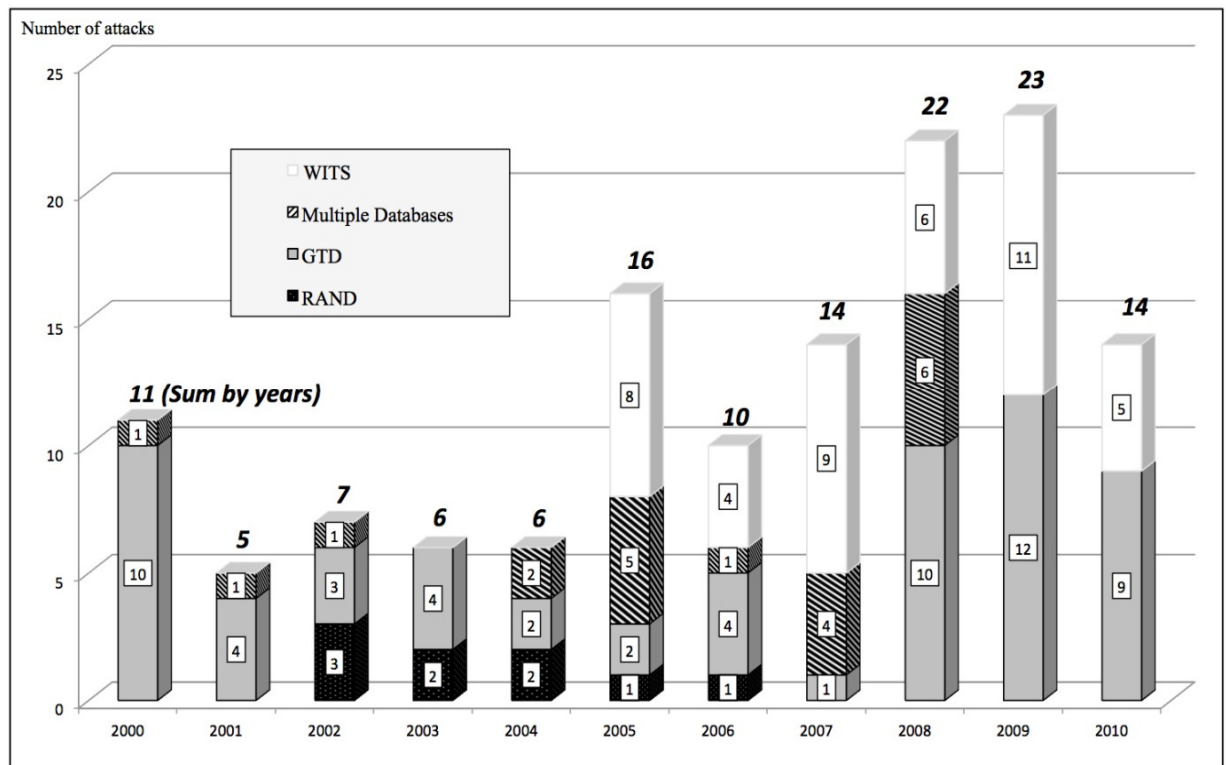
Source: PiraT database

2 Regional Distribution of Attacks

Up until this point, all attacks have been included, but it is also important to consider which regions the attacks have focused on. Regions are defined according to the GTD database.

Chart 7: Regional distribution of attacks, 1968-2010, illustrates the regional distribution and number of attacks by region according to the individual databases. This could easily be expanded upon to reflect each individual region and the countries within them (and/or the coasts and waters belonging to them), but that work goes beyond the reach of the framework for this research. Nonetheless, the regions of Australasia and Oceania, East Asia, and North and South America saw the smallest number of attacks. This leaves six regions where maritime attacks have been carried out. The dominant regions are the Middle East and North Africa with 71 attacks, South Asia with 50 attacks, Sub-Saharan Africa with 71 attacks and Southeast Asia with 40 attacks. Western Europe follows with 32 and Central America/Caribbean with 23 attacks. The number of attacks for all regions and databases can be derived from the graph.

Chart 7. Regional distribution of attacks, 1968-2010
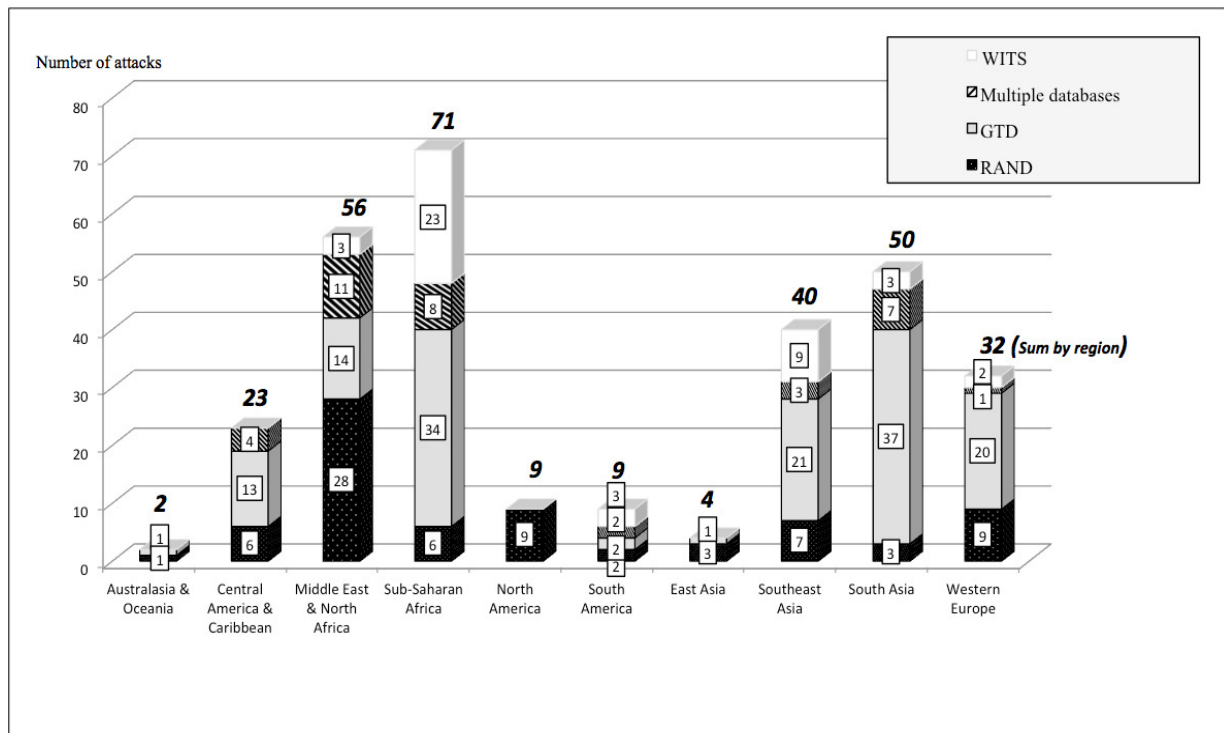
Source: PiraT database

Chart 8: Regional distribution of attacks, 2000-2010, shows that, over the past ten years, four regions in particular have been affected by attacks falling within the category of maritime terrorism. Beginning with the most attacks per region, these are: Sub-Saharan Africa (63), Southeast Asia (27), Southern Asia (21), Middle East and North Africa (15). The total number of attacks for all regions and the specific databases are also shown in this chart. By comparison to the entire observation period (1968-2010), this chart creates a different picture as the share of attacks per region has shifted significantly. Previously, sub-Saharan Africa, now the region most affected, was only in third place and the second most affected region of Southeast Asia was previously in fourth place. By contrast, the Middle East and North Africa, which were

previously the most affected, now occupy fourth position. Western Europe has strongly declined in importance. Here, the shift of conflict zones becomes clear. It is noteworthy that 89% of attacks took place in Sub-Saharan Africa over the period 2000-2010.

This is significant because it demonstrates, as will be explained in a later chapter, that the current governance measures do not have the required regional or even local focus, but represent a rather sweeping preventive approach. In the case of piracy, this is different, especially when it comes to piracy prevention in the Strait of Malacca and off Somalia, which now involves measures that have been specifically tailored to meet local requirements (Teo 2007; Petretto 2011; Chalk 2010; Graf 2011). The new measures for the Gulf of Guinea in West Africa are added.

Chart 8.   Regional distribution of attacks, 2000-2010
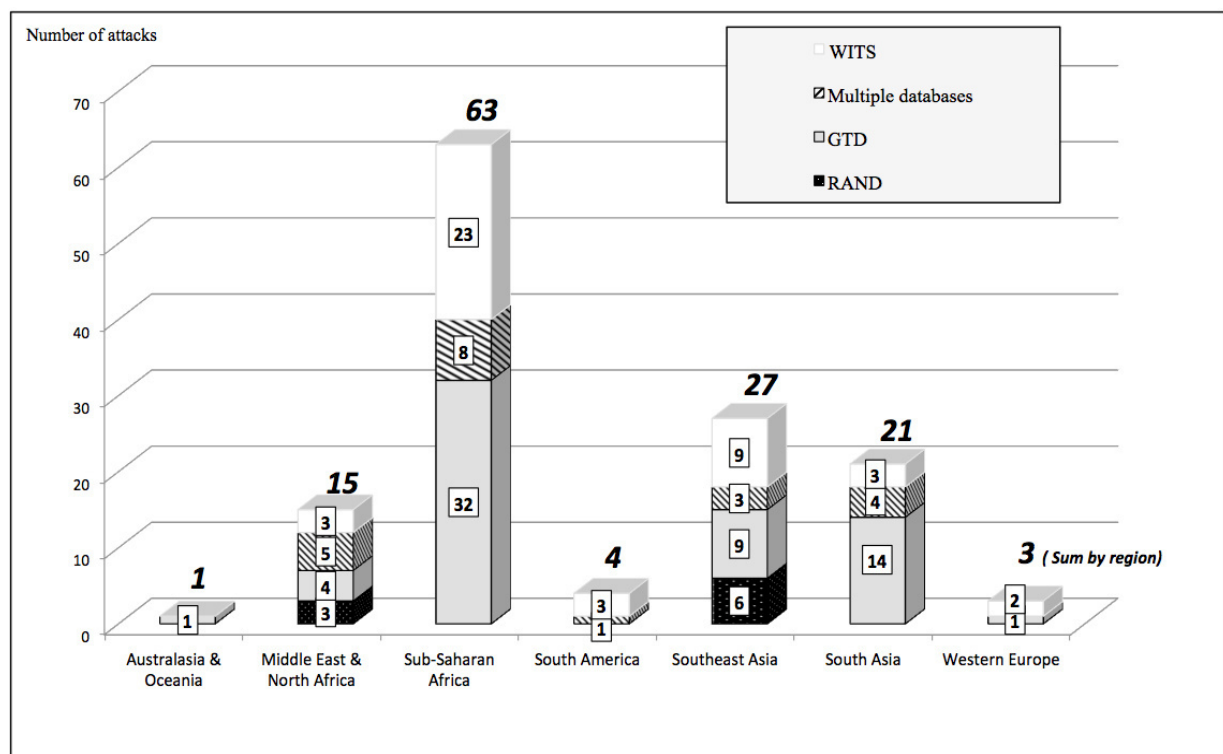
Source: PiraT database

The regional distribution of attacks over time is shown in **Chart 9: Regional distribution of attacks 1968-2010**. [60] The regional distinction is introduced because the total number of cases over time is of limited explanatory value. It is clear from this chart that Sub-Saharan Africa and South America are the most dangerous regions, especially over the period from 2001 to today. South and Southeast Asia stayed at the same level, whereas the Middle East & North Africa regressed slightly. It is also clear that 1984 saw a particularly high number of incidents, as have more recent times.

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[60]   At this point a problem is noticed in that the databases cover different periods, especially RAND which has not gathered new cases since 2008 and WITS, which only started to collect them in 2005.

Chart 9.   Regional distribution of attacks, 1968-2010
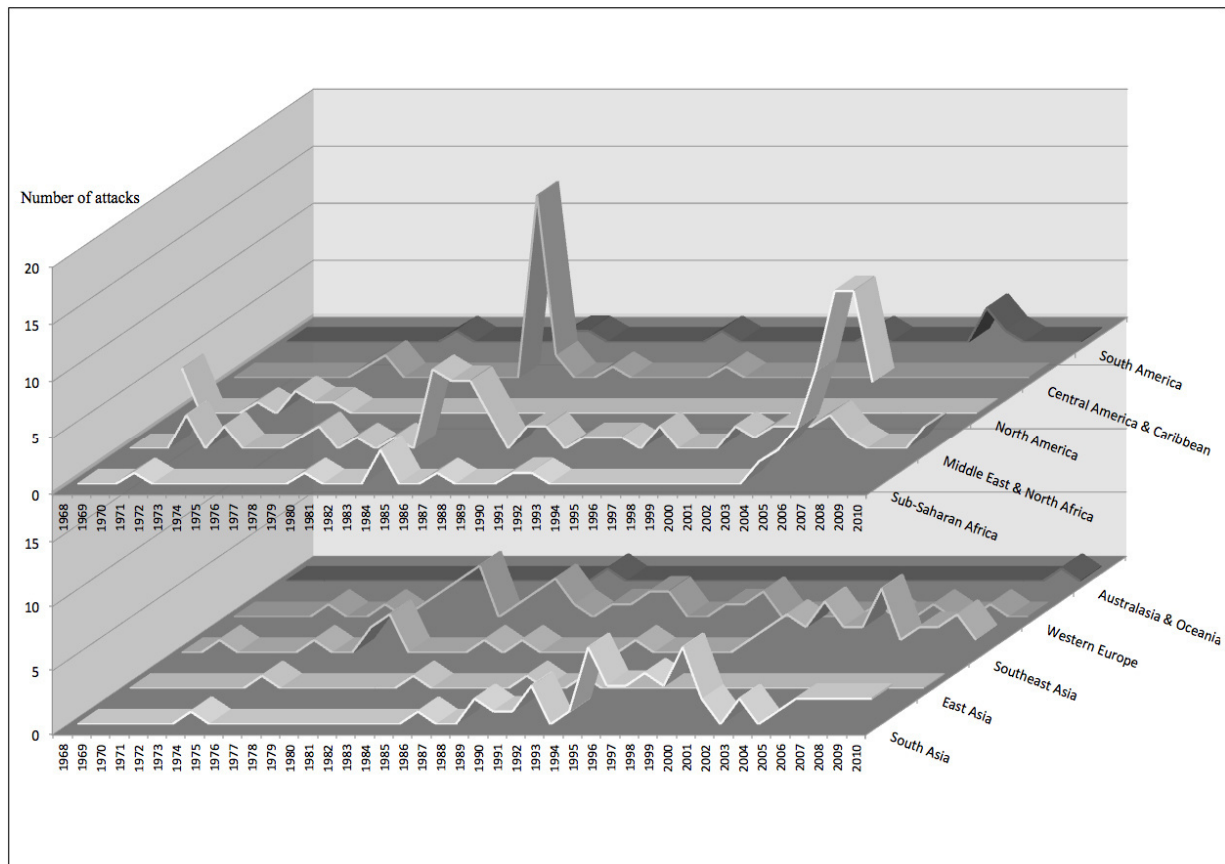
Source: PiraT database

3   Perpetrator Group

Chart 10: Number of attacks by groups, 1968-2010 lists by name, all 21 terror groups which are known to be responsible for more than three attacks over the time period investigated. The graph illustrates the number of attacks that occurred during this time. The groups are sorted in descending order, starting with the group with the most attacks. The graph also shows from which database the cases were compiled.

   Chart 11: Number of attacks by groups, 2000-2010 highlights six groups which, in recent times, have carried out the most attacks: The Movement for the Emancipation of the Niger Delta (MEND) (28), the Liberation Tigers of Tamil Eelam (LTTE) (17), the Abu Sayyaf Group (ASG) (7), the Free Aceh Movement (GAM) (7), the Al-Shabaab from Somalia (7) and Al Qaeda (6). The following qualitative analysis of perpetrator groups will focus on these specific groups. This chart also distinguishes between different forms of information depending on which database they were taken from.

Chart 10. Number of attacks by group, 1968-2010
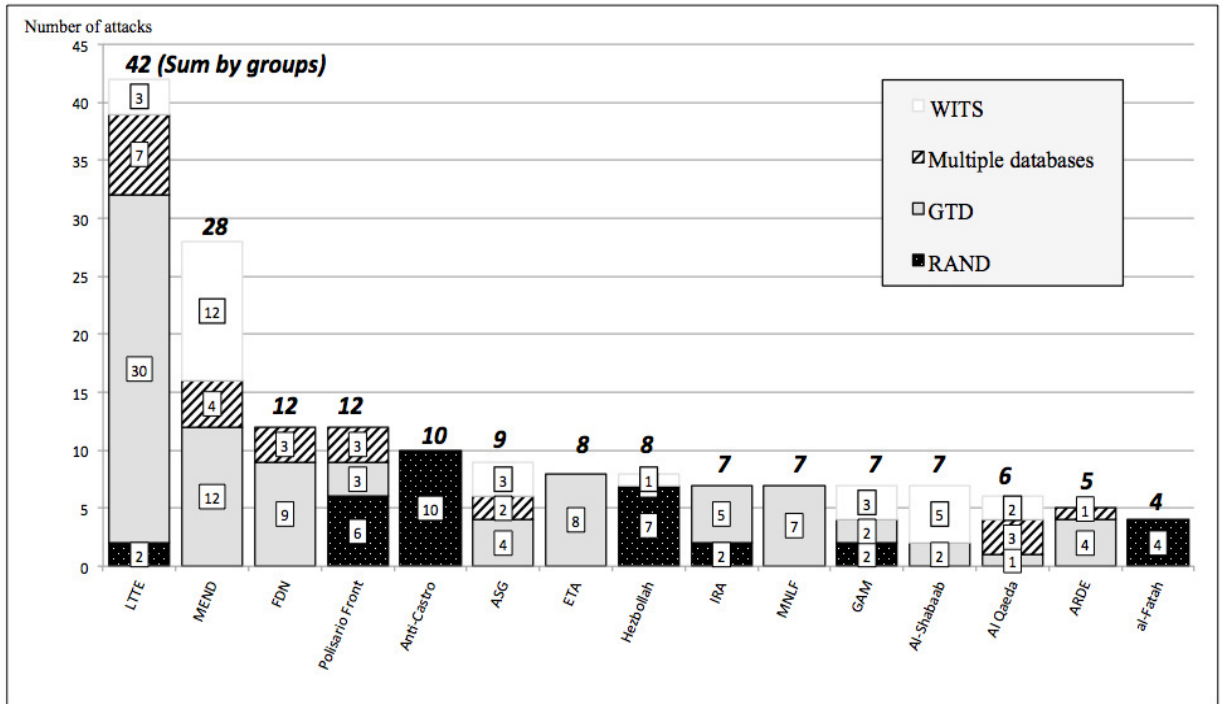
Source: PiraT database

Chart 11. Number of attacks by group, 2000-2010
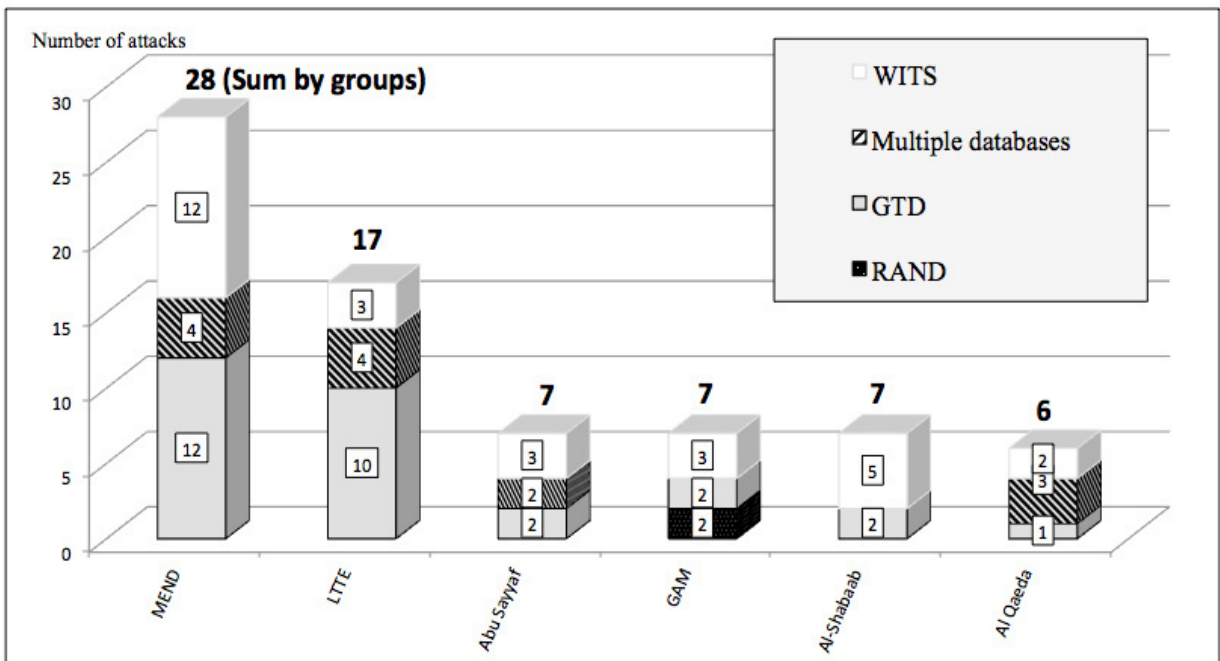
Source: PiraT database

Chart 12. Perpetrators of more than three attacks, 1968-2010
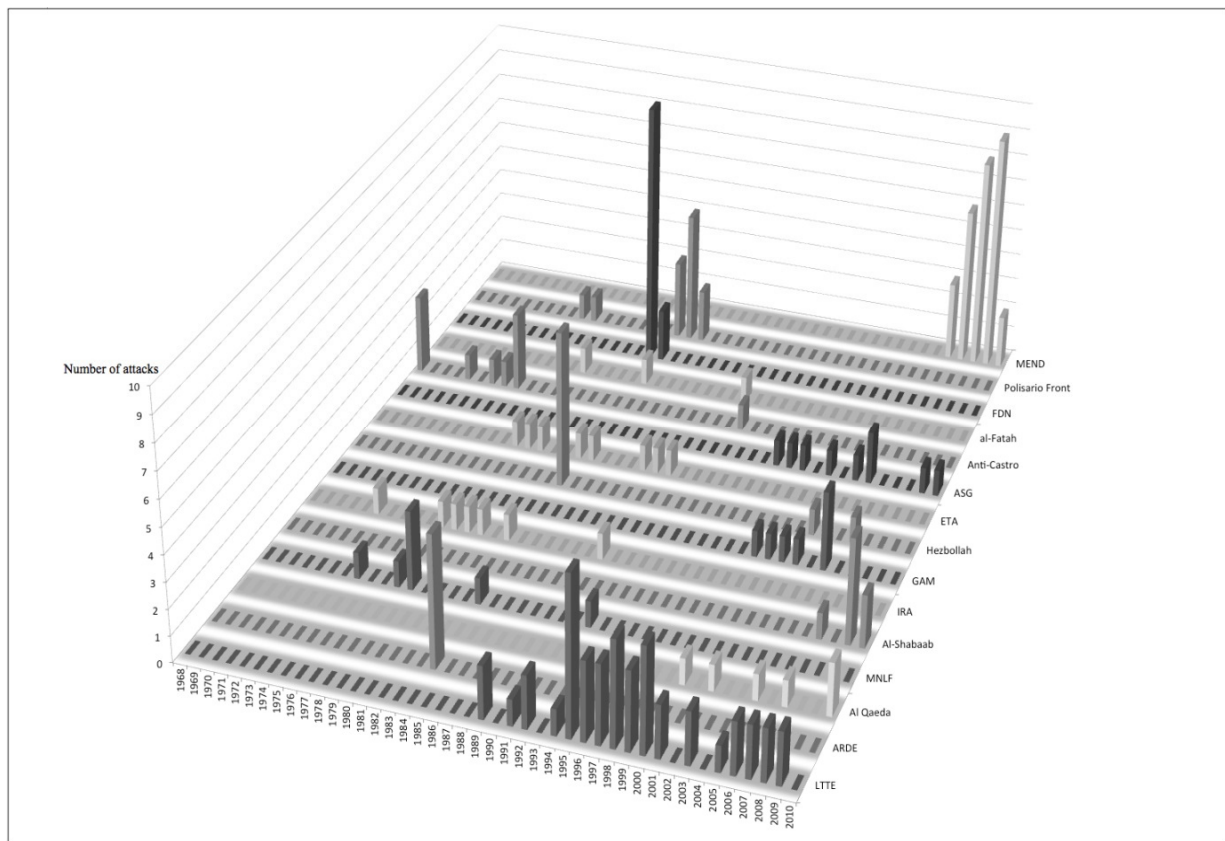
Source: PiraT database

Chart 12 Perpetrators of more than three attacks, 1968-2010, succinctly displays the peaks and distributions of attacks identified in previous graphs: Terrorist groups responsible for more than three attacks are named individually in this chart, and their activity over time is displayed. The high number of groups obstructs the readability of the graph, but nevertheless, it helps to identify which groups have been responsible for the peak results.

There was a peak in the number of reported incidents in 1984. Just one incident is registered for 1982, and in 1983 only three cases were reported. In 1984, however, the number of reported incidents spiked at 32. In the following years, the overall rate remained high but, nonetheless, decreased to around 15 incidents per year.

The high rate of maritime attacks in 1984 occurred mainly in two international hot spots: Nicaragua (16 reported incidents) and Egypt (6 reported incidents). Other attacks took place in a variety of countries, such as Angola (3 incidents) and Spain (2 incidents), as well as Israel, Western Sahara, Colombia, Argentina, and the Philippines (one incident each).

Nicaragua had, at that point, been in the midst of a civil war since the Sandinista National Liberation Front replaced the Samoza dictatorship in 1979. The conflict evolved during the 80s, and became another proxy war within the Cold War. Several rebellious groups, acting together and calling themselves the 'Contras', revolted against the Sandinista regime. Amongst the Contras, the Nicaraguan Democratic Force (FDN) and the Democratic Revolutionary Alliance (ARDE) were the key players, and were supported by the CIA and the US government (International Court of Justice 1986, § 18-25).

Around the end of 1983 and the beginning of 1984, mines were distributed in the Nicaraguan harbors of El Bluff, Puerto Sandino and Corinto. According to Nicaraguan sources, the mines

destroyed or damaged 12 vessels of Dutch, Panamanian, Soviet, Liberian, Japanese and unknown registry. According to the International Court of Justice, two people were killed and 14 more wounded. Officially, ARDE claimed responsibility for the mining but there is strong evidence to suggest that the mining was a covert action, authorized by some US government authorities (CIA). In addition, a number of attacks involving a naval base, ports, oil and storage facilities, as well as an underwater oil pipeline have since been reported (International Court of Justice 1986, § 75-81).

Egypt, and more precisely, the southern exit of the Suez Canal into the Red Sea, was the second hot spot in 1984. Just as in Nicaragua, mines damaged vessels passing through the canal. Up to 23 vessels – among them several German and Soviet vessels – hit mines and were damaged, but no ships sank. The Libyan cargo ship Ghat was identified as being responsible for mining the canal in early July 1984. The Shiite group, Islamic Jihad, claimed responsibility for laying some 190 mines. Multinational minesweeping efforts were needed, and it took weeks for them to clear the area of mines (Levie 1992; Truver 2008, 111).[61]

In more recent years, there have been four more conspicuous peaks, with more than 15 incidents per year.[62] Usually they follow the pattern of 1984, with one or two hot spots involving a comparatively high number of high profile attacks and several 'low intensity' and long-term conflicts. However, closer analysis is needed. In 2005, 16 incidents were reported. Of those, three incidents took place in Colombia, three in Nigeria and three in Indonesia. Single incidents took place in, for example, Iraq, Algeria, and Sri Lanka, but also in India, Malaysia, Jordan, and France. For 2007, 16 incidents have been counted, eight of them in Nigeria and only two each in Sri Lanka and Somalia. The second highest number of incidents (after 1984) appears to have occurred in 2008, with 27 incidents in nine countries. Of them, 14 attacks took place in Nigeria, and three each in Sri Lanka and the Philippines. In 2009, no real hot spot can be identified, but one has to keep in mind that instead of three databases (as existing for data up until 2008), only one database continued to collect information on incidents thereafter. Be that as it may, Nigeria again had the highest rate of maritime terror attacks (4 incidents), followed by Somalia (3 incidents). There were 23 attacks in eight countries, including nine in Nigeria, five in Somalia and two in Sri Lanka and the Philippines. In 2008, Nigeria was the obvious hot spot with a total of 15 of the 21 attacks taking place.

Table 13. Total attacks per country 2000-2010 (the four with most attacks)

Country	Nigeria	Sri Lanka	Somalia	Philippines
Number of Attacks	43	17	14	12

Source: PiraT database

It quickly becomes apparent that Sri Lanka (17 attacks between 2000 and 2010) and Nigeria (43 attacks between 2000 and 2010) have been key hotspots in the maritime terrorism crises of recent years. In both cases, maritime terrorism is only a partial aspect of the disputes on land.

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61   See, e.g., press reviews such as in Der Spiegel, no. 33, 1984, pp. 90-91, or Smith, William E. and Philip Finnegan, "Terrorism: Scouring the Red Sea Floor", Time Magazine, Monday, Aug. 27, 1984, available at http://www.time.com/time/magazine/article/0,9171,926817,00.html, retrieved: 3 March 2011.

62   Through the different time periods which the data bases cover, the figures are to be considered only as initial approximated values.

It is easy to see that the crucial hot spots in these years were Colombia and Nigeria.[63] In Colombia, the left wing Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army of Colombia (ELN) continued to fight against the Colombian government, as they have been doing so since 1964. Furthermore, violent conflicts with drug cartels and other paramilitary units complicate the situation. Colombia is, therefore, considered to be "the country with the highest number of violent conflicts to be observed in the Americas, with one highly violent [gov. vs. FARC] and three violent conflicts" (HIIK 2010, 42, author's translation).

Since 1997, the government of Nigeria has been in conflict with various rebel groups over autonomy and the distribution of revenues from the oil resources in the Niger Delta. In 2009, following presidential amnesty, the conflict de-escalated. MEND however continued to take hostages and to attack oil industry facilities (HIIK 2010, 35-36). In Sri Lanka, the separatist Liberation Tigers of Tamil Eelam (LTTE) led a bitter civil war against the central government between 1983 and 2009. Through its marine arm, the Sea Tigers, featured in the investigative period due to various attacks it carried out on the high seas. However, the LTTE is not expected to conduct any attack in the immediate future as the civil war was declared to be over by both sides in 2009 (see LTTE Watch Germany 2011).

The next illustration shows that not all of the groups listed on chart 8 were active over the last ten years. **Chart 13: Groups responsible for more than three attacks between 2000-2010,** evaluates the groups that have been responsible for at least four attacks throughout this recent time period. This helps to clarify how many attacks have been attributed to each group, and in which year they were carried out. Thus, the following trends can easily be recognized: Every two to three years, Al-Qaeda has consistently been involved in an attack, most recently in 2010, whilst Al Shabaab has only been active in the maritime realm since 2007. The ASG is involved on a fairly regular basis, most recently in 2010. As of 2005 GAM has been inactive. LTTE was also frequently responsible, but with decreasing activity after 2009. The MEND has only been active since 2006, but has already been held responsible for a high number of attacks.

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[63]   A yet-unpublished study by Bo Jiang (2016) uses GTD data to analyse maritime terrorist attacks from 1971 to 2013, using group based trajectory analysis. He concludes that the Philippines, Sri Lanka, and Bangladesh, Nigeria and Columbia are the global centers of maritime terrorism. This is more or less consistent with my results and we look at the same groups active there. However, there is a difference, as my data supports the assumption that Columbia is less important and Bangladesh did not reveal itself as a hotspot at all.Instead, Somalia (and its waters) are in the focus of attention and not listed in Jiangs top 5 list. The reason for this could be that I did not include a lot of cases which could be labelled as "river terrorism" but not as "maritime terrorism" because the attacks occurred on rivers without a port or access to the sea. I also used the data of GTD and RAND, which could lead to different results, whereas he included cases from 2011 to 2013, which were not included in my study.

Chart 13. Groups responsible for more than three attacks between 2000 and 2010
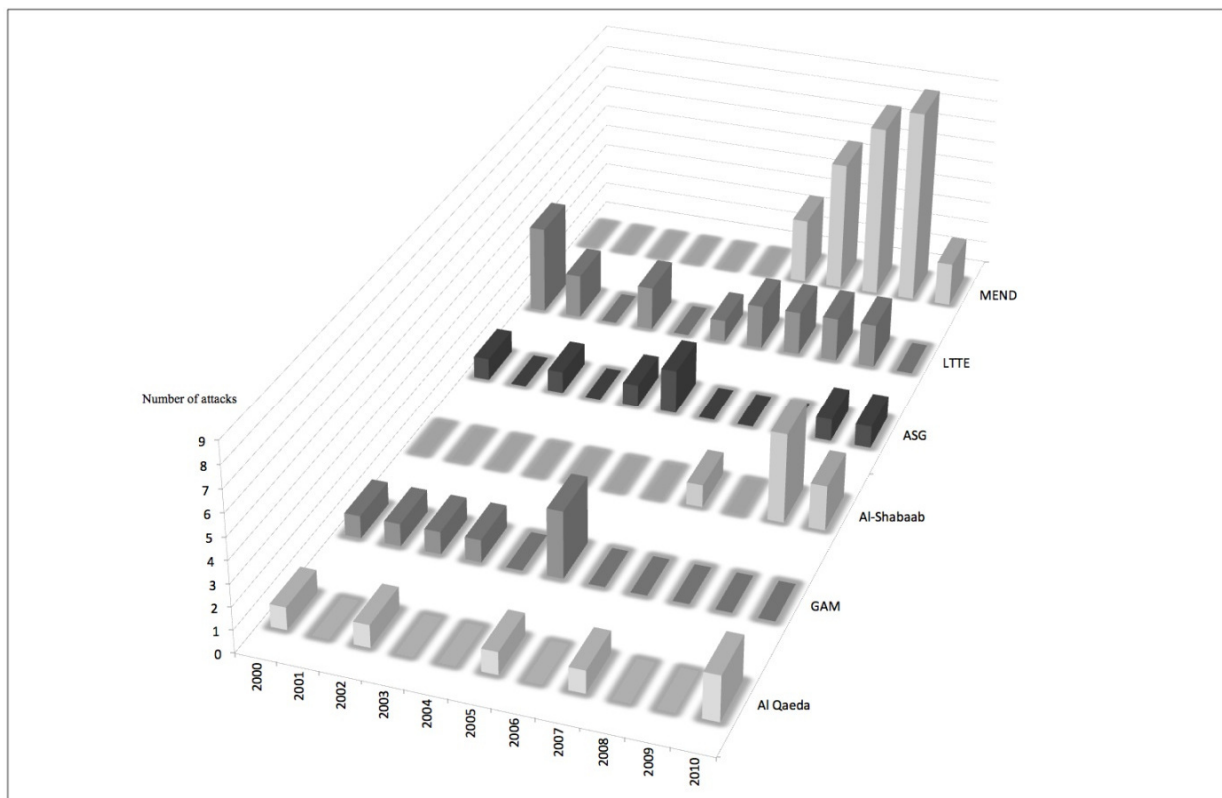
Source: PiraT database

The comparison between **Chart 14: Groups with more than 16 victims or more than three attacks in the time period 2000-2010 (sorted by the number of dead and injured)** and **Chart 15: Groups with more than 16 victims or more than three attacks in the time period 2000-2010 (sorted by the number of attacks)** helps to explore which groups have had the biggest impact in recent times. The chart makes clear that the number of attacks is not relative to the consequences of the attack. Sorting the groups by number of victims alters the outcome significantly.

Therefore, a new group, the Moro Islamic Liberation Front, has been created. They have only contributed to three attacks and were not considered one of the most important groups because a minimum of four attacks was, due to practical reasons, set as the basic criteria for inclusion. However, the three attacks carried out by the Moro Islamic Liberation Front left so many victims that, when considering the highest number of victims from an attack in the maritime sector, the MILF was moved into third position. Thus, this group will also have to come under greater scrutiny when undertaking the qualitative analysis.

It is also apparent that the seven attacks carried out by GAM only resulted in two victims. For all the other groups, the number is over 16. Therefore, after counting the victims the GAM no longer fits into this list of the most important groups.

Chart 14. Groups with more than 16 victims or more than three attacks in the time period 2000-2010 (sorted by fatalities and injuries)
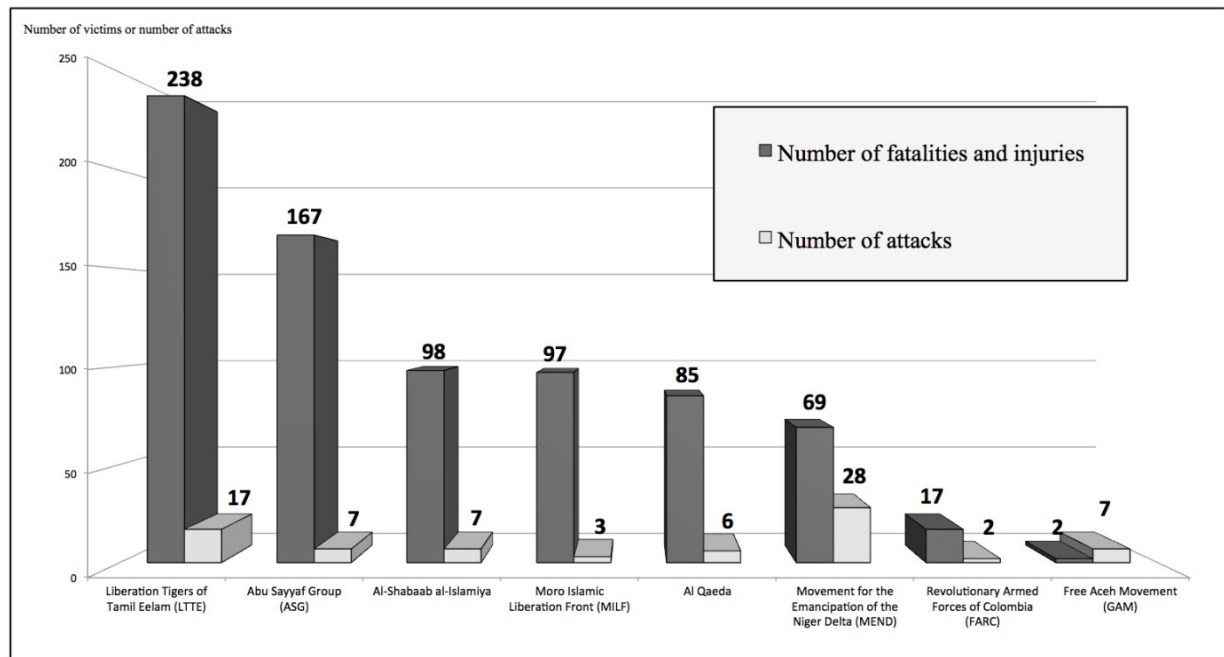
Source: PiraT database

Chart 15. Groups with more than 50 victims or more than three attacks in the time period 2000-2010 (sorted according to total number of attacks)
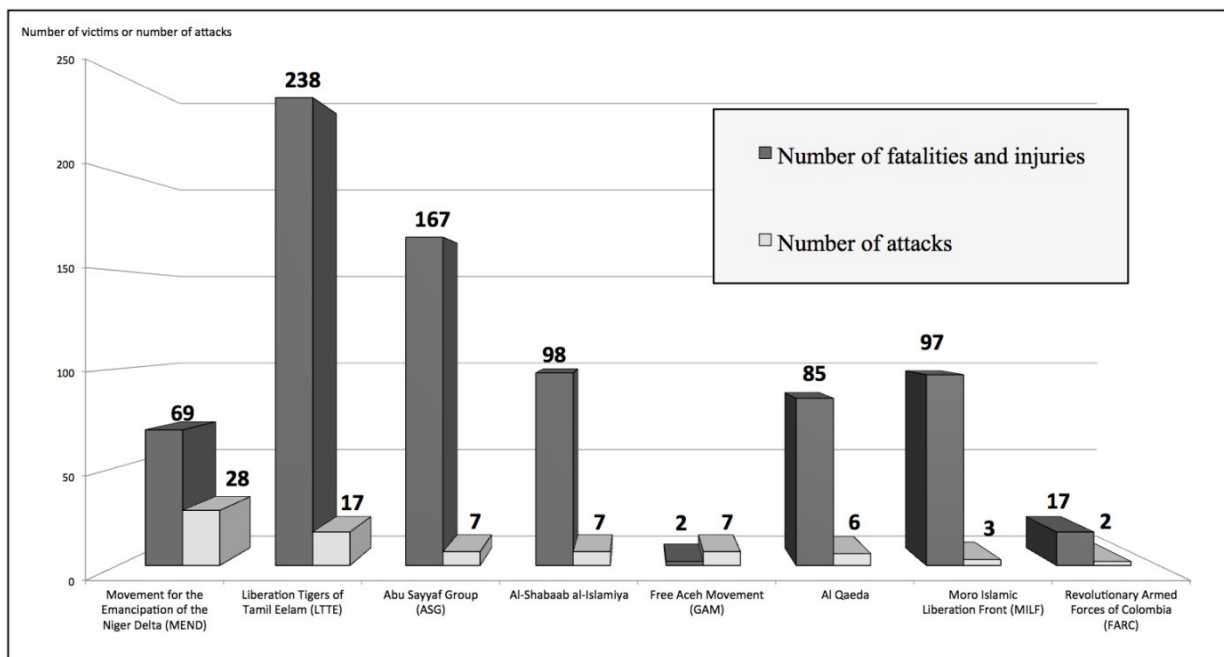
Source: PiraT database

The phenomenon of maritime terrorism has also emerged in South America, since, *inter alia*, FARC has not only committed attacks on land: The situation in Colombia is characterized by both the Marxist-oriented FARC and the ELN, which have dominated the action against the Colombian government from as early as 1964. Moreover, violent conflicts with drug cartels and other paramilitary units complicate the overall situation. Colombia is, thus, deemed to be

"the country with the highest number of violent conflicts to be observed in the Americas, with one highly violent and three violent conflicts" (HIIK 2010, 42). Two attacks by FARC resulted in 17 victims, but with all other groups the number lies above 50.

The most important groups are listed in descending order according to the number of victims resulting from various attacks the respective groups have carried out: LTTE, ASG, MILF, FARC, AL-Shabaab, Al-Qaeda, MEND and GAM.

4   Groups Classified by Motive

In order to get a better overview, it is also important to consider their motives, while drawing on the aforementioned group categorization in Chapter 4.

To better understand the following graph, it should be noted that the term 'Nationalist/Separatist' is an abbreviation and is not different from the category 'Ethno-Nationalist and Separatist Terrorism'. The same applies to the abbreviation of 'Left Wing' and 'Left Wing and Anarchist Terrorism'. These abbreviations were necessary to coherently depict the groups with two definite characteristics.

In Chart 16: Attacks by group classification 1968-2010, it can be seen that the number of attacks is broken down by group. There are several striking observations: The ethno-nationalists and separatist groups are responsible for the largest number of cases, both as one category and also including further cases, coupled with left wing or Islamic characteristics. The cases assigned to the purely Islamic group are fewer than those in which the perpetrator also had a nationalist/separatist motive.

Chart 17: Number of attacks after group classification 2000-2010 shows the same picture as above but only for the past ten years. The group classifications are broken down once again and the total number of attacks is provided, along with the original database source. Here, it can be seen that the trends have shifted: in most cases, the groups have stated that, although they are ethno-nationalist and separatist, they also have an Islamic motive and are classified above simply as nationalistic-separatist. Generally, nationalist-separatist motives arise regardless of whether they are mixed with Islamic or left wing motives or as an individual category in comparison to the other groups. The Islamic motive is also more important in recent times rather than during the overall time period, as evidenced by the frequency of attacks by Islamic oriented groups over time (1968-2010: 6% Islamic groups in relation to the total number of cases, 2000-2010: 12 %).

It is also clear from both graphs that the number of attacks which can be assigned to the smaller group (category 'unknown') is quite high. In total, of the 67 cases collected, 35 have taken place since 2000. If the initiators of the attacks were always known, the analysis could be altered significantly, which should always be borne in mind when analyzing the data in question.

Chart 16. Number of attacks by group classification 1968-2010
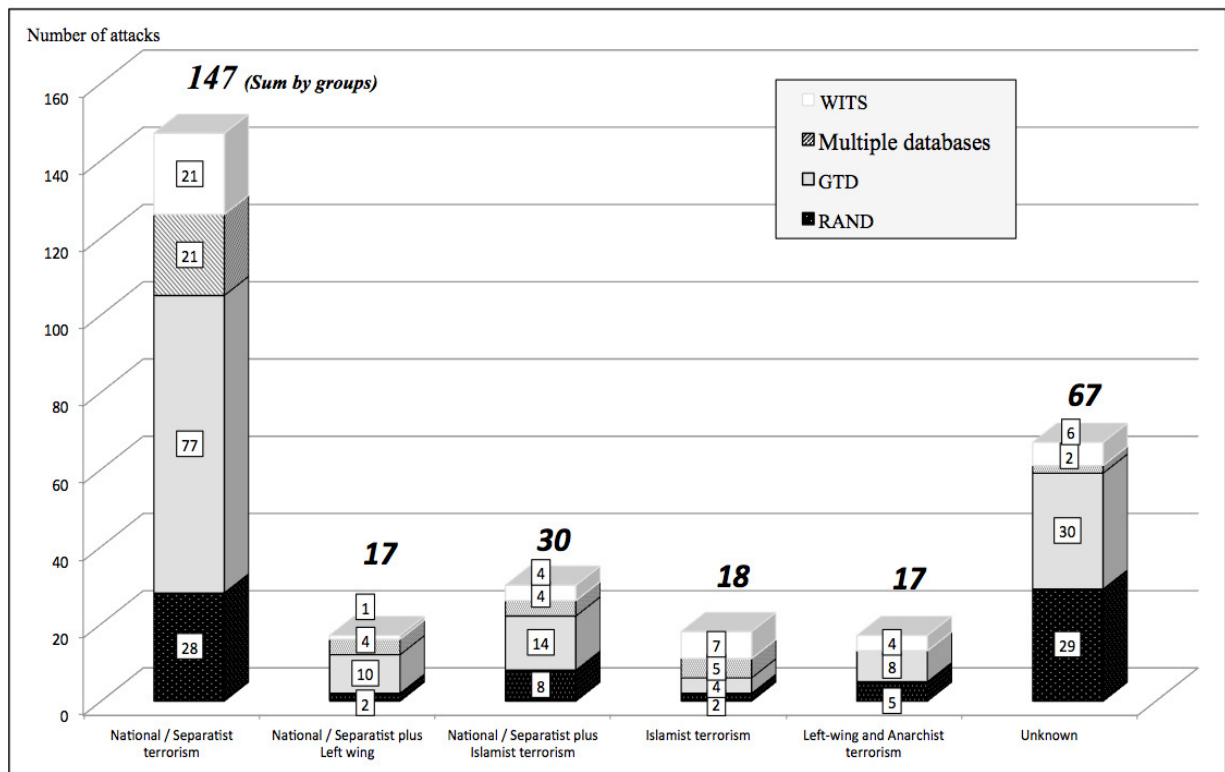
Source: PiraT database

Chart 17. Number of attacks by group classification, 2000-2010
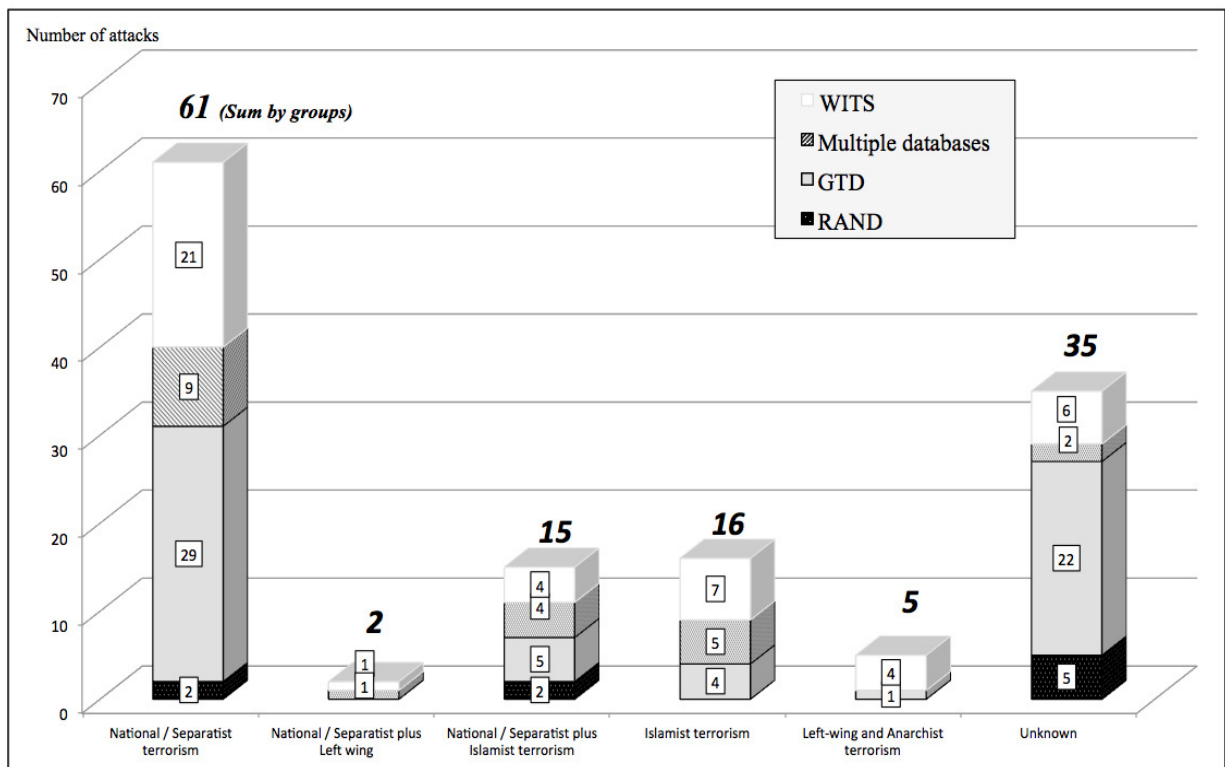
Source: PiraT database

Chart 18: Attacks classified by group, 1968-2010. By observing the expanding timeline between 1968 and 2010, it can be deduced how groups behave independently and follow different motives. It is especially clear that the years with the most attacks are an accumulation of different perpetrator groups. The maritime terrorism phenomenon calls for an abstract categorization and a necessarily multi-dimensional analysis.

Chart 18. Attacks per perpetrator classification 1968-2010
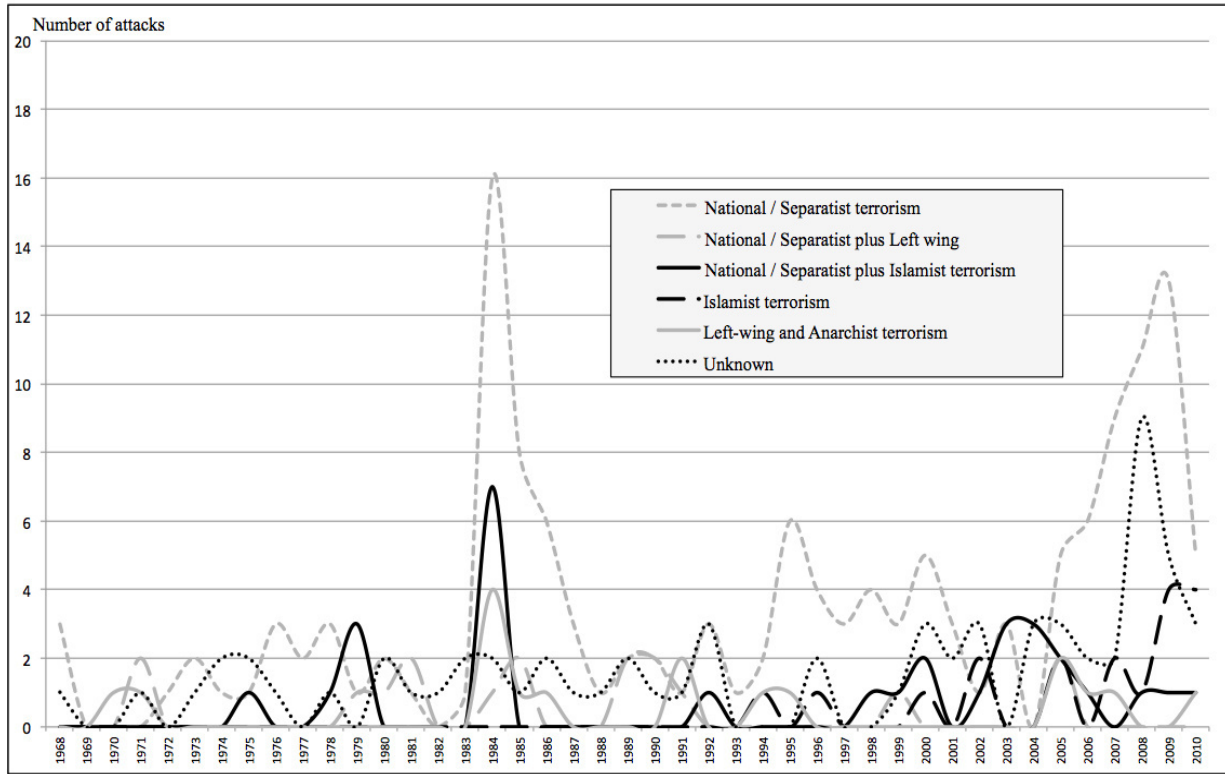
Source: PiraT database

Chart 19 (Condensed perpetrator group, 1968-2010) presents a similar portrayal of the data, but redefines groups by joining two pairs of groups together. Thus, the ethno-nationalist/separatist terrorism category was made more specific by adding groups which also had a left wing motive (27 groups in total). The Islamic terrorism category was refined by adding groups that were both Islamic and nationalist/separatist (13 groups in total).

Chart 19. Condensed perpetrator group, 1968-2010
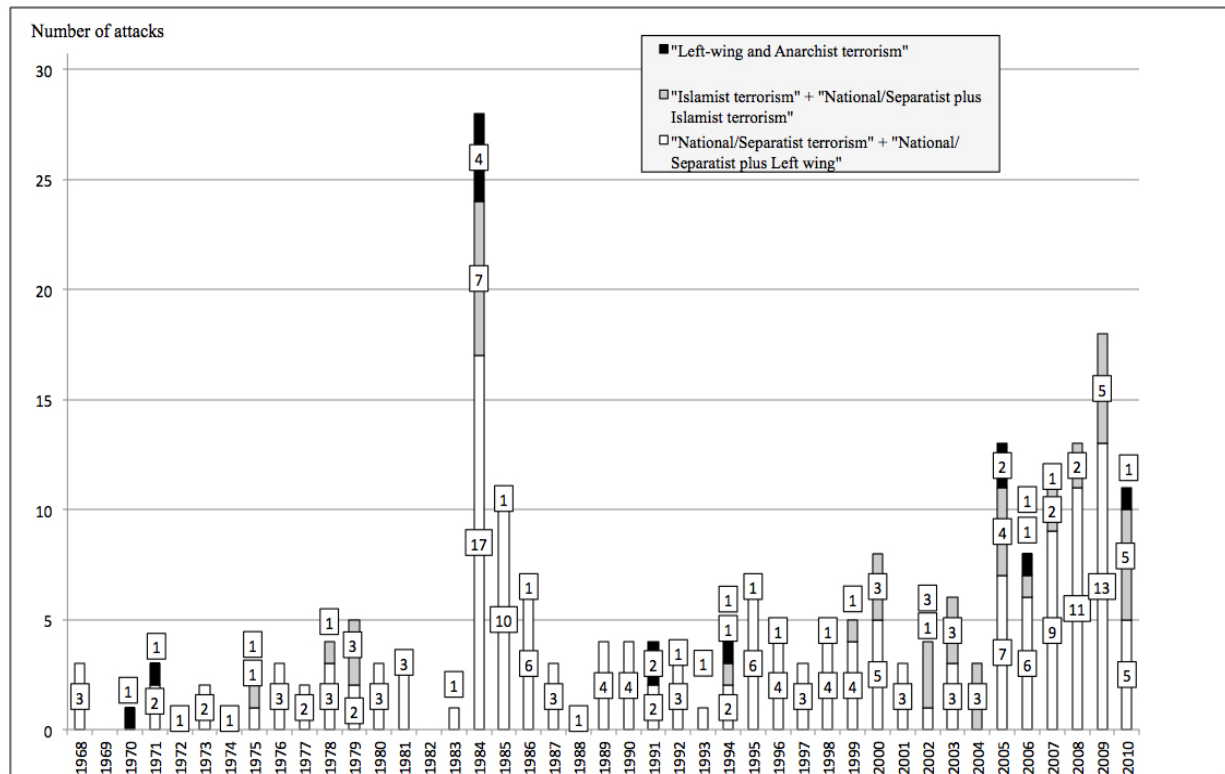
Source: PiraT database

In order to facilitate an interpretation of the data, this illustration was simplified again. In **Chart 19**: **Condensed perpetrator group, 1968-2010,** the following are summarized: The National/Separatist terrorism category that, in addition, had a left-wing motive (in total 27 groups). Furthermore, Islamic and national/separatist groups (13 groups in total) were added to Islamic terrorism. Instead of a graph, a bar chart was chosen for improved clarity.

Overall, the attack numbers are subject to strong fluctuations. Clear trends are not apparent and do not allow for statistical statements. This is due to the small number of attacks. However, the following observations can be made: Between 1968 and 1983, there were hardly any maritime attacks. From 1984, the figures do, indeed, move to a higher level but remain very inconsistent (since 1995 there have between three and 18 attacks annually). It is unclear whether the rise in the number of reported cases was due to database programmers responding to heightened public interest or whether the actual number of maritime attacks increased; there is, at least, no evidence of a steady increase. Most attacks were perpetrated by national/separatist groups, at least if groups characterized by leftist-ideological motives are included. This relates to the higher number of these groups. The second largest group is comprised of those with Islamic motives (including national/separatist motives) that have been especially active since 1992. The left-leaning groups committed the fewest attacks.

However, the number of attacks does not necessarily correspond to their effects, i.e. it is likely that not all attacks were equally important or substantial. One indication of the seriousness of attacks could be the number of victims, i.e. the total number of fatalities (deaths) and injuries.

Chart 20: Condensed perpetrator groups, 1968-2010, number of victims (fatalities + injuries) uses the same simplified, condensed grouping-style portrayal as the previous graph. However, instead of listing the number of attacks, it lists the number of victims over the years. This portrayal has the same distinct variations, although these fluctuations are not always congruent with those of previous graphs. This verifies the assumption that different types of attacks bring about different numbers of victims.

Chart 20. Condensed perpetrator groups, 1968-2010, number of victims (fatalities + injuries)
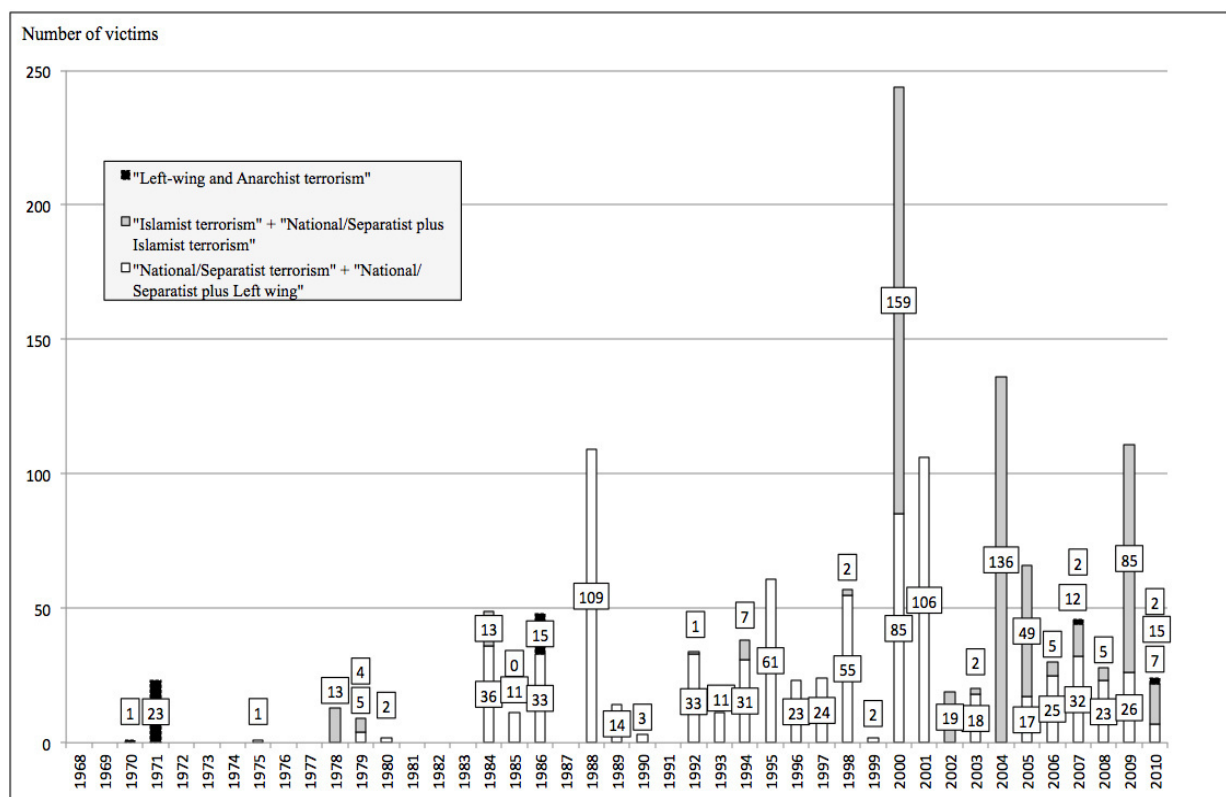
Source: PiraT database

Clear trends cannot be established. Victim numbers have been at a high level since 1984 and are, simultaneously, subject to strong variations (0-244 victims per year). Over the whole period, national/separatist groups have been responsible for the greatest number of victims, followed by Islamist and then by leftist groups. This, therefore, corresponds to the statements about the frequency of attacks. A change is noticeable: Islamist groups (alone or combined with national/separatist motives) have caused greater casualties since 2000 (especially in 2000, 2004, 2005, 2009).

It is striking that, in relation to the clearly high numbers of attack by national/separatist groups, the combined victims of Islamic groups is disproportionately high, especially since 1999. Overall, the combined Islamic groups (Islamist terrorism and nationalist/separatist plus

Islamist terrorism) had 528 victims in 48 attacks between 1968 and 2010 or an average of 11 victims per attack. The other two combined groups had about half the number of victims per attack. [64]

Therefore, measured by the number of victims, Islamic terrorism has proven to be the greatest threat – at least since 2004 and taking into account Islamic groupings whose motives go beyond the purely religious. This is in accordance with the outcomes of actual scientific research, stating that large groups with religious motives are the most violent ones (Cook / Lounsbery, 2011).

An attack by the Abu Nidal group on a Greek cruise ship on 11 July 1988, in which automatic weapons and hand grenades were used, killed 11 people and injured 98. The Liberation Tigers of Tamil Eelam (LTTE) caused another spike in the graph by using suicide boat attacks: first, against a food supply ship off the coast of Sri Lanka on 26 June 2000 and then, again, in an attack on the harbor of Trincomalee, Sri Lanka, on 23 October 2000 that killed at least 40 people while wounding another 43.

In the very same year (25 February 2000), Islamic terrorists of the Moro Islamic Liberation Front (MILF) detonated two bombs on a ferry in Panguil Bay in the Philippines, killing 44 people and injuring 50. After the attack, 56 people were missing. On 12 October 2000, approximately 19 people were killed and up to 39 injured as Al Qaeda attacked the USS Cole with a suicide bomber boat in the port of Aden, Yemen. On 14 March 2004, two suicide bombers from Hamas and the Al-Aqsa Martyrs Brigade killed ten people and injured at least another 20 in the port of Ashdod, Israel. By far the highest number of fatalities in one attack was caused by the Abu Sayyaf Group's attack of 27 February 2004. A bomb aboard a ferryboat in Manila Bay, Philippines, killed at least 116 of the 899 passengers and crew and injured 9 other people.

Table 10 and Figures 17 and 18 assist in the assessment of whether the attacks are aimed against local and national targets (i.e. in the country of origin of the group or in their waters against a national target)[65] and thus may be less relevant to international maritime transport. If there is insufficient data (e.g., if the group is unknown), such a distinction cannot be made and the target is thus classified as "unknown." It turns out that the majority of the attacks have been perpetrated against international targets (49 percent international destinations versus 42 percent national). This is especially true of Islamist terrorist groupings that have committed almost two thirds of all attacks against international targets. However, the same can be applied to national/separatist terrorism where international targets prevail, whereas leftist groups had national targets in two-thirds of the cases.

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[64] The combined attacks by nationalist-separatist groups (ethno-nationalist/separatist terrorism + nationalist/separatist plus left wing) led to 792 victims between 1968 and 2010 in 164 attacks, which works out to 4.8 victims per attack. The combined attacks by left-wing groups (left-wing and anarchist terrorism) led to 43 victims between 1968 and 2010 in 17 attacks, which works out to 2.5 victims per attack. Attacks by unknown perpetrator groups (Category Unknown) led to 310 victims in 66 attacks between 1968 and 2010, which works out to 4.6 victims per attack.

[65] GTD developed a new classification scheme to differentiate between international and domestic terrorism, referring to the nationalities "(1) of the contry in which the attack took place, (2) of the perpetrator(s) and (3) of the target(s)" (LaFree/Dugan/Miller 2015: 146). They also differ in logistical, idelogical, and indeterminate characteristics (ibid: 170).

Table 14. Attacks on national or international targets, 1968-2010, evaluation by group classification

Group Classification	National	International	Unknown
Islamist terrorism	33% (6/18)	61% (11/18)	6% (1/18)
National / Separatist terrorism	40% (58/147)	55% (81/147)	5% (8/147)
Left-wing and Anarchist terrorism	65% (11/17)	29% (5/17)	6% (1/17)
National / Separatist plus Islamist terrorism	53% (16/30)	47 % (14/30)	0%
National / Separatist plus Left wing	53% (9/17)	47 % (8/17)	0%
Unknown	37% (25/67)	40 % (27/67)	23% (15/67)
Total	42% (125/296)	49% (146/296)	9% (25/296)

Source: PiraT database

Table 14 helps to assess whether attacks are only aimed at local targets and, thus, are less dangerous to international shipping where applicable. What groups of motives are particularly relevant here? It turns out that Islamist terrorism is more focused on international targets than any other group (61% international targets), and, to approximately the same degree; this applies to nationalist/separatist groups (55% international targets) trained on international targets at sea. Leftist groups take aim at more local or national targets (29% international targets). When terrorists have a nationalist/separatist motivation in addition to a purely ideological or religious background, the picture changes: Islamist/nationalist terrorists operate almost equally on international and international levels. This also applies to terrorist groups with an additional left-wing nationalist background (both 47% international targets).

Charts 21 and **22** show that the above-mentioned trends are valid for the entire period of investigation as well as the more recent ten-year period.

Having established the nature of these first empirical observations, which reinforce the importance of qualitative analysis to back up quantitative work, the next section will turn to further analysis of the key perpetrator groups. It will examine which groups prefer which methods and give an overview of the impact of each group in recent years.

Chart 21. Number of attacks on national or international targets by group classification, 1968-2010
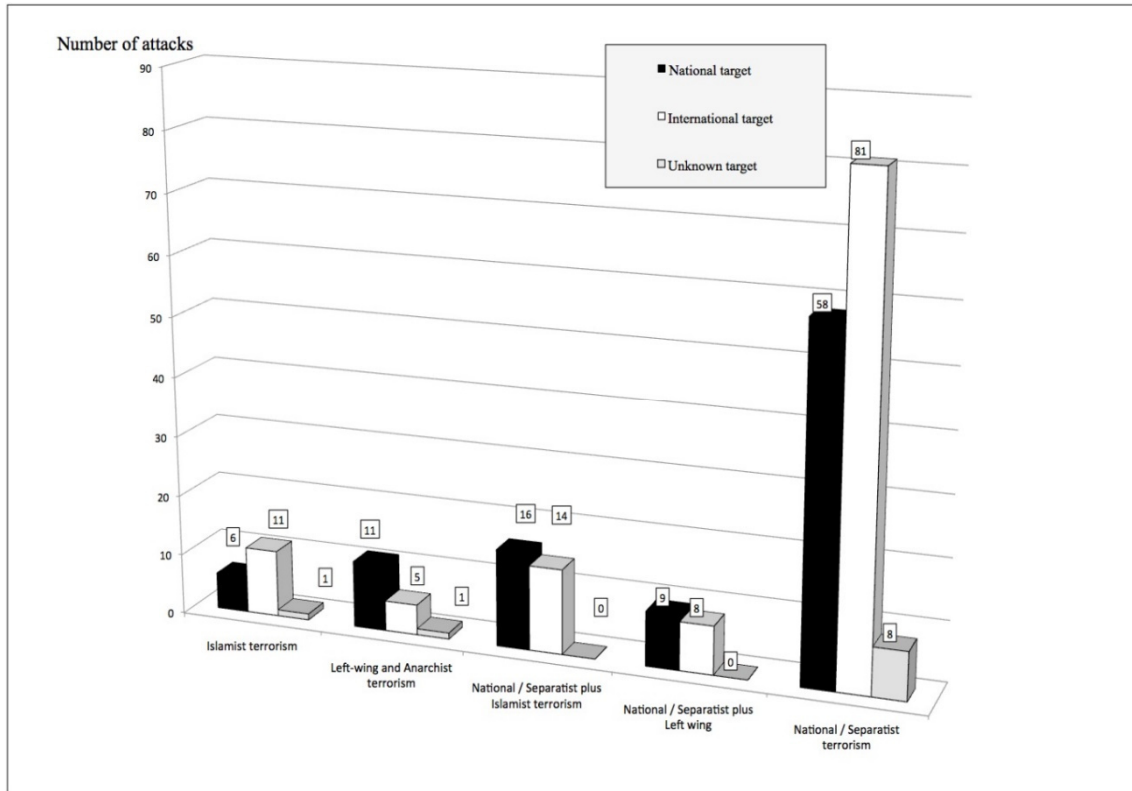
Source: Schneider (2012c), 42.

Chart 22. Number of attacks on national or international targets by group classification, 2000-2010
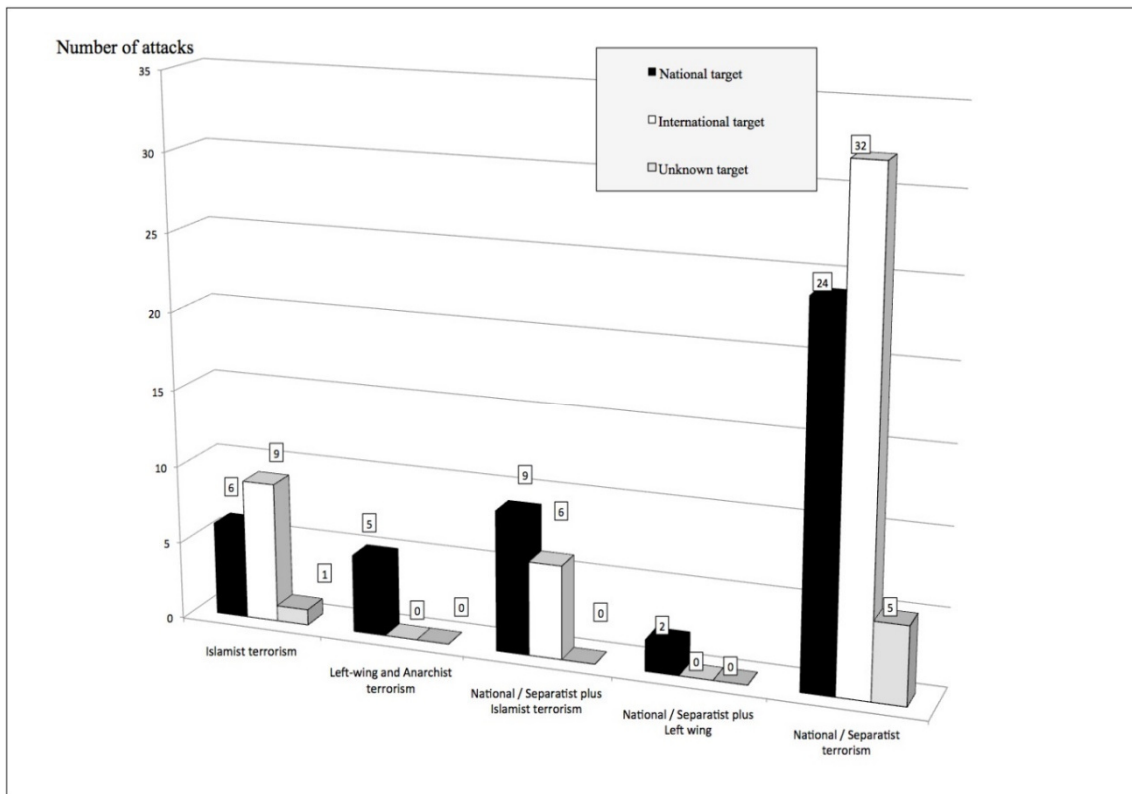
Source: Schneider (2012c), 42.

IX ANALYSIS OF THE ACTORS

The following analysis concentrates on the eight perpetrator groups responsible for most of the maritime terrorist attacks and/or the greatest number of victims: The Liberation Tigers of Tamil Eelam (LTTE), the Abu Sayyaf Group (ASG), the Moro Islamic Liberation Front (MILF), the Revolutionary Armed Forces of Columbia (FARC), the Somali Al-Shabaab, Al-Qaeda, the Movement for the Emancipations of the Niger Delta (MEND) and the Free Aceh Movement (GAM).

In order to make an informed risk assessment of the current security situation, an analysis of the actors, arranged by regional context to identify capacity, motivation, and scope for development, needs to be undertaken. This includes an assessment and evaluation of the cooperation between terrorists and pirates (Lehr 2009, 66-67; Chalk 2008a, 31-33). The following section contains an overview of group characteristics and their activities in the maritime area.

Al-Qaeda and its affiliates are located in several regions of the world and committed six maritime attacks between 2000 and 2010. Their affiliates in Yemen, Maghreb, Iraq and the Arabian Peninsula are relatively independent. Together with small groups, such as the Abdullah Azzam Brigades, they represent a more decentralized model of jihad (Winter 2011, 890-891).There are also known ties between Al-Qaeda and Al-Shabaab, Abu Sayyaf and MILF (Bergen/Hoffman/Tiedemann 2011, 69; Hoffman 2006, 4; Raymond 2006, 541-561).

Al-Qaeda poses a special challenge for maritime trade as it has identified specific trade routes explicitly in order to attack Western nations and Israel. As early as 2005, Al Qaeda singled out four trade routes because of their economic and strategic importance: The Strait of Hormuz (Persian Gulf), the Suez Canal (Egypt), Bab al-Mandeb Strait and the Strait of Gibraltar. These routes could have been cut off by a series of attacks, e.g. mining, sinking ships, threats of terrorist attacks using weapons of violence, and acts of piracy (ICT 2009, 7, ICT 2010, 2).

As for Al-Qaeda, it should be noted that the group has recently had very little capacity for attacks. At the same time, 11 of the 20 most active terror groups in 2011 had a connection to Al-Qaeda. Thus, the trend of shifting attacks away from Al-Qaeda 'central' and towards a growing number of offshoots (see START 2012) has strengthened. However, Al-Qaeda "worries about its ability to win the war of ideas with the future generation of global jihadists" (Zelin 2014:6). Conflicts over authority, methodology and revisionist history have led to disaffiliation and overt enmity between Al-Qaeda and the Islamic State of Iraq and Syria (ISIS) (Zelin 2014:4-5). Since then, the importance of ISIS has been growing: "unlike al-Qaeda, which has not had a clear victory in a decade, ISIS continues to build its prestige and legitimacy within the overall movement" (Zelin 2014:7). Erin Miller (2016) outlines the development of ISIS related terrorist attacks from 2002 to 2015 and finds that it is "one of the most active and deadly terrorist organizations in recent history" (Miller 2016: 1). However, plans for maritime attacks by ISIS have not yet been made public.

The **Al-Shabaab** militias controlled large parts in the southern reaches of the failed state of Somalia and pledged allegiance to Bin Laden in 2009 (Bergen/Hoffman/Tiedemann 2011, 73).

This group is responsible for seven maritime terrorist acts from 2000 to 2010. Meanwhile, however, it has lost control over many territories and is concentrating on a hit-and-run strategy instead (Doboš 2016: 950). For example, a deadly suicide attack at a police station to recapture the town Afgoye in Somalia was reported in October 2016 (Aljazeera 2016). The African Union Mission in Somalia (Amisom) has contributed to the declining dominance of Al-Shabaab (Daily Nation 2016b). Al-Shabaab's attacks outside the country, such as in Westgate and Garissa, led to military actions by, for example, Kenya; infrequent attacks in Kenya take place continuously (Daily Nation 2016a). Jones / Liepmann / Chandler (2016: 8) give a current overview of all of their attacks, which take place mainly on land.

Using the example of Al-Shabaab, a possible nexus between terrorism and piracy is discussed (see Kolb/Salomon/Udich 2011, 110-115). Although there is no proof of operational cooperation between Al-Shabaab and Somali pirates (cf. BKA 2011, 5), the evidence fosters the assumption that the Islamists benefit from piracy ransoms (cf. Petretto 2011, 27; Kolb/Salomon/Udich 2011, 110-115; Lough 2011). Hansen (2011: 111-112) also states that the sharia was newly interpreted to allow a religious legitimation of the cooperation of the pirates and Al-Shabaab.

Contrasting markedly with these two examples of Islamist groups is the **Revolutionary Armed Forces of Colombia (FARC)**. Founded in 1966, this leftwing group comprising nationalist/separatist elements[66] has been responsible for two maritime attacks since the year 2000. Thus, the phenomenon of maritime terrorism is not restricted to Africa and Southeast Asia. A peace accord that followed a ceasefire was rejected in a plebiscite vote in October 2016. The Nobel peace prize for Colombia's president revived hopes of ending the conflict that killed over 220,000 people and led to the internal displacement of six million people. Whether there will be renegotiations or a return to war remains unclear (*The Guardian* 2016, Washington Office on Latin America 2016).

The **Movement for the Emancipation of the Niger Delta (MEND)**, founded in 2005, is a network of separatist and ethno-nationalist groups. The example of the Niger Delta shows the difficulty in making a clear distinction between piracy and terrorism: There is a mixture of motives, for example, the distribution of revenues from oil resources and economic incentives. It is not clear whether this is a result of weak leadership and organizational frameworks or a by-product of trying to guarantee income. Some experts rate MEND, as well as other Nigerian groups, as pirates with negligible political aims, striving mainly for profit. Although the majority of maritime attacks (28) of all eight key perpetrator groups were committed by MEND, the real number is potentially higher as many assaults go unreported (Chalk 2008; Duffield 2010; Economist Intelligence Unit 2011b; Hazen / Horner 2007, Omotola 2009; Schneider 2009, Ume 2011). Since the presidential amnesty of 2009, significantly less MEND aggression has been reported, though Iro Aghedo (2012: 275) reports a wave of violence in 2010. MEND is accused of working against Niger Delta's interests to enrich their pockets (*The Guardian* 2016c). The current focus of reporting and defense measures in Nigeria is on the Islamist group

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66   The HIIK, Conflict Barometer 2010, describes it the following way: "regional predominance conflict between the left-wing FARC and the government", http://hiik.de/en/konfliktbarometer/pdf/ConflictBarometer_2010.pdf, accessed 18 January. 2014). Accoring to the PiraT-categories a predominance conflict falls under the categorie "national".

Boko Haram, which are mainly active in the North of Nigeria and is not known to have committed any maritime attacks.

The **Abu Sayyaf Group (ASG)** is an Al-Qaeda ally in Southeast Asia which has undertaken seven maritime attacks there. The original aim of the ASG was to free the Moro minority from Christian domination (Smith 2015:7). The group is very heterogeneous, ranging from radical Islamists to criminals driven by profit. Today the organization is fragmented into subordinated armed groups whose threat is considered to be diminishing since the death of two top leaders in 2006 and 2007 (Abuza 2008; Ugarte 2008). In 2009, only single attacks were perpetrated; though there was a slight increase in the number of reported incidents 2010 (cf. US-Department of State 2010, 200-201). In 2011 the government started actions in accordance with a peace plan. This led to fewer bombings and kidnappings, but attacks continued (Smith 2015: 12-13). A recent example is the beheading of a Canadian hostage in April 2016 (theguardian 2016a).

The **Free Aceh Movement (GAM)** was an ethno-nationalist and separatist group, which had broad public support in the province of Aceh, a special region of Indonesia, and has been responsible for seven maritime attacks from 2000 to 2010. Starting as a guerilla group, it relied on smuggling and kidnapping for ransom to finance its expensive war against Jakarta (Chen 2007). The devastation in Aceh after the Tsunami in 2004 led to new peace negotiations and an agreement was signed in 2005. Since then, the military wing has been dissolved and the political wing (Aceh party) now participates in national elections (Stange/ Patock 2010). The transformation led to many conflicts within the group and it is feared that new patterns of conflict could undermine the process of sustainable peace (Ansori 2012).

The **Liberation Tigers of Tamil Eelam (LTTE)** were a comparatively successful group: "By the late 1990s, as the LTTE came to control significant parts of territory, they were able to build on these early experiences of governance, building civil administration bodies throughout the territories they controlled. Soon thereafter, the civil administration structures bloomed to cover areas such as education, health, police, judiciary, and taxation" (Mueller 2014: 82). Their leader cult made it possible to destroy most of the group's cohesion: "The LTTE was very hierarchical and ruled by one leader, Velupillai Prabhakaran. (...) Some have characterized the sense of personal duty and obligation to the leader felt by the LTTE cadres as a cult of personality (...)" (Mueller 2014:81) After the death of the main leader, Prabhakaran, the government of Sri Lanka declared victory in May 2009. Its maritime branch, known as the Tamil Tigers, used terrorist attacks, such as suicide bombings or hijacking civilian ships to achieve their separatist goals (Bhattacharji 2009). With 17 maritime attacks from 2000 to 2010, it was the second most active group in the field of maritime violence.

The **Moro Islamic Liberation Front (MILF)** is a separatist movement with additional Islamist goals. There is a loose connection with Al-Qaeda and the Abu Sayyaf Group (Abzua 2005). In 2008, a peace agreement with the government of the Philippines failed and resulted in extreme violence on both sides. Peace talks with the government were interrupted by frequent outbreaks of violence (Abuza 2005, International Crisis Group 2011). The peace agreement of March 2014 still needs to be implemented: "The passage of a law in the Philippine congress that would authorize the creation of a more powerful Muslim autonomous region in the country's south has been delayed. It is uncertain if the guerrillas would accept a watered-

down version of the autonomy bill drafted by government and rebel representatives. The uncertainty has led to fears that impatient guerrillas may return to violence" (*The Guardian* 2016b). Violations of the ceasefire have been reported (*The Guardian* 2016d).

The following two tables give the first overview of the actors and their attacks since the year 2000.

Table 15 gives a summary of the active **perpetrator groups Al-Qaeda, Al-Shabaab, FARC and MEND**. Table 16 outlines the more inactive **groups Abu Sayyaf, GAM, LTTE and MILF.** The total number of maritime attacks is listed in the first row (as well as the years in which these attacks took place). The second row shows the place and the coastal nations where the attack occurred. The third row describes the targets of the attack (e.g. a port or a ship) and the methods (such as, bombing or hostage taking). The fourth row provides information about injuries and fatalities. The last row gives a brief summary of the different groups, including their organization, their categorization according to motives, their characteristics and their current status (e.g. inactive).

Table 15. Overview of the most important perpetrator groups: Al-Qaeda, Al-Shabaab, FARC, MEND

No.	Indicators	Al-Qaeda	Al-Shabaab	MEND	FARC
1	**Maritime attacks (since 2000)**	6 maritime attacks 2000, 2002, 2005, 2007, 2010(2)	7 maritime attacks 2007, 2009(4), 2010(2)	28 maritime attacks 2006 (3), 2007 (6), 2008 (8), 2009 (9), 2010 (2)	2 maritime attacks 2005(2)
2	**Location**	**Jordan, Oman, Somalia, Yemen**	**Somalia**	**Nigeria, Equitorial-Guinea (1)**	**Colombia, Panama**
3	**Targets and Means**	Destructive armed attack on ships, bombing of ships, kidnapping small groups of civilians	Attack on harbor maritime facilities, destructive attack on ships	Abduction of small groups of civilians, abduction of civilian vessels, destructive attack on ships, bombing ships, attack on maritime port facilities	Destructive armed attack on ships, bombing of ships, hijacking of civilian ships, attack on maritime facilities
4	**Victims**	28 killed, 57 injured	33 killed, 65 injured	13 killed, 56 injured (1 attack with no details regarding injuries)	2 killed, 15 injured
5	**Category/Motive**	Islamic Terrorism	Islamic Terrorism	National/Separatist Terrorism	Left-anarchist terrorism; national/separatist terrorism
6	**Organization**	Ideological and strategic control center, world-wide network of different sub-organizations	Connection to Al-Qaeda, recruitment of foreign activists	Network of militant groups, partly motivated by economic interests, overlap with piracy	Strongest Latin American guerrilla group, but not a uniform block
7	**Activity**	Still active; weakened by the loss of the symbolic figure of bin Laden and other leaders, weak capacities; but active terror groups had a connection to Al-Q.	Connection to Al-Qaeda, operated actively in Somalia, lost a lot of their previously controlled territories	Fought for distribution of income from oil resources; 2009 presidential amnesty: conflict de-escalated, but ongoing	Strong and persistent violent conflict between government and FARC, but only attacks on local targets; peace accord that followed a ceasefire rejected in a plebiscite vote in October 2016

Source: PiraT database

Table 16. Overview of the most important perpetrator groups: Abu Sayyaf, GAM, LTTE, MILF

No.	Indicator	Abu Sayyaf	GAM (Aceh)	LTTE	MILF
1	**Martime attacks (since 2000)**	7 maritime attacks 2000, 2002, 2004, 2005(2), 2009, 2010	7 maritime attacks 2000, 2001, 2002, 2003, 2005 (3)	17 maritime attacks 2000 (4), 2001 (2), 2003 (2), 2005, 2006 (2), 2007 (2), 2008 (2), 2009(2)	3 maritime attacks 2000, 2003, 2008
2	**Location**	**Philippines, Malaysia**	**Indonesia, Singapore**	**Sri Lanka**	**Philippines**
3	**Targets and Means**	Bomb attacks on ships, kidnapping of small groups of civilians	Kidnapping of small groups of civilians and of civilian ships, destructive armed assaults on ships	Bomb attacks against ships, kidnapping of small groups of civilians, abduction of civilian ships, destructive armed assaults on ships	Destructive assaults on ships, bomb attack against ships
4	**Victims**	122 killed, 43 injured	2 killed	116 killed, 122 injured (one attack without details)	45 killed, 52 injured
5	**Category/Motive**	National/Separatist terrorism, Islamic terrorism	National/separatist terrorism	National/separatist terrorism	National/Separatist terrorism, Islamic terrorism
6	**Organization**	Connection to Al-Qaeda, fragmented into sub-groups	Main leaders operate from exile, broad base in Aceh; disbanded military wing	Strong leader and military wing	Connection to Abu Sayyaf, loose organization with many sub-units
7	**Activity**	Contained militarily, few attacks despite peace negotiations	Inactive since 2005 peace treaty	Inactive since 2009 (defeated by government)	Peace agreement in 2014 (not fully implemented, ceasefire not always kept)

Source: PiraT database

The next chapter will elaobarate on recent trends in global maritime terrorism. I also wanted to see if fundamentally different results could be derived by using a single database. In doing so, I wanted to reflect on current trends as much as possible. This chapter again uses empirical-analytical methods, with an emphasis on descriptive statistics. Since only the Global Terrorism Database (GTD) has an ongoing collection of data, I employed a search in that database to see whether there are new trends that challenge previous findings.

X   RECENT TRENDS IN GLOBAL MARITIME TERRORISM

1   Introduction

Given the enormous importance of maritime trade to the world trading system, there are significant concerns about the ramifications of a terror attack. Recent incidents with firing at oil refineries or gas terminals, as well as on container or cargo ships, also in maritime choke points as well as hijacking and kidnapping incidents, have raised awareness for maritime attacks. At the same time, views differ on whether the phenomenon is exaggerated or relevant. I argue that to judge this, one first needs to understand the true characteristics and potential of the global risk represented by maritime terrorism which, in turn, is a prerequisite for deciding on maritime security governance measures.

Like piracy, maritime terrorism[67] is a phenomenon of maritime violence. Piracy and maritime terrorism are usually delineated along their motives, with the pirates' motives being mainly profit-oriented. Both can be placed on a continuum of illegal maritime behavior. As they are potentially comprised of (the threat of) direct violence against humans, they contribute to the corrosion of maritime law, making necessary maritime security governance that strives for good order at sea.

Until now, very few terrorist attacks on maritime targets have attracted much attention. Nevertheless, there are a few well-known examples of maritime terrorism, such as the hijacking of the Italian cruise ship Achiile Lauro by the Palestine Liberation Front (PLF) (1985), the Al Qaeda attacks on the United States Ship Cole (2000), the French oil tanker Limburg (2002) and the bomb explosion on the Filipino SuperFerry 14 (2004), perpetrated by Abu Sayyaf. Because there are few well-known maritime attacks from the past, the relevance of maritime terrorism is disputed. Can this scepticism be sustained in the light of the current development of (maritime) terrorism?

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[67]   W*orking definition of maritime terrorism*: "The main characteristics of (maritime) terrorism involve an ultimate political, ideological or religious goal that goes beyond the actual attack and is carried out by non-state actors, contrary to international law. The threat or use of violence is aimed at enforcing political and/or social change or the political-ideological interests of the terrorists, by means of psychological stress. This is accomplished by generating fear, disrupting the public order and the people's faith in their government or by catching the media's attention for the terrorist's issues, hence putting political actors under pressure. If the attacks occur in a maritime area, they fall under the category of maritime terrorism: This includes attacks from sea or land on ships or maritime infrastructure, such as oil rigs, and on passengers or staff. Any type of ship can be targeted, e.g. cargo ships, warships or passenger boats and cruise liners. Port cities, maritime facilities or coastal cities can also be targeted" (see Chapter III).

The definition of (maritime) terrorism has to be chosen in a way that works with the databases is possible, meaning that it will have to comply with their main principles. Please see the following footnotes regarding these principles and selection criteria.

This chapter[68] seeks, therefore, to concentrate on the following questions: What is the nature of the risk posed by maritime terrorism? What recent trends exist in global maritime terrorism? To describe the nature of current global maritime terrorism, I will analyse the characteristics of the actors and attacks by looking at the incidents over time, the regions in which attacks took place, weapons and attack types used, the casualties and the perpetrator groups, with or without links to piracy. What lessons can be drawn for risk assessment and the prevention of future attacks? This essay argues that a more specified analysis of the region and actor context could lead to a more specific response.

Empirical-analytical methods, with an emphasis on descriptive statistics, are applied as a research method. The GTD – Global Terrorism Database – was used in a previous, thorough empirical study on maritime terrorism, conducted by the author. For that study, a collection of three databases (GTD, WITS and RAND) for the time period 1968-2010 was used and incorporated into a database of our own, called "PiraT-database"[69]. Since only the GTD has an ongoing collection of data, a search in that database is employed here by the author to see whether there are new trends challenging previous findings. The analysis is limited by the quality of the database. However, "although terrorist event databases such as the GTD are imperfect, they persist because they are useful" (LaFree, Dugan, and Miller 2015: 24). Another limitation is the number of cases researched. Nevertheless, the results of the databases can help to identify trends, which must be pursued further. Using the strongest terrorism criteria[70], to retrieve only the cases where there is essentially no doubt of terrorism and including only successful attacks with tangible effects, 72 cases were found and evaluated for the years 2010-2017.

2   Incidents Over Time / Number of Attacks

The following graphs highlight the empirical trends. **Chart 23: Number of attacks 2010-2017** shows the number of attacks between 2010 and 2017, which is the time period studied for this article. The chart shows no clear trends for the incidents over time. However, peaks are seen in 2013 (11 incidents), 2014 (12 incidents) and the strongest in 2016 (27 incidents).

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[68]   This chapter will be published as a peer-reviewed book chapter in: Edward R. Lucas, Thomas A. Crosbie and Samuel Rivera-Paez (eds.): Maritime Security: Counter-Terrorism Lessons from Maritime Piracy and Narcotics Interdiction (Amsterdam: IOS Press), 2020. Parts of it were used for an article in German (Schneider 2019).

[69]   The article draws on previous works, such as the chapters of this book; Ehrhart, Petretto, Schneider, Blecker, Engerer, and König 2013; Schneider 2013.

[70]   See https://www.start.umd.edu/gtd/search/. Selection of search criteria: Target Type: Maritime (targtype1_txt = maritime or targtype2_txt = maritime or targtype3_txt = maritime). Does not include ambiguous cases or unsuccessful attacks. Years between 2010 and 2017 (data for 2018 not yet available on 7 March 2019).

The target type "maritime" includes "attacks against fishing ships, oil tankers, ferries, yachts, etc." and also "includes ports and maritime facilities" (GTD Codebook, 2018, p. 32).

All three GTD terrorism criteria have to be fulfilled. "Criterion I: The act must be aimed at attaining a political, economic, religious, or social goal. Criterion II: There must be evidence of an intention to coerce, intimidate, or convey some other message to a larger audience (or audiences) than the immediate victims. Criterion III: The action must be outside the context of legitimate warfare activities, i.e. the act must be outside the parameters permitted by international humanitarian law (particularly the admonition against deliberately targeting civilians or non-combatants)."

The spectrum and unclear trends are similar to findings of the study of the cases between 1968-2010, with 5 to 23 attacks per year (chart 5).

Chart 23. Number of attacks 2010-2017
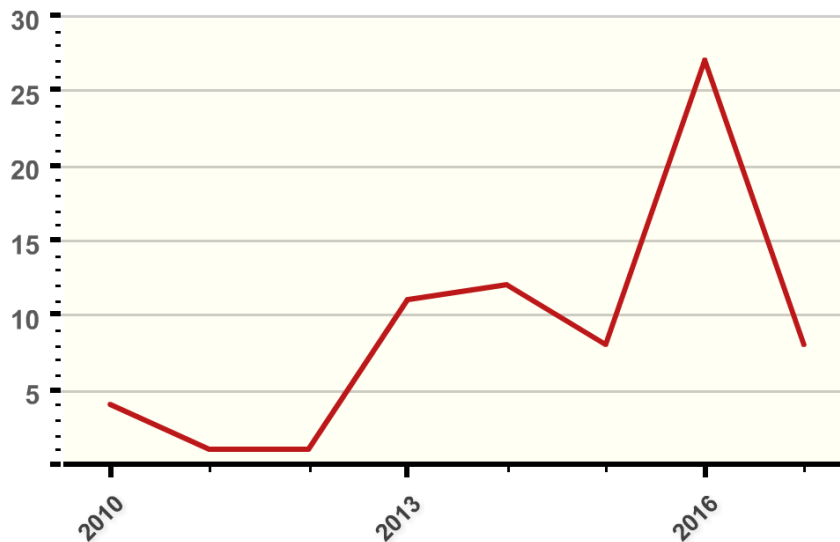
3   Regions

It is more informative to look at the regions on which the attacks focused. **Chart 2 and 3: Regional distribution of attacks, 2010-2017,** illustrates the regional distribution and number of attacks by region according to GTD database. This shows five regions where maritime attacks have been carried out. These are Southeast Asia with 33 attacks, the Middle East and North Africa with 19 attacks, Sub-Saharan Africa with 14 attacks, South Asia with 5 attacks, and South America with one attack. The dominant regions were, therefore, Southeast Asia, the Middle East and North Africa and Sub-Saharan Africa.

In the previous study on the regional distribution of attacks between 1968 and 2010, a shift of the conflict zones was already noted for the entire observation period, as highlighted for the time between 2000 and 2010. The most attacks per region were: Sub-Saharan Africa (63), Southeast Asia (27), Southern Asia (21), Middle East and North Africa (15). Previously, sub-Saharan Africa, the region most affected in 2000-2010, was only in third place and the second most affected region of Southeast Asia was previously in fourth place. By contrast, the Middle East and North Africa, which were previously the most affected, occupied the fourth position. Western Europe, as well as Central America and the Caribbean have strongly declined in importance. It is noteworthy that 89% of attacks took place in Sub-Saharan Africa over the period 2000-2010 (chart 8). Although a comparison is difficult and incomplete, as we do not yet have the data for the next ten years, we already see that this trend changed in 2010-2017, as Sub-

Saharan Africa is now only the third most affected region. Here, the shift of conflict zones becomes clear.

The number of attacks for all regions and databases can be derived from the graph in **Chart 24: Regional distribution of attacks over time, 2010-2017** and **Chart 25: Regional distribution of attacks, numbers, 2010-2017,** showing the clear peak of attacks in Southeast Asia in 2016.

Chart 24. Regional distribution of attacks over time, 2010-2017
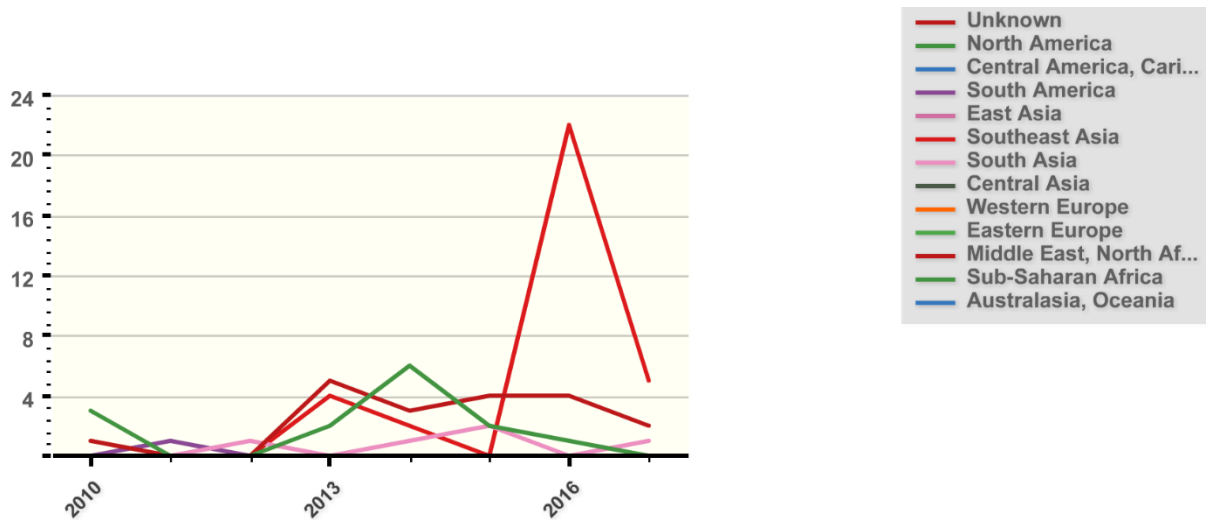
Chart 25. Regional distribution of attacks, numbers, 2010-2017
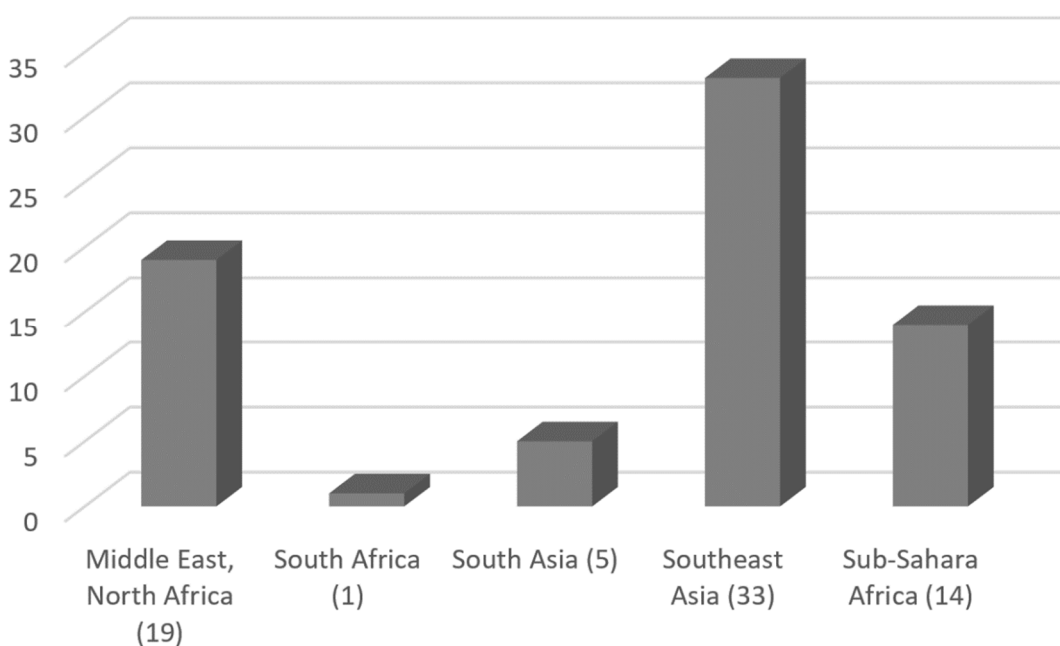
4   Weapon Type

As **Chart 26: Weapon types used in attacks, numbers, 2010-2017** and **Chart 27 over time** demonstrate, the weapon types used in maritime targeting attacks were mainly firearms (43). This was followed by explosives/bombs/dynamite (28), incendiary[71] (1) and melee[72] (1). There is no indication for example of other categorized weapon types such as chemical, biological, radiological or nuclear weapons or sabotage equipment. The developments over time correspond to the development of the number of cases. They are showing that firearms and explosives/bombs/dynamites were by far the most popular two weapon types also in recent times.

Chart 26. Weapon types used in attacks, numbers, 2010-2017
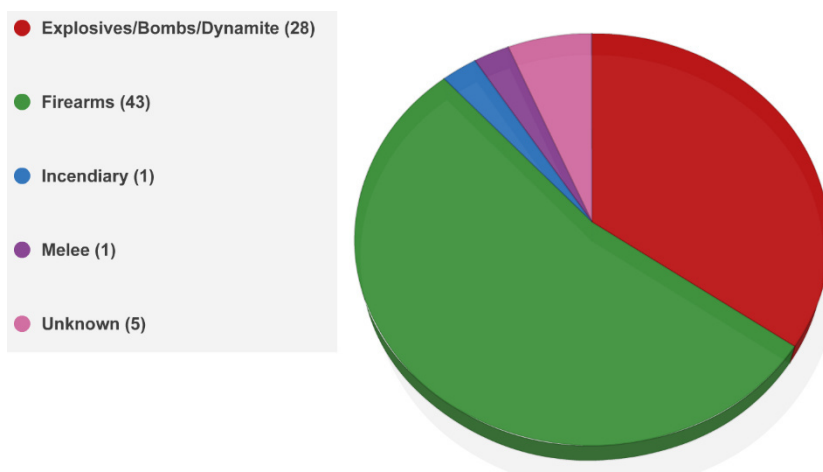
Chart 27. Weapon types used in attacks over time, 2010-2017

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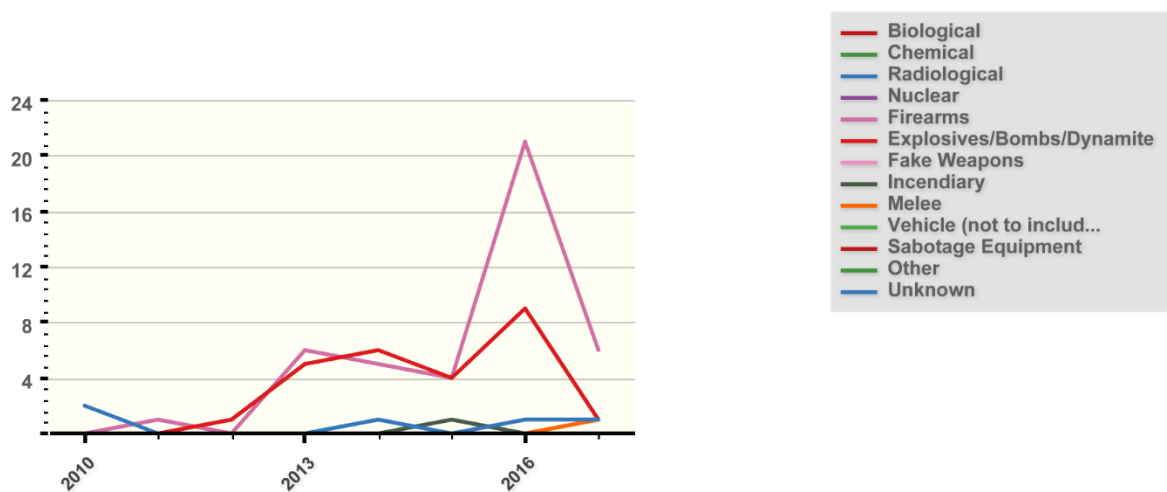
[71]   Incendiary "A weapon that is capable of catching fire, causing fire, or burning readily and produces intensely hot fire when exploded." (e.g. Molotov Cocktail, petrol bomb) (Global Terrorism Database Codebook: Inclusion Criteria and Variables. July 2018, https://www.start.umd.edu/gtd/downloads/Codebook.pdf; in the following quoted as GTD Codebook, 2018, here p. 29f.).

[72]   Melee: "A weapon—targeting people rather than property—that does not involve a projectile in which the user and target are in contact with it simultaneously." (e.g. fists, knives, ropes) (GTD Codebook, 2018: p. 29f.).

5   Attack Type

Chart 28: Attack types, numbers, 2010-2017 illustrates the following: The most common attack type for the research period and maritime targets are taking control of hostages (defined as hostage taking/kidnapping[73]: 26 cases, barricade incident[74]: 1 case). The same number of cases were more destructive, used bombing/explosion[75] (26 cases). Almost equal again, but only used less than half as often than the attack types before are the next two categories: taking control of a vehicle through hijacking[76] (11 cases) and armed assault[77] (10 cases). Lower numbers of incidents took place against facility/infrastructure[78] (3 cases) and an assassination[79] of a prominent individual (1 case). **Chart 29: Attack types over time, 2010-2017** shows that mainly three attack types were responsible for the peak in 2016: especially incidents of kidnapping followed by bombing/explosions and, finally, by hijackings.

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[73]   "HOSTAGE TAKING (KIDNAPPING): An act whose primary objective is to take control of hostages for the purpose of achieving a political objective through concessions or through disruption of normal operations. Kidnappings are distinguished from Barricade Incidents (above) in that they involve moving and holding the hostages in another location" (GTD Codebook, 2018, p. 25).

[74]   HOSTAGE TAKING (BARRICADE INCIDENT) "(…) Such attacks are distinguished from kidnapping since the incident occurs and usually plays out at the target location with little or no intention to hold the hostages for an extended period in a separate clandestine location" (GTD Codebook, 2018, p. 25).

[75]   "BOMBING/EXPLOSION: An attack where the primary effects are caused by an energetically unstable material undergoing rapid decomposition and releasing a pressure wave that causes physical damage to the surrounding environment. Can include either high or low explosives (including a dirty bomb) but does not include a nuclear explosive device that releases energy from fission and/or fusion, or an incendiary device where decomposition takes place at a much slower rate. If an attack involves certain classes of explosive devices along with firearms, incendiaries, or sharp objects, then the attack is coded as an armed assault only. The explosive device subcategories that are included in this classification are grenades, projectiles, and unknown or other explosive devices that are thrown in which the bombers are also using firearms or incendiary devices." (GTD Codebook, 2018, p. 24).

[76]   "HIJACKING: An act whose primary objective is to take control of a vehicle, such as an aircraft, boat, bus, etc. for the purpose of diverting it to an unprogrammed destination, forcing the release of prisoners, or some other political objective. Obtaining payment of a ransom should not the sole purpose of a hijacking, but can be one element of the incident so long as additional objectives have also been stated. Hijackings are distinct from Hostage Taking because the target is a vehicle, regardless of whether there are people/passengers in the vehicle. (GTD Codebook, 2018, p. 24-25).

[77]   "ARMED ASSAULT: An attack whose primary objective is to cause physical harm or death directly to human beings by use of a firearm, incendiary, or sharp instrument (knife, etc.). Not to include attacks involving the use of fists, rocks, sticks, or other handheld (less-than-lethal) weapons. Also includes attacks involving certain classes of explosive devices in addition to firearms, incendiaries, or sharp instruments. The explosive device subcategories that are included in this classification are grenades, projectiles, and unknown or other explosive devices that are thrown" (GTD Codebook, 2018, p. 24).

[78]   "FACILITY / INFRASTRUCTURE ATTACK: An act, excluding the use of an explosive, whose primary objective is to cause damage to a non-human target, such as a building, monument, train, pipeline, etc. Such attacks include arson and various forms of sabotage (e.g., sabotaging a train track is a facility/infrastructure attack, even if passengers are killed). Facility/infrastructure attacks can include acts which aim to harm an installation, yet also cause harm to people incidentally (e.g. an arson attack primarily aimed at damaging a building, but causes injuries or fatalities)" (GTD Codebook, 2018, p. 24).

[79]   "ASSASSINATION: An act whose primary objective is to kill one or more specific, prominent individuals. Usually carried out on persons of some note, such as high-ranking military officers, government officials, celebrities, etc. Not to include attacks on non-specific members of a targeted group. The killing of a police officer would be an armed assault unless there is reason to believe the attackers singled out a particularly prominent officer for assassination" (GTD Codebook, 2018, p. 24).

Chart 28. Attack types, numbers, 2010-2017
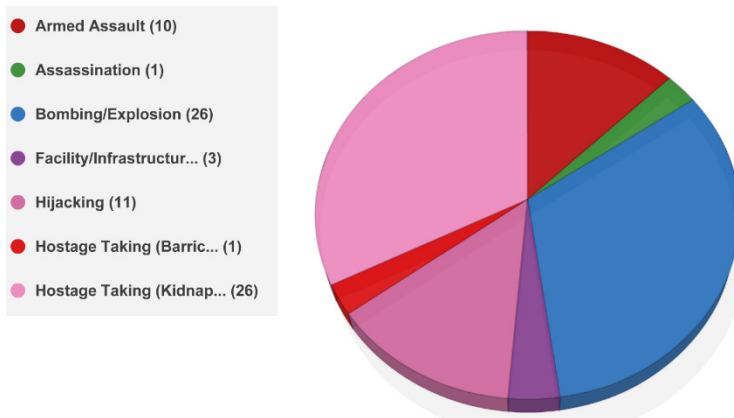
Chart 29. Attack types over time, 2010-2017
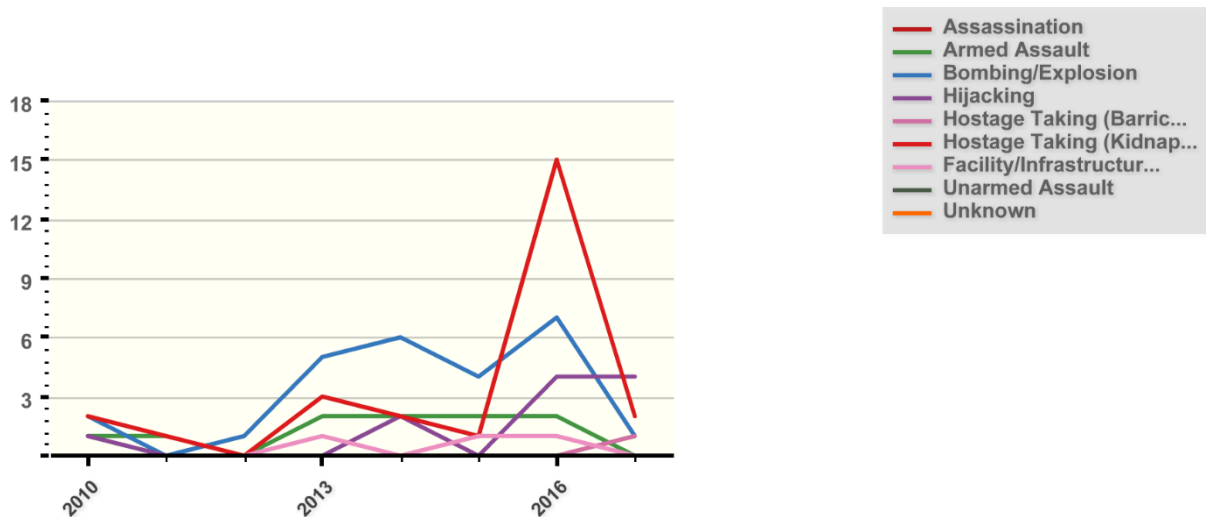
In the previous study on maritime attacks in 1968-2010, the detailed case descriptions (if available) were used to show the most frequently used attack scenarios. In the chapter on the perpetrator groups, I will give the characteristics of the attacks carried out, sorted by the groups. Before that follows the section on casualties.

6   Casualties

The number of attacks does not necessarily correspond to their effects, i.e. it is likely that not all attacks were equally important or substantial. One indication of the seriousness of attacks could be the number of victims, i.e. the total number of fatalities (deaths) and injuries.

Clear trends over time cannot be established. For the previous study on 1968-2000, we had the following results: Victim numbers have been at a high level since 1984 and are, simultane-

ously, subject to strong variations (0-244 victims per year). Over the whole period, national/separatist groups have been responsible for the greatest number of victims, followed by Islamist and then, by leftist groups. A change was noticeable: Islamist groups (alone or combined with national/separatist motives) have caused greater casualties since 2000 (especially in 2000, 2004, 2005 and 2009). Therefore, measured by the number of victims, Islamic terrorism has proven to be the greatest threat – at least since 2004 and taking into account Islamic groupings whose motives go beyond the purely religious. This is in accordance with the outcomes of scientific research, showing that large groups with religious motives are the most violent ones (Cook, Lounsbery 2011).

If we look at the number of injured: ("confirmed non-fatal injuries to both perpetrators and victims", GTD Codebook 2018: 49) and fatalities, ("The number includes all victims *and* attackers, who died as a direct result of the incident", GTD Codebook 2018: 49) 2010-2017, we can make the following observations: again, there are strong variations and no clear trend over time. However, the number of casualties follow the number of attacks, therefore peeking in the same years (2012, 2013 and 2016). As this is very similar for fatalities as well as injuries, this is shown here first for one of the cases, the fatalities.

Chart 30: Fatalities, numbers, 2010-2017 and **Chart 31: Fatalities over time, 2010-2017** demonstrate: A large number of the attacks produced either no fatalities (42) or an unknown number (12). Therefore, we could assume that, even though the cases were rated as successful attacks, 75% (54 cases of 72) did not cause any fatalities. Only two cases had caused a high number of fatalities (one, more than 10 in 2016, and one, more than 50 in 2015).

Chart 30. Fatalities, numbers, 2010-2017
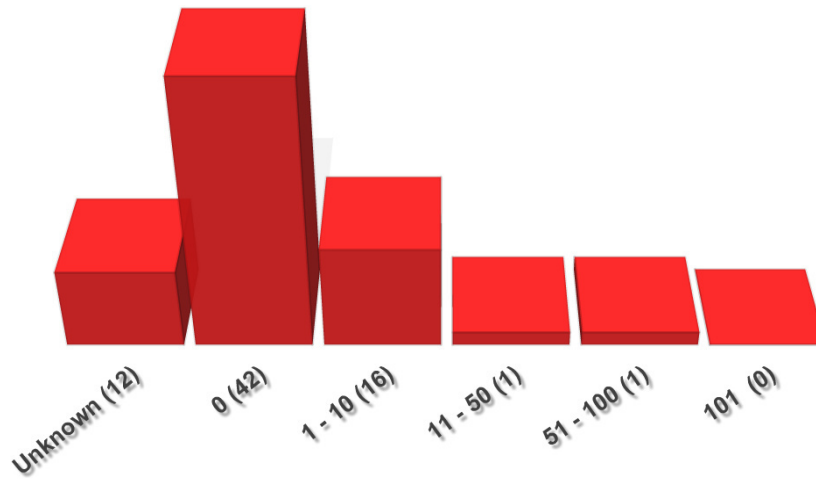
Chart 31. Fatalities over time, 2010-2017
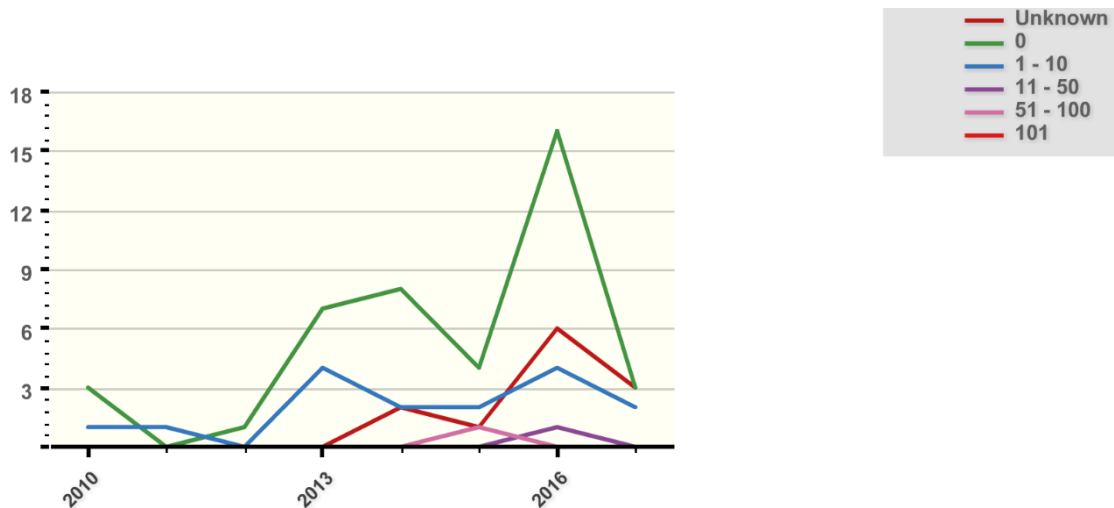
This is mirrored by the injuries. **Chart 32: Injuries, numbers, 2010-2017** and **Chart 33: Injuries over time** show: A large number of the attacks produced either no injuries (35) or an unknown number (14). Therefore, we could assume that, even though the cases were rated as successful attacks, 68% (49 cases of 72) did not cause injuries. Here again, only two cases had caused a high number of fatalities (one caused more than 10 in 2015 and one more than 50 in 2016).

Chart 32. Injuries, numbers, 2010-2017
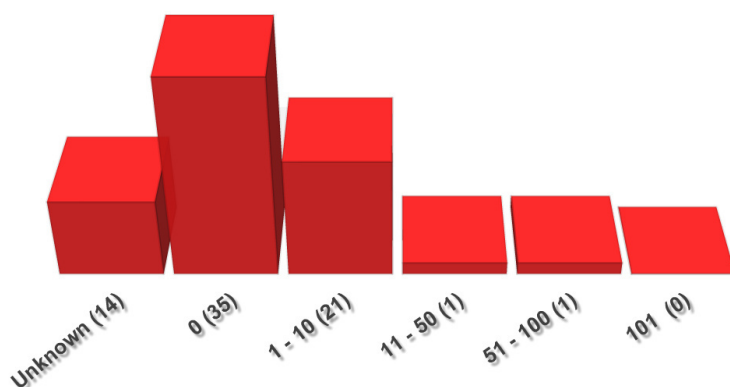
Chart 33. Injuries over time, 2010-2017
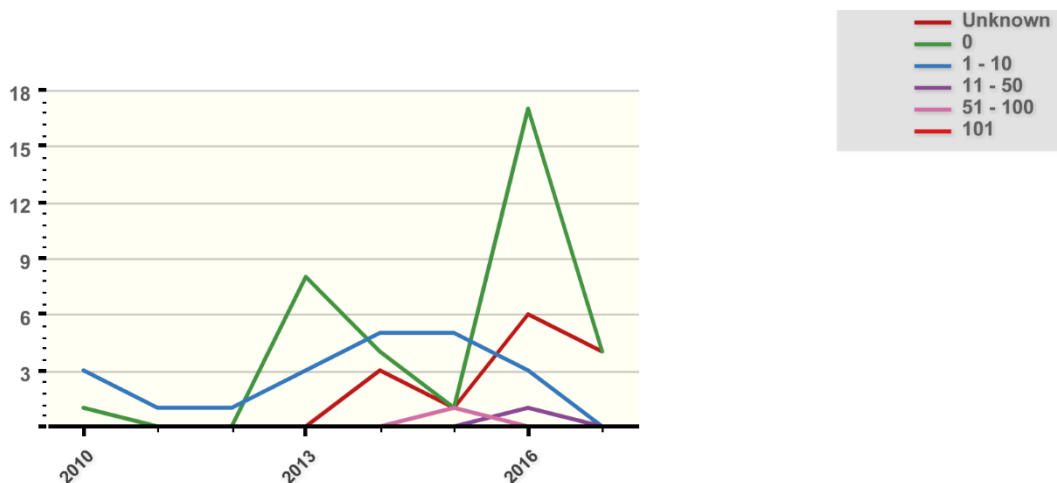
So what were the two cases, which were responsible for the high casualties in 2015 and 2016?

On 05/06/2015 Houthi extremists (Ansa[a]r Allah) carried out an attack in Aden /Yemen with the attack type bombing/explosion, which caused 86 fatalities and left 67 injured. "Assailants fired projectiles that struck a boat carrying civilians who were attempting to flee in [the] Attawahi district, Aden city, Aden governorate, Yemen. … Rockets and artillery shells were used in the attack." (GTD ID: 201505060078).

On 12/11/2016, Al-Shabaab carried out an attack in Mogadishu /Somalia, which caused 29 fatalities and left 48 injured. It was categorized as maritime because an explosives-laden vehicle detonated at a seaport. However, the target was not only maritime, but also targeted against the police. "Al-Shabaab claimed responsibility for the incident and stated that police officers were targeted because they were providing security for Somalia's parliamentary elections. … An explosives-laden truck was used in the attack" (GTD ID: 201612110002).

This case – as the one before – points out to the fact that – different from piracy – their terrorist fight does not only take place in the maritime domain, e.g. targeting ports and boats as was done here, but has to be evaluated in the overall context of conflict of the country and/or the perpetrators. Both cases confirm the previous findings to the effect that, measured by the number of casualties, Islamic terrorism has proven to be the greatest threat, with Al Shabaab being a Somalian jihadist group and with the Houthi movement, also an Islamic religious-political-armed movement fighting in the context of the Yemeni Civil War. The following section will examine these and other important perpetrator groups more closely.

7   Perpetrator Groups

In order to make an informed risk assessment of the current security situation, an analysis of the actors, arranged by regional context to identify capacity, motivation, and scope for development, needs to be undertaken. This includes an assessment and evaluation of the cooperation between terrorists and pirates. The following section needs to be brief, but contains an overview of group characteristics and their activities in the maritime area.

The following analysis concentrates on the countries/waters most affected by maritime attacks and the perpetrator groups responsible for the maritime terrorist attacks and/or the greatest number of victims. It starts with an overview of the countries most affected by maritime attacks comparing the two analysed time periods.

Table 13.   Total attacks per country 2000-2010 (the four with the most attacks)

Source: PiraT database

Country	Nigeria	Sri Lanka	Somalia	Philippines
Number of Attacks	43	17	14	12

Table 17.   Total attacks per country 2010-2017 (the five with the most attacks)

Source: My table based on GTD-data

Country	Yemen	Libya	Somalia	Malaysia	Philippines
Number of Attacks	7	7	6	11	17

It quickly becomes apparent in **Table 13 and Table 17 on total attacks per country** that, in the second period, the number of attacks is almost halved (48 vs. 86 attacks). *The Philippines* (17 attacks between 2000 and 2017) and *Malaysia* (11 attacks between 2000 and 2017) have been key hotspots in the maritime terrorism crises of recent years. This is followed by *Libya* (7 attacks), *Yemen* (7 attacks) and *Somalia* (6 attacks). If we compare this to the period of 2000-2010, we see a shift in key hotspots. Whereas the *Philippines* has already previously been a hotspot (with 12 and, therefore, fewer attacks) so was *Somalia* (with 14 and, therefore, double the number of attacks from Al Qaeda and Al-Shabaab). However, this is where the common ground ends.

Nigeria (43 attacks between 2000 and 2010) has been one of the key hotspots in maritime terrorism. While in 2010-1017, Nigeria did not made it into the top five hot spot category, because there had been "only" four attacks (once again, as in previous times, by the **Movement for the Emancipation of the Niger Delta (MEND,** founded in 2005) with the abduction of two US –sailors in 2013[80] and three unknown perpetrators. Unfortunately, this does not mean the all-clear for these waters, because the Gulf of Guinea has developed into one of the main piracy hotspots. We are experiencing the same business model there - the kidnapping of crew members or shiploads - but by criminal gangs without a terrorist motive. However, the example of the Niger Delta shows the difficulty in making a clear distinction between piracy and terrorism: There is a mixture of motives, for example, the distribution of revenues from oil resources and economic incentives. It is not clear whether this is a result of weak leadership and organizational frameworks or a by-product of trying to guarantee income. Some experts rate MEND, as well as other Nigerian groups, as pirates with negligible political aims, striving mainly for profit (Schneider 2009). The current focus of the reporting and defense measures in Nigeria is on the Niger Delta Avengers, which popped up in 2016 and resumed armed attacks on oil industry assets and security forces in the Niger Delta (Obi & Oriola 2018), or the Islamist group, Boko Haram, which is mainly active in the North of Nigeria and is not known to have committed any maritime attacks.

Sri Lanka also did not make it into the top five affected waters as the **Liberation Tigers of Tamil Eelam (LTTE)** have been inactive since their defeat by the government in 2009. LTTE has led a bitter civil war against the central government since 1983. Its maritime branch, known as the Tamil Tigers, has used terrorist attacks, such as suicide bombings or hijacking civilian ships to achieve their separatist goals (Bhattacharji 2009).

This fact, that maritime terrorism is only a partial aspect of the disputes on land, is highlighted by the seven attacks each, between 2010 and 2017 in Yemen and Libya. In *Libya* we have no clear perpetrator group profile. Unknown perpetrators (groups) or persons have carried out most attacks (4). The attacks killed soldiers in a port (by Ansar al-Sharia, Libya, one attack) hijacked the Morning Glory Oil tanker and took hostages who were freed by US forces (by

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[80]   "10/23/2013: Assailants abducted the captain and chief engineer of the United States (US) flagged C-Retriever from their boat approximately 65 km off the coast of Bayelsa state, Nigeria. The two sailors, both from the United States (US), were released unharmed after a $2 million ransom was paid on November 12, 2013. The Movement for the Emancipation of the Niger Delta (MEND) claimed responsibility for the incident" (GTD case 201310230025).

Cyrenaica Self-Defence Force, one attack) [81], carried out an airstrike on a maritime port (by the Haftar Militia, one attack), shot port officials or brought explosive devices into ports, abducted fishermen and hijacked one oil tanker with an unknown outcome[82] (four attacks by unknown perpetrator groups).

In *Yemen,* we find attacks mainly by **Houthi extremists (Ansar Allah)** (three attacks) or Al Qaeda in the Arabian Peninsula (AQAP) (two) or unknown perpetrators. In Yemen, the war over national power has been taking place between the government of President Abdrabbuh Mansour Hadi, who is supported by an international coalition, led by Saudi Arabia and Houthi forces. The conflict escalated into a war in 2014 after Houthi forces had occupied the capital, Sana'a, and forced Hadi to resign and flee to Saudi Arabia, which intervened militarily along with other forces to restore his power. At the same time, IS militants have been fighting Houthi forces as well as AQAP, emphasizing the violent crisis of ideology. The IS accused AQAP of collaborating with forces aligned with President Hadi, while AQAP denied this and, in turn, criticized IS for not fighting against the al-Houthi movement (Heidelberg Institute for International Conflict Research 2019: 182).

Four maritime attacks are attributed to Houthi forces: It did cause a high number of casualties when a boat with fleeing civilians was fired upon in 2015.[83] In a second attack in the same year, they fired projectiles at the Aden Oil Refinery and a humanitarian aid ship from Qatar and, in 2017, three rocket-propelled grenades were fired from a boat at an oil tanker in the Bab al-Mandab Strait.[84] In 2016, two attacks were carried out by unknown perpetrators rockets at a container port (no casualties) and in another incident at an Iranian cargo ship (MV-Jouya-8), killing seven Pakistani crew members.

Al Qaeda in the Arabian Peninsula (AQAP) was held responsible for two maritime attacks in Yemen. In 2013, a foiled attack with an explosive-laden vehicle against a gas terminal[85] and an attack in 2016 with explosive-laden boats against a port.[86]

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[81] "03/00/2014: Sometime between March 1 and March 8, 2014, at least three assailants hijacked the Morning Glory, a former North Korea-flagged oil vessel, and took its 21 crew members hostage from As-Sidr town, Sirte district, Libya. The 21 hostages were released after United States (US) Navy Seals stormed and took control of the ship near Cyprus on March 16, 2014. No group claimed responsibility; however, sources attributed the attack to the Cyrenaica Self-Defense Force"(GTD case 201403110095).

[82] "02/24/2017: Assailants hijacked the Haci Telli tanker and held 11 crew members hostage in Zuwarah, Nuqat Al Khams, Libya. The outcome of the hijacking is unknown. An unknown group claimed responsibility for the incident and stated that the tanker owed the group $430,000 from an oil sale" (GTD case 201702240034).

[83] Please find the case description in the chapter on casualties.

[84] "05/31/2017: Assailants in a boat fired three rocket-propelled grenades at the MT Muskie oil tanker in the Bab al-Mandab Strait off the coast of Dhubab district, Taiz, Yemen. There were no reported casualties in the attack. No group claimed responsibility for the incident; however, sources attributed the attack to Houthi extremists (Ansar Allah), which denied involvement" (GTD case 201705310035).

[85] "09/20/2013: A suicide bomber attempted to detonate an explosives-laden vehicle at the Belhaf gas terminal in Ain Ba Maabad, Shabwah governorate, Yemen. Security forces were able to successfully foil the attack by causing the vehicle to detonate prematurely, killing the perpetrator inside. This was one of four attacks in Shabwah on this day, all of which were claimed by Al-Qaida in the Arabian Peninsula (AQAP)" (GTD case 201309200009).

[86] „08/02/2016: Several explosives-laden boats detonated at Al Mukalla Port in Mukalla, Hadramawt, Yemen. Following the blasts, assailants armed with projectiles and firearms attacked the port. There were no reported casualties in the incident. No group claimed responsibility; however, sources attributed the attack to Al-Qaida in the Arabian Peninsula (AQAP)" (GTD case 201608020042).

Al-Qaeda poses a special challenge for maritime trade as it has identified specific trade routes explicitly in order to attack Western nations and Israel. As early as 2005, Al Qaeda singled out four trade routes because of their economic and strategic importance: The Strait of Hormuz (Persian Gulf), the Suez Canal (Egypt), Bab al-Mandeb Strait and the Strait of Gibraltar. These routes could have been cut off by a series of attacks, e.g. mining, sinking ships, threats of terrorist attacks using weapons of violence, and acts of piracy (International Institute for Counter-Terrorism 2009: 7; 2010: 2).

As for Al-Qaeda, it should be noted that the group has recently had very little capacity for attacks. At the same time, 11 of the 20 most active terror groups in 2011 had a connection to Al-Qaeda. Thus, the trend of shifting attacks away from Al-Qaeda 'central' and towards a growing number of offshoots has strengthened. An example of the jihadist offshoot-activities is the maritime attack by the *Abdullah Azzam Brigades*, the Al-Qaeda's branch in Lebanon. It claimed responsibility for directing an explosives-laden vessel against the Japanese oil tanker M Star while it was passing through the Strait of Hormuz in 2010 (no casualties). Another example would be the *Al-Furqan Brigades* which fired rocket propelled grenades at the Cisco Asia cargo ship as it passed through the Suez Canal in 2013 (no casualties).

However, Al-Qaeda "worries about its ability to win the war of ideas with the future generation of global jihadists" (Zelin 2014: 6). Conflicts over authority, methodology and revisionist history have led to dis-affiliation and overt enmity between Al-Qaeda and the Islamic State of Iraq and Syria (ISIS) (Zelin 2014: 4-5). Since then, the importance of ISIS has been growing: "unlike al-Qaeda, which has not had a clear victory in a decade, ISIS continues to build its prestige and legitimacy within the overall movement" (Zelin 2014: 7). Erin Miller outlines the development of ISIS-related terrorist attacks from 2002 to 2015 and finds that it is "one of the most active and deadly terrorist organizations in recent history" (Miller 2016: 1). However, plans for maritime attacks by ISIS have not yet been made public.

The **Al-Shabaab** militias controlled large parts in the southern reaches of the failed state of Somalia and pledged allegiance to Bin Laden in 2009 (Bergen, Hoffman, and Tiedemann 2011: 73). Meanwhile, however, it has lost control over many territories and is concentrating on a hit-and-run strategy instead (Doboš 2016: 950). The African Union Mission in Somalia (AMISOM) has contributed to the declining dominance of Al-Shabaab. The war over national power and orientation of the political system continues. Al-Shabaab's attacks outside the country, such as in Westgate and Garissa, led to military actions by, for example, Kenya; infrequent attacks in Kenya continue to take place (Jones, Liepman, and Chandler 2016: 8). At the same time there are military clashes between the IS and the Al Qaeda affiliated Al-Shabaab (Heidelberg Institute for International Conflict Research 2019: 85).

Using the example of Al-Shabaab, a possible *nexus between terrorism and piracy* is often discussed. Although there is no proof of operational cooperation between Al-Shabaab and Somali pirates (Bundeskriminalamt 2011: 5), the evidence fosters the assumption that the Islamists benefit from piracy ransoms (Kolb, Salomon, and Udich 2011: 110-115; Lough 2011).

Hansen also states that the Sharia was newly interpreted to allow a religious legitimation for the cooperation of the pirates and Al-Shabaab (Hansen 2013: 111-112).

The maritime attacks in *Somalia* were carried out by Al-Shabaab. They were directed against a port firing mortars (2010) or against port officials (in 2014). They also included the abduction of crew members from a Kenyan vessel (in 2014) and Iranian sailors from a fishing boat (in 2016). There were many victims from an attack in 2016, where an explosives-laden vehicle detonated at a seaport.[87]

If we look at the number of maritime attacks, *Malaysia and the Philippines* are most often concerned with the attacks mainly carried out by the **Abu Sayyaf Group (ASG)** (Malaysia 9, Philippines: 14) or unknown perpetrators (Malaysia: 2, Philippines: 3). In the previous time period we had also attacks by the Moro Islamic Liberation Front (MILF). However, a peace agreement in 2014 ended this and the more extreme factions went to join ASG. According to GTD data, the ASG mainly attacked and/or hijacked oil tankers/vessels or fishing vessels/boats or tug boats and a South Korean cargo ship (in 2016) and two Vietnamese cargo ship (in 2017, MV Royal and MV Gian Hai Ship) and held the crew hostage. At least three of the crew members of the Vietnamese cargo ship were beheaded/killed in each incident. They are also held responsible for an explosive device that detonated at the port terminal in Kulay Bato village, Basilan province, Philippines in 2016 (no casualties).

The Abu Sayyaf Group (ASG) was an Al-Qaeda ally in Southeast Asia. The original aim of the ASG was to free the Moro minority from Christian domination. The group is very heterogeneous, ranging from radical Islamists to criminals driven by profit. In 2011, the government started actions in accordance with a peace plan. This led to fewer bombings and kidnappings, but attacks continued (Smith 2015: 7, 12-13).

In 2014 they announced an alliance with the "Islamic State" ISIL with kidnapping for ransom as one of the primary means for funding. According to Zachary Abuza, "the Abu Sayyaf have shifted the majority of their kidnap for ransom operations to the high seas". He sees three reasons for this: they can pick slow ships that are easy to board in contested waters with no agreed maritime border between East Malaysia and the Philippines; the shipping and fishing industry and their insurance companies are more willing to pay ransoms than foreign governments; and lastly, maritime capabilities are weak; joint maritime patrols just started to develop in 2017 and planned trilateral coordinated aerial surveillance patrols by Malaysia, Indonesia and the Philippines, also receiving support from Vietnam (Abuza 2017). An expression of the intensified cooperation is the allowance of hot pursuit in Philippines waters by navies of the other countries with continued fighting on land. After earlier offerings of dialogue, President Rodrigo Duterte turned around saying "he would never initiate and agree to peace talks with the dreaded Abu Sayyaf Group (ASG), citing how he detests the rebel group's practice of beheading innocent people", including an 8-year old because there was no ransom paid (Esguerra

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[87]   Please find the case description in the chapter on casualties. A similar attack took place by an unknown perpetrator group in 2014 targeting a Kismayo seaport employee's vehicle (with no casualties).

2019). New military offensives against the ASG took place after President Duterte declared an all-out war against the Abu Sayyaf following the church attack in Jolo at 27 January 2019. "Jolo is a base of the Abu Sayyaf, which is blamed for deadly bombings, including an attack on a ferry in Manila Bay in 2004 that claimed 116 lives in the country's deadliest terror assault" (Matsuzawa 2019).

It goes without saying that terrorism intimidates with its message and its propensity to violence. This can be successful, even if the attacks actually do not claim (m)any victims, because everyone could have been affected and the governments did not know how to prevent this. Or just because the attack is perceived as threatening because it could have caused many victims. Nevertheless, the attacks should also be seen from the point of view of the number of victims.

The comparison between **Chart 14: Groups with more than 16 victims or more than three attacks in the time period 2000-2010** and **Chart 34: Groups with more than three attacks in 2010-2017** helps to explore which groups have had the biggest impact in recent times. The charts makes clear that the number of attacks is not related to the consequences of the attack. Sorting the groups by number of victims alters the outcome significantly. For 2010-17 it shows that even though the Abu Sayyaf Group carried out most of the attacks, the number of casualties is much higher from attacks by Houthi extremists, followed by Al-Shabaab. Only the Houthi extremists are new to the picture, whereas ASG and Al-Shabaab proved to have claimed many victims before. Other groups, such as MEND, LTTE, GAM, MILF and FARC have mainly been inactive in the maritime domain in recent times.

Chart 14. Groups with more than 16 victims or more than three attacks in the time period 2000-2010
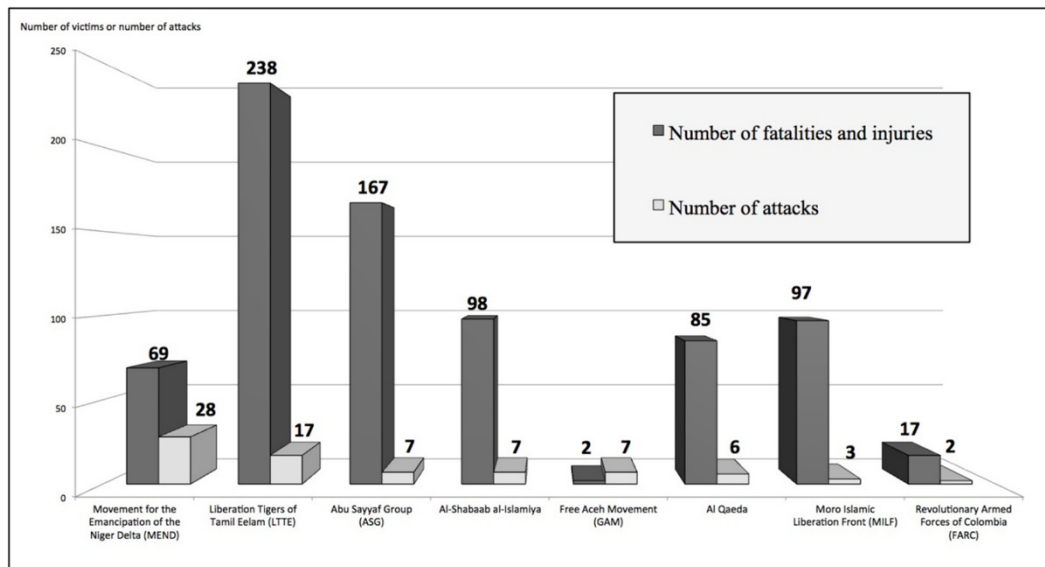
Source: PiraT database

Chart 34. Groups with more than three attacks in 2010-2017
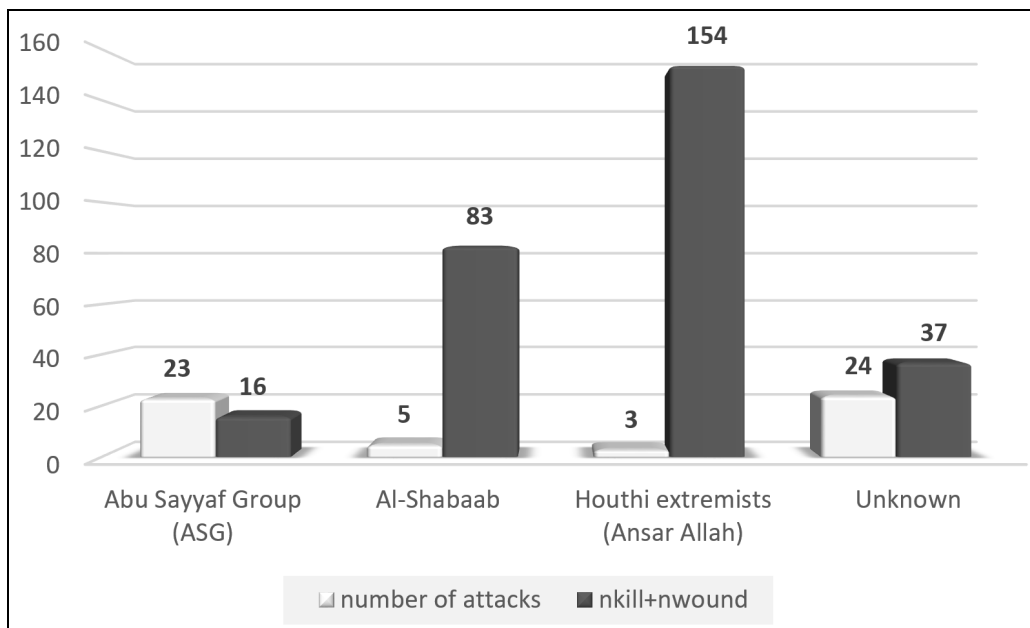
Source: My illustration, based on GTD data

8   Conclusions

As this paper has argued, it is clear that a more specific analysis of the attack characteristics and actors' context could lead to a more specific response. It also helps to evaluate the relevance of current maritime terrorism.

By comparison to the total number of terrorist incidents, maritime terrorism is relatively small and, therefore, less alarming. Thus, maritime terrorism has been a relatively minor threat so far. The evidence presented, which should only be regarded as an approximation of the empirical reality, has shown the following: Over time, the *attack numbers* are subject to strong variations and, thus, the data does not suffice for a statistical trend analysis. The past figures are not necessarily indicative of possible catastrophic consequences of future maritime terrorist attacks. However, repeated threats affecting strategically important routes should at least demand a consistently high level of attention. Therefore, effective governance of this particular risk will remain necessary, together with measures against other forms of crime and for the settlement of civil war situations, where armed groups engage in terrorist activities.

A comparison between two time periods was made to identify new trends challenging previous findings. Three *regions* were most affected in the time between 2010-2017: Southeast Asia, and the Middle East and North Africa and Sub Saharan Africa. The *countries* most affected were the Philippines, Malaysia, Yemen, Libya, and Somalia. Firearms and explosives/bombs/dynamite were, by far, the most popular *weapon types*. The most common *attack types* for the research period and maritime targets are taking control of hostages and using bombing/explosions. This is followed by taking control of a vehicle through hijacking and armed assault. The analysis of the weapon type and attack type go hand in hand with the result of analyzing the *attack scenarios*: It has shown that the most feared are future scenarios that have not yet become a reality. As with attacks on land, mainly "ordinary" and conventional means and plots have been carried out. This matches the insights from general terrorism trends from the GTD that attacks can cause great loss of life and destruction, "the vast majority of terrorist attacks rely on readily accessible weapons (...) [such as] explosives and firearms" (LaFree, Dugan, and Miller 2015: 100). The number of *casualties* vary and single attacks can cause huge losses, whereas most attacks have no or unknown casualties. Islamist groups (alone or combined with national/separatist motives) have caused greatest casualties. Within that group, Abu Sayyaf Group carried out most of the maritime attacks in 2010-2017, the number of casualties however was much higher from attacks by Houthi extremists, followed by Al-Shabaab. If we look at the perpetrator groups, who carried out the 72 attacks altogether, we see few groups responsible for the majority of the incidents. All cases demonstrate that that maritime terrorism is only a partial aspect of the disputes on land.

Al Qaeda has recently had very little capacity for attacks, but a number of active terror groups are offshoots. It is overshadowed by the competition with IS, which is currently one of the most active and deadly terrorist organizations. Abu Sayyaf even changed its affiliation from Al Qaeda to the IS. But different from Al Qaeda, IS has no known maritime strategy, though they should have some the driving motives in common. Al Qaeda stated they are out to destroy

the gas and oil supply and explicitly name the sea routes they will attack. Their factions carried out attacks with high symbolic value in the chokepoints of Bab-El-Mandeb or the Suez Canal. Al Qaeda has mixed motives: they want to end the 'imperialistic' western influence in order to destroy the western economy and to replace western-oriented political systems with fundamentalist Islamic regimes. At the same time, there is no reason to assume that terrorists never engage in piracy for profit or collaborate, as has been shown in the case of Nigeria or Somalia.

The next chapter will evaluate the case descriptions of the incidents that occurred. The methods applied by the various groups will, thus, be noted. Furthermore, the standard attack scenarios should be complemented by potential attack scenarios before the suggested defense measures and their suitability are evaluated.

If we compare the in the next chapter developed scenarios with the weapon and attack types identified above for the more recent cases 2010-2017, we see that the latest developments at least do not contradict the findings below.

XI MARITIME TERRORISM ATTACK SCENARIOS

Nine scenarios were adapted from the data bank's cases as illustrative examples of attacks in the maritime realm. In choosing these cases, various parameters were considered: The *location of attack* explains whether or not it occurred on the high seas, in the proximity of the coast or harbor, in a delta or river or at the harbor facilities. The *direction of the attack* reflects the nature of the involvement of a maritime factor. Attacks can be carried out from the sea onto land (anchored ships, harbor areas, houses, people on land), from the land out to sea (rocket attacks on ships), or between bodies at sea (whether on ships or facilities at sea, such as oil rigs). The attacker's *means of transportation* also plays a role. The *target* can be divided into categories, differentiating between state or military (complex or ship), economic (merchant vessel or oil rig), and civil targets (ferries, tourist boats, civilians). The *purpose* of an attack refers to the kidnapping of persons, the hijacking or capture of ships or platforms, or the damage, destruction, or blocking of sea routes. The *means of attack* give information about the weapons used, which in the possible scenarios, ranges from the use of small arms or large weaponry, such as rocket launchers or grenades, to the installation of mines or explosives. The use of weaponry also involves the use of personnel – for a VBIED attack (Vehicle Borne Improvised Explosive Device) a single person is sufficient, whereas forces of up to 300 people have been involved in attacks on oil platforms. The consideration of the *dismay* caused by and the (potential) *intensity* of the attack are equally relevant. Ultimately, nine categories were developed from the case study descriptions of the attacks implemented and the parameters named, with a focus on strategy and the process of the attack. The tenth category includes under "other" the cases which could not be assigned to another category. Here, given the space available for this work, the parameters for each scenario cannot be described in detail. Instead, a summary of the results is presented.

From the 296 total cases in the data bank, only 231 supplied information about the proceedings of the attack. The cases with descriptions could be consolidated into nine types of attack. In 15 of the 231 cases, there is a double presentation, meaning that these cases present the characteristics of two different categories of attack, and are categorized in both and counted doubly. Thus, 246 cases were counted in total.

The nine scenarios are described below, and their frequency is displayed in sub-categories in tables. At the end of this section, a table presents the summarized results including all scenarios.

1   Destructive Armed Assault Against Ships in Port or at Sea (Without Bombs)

a) Shore-based armed attack towards ships berthed in port in order to injure/kill persons and/or damage ships; various weapons except for bombs (grenades, rockets, machine guns, mortars).

b) Armed attack against ships at sea (see above).

c) Armed attack (see above), without information on location.

Table 18. Destructive armed assault against ships in port or at sea (without bombs)

Destructive armed assault against ships in port or at sea (without bombs)	22% of the total cases
Total: 53 cases	100%
Subcategory a) 18 cases	34%
Subcategory b) 31 cases	58%
Subcategory c) 4 cases	8%
Target:	
State or military target: 12 cases	23%
Economic target: 23 cases	43%
Civil target: 12 cases	23%
Unknown target: 6 cases	11%

Source: PiraT database

2   Hijacking of Civilian Ships

Hijacking of a passenger ship and/or its passengers. The ship is boarded by assailants and the passengers/crew are/is taken hostage. The assailants threaten to use force in order to achieve their political goals by:

a) Hijacking of passenger ships;

b) Hijacking of a merchant vessel;

c) Kidnapping of the crew;

d) Hijacking in general (without detailed description).

Table 19. Hijacking of civil ships

Hijacking of civil ships	19 % of the total cases
Total: 47 cases	100%
Subcategory a) 7 cases	15%
Subcategory b) 12 cases	26%
Subcategory c) 24 cases	51%
Subcategory d) 4 cases	8%

Source: PiraT database

3   Bomb Attacks on Ships

Explosive devices attached to cargo, navy or civil ships detonate within or outside the port. The explosion causes injury to people and damage to property.

a) Internal attack: Explosive devices are placed/hidden on board or nearby the ship (underwater explosive devices, explosives in a dinghy, body-worn explosives, explosives smuggled on board, e.g. in a car, TV).
b) External attack: The explosive devices are thrown on board.
c) Bomb attack without detailed description of the circumstances.

Table 20. Bombing of a ship

Bombing of a ship	18% of the total cases
Total: 43 cases	100%
Subcategory a) 23 cases	53%
Subcategory b) 6 cases	14%
Subcategory c) 14 cases	33%
Target:	
State or military target: 9 cases	21%
Economic target: 19 cases	44%
Civilian target: 8 cases	19%
Unknown target: 7 cases	16%

Source: PiraT database

4   Attacks on Maritime Facilities in Port and Offshore

a) Attack on maritime institutions (trade companies, military stations, oil terminals, and pier) in port (often with improvised explosive devices).
b) Attack with the help of a ship at facilities on the water.

Table 21. Attacks on maritime facilities

Attacks on maritime facilities	14% of the total cases
Total: 35 cases	100%
Subcategory a) 20 cases	57%
Subcategory b) 15 cases	43%
Target:	
State or military target: 7 cases	20%
Economic target: 25 cases	71%
Civilian target: 3 cases	9%

Source: PiraT database

5   (Explosive) Ship to Ship Collision Attacks

a) Ships (generally speedboats) approaching merchant ships in an attempt to collide and cause damage (to spread fear and terror).
b) Crafts loaded with explosive devices approaching merchant ships in an attempt to collide and explode or simply explode in order to damage the targeted ship.

Table 22. (Explosive) ship to ship attack

(Explosive) ship to ship attack	9 % of the total cases
Total: 22 cases	100%
Subcategory a) 4 cases	18%
Subcategory b) 18 cases	82%
Target:	
Military target: 13 cases	59%
Economic target: 5 cases	23%
Unknown target: 3 cases	14%
Civilian target: 1 case	4%

Source: PiraT database

6   Hijacking of Small Groups of Civilians, Tourists or Officials

Attacking a ship with the help of another ship. Hijacking of the boat and kidnapping of onboard tourists or civilians who are on a boat near the shore.

a) Kidnapping of tourists/travelers/civilians.
b) Targeted kidnapping (officials, civil servants, government representatives, oil companies' employees).

Table 23. Hijacking of small groups of civilians

Hijacking of small groups of civilians	7% of the total cases
Total: 17 cases	100%
Subcategory a) 9 cases	53%
Subcategory b) 8 cases	47%

Source: PiraT database

7   Mining of Maritime Trade Routes

Sea mines are placed on maritime trade routes to trigger explosions, cause damage to property and injury to persons and to block seaways.

Table 24. Mining of trade routes

Mining of trade routes	6% of the total cases
Total: 14 cases	

Source: PiraT database

8   Land-Based Long-Range Attacks on Maritime Tourist Traffic

Armed assault on passenger ships and passengers in touristic maritime traffic (inland ships, cruise ships, convoys) carried out by people with firearms who are hiding on the shore.

Table 25. Land-based attack on maritime tourist traffic

Land-based long-range attacks on maritime tourist traffic	2% of the total cases
Total: 5 cases	

Source: PiraT database

9   Other

a) Smuggling of weapons.
b) Boats set on fire to avoid capture.
c) Boats intercepted by state actors in order to capture terrorists.

Table 26. Other

Other	3% of the total cases
Total: 6 Cases	100%
Subcategory a) 1 case	17%
Subcategory b) 1 case	17%
Subcategory c) 4 cases	66%

Source: PiraT database

For clarity, the following table summarizes the nine scenarios of past attacks without sub-categories. The establishment of the subcategories was important for the differentiated approach to demonstrate, for example, the concern of merchant ships or other economic goals.

Table 27. Scenarios of previous attacks (summary)

Scenarios of previous attacks (Summary)	Percent of total 100%
1. Destructive armed assault against ships in port or at sea (without bombs)	22%
2. Hijacking of civilian ships	19%
3. Bomb attacks on ships	18%
4. Attacks at maritime facilities in port and offshore	14%
5. (Explosive) boat to boat collision attack	9%
6. Kidnapping of small civilian groups (tourists or officials)	7%
7. Sea mines placed on maritime trade routes	6%
8. Land-based long-range attack on maritime tourist traffic	2%
9. Others	3%

Source: PiraT database

In addition to the nine scenarios accounted for in the PiraT database, further potential attack scenarios are listed in the literature. The number of possible scenarios is endless, but there are a few scenarios that are most commonly discussed. To what extent do the actual attack scenarios encountered correspond to those potential scenarios discussed in the literature? This is an interesting question in principle, though, of course, it has only limited bearing on the prediction of future trends.

In addition to the nine PiraT scenarios, further potential attack scenarios are described in the literature (Jenisch 2010, 6; Chalk 2007, 773; Teo 2007, 541-542, 546; Greenberg et al., Chalk, Willis, Khilko / Ortiz 2006, 27, 74, 94,111; Stehr 2004, 108-111; Gunaratna 2003, 80-83; Hoffman 2002, 312). In **Chart 35 Threat Scenarios of Maritime Terrorism** Lutz Kretschmann combines potential scenarios of maritime terrorism developed by Greenberg et al. (2006), with scenarios grouped according to Stehr (2004), which are implemented directly at the "ship's" location of action. In so doing, he focuses on ships. The scenarios which involve a ship are: 1. Attack on a ship, 2. Attack with the aid of a ship, 3. Use of a ship as a means of transportation, and 4. the escalation of the first two scenarios through the use of weapons of mass destruction. In the graph, categories and scenarios are set in boldface if they took place according to the PiraT database. The scenarios that have yet to become a reality, but which are often discussed, include the explosion of an LNG tanker (Liquefied Natural Gas), the use of CBRNE weapons (chemical, biological, radiological, nuclear and explosive), the insertion of bombs into containers for transport, which would then be exploded in harbor, or the scuttling of a ship in order to block a seaway. So far, no crew members have been involved in the preparation of the attacks. Other scenarios from the above-mentioned literature include an attack on a ship by a suicide diver or the ignition, ramming, or sinking of a cruise ship with thousands of people on board.

Scenarios of Potential Maritime Terrorist Activity*

Sinking of a ship with an underwater explosive charge which is attached by divers on the hull of a commercial or passenger ship.

Sinking a ship using an IED (improvised explosive device) transported by a boat.

Standoff attack on ship using heavy artillery. The Perpetrators attack a ship from land or boat using grenade launchers, mortars, or shoulder-fired missiles in an effort to kill or injure passengers.

Hijacking of a cruise ship and kidnapping its passengers. Ship is boarded and commandeered while perpetrators hold and potentially injure or kill passengers if demands are not met.

Hijack a ship to sink it in narrow waterways so as to block transit through the passage.

Use a container to smuggle a bomb, which detonates as soon as the ship reaches its destination harbor.

Kidnapping of an LNG tanker. Then used as a floating bomb or a collision weapon.

Use of a commercial container ship to smuggle chemical, biological, radiological, nuclear, and explosive (CBRNE) weapons for an attack to be carried out on land.

*: Scenarios according to Greenberg et al (2006, S. 27, 74, 94)

Groups of Scenarios of maritime terrorism

Attack on a ship

Attack using a ship

Use of a ship as transport

Inferred threat category

Attack on ship for the purpose of damage/ destruction
→ internal
→ external

Takeover of the ship for use as means of attack
→ internal
→ external

Abuse of the ship in order to „transport" of weapons, people etc. without immediate danger to the ship
→ internal
→ external

Scenario of Threat

„bomb" in charging („trojan horse")
„bomb" in charging („smuggled")
„bomb" in possession of crew, passengers

Carry a „bomb" towards target
Mount a „bomb"
Detonation of a „bomb" from a distance
Ramming them with any other ship

Lawful boarding (as part of the passengers/crew)
Obscured, wrongful boarding (as part of the load)

Open, wrongful boarding

CBRNE-Weapons, or persons in charge („trojan horse")
CBRNE-Weapons, or persons in charge („smuggled")
CBRNE-Weapons, or weapons in the possession of passengers

Pre-wearing CBRNE or other weapons on the ship

Source: Kretschmann 2011. Emphasis added by Patricia Schneider: Incidents after PiraT-Database.

Chart 35. Maritime terrorism threat scenarios

Christopher Daase (2002) suggests that people tend to have a stronger perception of great risks with a low probability of occurring than those that have a lower impact, but a high probability of occurring. It is safe to assume that those types of attacks that have been implemented in practice are currently the more likely forms of attack, i.e. are more likely to be repeated. Therefore, these methods should be the main focus of or, at least, demand an equal share of the defense measures. This has not been the case so far, as measures taken tend to concentrate on potential scenarios.

Nonetheless, it is essential that we also contemplate the state of potential threats, in order to come to a more balanced analysis of risk. These potential scenarios, in particular the use of weapons of mass destruction, illustrate why measures of defense must also concentrate on the possibility of such damaging events.

In the subsequent chapter, multilateral efforts to hinder attacks in the maritime realm, or at least restrict the terrorist actor's opportunities for action, will be explored. The summary will describe the extent to which those efforts cover and handle the potential scenarios.

XII   DEFENSE MEASURES: SECURITY GOVERNANCE

As stated, the goal of the following section is to provide a cursory overview of the existing coordinating structures and mechanisms, which are designed to limit the risks of maritime terrorism according to the (maritime) security strategies. These measures could be seen as security governance initiatives. According to Ehrhart et al. (2011, 10),): "security governance can be provisionally defined as the collective furnishing of security by a variety of state and non-state actors, being in a non-hierarchical relationship with one another and using different means, instruments and methods to reach a common goal on the basis of common norms, values and/or interests". As Ehrhart/Hegemann/Kahl (2014: 148f.) state in a later article: "To sum up, there is a requirement for common, or at least compatible, interests and goals as actors otherwise would not engage in potentially costly governance efforts as well as for shared norms and ideas that provide a common ideational basis" The shared norms, as well as the expected effectiveness in coping with transnational risks in a world order without central steering capacities, ideally gives legitimacy to cooperation and encourages compliance with respect to the responses. The concept of security governance could be seen as a pragmatic way of mapping actors and measures in the field of security governance aiming at efficiency and legitimacy. However, these are not guaranteed. One should be aware that an influence of hegemony and regional and international power politics could have hidden agendas or exclude or overrule legitimate actors and impose goals and norms. Also, the very informality of governance may lead to a lack of democratic accountability and unintended effects can occur (ibid: 151ff.). [88]

The most important security governance measures in the maritime domain are discussed further in the following subchapters. As previous chapters have shown, maritime terrorism is often linked to the national/regional context. However, it is possible that some of the standard defense measures aimed at combating certain terrorist groups have not been considered in this book. This work has focused explicitly on measures used in a maritime context and, thus, it is conceivable that there are effective land-based measures that have been omitted from or are simply unknown to the researcher of this book. The governance-measures examined can be measures *by* governments. Some of them can have a binding, others a non-binding character, relying on voluntary cooperation in the drafting and/or implementation process of the non-state actors. Many of those measures are related to the combating of piracy, others to transnational terrorism. As the analysis of the previous chapters demonstrates, maritime terrorism is, in many cases, related to civil war situations or national terrorism. Measures taken in that particular context are not taken into account in the following.

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[88]   For a summary of the development and meaning of the concept of Security Governance, see Ehrhart, Petretto, and Schneider 2010, pp. 10-23 and Ehrhart/Kahl 2010. A part of this paragraph, which was authored by Patricia Schneider, was also used for an article with Sybille Reinke de Buitrago (Reinke de Buitrago / Schneider 2020).

1   Governance and the ISPS Code

The attacks of September 11, 2001, brought attention to security issues surrounding the defense of international seaways against terrorist attacks. In addition to measures for the protection of air space, parallel measures for the protection of seaways were quickly developed. In this process, the International Maritime Organization (IMO), an institution whose primary responsibility has been the ISPS Code, was to take a leading role.[89]

The International Ship and Port Facility Security Code (ISPS) has the goal of establishing an international network of cooperation with private and public partners in order to increase the security of ships and harbor facilities together (ISPS Code 2003, 6). The ISPS Code was agreed to in 2002 by the IMO, which had been specially nominated for the task by the UN, and demanded implementation of the expansive security standards of the ISPS Code by 2004 (ISPS Code 2003, 2). The ISPS Code is understood to be a reaction to the attacks of 9/11, and the potential terrorist threat to maritime security. The Code is an addition to the SOLAS convention (Safety of Life at Sea), which was an agreement also reached within the IMO in 1974. Originally, the SOLAS convention (agreed to in 1913) was written as a reaction to the sinking of the Titanic. The convention continually changed over the course of the following decades and has fallen under the authority of the IMO since 1961. The 148 signatory states of the SOLAS convention obligate themselves therein to implement the rules of the agreement (cf. SOLAS Convention 2010).

Individual protocols of the ISPS Code provide for the sealing off of harbor facilities, the delivery of a cargo registry, listing all wares on board a ship, before it can enter a harbor and giving harbor authorities extensive rights to verify and access cargo (ISPS Code 2003, 10-11, 24).

However, the ISPS Code is only applicable to certain ships. The regulations apply only to commercial ships of at least 500 gross tons, which are travelling on an international route. As a result, all national transport, such as smaller ships and fishing vessels travelling within the country's borders are not affected by the ISPS Code (Bateman 2006, 88; ISPS Code 2003, 8).

Each member state is individually responsible for the implementation of the ISPS regulations. The IMO can oversee whether implementations are followed through but they have no authority to impose the guidelines by sanctioning the member states. If a contract is breached, other contract members can use normal international law proceedings against the rogue state. Nonetheless, the ISPS-Code is seen as having successfully guaranteed the security of the seaways (Bateman 2006, 88).

On a European level, the European Parliament and European Council have incorporated the ISPS Code into their regulations (EC-Regulation No.725/2004). These rules are seen as defense against potential terrorist attacks on sea and in harbors. Per the regulation, state authorities should use the rules as guidance in creating a conversation with harbor authorities, firms, ships owners and crews for risk management. The EU regulation is superior to the ISPS Code, in particular under article 3, chapter 4, where it makes a few voluntary suggestions of the ISPS Code mandatory, and also makes the rules applicable to national ferry connections (Art 3 II). The regulation is as such European Law. The EU-Commission is expected to observe and make sure that there is compliance with all mandatory stipulations of the law. According to article 9,

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[89]   Maritime security measures take shape at IMO, September 2002, http://www.imo.org/newsroom/ main frame.asp?topic_id=583&doc_id=2435 , accessed 7 October 2010.

chapter 4, the Commission undertakes inspections with a representative choice of harbor facilities, relevant companies and their vessels.

The effects of the measures are noticeable, e.g. the securing of harbor grounds has led to a decrease in theft, and an increase in the crew's awareness of the importance of the ship's security (Bateman 2006, 88; König et al. 2011, 11).

2   Security Governance Initiatives: CIS and PSI

The Container Security Initiative (CSI) was founded in 2002 and works for the defense against terrorist attacks in the maritime context. It should prevent not only the smuggling of terrorists or weapons of mass destruction (WMD), but also the smuggling of weapons or explosives into a harbor (CSB 2010a, 11). Firstly, the CSI is mainly concerned with the work of Customs and border control authorities, and is, therefore, implemented by the US Customs and Border Protection (CBP). The CBP watches the CSI's cooperation with other countries.

The CSI's major security measures include the 24 Hour Rule (CBP 2010a, 15) and the inspection of cargo before it is loaded onto ships. The 24 Hour Rule stipulates that the cargo information (the manifest and bill of loading) listing every container must be presented to the CBP at least 24 hours before the cargo is loaded. This information is compared with the findings of cooperative security agencies and listed in an Automated Targeting System (ATS). This allows for time to find all indications of any dubious cargo before loading and is backed up with Non-Intrusive Inspections (NII), or manual inspections prior to loading. The CSI further concerns itself with improved security installations in harbors and the equipping and educating of the harbor authority while providing them with a steady flow of information relating to loading.

When initiating collaboration with the CSI, a bilateral agreement (declaration of principles) is initiated between the US authorities and the subject country. Countries are first divided into groups according to who does the most trade with US harbors. Of course, possible connections to terrorist groups are taken into consideration in this process. Another important aspect in this process is determining if a terrorist could initiate an attack from a specific harbor against the US (CBP 2010a, 22). The agreement based on International Humanitarian Law is equally important because officials of the CSB are posted in other countries as well. They carry no weapons and have no executive rights, but they are closely incorporated into the work of the local authorities (CBP 2010b, 4). Security standards are discussed and agreed upon in the contract. Each container is gathered by the ATS and if considered suspicious it is searched, while an ongoing exchange of information is maintained throughout.

Since its founding, this initiative has been implemented in 58 harbors in Europe (including the harbors of Bremerhaven and Hamburg), Africa, Asia and South America (CBP 2011). Currently, the World Customs Organization, the EU and the G8 all support this process (CBP 2010a, 21). The CSI was applied in the EU after an agreement was reached between the USA and the EU (Agreement 2004). Article 3 in the agreement states that the CSI must be applied in all harbors where the regulations are necessary due to the trade volume with and direct connection to the USA. At the moment around 80% of containers are searched before entering the USA (CBP 2010b, 2).

The Proliferation Security Initiative (PSI) was established by former US President George W. Bush. On May 31 2003, he called for better cooperation in the fight against the export of

weapons of mass destruction, and announced new efforts against the proliferation of WMD under the auspices of the PSI.[90]

However, the PSI's goal is not to pursue a binding multilateral agreement, but rather to promote an international cooperative network. Thus, the PSI has neither a legally binding framework nor an institutional structure. Any country can agree to participate in the PSI. The common foundation is the Statement of Interdiction Principles, but this document is not binding. At their core, the joint principles aim to harmonize and improve national options in securing trade. PSI states should thus put in place ''effective measures… for the interdiction of the transfer or transport of WMD." Procedures guaranteeing a better flow of information between the states' security agencies should be developed and the national security agencies should be better prepared for their responsibilities (PSI 2011).

In sum, 97 states have joined the PSI.[91] However, the initiative has been subject to sharp criticism from China, Malaysia and Iran, who doubt the legality of the program and fear the interference of other states in national affairs. China primarily fears the possibility of other countries' intervention in its internal affairs and any pursuit of sanctions for security issues outside of the UN Security Council (Lewis / Maxon 2010, 39).

3   Security Governance Initiatives: C-TPAT and AEO

It is also worth mentioning the two customs security programs between the USA and the EU in this capacity. The Customs-Trade Partnership against Terrorism (C-TPAT) program is a voluntary cooperation between the US Department of Customs and the private sector. It is thought that such close collaboration will help increase security in the USA. In addition, participants from the private sector are to have the opportunity, through the program, to play an active role in the War on Terror, in that they can help guarantee a higher standard of security in the supply chain. As an added incentive to implement the security measures in their businesses, members are given the opportunity to secure easier customs clearance for their goods (C-TPAT 2011). C-TPAT has around 10,000 members, half of whom are small to mid-sized companies. They are responsible for 50% of the USA's imports by value.[92] The US Homeland Security Department advises its partners in C-TPAT on the use of new techniques for container security (e.g., new locks). Some reports have cited business partners' reluctance to use such new technologies, which may ultimately lead to some partners leaving C-TPAT (Global Security Newswire 2010).

The Authorized Economic Operator (AEO) program is an initiative of the EU Commission that works to maintain an acceptable balance between the demands of increased security and the requirements of free-flowing trade and commerce. (As a reminder: the legislative authority on matters of customs lies solely in the hands of the EU Commission. The administrative tasks and day-to-day practice of customs however, remains in the hands of the respective national authorities). The terror attacks in New York, Madrid and London have made it clear to the EU that the trade and transport systems must be effectively safeguarded from terrorists. In so doing,

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[90]   Speech by President George W. Bush on 31 May 2003, http://georgewbush-whitehouse.archives.gov/news/ releases/2003/05/20030531-3.html, accessed 21 September 2011. [I could not access this reference_EH]

[91]   Figure as of 10.09.2010: http://www.state.gov/t/isn/c27732.htm, accessed 21 November 2011.

[92]   Cf. Customs-Trade Partnership against Terrorism Reaches 10,000 Members, 23 September 2010, http://www.cbp.gov/xp/ cgov/newsroom/news_releases/national/09232010_2.xml, accessed 8 November 2011.

the EU has to guarantee the safety of the 1,600 million tons of cargo shipped in and out of the EU. Many fear that an attack on the international supply chain could bring trans- and international trade to a temporary stop. The customs authorities of the member states are (and were explicitly when the Customs Codex 25 was modified) given an important role in the fight against cross-border criminality and terrorism. The EU's customs security program is designed to secure trade in the supply chain. With the EU's changes over the last years, a multitude of relevant security steps are now necessary before the importing or exporting of goods in the EU. In particular, detailed information on the goods has to be provided for the authorities. Those who register with the AEO (this being done with the national customs authority) are spared from some of the many restrictive measures that are otherwise mandatory. All in all, members of the program are subject to security controls with less frequency, allowing for the clearance of customs to be finished more quickly. This program thus represents a government effort to make up for the more rigorous security controls.

To participate in the AEO, the importer/exporter has to contribute to the maintenance of a secure supply chain. According to the regulations, the contribution can be as follows:

- the supply chain can be considered as fully secure if the Authorized Economic Operator (AEO) is responsible for the whole supply chain e.g. the AEO acts as the exporter and carrier;

- the AEO works together with other AEO's or equivalent;

- the AEO enters into contractual arrangements on security with his business partners;

- sub-contractors (for example transporters) used by the AEO are chosen on the basis of their adherence to certain security rules;

- containers are sealed with "high security seals" of norm ISO-PAS 17712;

- the containers are inspected at the subcontractor's premises, the terminal and recipient premises to verify that they have been sealed correctly;

- general information from bodies responsible for the registration of companies (where possible) and the partner's products (risky and sensitive goods etc.) are considered before entering into contractual arrangements;

- the AEO asks for a security declaration;

- use facilities that are regulated by international or European security certificates (for example ISPS Code and Regulated Agents).

Source: http://ec.europa.eu/ecip/documents/who_is/aeo_guidelines_en.pdf., p. 19, accessed 11 March 2014.

An AEO further must declare that

- goods which are produced, stored, forwarded or carried by order of Authorised Economic Operators (AEO), which are delivered to AEO or which are taken for delivery from AEO
  - are produced, stored, prepared and loaded in secure business premises and secure loading and shipping areas
  - are protected against unauthorized interference during production, storage, preparation, loading and transport
- reliable staff is employed for the production, storage, preparation, loading and transport of these goods
- business partners who are acting on my behalf are informed that they also need to ensure the supply chain security as mentioned above.

Source: Extract from: European Commission Taxation and Customs Union Directorate-General, Formsheet AEO Security Declaration;

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/customs_security/aeo_security_declaration_en.pdf, accessed 11 March 2014.

The EU and US have accepted each other's security standards and in so doing have facilitated both the C-TPAT and AEO programs, making it necessary for business contractors to register in the EU or USA only once. The common **foundation** is the SAFE Framework of Standards issued by the World Customs Organization (SAFE 2007).

4   Global Maritime Security Governance: Military Operations

On a global level, there are a number of military task forces for counterterrorism that can also quickly move into action if they are needed in a specific area. The cooperation occurs within different fora. In this particular context, the following are worth mentioning: Operation Enduring Freedom (OEF), the NATO Operative Active Endeavour (OAE, cf. Chapter 2), the Global Maritime Partnership Initiative (GMPI), the Combined Maritime Forces (CMF), and the Combined Task Forces (CTF).

Operation Enduring Freedom is the name for the armed intervention force that the USA initiated in self-defense after the attacks of 9/11. The main goal of the mission was to overthrow the Taliban in Afghanistan, so that the terrorists would no longer have a safe haven. The guarding of the seaways along the Horn of Africa was initiated so that supplies for terrorist organizations could be intercepted and their freedom of movement curtailed. This is also a component of the OEF. The OEF is a coalition of willing participants under the leadership of the USA. Along with the USA, other states have gradually become involved.[93] The coordination among the participants is managed, next to existing structures (NATO), by US CENTCOM and a staff of liaison officers, called the Coalition Coordination Center (CCC). Germany participated between 2002 and June 2010 in the OEF mission in the Horn of Africa (Bundeswehr 2014).

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93   Cf. http://www.centcom.mil/en/countries/coalition/, accessed 30 November 2011.

Since 2007, the US Navy has repeatedly advocated the institution of the GMPI. These part-nerships are required by, for example, the US Cooperative Strategy for 21st Century Seapower of October 2007. Like the more traditional alliances (NATO, for example), such less formal associations are designed to depict the conflict management skills of participating navies. This is as a warning to potential aggressors (US Navy 2007). Originally, the name for this project was the A 1000 ship Navy but in order to prevent false allegations that it was a US-led global navy, the effort was re-named, albeit with no intentions of modifying its purpose or plans (Rah-man 2008, 1).

The US Navy's statement in its budget for 2011 illustrates the perceived necessity of the GMPI. "There is no one nation that can provide a solution to maritime security problems alone. A global maritime partnership is required that unites maritime forces, port operators, commer-cial shippers, and international, governmental and nongovernmental agencies to address our mutual concerns. This partnership increases all of our maritime capabilities… and is purely voluntary, with no legal or encumbering ties. It is a freeform, self-organizing network of mar-itime partners – good neighbors interested in using the power of the sea to unite, rather than to divide" (Department of the Navy 2010). The GMPI is to be supported by "episodic global fleet stations', of which the African Partnership Station is a frequently cited example. These bases do not reflect the presence of a stationed force, but rather that of a concept, or in their own words, "a series of activities which build maritime safety and security in Africa in a compre-hensive and collaborative manner (African Partnership Station 2010)."

This is, ultimately, a US concept with a targeted inclusion of various actors and a high level of informality, which could thus be called security governance. Piracy and terrorism questions are also included in this work and are blended. It is more an idea than a physical institution or operation. The anti-piracy operations in Somalia are highly accentuated, although they are much more a product of better-established institutions (such as the following) than the GMPI.

The CMF is a part of the US Naval Forces Central Command. The concrete military opera-tions in cooperation with other states are organized into different missions under CTF struc-tures. The CMF is currently made up of three CTFs (150, 151 and 152). The participating countries successively lead the CTFs in consecutive terms (CMF 2011).

CTF 150 was initiated in 2002, at about the same time as the OEF, and serves to provide maritime security in the Gulf of Aden, the Gulf of Oman, and the Arabian Sea. One of the main goals of CTF 150 is the prevention of terrorism (US Naval Forces Central Command 2011a).

CTF 151 was established in January 2009 solely to fight piracy along the Horn of Africa, and is justified by two UN-Security Council Resolutions (1814 and 1816). Until the establish-ment of CTF 15, anti-piracy efforts in that area fell under the jurisdiction of CTF 150. The division of these tasks became necessary however, because some of the member states were of the opinion that they represented different mandates (US Navy 2010). CTF 152 is, by contrast to the other CTFs, explicitly part of the OEF and operates in the Persian Gulf. Since its estab-lishment in March 2004, this CTF has been active in stabilizing and securing the Gulf (US Naval Forces Central Command 2011b). The foundation for this action is the same as the OEF: the collective right to self-defense on the part of the US against the terrorist attacks of 9/11.

The CMF operates alongside the EU-Mission (EUNAVFOR), the NATO Mission (Ocean Shield), and active third countries, such as China, India, and Russia. Even though the CMF as a whole is not an officially integrated part of the OEF, it still must be understood in this context.

Indeed, some states have declared their partnership with the US within the framework of the CMF and, together with the latter, have created something like an ad-hoc military coalition.

The actual work to 'fight the causes' of political radicalization can only be completed effectively in a unified and concerted effort among all parties. Terrorist organizations or political groups that operate using terrorist methods should have their support revoked, and should be prevented from securing resources needed to carry out further attacks. As the general measures against terrorism are so diverse, the effectiveness of such efforts is hard to judge.

5   Chapter Summary of Defense Measures

The following initiatives focus mainly on combating terrorism.
1. *Port and ship security:* International Ship and Port Facility Security Code (ISPS)
2. *Customs security/ 24h- Rule:* Container Security Initiative (CSI)
3. *Cooperation between commercial enterprises and public authorities: Customs-Trade Partnership Against Terrorism (C-TPAT) (USA); Authorized Economic Operator (AEO) (EU)*
4. *State cooperation network:* Proliferation Security Initiative (PSI)
5. *Military task forces*: Operation Enduring Freedom (OEF), Global Maritime Partnership Initiative (GMP), Combined Maritime Forces (CMF) and the Combined Task Forces (CTF) 150/151/152
6. *Initiatives which also fight piracy* such as the Maritime Security Centre (MSC) in Cuxhaven with the Joint Maritime Situation Centre (since 2007) or the tri-national MALSINDO initiative (Malaysia, Singapore, Indonesia) with its Malacca Straits Patrol Network.[94]

 This leads to the following outcomes:
1. *International network of cooperation with private and public partners with or without legally binding framework and institutional structure (ISPS/ CSI/ C-TPAT/ AEO)*;
2. *Extensive rights of harbor authorities* to verify and access cargo, advanced control and access rights of competent authorities in connection with interstate cooperation (ISPS/ CSI/MALSINDO);
3. *Preventive risk management*: education and a steady flow of information (ISPS/ CSI);
4. *Harmonization and improvement* of national options in securing trades, declarative (PSI);
5. *Military cooperation* of navies (OEF/ OAE/ GMP/ CMF/ CTF/ MALSINDO).

There are a few conclusions to be drawn in light of these efforts. First, when fighting maritime terrorism, there are no regional focal points (by comparison to piracy, specifically in the Gulf of Aden and the Strait of Malacca). Second, there is an emphasis on preventive measures within the civilian infrastructure (e.g., security of harbor facilities, oversight of goods being transported, and measures for the security of ships[95]). Third, the structures for the 'fight' against

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[94]   On MALSINDO's combined air and sea patrols, see Liss 2010; Ehrhart et al. 2010, 40.

[95]   The Physical Protection System (PPS) comprises the detection of danger, the delay of an attack and the reaction to it. Measures of detection and delay are analyzed in the PiraT working papers No. 9 and 10 (cf. Blecker et al. 2011a/2011b).

maritime terrorism are distinguished through the ascendancy of legal regulations, i.e. through a strongly differentiated hierarchy between states and non-state actors. The fourth point is that there is also a major emphasis on military cooperation. Last, but not least, a large number of the counterterrorism measures in the maritime vicinity have been initiated by the USA, and are carried down in a top-down approach with a coalition of the willing. Alongside the UN (through the IMO), the EU is a strong actor that has adopted most of the UN and US initiatives and implemented them as it has seen fit.

The efficiency of these measures is even more difficult to judge in the case of maritime terrorism than in the case of maritime piracy. In the piracy research field, there is also disagreement concerning the interpretation of the data, but with more reference points. In fighting Somali piracy we have seen a continual increase in the number of pirate attacks despite unprecedented efforts of the international community. The efficiency of navy patrols in stopping pirate attacks has decreased as a result of Somali pirates venturing further out into the Indian Ocean, their use of human shields, their use of increased force and by breaking into the panic rooms/citadels, which were meant to be one of the most effective ship protection measures. If no state vessel protection team is provided, ship owners have little alternative but to resort to the use of private military security companies (PMSCs) in addition to following the Best Management Practices and ship protection measures.

To assess measures to combat maritime terrorism, there is even less data to draw upon than with piracy.[96] It is not known how many ships were intercepted, or what number of weapons and terrorists were prevented from traveling or carrying out attacks. The role of PMSCs is rarely discussed in this context. The databases include little information about prevented attacks (e.g. by arresting a group which planned such an attack on land before it took place). It is also not clear whether there was a general prevention of attacks, e.g. through deterring the planning of a maritime attack through strict harbor and ship protection measures, as we cannot count attacks which have not taken place, but only examine them in the aftermath. This last dilemma is not only specific to terrorism, but is also true for the evaluation of prevention/deterrence measures of other crimes as well. Nevertheless, in order to make a better informed judgment rather than just speculating, it is necessary to analyze the existing data and derive tendencies and conclusions.

In the subsequent chapter, the smart sanctions regime of blacklisting, which could also be seen as defense measure in the sense of a security governance mechanism created to restrict the terrorist actor's opportunities for action, will be explored.

The effectiveness of the PPS is, however, evaluated more highly in the case of piracy because a system can be developed. Maritime terrorism is very heterogeneous which makes a proper analysis of security measure difficult (Blecker et al. 2011a, 32).

[96]   On the problem of statistical data and other sources on piracy see Petretto 2011, 14-17.

XIII   TERROR BLACKLISTING AND ITS DEFICITS

The emergence of the transnationalization of the risk of violence also created the need for new mechanisms to counter such tendencies.[97] The new smart sanctions regime, which is not specific for maritime terrorism, can be understood as such a mechanism. It offers an opportunity to tackle not only states – as common in conventional security policy – but also individuals and organizations. Maintaining human rights' norms while tackling transnational risks is one of the huge challenges of the 21st century. By targeting individual persons and organizations, the new smart sanctions on the UN terror blacklist also represent an innovation in international law. International law as drafted in Security Council resolutions is no longer restricted to managing relations between states, but also has a direct impact on individuals. This new situation makes it necessary to take precautions to protect human rights as part of a post-9/11 human rights regime. However, no such precautions were taken in the beginning and they evolved only slowly. The major complaint concerns the UN's methods − which have been criticized by the courts – of placing people and organizations on or removing them from its blacklist (listing and de-listing). Sanctions are increasingly put into effect by the UN member states. Individuals and organizations affected by sanctions sought legal remedy at the European Court of Justice (ECJ) and received it in September 2008. The ECJ ruled that the EU regulations that had been created merely to implement Security Council decisions, needed to be reviewed by the courts of the European Community to ensure improved human rights protection for terror suspects. What are the EU's terrorist blacklisting procedures that have come under scrutiny for possible breaches of basic human rights standards? What are the main problems and what are the results of current developments likely to be? The key challenge is to abolish the disjunction between the two major cornerstones of international law − the functioning of the UN system and international human rights obligations. This has been possible, but a great deal of political pressure, strengthened by the ECJ's ruling, was necessary to achieve it in the first place and there is still room for improvement.

Following some background information, the second section of this chapter analyzes the UN system of anti-terror sanctions in general, while the third takes a close look at the controversial listing procedure. The fourth part considers the details of the ECJ's judgments. In order to understand these, it is necessary to discuss the system of EU terrorist lists, which is covered in the fifth section. Besides the proceedings before the European Community courts, a case had already come before the European Court of Human Rights. It will be discussed in the sixth section. The seventh section deals with complaints brought before national courts. The eighth section reflects on the latest developments through the establishment of the office of the ombudsperson. The chapter concludes by presenting policy recommendations.

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[97]   This chapter is an updated version of Schneider 2011b and Schneider/Peiffer 2011. I am grateful to the student intern Felix Krause for research and editorial assistance in 2013.

1   Background

In September 2008, the ECJ handed down a landmark decision with major consequences for human rights protection, combating terrorism and the legitimacy of UN Security Council decisions. The cause was a case brought to the court by an individual and an organization that had been placed on the UN "terror blacklist," as a result of a Security Council decision. The ECJ was particularly critical of the fact that there was no opportunity to review the decision in terms of its compatibility with the rule of law.

While this ruling strengthened human rights protection, it also called into question a fundamental principle of the UN Charter. According to Article 25, the members of the UN agree "to accept and carry out the decisions of the Security Council in accordance with the present Charter."[98] There is no national or international court with the power to review Security Council resolutions.

The ECJ's ruling asserts, in effect, that decisions of the Security Council can be subject to judicial review by the courts of the European Community where the Security Council has not itself established a suitable review process. This, however, opens the door to a weakening of the international legal order as embodied by the UN, though it – paradoxically – also strengthens international human rights obligations. Ultimately, however, this could lead to individual states deciding for themselves - via laws they pass or their influence over national courts – whether they are obliged to implement Security Council resolutions or not. The ECJ is not offering to take over the review process itself, but merely criticizing the fact that none exists.

The weakening of the sanctions regime would be particularly problematic with respect to measures aimed at combating terrorism. It is well known that there are considerable differences of opinion between UN member states, both over fundamental questions, such as the definition of terrorism, as well as the status of particular groups and individuals. UN resolutions represent a valuable contribution to international coordination and cooperation in this area.

2   UN Anti-Terror Sanctions

The UN Security Council passed Resolution 1267 on October 15, 1999. Originally directed at aiding the fight against the Taliban in Afghanistan, it stated that money and other economic resources belonging to individuals and organizations listed in an annex were to be frozen.[99] A UN sanctions committee was established to implement the resolution and relevant additional provisions.[100] Sanctions Committees are subsidiary organs of the UN Security Council and may

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[98]   Article 103 of the UN Charter also states: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail" (Schwartmann 2012).

[99]   "The Security Council (...) [d]ecides further that '" all States shall (...) [f]reeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban, or by any undertaking owned or controlled by the Taliban, as designated by the Committee established by paragraph 6 below, and ensure that neither they nor any other funds or financial resources so designated are made available, by their nationals or by any persons within their territory, to or for the benefit of the Taliban or any undertaking owned or controlled, directly Or indirectly, by the Taliban, except as may be authorized by the Committee on a case-by-case basis on the grounds of humanitarian need." Excerpt from Resolution 1267, October 15, 1999.

[100] "The Security Council (...) [d]ecides to establish, in accordance with rule 25 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council to undertake the following tasks and to report on its work to the Council with its observations and recommendations." Excerpt from Resolution 1267, October 15, 1999.

be established in accordance with Article 29 of the UN Charter. The Sanctions Committee's constitution reflects the current makeup of the Security Council and the committee is always chaired by a non-permanent member (United Nations 2007). Apart from the Al-Qaeda and Taliban sanctions lists, there are currently another 10 committees, dealing with Somalia and Eritrea, DRC, Sudan, Iran, Ivory Coast, Sudan, Lebanon, North Korea, Libya and Guinea-Bissau.[101]

The sanctions regime based on Resolution 1267 has been enhanced by means of a large number of Security Council resolutions and is the first to have no geographical focus (in its current form), as sanctions can now be directed against people or organizations that have no connection with Afghanistan.

In the case in question, the Sanctions Committee is responsible for registering individuals and organizations on the list. Following the attacks of September 11, 2001, the resolution was extended to apply to people and organizations that could be linked to Al-Qaeda. The plaintiffs were added to the list on October 19, 2001, due to their alleged links to Al-Qaeda and the Taliban.

These "targeted" or "smart" UN sanctions are intended to be more effective than general sanctions and to reduce the negative humanitarian impact on innocent populations. While trade and economic embargos were previously directed at states, smart sanctions aim to exert economic and political pressure not only on regimes, but also on individuals (Schmahl 2006, 566-568.). Alongside the military and political leaders of conflict parties, terror suspects have increasingly been included in such sanctions lists. Smart sanctions should make it harder for targeted individuals to organize. The sanctions urge states to withhold various kinds of support, make travel more difficult, and block access to money by freezing bank accounts. There is no provision for making financial reparations in the case of terror. Therefore, it is imperative that, as Feinäugle put it: "the drastic effect the listing has for the individual must be balanced and weighed against the goal of fighting terrorism" (2010, 130).

Over time, the practice of listing Al-Qaeda and Taliban together on one list has been criticized for various reasons. Originally, treating both organizations equally resulted from the Afghan Taliban accommodating the Al/Qaeda headman Osama bin Laden in 2001 after the 9/11 attacks. Ten years later, the UN attempted to convince Taliban militia to lay down their weapons by signaling that reconciliation is possible given that the Taliban no longer cooperates with al Al-Qaeda. This is the context of the UN Security Council Resolution 1988 (2011) which splits the 1267 sanctions regime apart, establishing two lists to support the desired separation of the two movements (UN Security Council 2012a, 5; cf. Charbonneau 2011).

The complete UN terror blacklists are freely available on the Internet (UN Security Council 2014d) and openly stigmatizes those placed on it by displaying a number of details, such as postal addresses and passport numbers. It contains the names of individuals and organizations, including banks, non-governmental organizations and charities. The lists currently contain the names of several hundred individuals and entities[102] that can be linked with the Taliban or Al-Qaeda.

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[101]   http://www.un.org/sc/committees/, accessed 10 June 2013.

[102]   For Al Qaida 135 entities and 316 individuals are listed; for Taliban 167 individuals and 4 entities are listed (see http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml and http://www.un.org/sc/committees/1988/list.shtml, accessed 3June 2013).

3 The Controversial Listing Procedure

While there has been relatively little international criticism of the mere fact that the UN has maintained a terrorist blacklist, the procedure for listing and de-listing names has been on the receiving end of fierce criticism from a large number of states, NGOs, the Secretary-General, and the General Assembly.[103] In January 2006, with the support of the governments of Germany, Switzerland, and Sweden, several meetings of experts took place, which led to the publication of a report in March 2006 containing detailed recommendations on how the procedure could be improved (Biersteker / Eckert 2006).

One recommendation was later implemented by Security Council Resolutions 1730 and 1735 of December 19th and 22nd 2006, which enhanced the rights of the individuals and entities on the lists. They established a coordinating office – the "focal point" – and put in place a more sophisticated de-listing procedure. An affected party can now request to be de-listed either directly at the focal point or through his or her state of residence or citizenship. The request is then passed to the government that submitted the name for listing and to the governments of the states of residence and citizenship. If one of these recommends de-listing, the request is passed on to the Sanctions Committee. However, if the state refuses to support the de-listing request, the Sanctions Committee is not required to consider the case and the affected individual or entity cannot be removed from the list. Secondly, a positive decision then requires unanimity, that is, *a single negative vote is enough to block the de-listing*.

Thus, critics pointed out that the focal point cannot be considered a true review panel, as it has no powers to challenge decisions of the Committee. Furthermore, the procedure is carried out *in camera*. The individuals and entities subject to sanctions were provided with no information on the reasons for having been listed. Resolution 1822 (2008) and 1904 (2009) tried to address these shortcomings, demanding that a "narrative summary of reasons" (United Nations 2008, 5) shall be published on the UN website. However, that is only a slight improvement, as many of those blacklisted are still required to prove their innocence without seeing the incriminating material, which frequently consists of information gathered by the intelligence services that, even in the Sanctions Committee, can only be narrated to the other member states in general terms (cf. Sullivan / Hayes 2010, 29; cf. Terlingen 2010, 139).

Since its establishment, the focal point has received 69 de-listing requests from affected individuals or entities for all sanction committees. Of these, 66 were processed, 13 individuals and 17 entities have been removed from the list. All in all, 30 persons or organizations have been de-listed for various reasons. 20 of them – out of 25 requests – were removed from the Al-Qaeda and Taliban lists. While a list of persons and organizations that have been de-listed is available on the website of the Sanctions Committee, it does not contain details of why they were removed (UN Security Council 2014f).

Since the new provisions still did not satisfy the critics, Michael Bothe, an expert on international law, was asked by Germany, Switzerland, and Sweden to make new suggestions on how listing and de-listing could be improved. At the heart of his recommendations is the notion

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103   Fifty-six states are said to have indicated in 2005 that they could not effectively implement the sanctions under the given conditions. For details of the activities of the General Assembly, the Secretary-General and the Secretariat, see Meerpohl 2008, 24f.

of a Review Mechanism, run by an independent agency, which would carry out a proper examination of the requests and the evidence, quickly come to a decision, and publish the results (Bothe 2007, 2008).

Additional recommendations also emerged from discussions in the fields of international law and politics. For instance, the central recommendations made by Thomas Meerpohl were, first, that de-listing requests should be approved by a majority vote (instead of consensus); second, that entries on the list should be deleted automatically after two years unless the Sanctions Committee were to consider the case again and resolve to renew them (Meerpohl 2008, 299).

Apart from this procedure, in which those affected are entirely dependent on the judgment of political actors, there is currently no judicial authority at the UN level through which individuals may challenge their listing status. Therefore, many proposed improvements mention a potential role for international courts. However, only states may be parties to cases before the International Court of Justice (ICJ).[104] However, the General Assembly can request a non-binding opinion from the ICJ (Meerpohl 2008, 36), but doing so would concern the whole process of listing and de-listing rather than a single case.

Another relevant proposal is that of a World Court for Human Rights, whose proponents include Manfred Nowak, the UN Special Rapporteur on Torture. This aims to close a key gap in the UN human rights protection system, which is still lacking 60 years after publication of the Universal Declaration of Human Rights (Schneider 2002, 321; Nowak 2008, 205ff).

Further progress in introducing legal procedures for listing and de-listing is particularly opposed by the permanent members of the UN Security Council, who are frightened of seeing both their power and their ability to combat terrorism diminish. The role of vetoes in the Security Council and the requirement for unanimity in the sanctions committees give them considerable political influence over the imposition and carrying out of sanctions - influence they do not wish to surrender to other institutions.

The lack of engagement of many UN members is also a consequence of the antipathy of a number of key members of the UN Security Council toward weakening the Security Council's authority in the antiterrorism system. This is apparent, for instance, in the ineffective way smart sanctions are applied by the member states. Finally, it has, so far, proven impossible to reach an agreement on a general convention against terrorism that would unite the numerous individual measures into a coherent whole while closing the gaps that continue to exist. This is a consequence of an inability to agree on either a definition of terrorism or how best to combat both it and its root causes (Martinez 2008, 320 ff.).[105]

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[104] With its headquarters in The Hague, the ICJ is the main judicial organ of the United Nations. All members of the UN are simultaneously parties to the ICJ statute. The affected states must agree before the ICJ can accept a case. They may either accept the court's jurisdiction generally, with reservations, or on a case-by-case basis.

[105] The conflict over the definition of terrorism revolves mostly around two questions: How acts of terrorism can be distinguished from acts of violence carried out legitimately in pursuit of the right to self-determination, and whether measures taken by the military forces of a state can be considered to be acts of terror.

4   The ECJ's Judgments

The ECJ's[106] appeal decision of September 3, 2008 concerned the implementation of UN Sanctions in European Community law. The decisive element of the judgment is that, in the opinion of the court, the Community courts are entitled to review EC regulations that give effect to UN Security Council resolutions.

In its judgments of September 21, 2005, the European Court of First Instance (CFI) had rejected the cases brought by *Jassin Abdullah Kadi* and the *Al Barakaat International Foundation* against EC Regulation No. 881/2002 of May 27, 2002, which gave effect to UN Security Council Resolution 1267 from 1999. The complainants had applied for the regulation to be annulled on the grounds that the Council of the European Union had no competence to adopt the regulation, which also infringed on several of their fundamental rights.

On appeal, the ECJ found for the appellants. In its judgment of September 3, 2008, it annulled the regulation in question as it applied to them. However, before the annulment took effect, the Council was given a three-month period during which the regulation would continue to apply. This was to enable the Council to remedy the infringements found.

It was first necessary to consider whether a court of the European Community has jurisdiction to review a regulation adopted in order to give effect to a UN Security Council resolution. The European' Community is not a formal member of the UN (Heun-Rehn 2008, 329). Therefore, only the member states of the EC owe an immediate obligation to the UN under international law. The European Community is only under an indirect obligation (Meerpohl 2008, 190-191), which arises because Community loyalty requires the EC to observe its member states' obligations under international law.

The ECJ decided that the UN Security Council resolution was not in itself subject to the jurisdiction of the European Community, but that the regulation affecting its mandate certainly was. The ECJ thus opened the way to a substantive review of the resolution with respect to the fundamental rights contained in Community law.[107] The CFI had restricted the right to review peremptory norms of international law (*jus cogens*).

The judgment further states that, in this specific case, the right to respect for property (only in relation to Mr *Kadi*), the right to be heard and to effective judicial review (in relation to both plaintiffs) had been infringed. The reexamination procedure described above, the court held, was not sufficient to ensure effective judicial review and could not lead to a general rejection of the jurisdiction of the Community courts.[108]

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[106] Based in Luxembourg, the ECJ is the highest court for European law. It has already made fundamental contributions to promoting European integration on many occasions. The enforcement of its judgments is problematic, as no means exists by which European institutions may be forced to put judgments by European courts into effect. A "CFI" was created in 1989 to take some of the ECJ's burden.

[107] "It follows from the foregoing that the Community judicature must, in accordance with the powers conferred on it by the EC Treaty, ensure the review, in principle the full review, of the lawfulness of all Community acts in the light of the fundamental rights forming an integral part of the general principles of Community law, including review of Community measures which, like the contested regulation, are designed to give effect to the resolutions adopted by the Security Council under Chapter VII of the Charter of the United Nations." Extract from the ECJ judgment of September 3, 2008.

[108] "321 In any event, the existence, within that United Nations system, of the re-examination procedure before the Sanctions Committee even having regard to the amendments recently made to it, cannot give rise to generalized immunity from jurisdiction within the internal legal order of the Community. 322 Indeed, such immunity, constituting a significant derogation from the scheme of judicial protection of fundamental rights laid down by the EC Treaty, appears unjustified, for clearly that re-examination procedure does not offer the guarantees of judicial protection." Extract from the ECJ judgment of September 3, 2008.

The subjects affected by the sanctions were not informed about why the sanctions had been imposed. However, the court recognized that, while the affected persons and organizations cannot be informed before they are put on the list, they must be after their assets have been successfully frozen. In addition, the plaintiffs were not informed about how they could defend themselves against the sanctions.

To supply the plaintiffs with a remedy regarding this regulation, the Council of the European Union would have to acknowledge that regulations whose purpose is to give effect to obligations under international law are not exempt from judicial review and, furthermore, considering the right to property, to grant Mr Kadi the right to submit his concerns to the appropriate bodies. The restriction of his right to property can be justified in general, not just in this particular case.

The press[109] was right to stress the far-reaching consequences of this judgment. Although the court only annulled the regulation insofar as it affected the plaintiffs, it opened the way to further suits in European courts brought by anyone affected by these kinds of UN sanctions. That is because the court declared itself to be competent, ruling that regulations that give effect to UN sanctions are not exempt from review. The judgment marks the first time that those affected by such sanctions have been granted effective legal protection.

The ECJ judgment is likely to have an impact on the UN (Weinzierl 2008). A particular problem is entailed by the fact that (at least some) confidential knowledge possessed by Security Council members would have to be presented to the courts and the complainants. While virtually every independent legal system requires the evidence to be presented and the burden of proof to be fulfilled, confidential information from the security services that is released into the public domain may not survive the scrutiny of judicial review, as it is seldom of the standard required by the courts. Information held by the UN on individual terrorist organizations comes from various legal systems and is ultimately political in nature. The requirement for evidence to be made publicly available could lead to restrictions in the exchange of information between states, while also providing states that are unwilling to implement the decisions with an argument or even a pretext (where politically or economically disadvantageous) for refusing to implement them at the national level, thereby endangering the system of international law (Heun-Rehn 2008, 333-335).

The three-month period of grace granted to the Council by the ECJ ended at the start of December 2008. On November 28, 2008, the European Commission issued a regulation[110] confirming the listing of Mr *Kadi* and the *Al Barakaat International Foundation*. The regulation explained that a summary of the grounds for the listing of both parties, as provided by the Al-Qaeda and Taliban Sanctions Committee, had been passed to those affected to give them an opportunity to comment on them. The regulation further stated that the Commission had received these comments, examined them and decided that links with the Al-Qaeda network meant that the listing was, nonetheless, justified.

Mr. Kadi challenged the confirmation of his listing another time at the General Court (formerly, the CFI) and won. On 30 September 2010, the Court stated that the revision violated the right of being heard and the right of judicial review (Sullivan / Hayes 2010, 60). However, it took another year until Mr. Kadi was finally de-listed on October 5, 2012 (UN Security Council 2012c).

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[109]   Cf. Süddeutsche Zeitung "EU erhält Rüge von höchster Stelle"; taz, "EuGH stärkt Terror-Verdächtige"; FAZ, "Gericht verlangt Rechtsschutz bei Kontoeinfrierungen," all from 3 September 2008.

[110]   See Commission Regulation (EC) No. 1190/2008 at http://eur-lex.europa.eu/, accessed 8 January 2009).

The case Kadi versus the EU was influential for two reasons: First, it emphasized that international agreements do not annul fundamental principles of the European Union. Second, European institutions functioned as a de facto-corrective of UN blacklisting procedures and thus, indirectly challenged the supremacy of the Security Council (Sullivan/Hayes 2010, 60).[111] The case Kadi gave reason to fundamentally reconsider the legitimacy of UN blacklisting procedures and lead to the introduction of the office of the Ombudsperson (which is discussed below).

5   The EU Terrorist Lists

The UN Security Council's terrorist blacklist must be distinguished from the lists kept by the EU. In Resolution 1373 of September 28, 2001, the UN Security Council called upon its members to supplement the UN Sanctions Committee's list by developing lists of their own for the freezing of funds belonging to people and organizations that could be linked with terrorist activities.[112] The EU complied with this on December 27, 2001, in the form of a Common Position (2001/931/CFSP) and EC Regulation 2580/2001.

The Council's Common Position includes a list of individuals and organizations who were allegedly involved in terrorist acts. The most recent list, issued on June 25, 2012, contains 11 names of individuals and 25 organizations (European Union 2012). On January 26, 2009, there were 28 individuals and 29 organizations on this list, including the PKK (Kurdish Workers' Party), FARC and Hamas.[113]

The EC regulation also states that the competent authorities of the relevant state may be granted specific authorizations to use the frozen funds to fulfill the essential human needs of a person on the list or a member of his or her family, as long as these are fulfilled within the Community. Those entered on the list are informed of the fact and provided with a statement containing the reasons for their being listed.[114] Any EU member state can apply to have a person or entity added to the list, as can non-EU member states. Those affected can submit a request for delisting with the appropriate authorities.

Yet this entire procedure often takes place on the edges of or outside the rule of law and the EU courts have therefore revoked sanctions several times. By contrast to the case of the UN list, here there is no problem with the competency of the courts. Among other things, the courts have criticized listing on the basis of insufficient grounds. On December 4, 2008, the CFI ruled

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[111]   "A direct response to the challenges presented by the ECJ's 2008 decision in the case of Kadi is the introduction of the Regulation (EU) No. 1286/2009 which introduced procedural and due process reforms to the implementation of the UN 1267 blacklist regime in the EU: 1. New listing procedure: European Institutions can no longer automatically simply implement the UN 1267 blacklists, but have to check their compatibility with fundamental rights. (From "automatic compliance" to "controlled compliance".) (...) Crucially, before taking the European decision to implement the UN listing decision, the Commission is now required to take into account the views for the blacklisted person as well as the opinion of an advisory committee of experts" (Sullivan/Hayes 2010, 19).

[112]   "The Security Council (...) decides that all States shall: a) Prevent and suppress the financing of terrorist acts; (...) c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts" Excerpt from Security Council Resolution 1373 from September 28, 2001.

[113]   The Council updates the lists regularly, for which unanimity is a requirement. Article 2 Section 3 of EC Regulation 2580/2001: "The Council, acting by unanimity, shall establish, review and amend the list of persons, groups and entities to which this Regulation applies".

[114]   Cf. European Union, "The EU list of persons, groups and entities subject to specific measures to combat terrorism, January 27, 2009.

that the inclusion of the People's Mujahedin of Iran (PMOI) on the list was incorrect. The PMOI is an opposition group in exile that works to oppose the current Iranian government. The suspicion therefore arose that its continued classification as a terrorist group only came about as a result of pressure from Iran (Schweda 2007).

The PMOI had been campaigning for years to have its name removed and the CFI had already ruled three times in its favor. Despite this, the Council of the European Union had left it on the EU terror list. It justified this inaction by noting that the court had only criticized the fact that the PMOI had been granted no opportunity for a hearing or defense. Since the organization had been provided with the reasons for its listing, the Council argued, it could still be considered a terrorist organization (Bundestag 2007). After each of the various CFI decisions, the reasoning continued, new versions of the list were adopted in a Common Position. The judgment was, therefore, interpreted by the EU member states as no longer applicable (Runner 2008). This made a mockery of effective legal protection. After a ruling of the CFI from October 23, 2008, they removed the PMOI from the list on January 26, 2009. The French government appealed in the attempt to overturn the decision of the CFI and lost in another ruling from the European Court of Justice from December 21, 2011 (European Court of Justice 2011).[115]

The EU terror list is regularly contested before the courts and was the subject of an action most recently on May 12, 2010, during the public hearings before the Grand Chamber of the ECJ (preliminary ruling C-550/09). Doubts have been voiced especially about the establishment of an enemy criminal law. This is used to justify certain sanctions, similar to punishments, which have weak requirements as to proof and judicial rights. Although the ECJ attaches great importance to these questions, a comprehensive ruling on the EU terror list has not been forthcoming.

6   The ECHR and the Council of Europe

Besides the proceedings before the European Community courts, a case concerning an entry on the EU list had already come before the European Court of Human Rights (ECHR)[116] in May 2002 with respect to the organizations *Segi* and *Gestoras Pro-Amnistia*.[117] The ECHR rejected the complaint, since the organization (which of the two? EH) had only been classified as a terrorist entity by the EU but had not had its funds frozen. As a result, none of its rights had been infringed. The ECHR also ruled that if the organization's rights had been infringed, there would be nothing stopping it from turning to the European Community courts. The ECHR thus declared that it was not competent for this or other claims related to the EU list (ECHR 2002).[118]

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[115]   Cf. ECJ's judgment of 21 December on that issue.

[116]   Sitting in Strasburg, the ECHR monitors compliance with the European Convention on Human Rights, to which all signatory states of the Council of Europe are subject. The Council of Europe was founded in 1949 in an effort to drive forward European integration and secure peace on the continent. It currently has 47 member states. The Convention, which entered into force in 1953, contains a catalog of fundamental and human rights. Both individuals and states may petition the ECHR.

[117]   Cf. ECHR Ruling of May 23, 2002.

[118]   Excerpt from the ECHR Judgment of May 23, 2002: "However, the applicants are not concerned by that regulation since, according to the list in the annex to the common position, they are subject only to Article 4. And even if they were affected, they could always apply to the Court of Justice of the European Communities."

The Parliamentary Assembly of the Council of Europe, which had already condemned the abduction and secret imprisonment of terror suspects, has passed a resolution, Recommendation 1824 (2008), calling for better human rights protection in listing and de-listing. The Assembly considers the members of the Council of Europe, particularly those that are also EU member states or permanent members of the UN Security Council, to have a responsibility to stand up for the observation of basic legal standards in the listing and de-listing of terror suspects.

7   Complaints Brought Before National Courts

It is doubtful whether the opportunity exists to appeal a listing by the UN Security Council before a national court. This is only indirectly possible if, for instance, a listed person were to bring a civil action against the bank for refusing to release the person's funds and the bank were to invoke the national legislation giving effect to the UN Resolution (Meerpohl 2008, 19). In the European Community, there is an additional problem as UN Security Council resolutions are given effect by means of pan-European regulations. Acts of European legislation are under the jurisdiction of the European courts, as recognized by Germany's constitutional court in, for instance, the "*Solange-II*" decision (cf. Decision of the Constitutional Court - BverfGE - 73, 339). According to this ruling, the Constitutional Court's review power is reactivated if the EC systematically fails to uphold the expectations the court has of it with respect to the protection of fundamental rights (Schmahl 2006, 570). At least as long as the Community courts had not seen themselves as competent, Stefanie Schmahl considered the implementation of Security Council resolutions for which there was no possibility of legal protection on any level, as problematic:

> In general, however, it cannot be acceptable for the Federal Republic of Germany to hand the power to implement Security Council resolutions over to the EC, and yet for the Community to contract out of its responsibility for the implementation of Security Council decisions by passing the main responsibility on to the United Nations, which offers no effective legal protection (Schmahl 2006, 574).

National courts have far more experience in dealing with terror suspects than the courts of the European Community (Hörmann 2007, 133). It has therefore been recommended, purely on pragmatic grounds, that those seeking legal protection turn to the jurisdiction where most of the measures have their origin: the United States. It is the United States that has both proposed the most names for the UN list and ensured that they were added to it (without informing the other Sanctions Committee members of the key facts of the cases) (Schaller 2007, 28). Appealing to US courts has the practical advantage that US intelligence agencies need only reveal their information to US courts (Ley 2007, 292).

On May 13, 2009, according to the Monitoring Team of the UN Sanctions Committee, there were 30 pending cases related to the terror lists altogether - in the EU, Pakistan, Switzerland, the United States, and Turkey (United Nations 2009). A decision by Turkey's highest administrative court on July 4, 2006 was a sensation. The court decided in favor of Jassin A. *Kadi*, who had failed to have his listing undone by the European Court of First Instance in September

2005. The court did not examine his innocence, but based its decision on the fact that documents and materials upon which the Sanctions Committee had based its judgment could not be produced in court. An appeal was withdrawn following political intervention by Turkish Prime Minister *Erdogan,* who presented the press with an image of *Kadi* as a credible philanthropist (Meerpohl 2008, 288-289.).

8   The Ombudsperson

In 2009, the UNSC tried to counter various critics and initiated Resolution 1904 introducing the Office of the Ombudsperson. The Ombudsperson takes a sandwich position mediating between the Sanctions Committee and the blacklisted person. Once s/he receives a de-listing request, the Ombudsperson analyzes all relevant information and forwards a report to the Committee, laying out "the principle arguments concerning the de-listing request" (Terlingen 2010, 140). The first and current Ombudsperson is the Canadian Kimberly Prost, a former judge of the ICTY, who was appointed by the SG on June 3, 2010 and reappointed on January 1, 2013.[119]

Resolution 1904 has been considered a major improvement of the listing procedure's legitimacy. However, experts have pointed out that this resolution is still insufficient. Richard Barrett appreciates the "Ombudsperson mechanism", but criticizes the fact that as long as the office "cannot overturn the decisions of the committee" it cannot be considered "an effective judicial review" (Barrett 2011, 9). Or as Yvonne Terlingen put it, "the office falls far short of the proposed independent review mechanism that, if necessary, can order people or entities to be removed" (Terlingen 2010, 140). The journalist, Victor Kocher, states that the Ombudswoman wants to influence everything, but cannot decide anything. "Her office is a fig leaf, but with thorns, presenting a subrogation of the possibility of legal recourse" (Kocher 2011, 61).[120] The bottom line for all critics is the fact that the decision-making power remains with the Sanctions Committee, reflecting the nature of the genuine political institution in conflict with fundamental human rights.

This problem was tackled by Resolution 1989 (2011) and further validated by Resolution 2083, adopted in December 17, 2012. Now the Ombudsperson adds a recommendation to her report proposing whether the de-listing request be accepted or not. If a de-listing is recommended the *committee requires unanimity to refuse this recommendation*. However, if one member does not agree, it can *pass the request on to the UNSC*. Here the veto right obtains and, thus, weakens the Office of the Ombudsperson to some extent (von Arnauld 2013, 240). However, since its introduction the Ombudsperson's recommendations have always been accepted. 27 individuals and 34 entities have been de-listed and only 2 requests were denied. One case was withdrawn. Another 2 cases are in progress (UN Security Council 2013). Furthermore, the resolutions state that the blacklisted person has to be informed as quickly as possible. This shall be supported by publishing all relevant information including a "narrative summary" on the Committee's website (UN Security Council 2014).

Some points remain delicate issues. As the Security Council is still able to refuse the de-listing request, a permanent threat of "re-politicization of decisions" can be suggested (cf. von

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119   http://www.un.org/en/sc/ombudsperson/; http://www.un.org/en/sc/ombudsperson/bio.shtml, accessed 10 June 2013).

120   "Ihr Amt gleicht einem Feigenblatt, aber mit Stacheln, und es ist trotzdem als Surrogat einer gerichtlichen Rekursmöglichkeit zu erkennen" (Kocher 2011, 61; author's translation of original German quote).

Arnauld 2013, 243). Furthermore, the right to be heard requires that a blacklisted person be able to influence the judgment by laying out his/her perspective before the sanctions come into effect (Sullivan/Hayes 2010, 27). This criticism, however, touches the core element of a sanctions mechanism. To be effective, sanctions need to be sudden and unexpected and, thus, will always remain, to some extent, within a tense relationship with human right requirements. Therefore the European Court of Justice (2011) recognized this need in its judgment, as long as the individuals or entities are informed and heard right after the decision to blacklist them.

9   Conclusion

To summarize, it is important to note that we are dealing with two different lists on two different levels. The ECJ judgment of September 2008 (and 2011) criticized the UN list implemented at the EU level. The court declared itself competent, thereby establishing the reviewability of EU regulations giving effect to UN sanctions. As a result, those affected are provided with effective legal protection, at least within the EU.

The EU's own list, which it creates independently of the UN list, has also been taken into consideration. The competence of the EU courts does not pose a problem in this case, but concerns emerged around the Council of the European Union's possible infringements of fundamental principles of the rule of law.

The concept of listing individuals under the auspices of the "smart sanctions regime" imposed after 9/11 allows specific individuals to be sanctioned, but also weakens the human rights regime as these individuals may be partially denied some of their human rights. This, however, is only the case if there is insufficient opportunity to challenge the listing by lawful means. Every listed individual or organization must have the possibility and means to challenge the accusations and consequently be de-listed, if the evidence presented proves their innocence. Only then will the "smart sanctions" potentially strengthen the Human Rights Regime, as they offer a precise tool to combat illegal financial transactions. Nevertheless, this is only the case if the listing process is based on the "presumption of innocence." This implies that the individual or organization is only listed if conclusive evidence is presented and the accused has had the chance to be heard *before* the listing takes place. In a less ideal world, this should, at least, happen *right after* the listing.

The EU should, therefore, also resolve to pay more heed to the rule of law. It needs to comply immediately with the judgments of the ECJ. The action taken against the PMOI was and remains unacceptable, even though the de-listing that has finally come about should be welcomed. Combating terrorism at the EU level not only needs institutional procedures that can enable more intense cooperation on security policy, but also requires confidence-building as a prerequisite (Bendiek 2007, 40-41). Only if these procedures are subject to parliamentary or judicial control can the confidence of the member states and their citizens be strengthened, thereby contributing to a deeper European integration process.

The Security Council needs considerable room to maneuver if it is to fulfill its task of safeguarding security and peace. At the same time, it needs to respect an overall core of norms. This is also laid out in Article 24 of the UN Charter, which states that the Security Council must "act in accordance with the Purposes and Principles of the United Nations." As long as there was no effective mechanism for reviewing the legitimacy of Security Council resolutions,

it fell short of fulfilling certain fundamental obligations, particularly the right to effective remedy, according to Article 8 of the Universal Declaration of Human Rights.

The ECJ has decided to support this position – and with good reason. Listing and de-listing need to be reviewable. The danger that individuals might find themselves on a terror blacklist as a result of political considerations that simply do not fulfill the defined criteria for the categorization of terrorist organizations is too great. As Feinäugle has correctly pointed out: "the Sanctions Committee (...) remains a political body driven by the individual States' interests" (Feinäugle 2010, 127).

The blurred boundaries between illegitimate and legitimate forms of political activism can pose a "particular political challenge for applying just and fair legal tools to contain terrorist threats" (Giessmann 2013a, 534).

States can deliberately abuse these lists by proposing their "archenemies," such as opposition movements, while allowing each other to proceed unhindered in the name of "honor among thieves." This makes it too easy to impose sanctions upon the innocent. In addition, the possibility of false accusations, as a result of intelligence failures, for instance, or simply the misidentification of names, makes the establishment of a legal procedure with several levels of review a matter of urgency. The same applies to the listing procedure, as the public accusation of an individual or an organization stigmatizes them, which can not only damage them commercially[121] but can also have an irreparable negative impact in the personal sphere (Schmahl 2006, 568).

However, transferring the task of reviewing sanctioning decisions to national courts is very problematic. It carries the risk that individuals and organizations could be exempted from sanctions, for instance, for cooperating with the national authorities, even if this contradicts the spirit and purpose of the sanctions. How can it be guaranteed that countries such as Pakistan, Egypt and Saudi Arabia make their rulings based only on considerations of the legitimacy of a de-listing procedure, without regard to political considerations?

The consequence of the ECJ judgment must therefore be the accelerated development of a listing and de-listing procedure that is consistent with fundamental human rights standards. While a review mechanism, for example, a judicial one, would certainly uncover mistakes made by the Sanctions Committee in individual cases, it would not damage the overall authority of the Security Council.

An opportunity for more general supervision of the Security Council – not only with respect to the terror list – is considered by many to be desirable in view of the way its tasks have multiplied and its powers have grown over the years. Campaigning for the rule of law is an imperative. Despite all the problems these plans uncover, they need to be kept in view as long-term goals for UN reform.

Constructive behavioral shifts should be rewarded with the mechanisms for de-listing (Dudouet 2011, 1). As Giessmann (2013a, 19) points out: "In most cases of insurgency groups (...) the violent conflicts did not cease to exist because of the effectiveness of listings or other sanctions, but because of a constructive engagement of conflict parties and stakeholders". Even though its effectiveness has not been proven, it can be assumed that the majority of the Security Council members are convinced that blacklisting is an effective instrument in the fight against

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[121] One example concerns one of Somalia's largest companies, which was driven to bankruptcy without any evidence that would have stood up in court being produced; Vlcek 2006, 497ff.

terrorists. Even if the institutional players presume that the blacklisting is effective, can it actually be considered a legitimate criterion to infringe upon the human rights of individuals? May the new smart sanctions of the UN terror blacklist be regarded as a justifiable innovation in international law? The adequacy of the blacklisting procedures seems to be debatable.

The new procedures, especially of establishing the Office of the Ombudsperson and of giving at least "narrative summaries of reasons", are big steps forward in reconciling the need for effective sanctions and human rights obligations. It was also strengthened by turning the polling mechanism around so that unanimity is required to reject the Ombudsperson's de-listing request. However, the office of the new Ombudsperson is still weakened by the fact that it does not fulfill the criteria for a judicial review mechanism. Also, an – as yet untried – clause exists, that allows states which are unhappy with the outcome to return the case to the Security Council − back to the political decision-making body and the veto rights of its permanent members.

In the subsequent chapter we turn to a case study and examine German maritime security governance initiatives, the actors and the policies, with respect to the Indian Ocean Region, as a case study to analyze the challenges of maritime security governance for national and international regimes.

XIV   CASE STUDY: THE GERMAN PERSPECTIVE

1   Introduction

Piracy and maritime terrorism can broadly be classified as maritime violence although each describes different concepts. The main differences between terrorism and piracy concern their motives: politically driven terrorism and, by and large, profit-oriented piracy. The 'maritime' element in 'maritime terrorism' indicates its definition according to where the act takes place, just as a differentiation is made between air and sea piracy. Yet, both use similar approaches and tactics. The hijacking of a ship with the intention of financing terrorist operations can, for example, be described as an act of political piracy (Eklöf Amirell 2006). Likewise, Somalia's Islamists' interest in the ransom generated by their pirate counterparts has come under close scrutiny as it heightens the prospect of a dangerous nexus between terrorism and piracy. (In some cases, an exchange of hostages has been reported as well.) In February 2011, for example, Al Shabaab captured several pirates because they refused to give them a fifth of the revenue. Al Shabab is allegedly collecting large sums of money from the pirates, in the range of 30% of the ransom in 2010 alone (Kolb/Salomon/Udich 2011, 113-115).

German security governance initiatives have so far put a large number of coordinating structures and mechanisms in place in order to limit the risks of maritime terrorism and piracy. This book examines those German initiatives, the actors and the policies, with respect to the Indian Ocean Region, as a case study to analyze the challenges of maritime security governance for national and international regimes.

At its core, this book strives to answer the following **research question**: why is Germany not taking the initiative and acting as a leading figure in maritime (trade) security, related to the Indian Ocean Region (IOR)? Answering this main question requires addressing a few others: Is the often asserted importance of maritime trade in the Indian Ocean Region (IOR) for Germany and Europe overstated? How relevant is maritime security in the IOR for Germany and how is this reflected in domestic German politics? Which key actors are involved and how do they relate to one another? How do they act on the international level? Is this mélange of actors and interests the major challenge for adequate security governance or are other factors relevant?

It became evident during the course of this study that information pertaining to the roles, tasks and competences of relevant German actors was not easily accessible. There are only a few open sources that describe the roles and tasks of German actors in sufficient depth. Moreover, the situation is currently in flux. It was, thus, necessary to complement the secondary literature and limited primary documents with anonymized interviews with stakeholders (by phone, mail or in person, conducted in spring 2012).

After discussing the significance of maritime trade for German and EU economies, this chapter will address the relevance of maritime security for Germany, offer an overview of the

German actors involved in maritime security, and assess the involvement of key German stake-holders in international maritime security governance. Before drawing conclusions, the chapter will also consider other possible factors for Germany's deliberate restraint

2   The Relevance of Maritime Trade for the German and European Economies

The relevance of maritime trade for Germany's export-oriented economy and global trade is often described as tremendous. But how important is German and European maritime trade, especially with the Indian Ocean Region?

A glance at the statistics would seem to confirm the oft-asserted significance of sea trade for Germany: about 90% of world commerce, 95% of Europe's foreign trade and almost 70% of German exports and imports are carried out through international sea trade. There are 419 German shipping companies and ship owners and, with 3,716 merchant ships, Germany ranks third in the world in transporting bulky goods. German-controlled container ships are the largest, both in terms of size and in terms of sheer numbers, encompassing 1,776 container vessels, with 32.1% of the world-wide container capacity. However, only 297 of these ships fly the German flag (German Fleet Command 2011a, 53; 2011b, 2). The three countries that have the largest merchant fleets are developed countries, Greece, Japan and Germany. Cumulatively, they account for 41% of the world's deadweight tonnage (UNCTAD 2011, 148).

A significant part of export volumes is, thus, handled by ports. German maritime cross-border traffic has increased quantitatively in the past few years. The import of (energy) raw material plays a vital role, and the IOR is an important source of and/or conduit for these raw materials. On the export side, the security of trade routes is of central importance for the export-oriented industries (automobile, machine production, chemical and pharmaceutical industry) (Engerer 2011, 27; DIW 2012). The UNCTAD Line Shipping Connectivity Index (LSCI) reveals that Germany, along with Hong Kong SAR and Singapore, remains one of the single most connected countries in the world after China (UNCTAD 2011, XVI).

With a total area of approximately 70 million square kilometers, the Indian Ocean is the third largest ocean after the Pacific and the Atlantic. Historically, its geographic position at the southern periphery of Eurasia has determined its central economic importance: it lies at the intersection of resource-rich coastal regions and international sea routes between the Red Sea, the Arabian Gulf and the Western Pacific. The Indian Ocean contains large amounts of natural resources, including nearly 40% of global oil and gas reserves as well as large amounts of mineral resources. The Indian Ocean has overtaken the Atlantic and Pacific in terms of international trade, with a large proportion of oil exports from the Middle East transitioning it, while economic globalization has led to an increased use of seaways and promoted the development of export-oriented coastal regions (Arz 2012).

While two recently published studies estimate the direct and indirect global costs of piracy at about US$7 billion for the year 2010 (One Earth Future Foundation 2012, Oceans Beyond Piracy 2010) and while another study examines the human cost of Somali piracy (ICC/OBP 2012), there are no such comprehensive studies on the costs of maritime terrorism. One could assume that some of the included costs, such as additional security measures on board and the use of military forces, could also help in the case of political violence.

Among many things, however, a fear exists that maritime terrorism can cause time-delays and thus disrupt maritime trade. Germany and other EU members agreed about EU's dispatching of a military mission (Operation Atalanta) precisely for this reason. Trade interests were part of the member states' motivations for approving the mission. As matters of trade are a supranationalized competence of the EU, member states are more comfortable in agreeing to an EU military mission that protects highly relevant maritime routes for their own trade.

Any attempt to determine the economic impact of maritime violence on Germany should be approached with caution, as not all sectors in the economy are affected to the same extent – apart from the maritime industry – because some depend more on imports or exports than others. Moreover, the option of a substitute route or port usually exists. It is also important to assess whether trade routes pass through high-risk areas of piracy and political violence. For European countries, intra-European trade is of higher importance than that with third countries. The most important trade partners for the EU are the states of North America, while the Mediterranean neighbors are second. Over the past few years, China has become a vital trading partner for Germany even more so than North America. Considering the value of transported goods, there is a difference: the share of imported goods from Asia has grown (from 8% in 2000 to 15% in 2008) and so has the use of security relevant seaways as routes of transport (DIW 2012, 11). The importance of port security remains independent of the use of different seaways.

At the same time, there are opportunities to compensate for potential losses in the shipping and other industries through higher revenues in other sectors, e.g. the use of insurance companies or private security businesses.

The German shipbuilding industry is already the largest in Europe and ranks fourth in the world after South Korea, China and Japan (German Fleet Command 2011b, 3). Germany is also the largest ship financing country (UNCTAD 2011, 153).

Shipping is affected by fluctuations in the world economy, whether positive or negative. Shipping is also influenced by developments in international trade (UNCTAD 2011, 7). The economic and financial crisis affected shipbuilding and the price of newly built vessels, thereby also impacting the resale-price of ships. German shipyards that concentrated on building container ships were the most affected. The market segments for passenger and cruise ships, ferries and modern specialized vessels, such as Arctic vessels and wind-platforms, felt these effects to a much lesser extent. Overall, Germany's marine engineering industry continues to occupy a leading position in terms of exports, including in the shipbuilding-supply industry, but finds itself under pressure due to overcapacity in the world market and pressure from Asia. In the areas of safety and the environment, positive trends are expected in the long term. Naval shipbuilding has a stabilizing effect, and has, for a long time, contributed about a quarter of total German shipbuilding turnover, which has also included the export of submarines (BMWi 2011, 21-23).

Thus, it can be concluded from this chapter that the importance of sea trade for Germany and Europe is not overstated. Nevertheless, not only does it affect sectors of the economy differently, but economic factors are only half of the picture. The following section discusses threat assessments at the political level.

3   The Relevance of Maritime Security for Germany

Since 2008, Somali piracy has been a pressing problem for ship-owners, seafarers and insurers. But the threat of maritime terrorism worldwide remains controversial. While there is wide-ranging agreement on the catastrophic consequences of several scenarios, there is little consensus about the likelihood of such attacks, the associated risk level, or appropriate countermeasures. For example, Operation Enduring Freedom (OEF) was launched four weeks after the terrorist attacks of September 11, 2001. The operation later included a maritime component, responsible for the security of sea routes. Germany participated in conducting surveillance in the area around the Horn of Africa, to prevent the trade and transport of drugs, weapons and ammunition. The last mandate expired on 15 December 2010. The German government announced in June 2010 that they would withdraw the military from international counterterrorism deployment. The Minister of Defense at the time, Karl-Theodor zu Guttenberg, justified the decision declaring that it was "due to the low terror threat in the area of sea around the Horn of Africa" (Tagesspiegel, June 23rd, 2010). The German Navy participates in the European Union Naval Forces (EUNAVFOR) Atalanta, initiated in December 2008; its tasks are the protection of vessels of the World Food Programme (WFP), the protection of vulnerable vessels, the deterrence, prevention and repression of acts of piracy and armed robbery, and the monitoring of fishing activities (Reininghaus 2011). The German Navy also participates in the United Nations Interim Force in Lebanon-Operation (UNIFIL) to prevent the smuggling of weapons to Lebanon via seaways. Germany's involvement in the 'fight against terror' lies in the deployment of forces in the Mediterranean Sea led by NATO forces in "Operation Active Endeavour" (OAE) (cf. chapter 2).

With respect to terrorism, the last notable terror attack in the IOR was a July 2010 bomb detonation on the Japanese oil tanker 'M Star' in the Strait of Hormuz, causing only minor damage to the ship. The perpetrators were the 'Abdullah Azzam Brigades', an affiliate of Al-Qaeda (Winter 2011, 890-891). However, due to the attack, the German BKA stated in its report on Sea Security in 2010, that potential targets for maritime terrorism were the Suez Canal, the Red Sea and the Gulf of Aden and mentioned the Arabian Peninsula in the 2011 report (BKA 2011, 5-9). Germany lies in the focus of terrorist groups due to its latest engagement in Afghanistan; German merchant shipping is, thus, under threat, as are cruise ships and port facilities. But since then, there have been no indications of any concrete planned terrorist attempts in the maritime domain (BKA 2011, 5-9). **Table 28** gives an overview of terror attacks in the IOR in 2000-2010 and illustrates that this threat played a role in the recent past and continues to be a risk.

Table 28. Attacks by perpetrators in the IOR in 2000-2010 (author's table)

Perpetrator	Country	International Target	Number of Attacks
Abu Sayyaf Group (ASG)	Malaysia [(2), 2005, 2010]	50%	2
Al Qaeda	Yemen [(2), 2000, 2002], Jordan [(1), 2005], Somalia [(1), 2007], Oman [(2), 2010]	100%	6
Al-Shabaab	Somalia [(7), 2007, 4x2009, 2x2010]	29%	7
CPI-Maoist	India [(1), 2010]	50%	1
Free Aceh Movement (GAM)	Indonesia [(6), 2000, 2001, 2002, 3x2005], Singapore & Malaysia [(1), 2003]	29%	7
Free Papua Movement	Indonesia [(1), 2009]	0%	1
Hezbollah	Israel [(1), 2003]	100%	1
Islamic Courts Union	Somalia [(1), 2008]	100%	1
Islamic Jihad	Israel [(1), 2002]	0%	1
Jama'at al-Tawhid	Iraq [(2), 2004]	100%	2
Liberation Tigers of Tamil Eelam (LTTE)	Sri Lanka [(17), 4x2000, 2x2001, 2x2003, 2005, 2x2006, 2x2007, 2x2008, 2x2009]	24%	17
Unknown	Bangladesh [(2), 2000], Indonesia [(2), 2002, 2004], Iraq [(1), 2005], Somalia [(5), 2006, 2x2009, 2x2010], Thailand [(2), 2006, 2007], Australia [(1), 2009], Pakistan [(1), 2010]	-	14
TOTAL			60

Source: generated by the author using the pirate database, see Schneider (2011a).

According to International Maritime Bureau (IMB) data, while the number of world-wide attacks by pirates has increased continually in the last few years, pirates have become less successful in hijacking ships, relative to previous years. In the following, there was an initial decline of pirate attacks in 2011 with further drops occurring in 2012 and 2013. Nevertheless, piracy has also increased economic damage by raising ransom demands for fewer ships. Finally, the use of force by pirates has shown a tendency to increase (Joint Research Project PiraT 2011 and International Chamber of Commerce 2012, 2013).

German-owned ships are often affected by piracy. According to IMB reports in 2011, the Federal German Police stated, "there were a total of 439 cases of piracy against ships. German companies and Singaporean companies are disproportionally more affected by pirate raids than companies from other nations, having faced 64 (14.5%) and 65 incidents (14.8%) respectively.

With a share of only 7% of world trade, German shipping companies are significantly overrepresented" (BPOL See 2012, 20, author's translation).

However, data from the Piracy Prevention Centre shows a different result when comparing the numbers in relation to the number of passages: The Federal German Police (BPOL See 2012) keep records in the Piracy Prevention Centre of all pirate incidents in high risk areas which, in 2011, encompassed the Gulf of Aden, the Red Sea, the Arabian Sea and the Indian Ocean, as far as the Indian coast and the Mozambique Channel. Sources in the Federal German Police reveal a slightly different result on how affected German ships are relative to the number of ships that pass through the area[122]: 16% of the incidents involving pirate attacks had a German connection and German ships total about 15% of all ship passages in this high risk area (Interview BPOL See 2012), indicating a consistency between the number of German ships affected by pirate attacks and their traffic volumes in that area. Contrary to the claim above, Germany would not, therefore, be disproportionally more affected. This argument is supported by the fact that there is hardly any evidence that ships with a German connection are systematically targeted. However, due to the number of shipping passages they are indeed one of the three nations most affected by piracy (ICC 2015: 16).

A piracy attack is registered in an existing alarm system and the structures of the Federal Crisis Response Task Force, working under the Foreign Ministry, are activated. This occurs whenever German interests are affected (dubbed above as a "German connection"), for example, when:
a) A German-flagged ship is involved
b) German nationals are on board
c) The ship is owned by a German natural or legal person.

Table 29 shows the number of German ships hijacked by pirates in the IOR and West Africa. As only three of them actually flew a German flag, it might have made it more difficult for ship owners to lobby for state-employed vessel protection teams as they are only responsible for ships flying the national flag. The fact that 13 of the 28 hijackings were resolved in less than a week (46%) and the remaining 15 lasted longer serves as an explanation for why public pressure on state authorities was not as extensive as in other cases (e.g. in Spain). The German Ship Owners Association (Verband Deutscher Reeder, VDR) also noticed that public awareness was much higher when oil or gas tankers were involved, as these cases immediately stimulated the debate on rising energy costs. This occurred in only 2 of the 28 cases (7%), none of which flew the German flag.

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[122]   The high risk area was extended, rendering the data from 2011 incomparable to 2010. The Federal German Police gathers information e.g. through radio communications from naval units. Whereas accurate and concrete information is available for German-flagged ships, other numbers have to be estimated with the help of other indicators.

Table 29. Piracy incidents involving German vessels in the Indian Ocean Region and West Africa

a) Indian Ocean Region

Name of vessel	Duration	Location	German connection	Ransom
Amiya Scan Dry Bulk Carrier	24 May – 25 June 2008 (33 days)	Gulf of Aden	German owner	unknown
Lehmann Timber Cargo ship	28 May – 8 July 2008 (41 days)	on the way from the Indian Ocean to Suez Canal	German flag	US$0.75m
BBC Trinidad Freighter	21 August – 11 September 2008 (21 days)	Indian Ocean off the coast of Somalia	German owner	US$1.1m
Longchamp Gas tanker	29 January – 29 March 2009 (60 days)	Gulf of Aden	German owner	unknown
Hansa Stavanger Container ship	4 April – 3 August 2009 (122 days)	400 M off the coast of Somalia	German owner	US$2m
Patriot Freighter	25 April – 19 May 2009 (25 days)	Gulf of Aden	German owner	unknown
Victoria Freighter	5 May – 19 July 2009 (76 days)	on the way to Jeddah/Saudi Arabia	German owner	unknown
Taipan Container ship	5 April – 5 April 2010 (1 day)	500 M east of Somalia	German flag	no ransom
Marida Marguerite Chemical tanker	8 May – 27 December 2010 (234 days)	Indian Ocean off the coast of Somalia	German owner	US$5.5m
Magellan Star Container ship	8 September – 9 September 2010 (2 days)	on the way from Bilbao to Singapore	German owner	no ransom
Beluga Fortune Liquefied gas tanker	24 October – 25 October 2010 (2 days)	1200 M from the Kenyan port city of Mombasa	German crew	no ransom
MCL Bremen Multipurpose cargo ship	27 November – 28 November 2010 (2 days)	1000 M from the Horn of Africa	German owner and German crew	no ransom
Ems River Cargo ship	27 December 2010 - 1 March 2011 (65 days)	280 km northeast of the port city Salala in the Arabian Sea	German owner	unknown

Beluga Nomination Multipurpose heavy lift project carrier	22 January – 13 April 2011 (82 days)	361 M north of the Seychelles in the Indian Ocean	German owner	US$5m
Susan K Cargo ship	8 April - 16 June 2011 (70 days)	in the Arabian Sea 40 M south of the coast of Oman	German owner	US$5.7
Tanker "York"	23 October 2010 - 09 March 2011	East Africa	German master	N/A
CPO China	03 January 2011 - 04 January 2011 (1 day)	Gulf of Aden	N/A	N/A
New York Star	28 January 2011 - 29 January 2011 (1 day)	Arabian Sea	N/A	N/A

b) West Africa

Name of vessel	Duration	Location	German connection	Ransom
BBC Polonia Freighter	2 July – 4 July 2010 (two days)	Gulf of Guinea offshore Nigeria	German flag	N/A
LMT Paterna tanker	24 June 2011(18 hours)	Gulf of Guinea off the coast of Cotonou/Benin	German owner	no ransom
MHL Cape Bird Chemical tanker	8 October 2011 (1 day)	Gulf of Guinea off the coast of Lagos/Nigeria	German owner	no ransom
LBR Vera D Freighter	23 October 2011 (1 day)	Gulf of Guinea off the coast of Lagos/Nigeria	German owner	no ransom
Oil tanker	4 October – 5 October 2012 (1 day)	Gulf of Guinea off the coast of Togo	German owner	no ransom

Hansa Marburg Freighter	22 April – 23 May 2013 (31 days)	Gulf of Guinea off the coast of Equatorial Guinea	German owner	N/A
City of Xiamen container ship	26 April – 11 May 2013 (16 days)	Gulf of Guinea off the coast of Nigeria	German owner	N/A
Chemtrans Elbe	25 June 2012 - 27 June 2012 (2 days)	Roughly 100 km southeast of Laos	German Owner	No ransom
Tanker "Wappen von Hamburg"	04 October 2012 - 05 October 2012 (1 day)	Roughly 147 km south of Lome / Togo	German Owner	Pirates left the ship autonomously
SP Brussels	17 December 2012 - 24 January 2013 (39 days)	Southwest of Port Harcourt / Nigeria	German Owner	N/A

Source: Own tables based on: BKA (2008, 2009, 2010, 2011), BPOL See (2010, 2011a, 2011b, ...) and press reviews: stern.de (18 July 2009, 25 October 2010), FAZ (9 July 2008, 24 October 2010), derstandard.at (5 October 2012), spiegel.de (12 June 2009, 29 January 2011, 17 June 2011), t.online.de (25 November 2009), verkehrsrund-schau.de (14 May 2013, 27 May 2013, and wikipedia.org (List of ships attacked by Somali pirates 2008, 2009, 2010, 2011); T-Online (19 July 2009); Merkur-Online (19 May 2009); Bundespolizei See E-Mail (28 April 2014); last updated: 28 April 2014.

Table 30. Number of piracy incidents with German reference

Year	Horn of Africa	Gulf of Guinea
2008	41	
2009	64	
2010	45	-
2011	67	-
2012	47	-
2013	8	10
2014	8	

Source: Own table based on Bundespolizei See. See E-Mail (28 April 2014);
          Last updated: 28 April 2014.

It is unknown how many ships employ private security companies (PSCs) on board, since there is no obligation to report; hence information only exists when incidents are reported.

According to the Piracy Prevention Centre, 42% of the ships attacked in high risk areas in 2011 had private security personnel. There is an even higher rate of aggression against German-affiliated ships, as 53% of attacks were directed at them. By comparison to 2010, when only 8% of the attacked ships employed private security personnel, this shows a sharp increase. These numbers may be misleading because private security personnel are believed to be deployed only on ships facing a high risk (e.g. slow ships with a low freeboard) according to the Best Management Practice (BMP4) Handbook (interview BPOL 2012).

According to the Piracy Prevention Centre, in the aforementioned cases of 2011, only one German-flagged ship had a private military security company (PMSC) on board. This is due to the complicated treatment of German-flagged ships – coastal states want flag-state certification, indicating that the deployed PMSC is certified. Such certification from German authorities has not yet been issued. On German flagged vessels, the use of PMSCs is not prohibited, but neither is their use actively supported. (It is a similar case in Greece, but contrary to e.g. the Netherlands.) The new German procedures of certification and regulation of PMSCs (as thoroughly explained in the next chapter XII) were modelled on IMO recommendations (interview BPOL 2012). The fact that it was already not unlawful before to hire PMSCs on German-flagged vessels seems to be less a problem of international and domestic law than one of communication between the authorities and the practitioners.

The federal government has stated that complete protection for all German ships by soldiers or policemen is logistically, financially and operatively impossible (BReg 2011, 9). It is also unconstitutional: the police can only be deployed for internal affairs and the military is not allowed to protect civilian vessels. Moreover, the change in thinking about the certification of PMSCs could be a consequence of ship owners' registering under different flags. The fact that it is not illegal to hire PMSCs seems contradictory in this respect. It may well be that, in order to avoid potential legal problems caused by the uncertainty of a perceived grey area, while at the same time being able to hire PMSCs without legal concerns, ship owners still opt to register under foreign flags. This happens even though they would prefer that either police or naval personnel be employed to protect their ships. In this respect, it is important to consider that of the 3,654 merchant vessels currently registered in Germany, only 495 fly the German flag (BSH 2012). The discrepancy is not due only to potentially difficult PSC regulations, but the perceived legal grey area of PMSC in Germany is also relevant to ship owners.[123] Germany desires that ships fly the German flag for a number of reasons, e.g. the increased visibility of the flag-state when sailing in international waters and commensurate influence in IMO deliberations. This would also give Germany greater control of ship-safety and environmental standards. Although ship owners dispute the last point by claiming that these are sufficiently ensured by international standards, flying the German flag gives their customers the impression that they deliver better quality of service (interview, VDR 2012).

Private security companies are proud that no ship under their protection has ever been successfully hijacked, that crews will not travel in high risk areas without protection and that insurance companies will reduce premiums when PMSCs are employed. A faster passage through high risk zones leads to higher fuel costs, which, according to PMSCs, make their deployment more attractive. According to the IMO, however, the use of PMSCs does not replace the need to implement its Best Management Practices. Vulnerable ships are, therefore,

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[123] A further reason for changing flag is due to the comparatively high social insurance costs involved, even though this aspect has continously been denied by German shipping companies.

increasingly employing PMSCs for self-protection. For now, British and U.S. firms dominate the market, but German firms are discovering a market focus for their services especially for German customers.

There is an ever-present fear of a 'black sheep' in the industry, because the responsibility for all actions taken onboard a ship rests on its master. According to König / Salomon (2011), captains fear criminal charges and responsibility if PMSCs use excessive force and/or cause injury to innocent people (fishermen) as was most recently the case on the Italian "Enrica Lexie" by navy personnel: "her armed security guard fired at a fishing boat believing that they were being approached by pirates" (Navaltoday 2012).

There had been some hesitation on how to regulate PMSCs while it was unclear whether sovereign powers would protect vulnerable vessels by providing escort teams. The idea of using state forces was eventually dismissed due to capacity limitations. Targeted procedures imply official approval of (German and foreign) companies under specified standards. This approach is also supported by the security sector as this may increase the confidence of potential customers in the capabilities and reliability of PMSCs. PMSCs are suspected of pursuing their business interests instead of trying to make a sustainable contribution to solving the problem. It is, thus, of utmost importance to identify serious and competent service providers and to establish effective control mechanisms.

Piracy will likely remain a volatile issue for maritime trade in the coming years. However, terrorist activities in the maritime arena continue to be rare (for detailed empirical analysis see Schneider 2011a). This view was also reflected in a survey taken by German shipping and insurance companies. But insurers perceive the risk of terrorism to be greater than what is perceived by ship owners. This could be explained by the fact that even individual terrorist attacks could lead to catastrophic consequences (Engerer/Gössler 2011a, 11; 2011b, 13-14; Verbundprojekt PiraT 2011). The potential vulnerability of shipping and dependence on trade flows therefore still demand a thorough analysis of potential risks.

Moreover, there is little experience with maritime terrorism in Germany. Only two incidents have been registered in this country: the 1972 bombing of a British yacht club in Berlin, in light of Bloody Sunday in Derry/Londonderry, Northern Ireland, by the "Movement 2 June" and the 1995 "Rote Zora" bombing of a shipyard (Lürssen-Werft), which inter alia, produced naval vessels. This shipyard was connected with deliveries to Turkey's armed forces in light of their fight against the Kurds. Both incidents represent actions of national radical left-wing organizations (see PiraT-database ID 15 und 258). Both groups are inactive today.

There were preliminary plans in 2002 to attack the port in Duisburg (Duisport). A member of Al-Qaeda was accused of planning an attack with a remote controlled boat laden with explosives. The attack plan was, however, aborted in autumn 2002. In 2008, he was sentenced to 8 years for planning this attack and another one in France. Duisport is the most important inland port for Germany and handles maritime trade. It also falls under ISPS-regulations. One of the consequences was the implementation of a new port security law for Germany in 2005 which was extended in 2007 (see Jacobshagen/Solterbeck 2011) to inland port authorities that deal with maritime merchant ships (DerWesten 2008a / 2008b). The port operator noted that: "terrorist attempts have in the past led to the enacting of stricter guidelines in the fields of assurance and control activities. Consequences of this are possible delays in execution and a marked increase in costs, which endanger the efficiency of logistical processes" (Duisport: 24).

Nonetheless, greater vigilance is needed although, thus far, no large-scale terrorist attack employing ships or containers has taken place. Nevertheless, the risk faced by shipping and its

traffic infrastructure is perceived as real and menacing (Hess 2011, 84). For the reasons stated above, measures for port and maritime security should continue be pursued at current levels of attentiveness and be embedded in the overall fight against terrorism and other criminal networks. Central to this are police-intelligence investigations, training and safety measures together with the involvement of all relevant ministries, administrative bodies and, especially, the private actors affected. Ultimately, the link back to social discourse should always be sought. Political (in-) action together with measures for risk-containment and the required resources must also be allocated in proportion to other dangers and be critically scrutinized for their effectiveness. The issues of political priority must, in turn, be regularly adapted to changing trends and to the needs of those concerned.

The differing natures of piracy and maritime terrorism, as well as the divergent motives of the perpetrators, make further investigation necessary. The effectiveness of any security governance measures, especially those with long-term minimization of risks, should be taken into account.

4   Mix of Involved Actors in German Security Governance

Which key players (ministries, administrative bodies and associations) are involved in maritime security governance and what is their relation to one another?

It has been difficult to distinguish between the roles of safety and security, as only one word, 'Sicherheit', exists in German for both concepts. Because there are numerous institutions involved, it was decided that the focus would be toward authorities that have core tasks related to security. Hence, only the security-related tasks of ministries and administrative bodies will be mentioned. Nevertheless, it is obvious that if a terrorist attack were to happen and a vessel or port were damaged, the same institutions which deal with regular accidents would play a role.

Although the focus of this book is maritime terrorism, actors involved in anti-piracy measures are used as well, to illustrate the handling of maritime security in general. This is inevitable because most often neither one of these phenomena are excluded from the duties of authorities. This is because they use comprehensive terms to describe their tasks.

The following table taken from a European Commission (2007, 16-17) report lists the organization of German offshore activities including 'maritime safety', 'vessel traffic management', 'accident and disaster response' and 'search and rescue'. These fields are to be excluded from the analysis for practical reasons. One could also argue that 'fisheries control' is a security issue as securing food can be vital and wars have been fought over fishing grounds. However, as this study focuses on political violence, it was decided not to go into detail about this special area. Therefore, only the categories 'maritime security', 'border patrol' and 'customs' (important for container/proliferation security) will be included. It is interesting to note that the table for Germany was the only one in the document that took up two full pages (in the original format) whereas the structures for all other participating countries could be described in between a half to one full page. **Table 31** will provide an overview of German offshore activities.

Table 31. Organization of German offshore activities

Customs	Federal Ministry of Finance
	Federal Customs Administration
	Marine Customs Service
Border control	Federal Ministry of the Interior
	Federal Police
Pollution response	Within territorial waters and shore areas: Ministries of Environment of the Coastal States
	Outside territorial waters: Federal Ministry of Transport, Building and Urban Development
	Federal Waterways and Shipping Administration and CCME
	Environmental Authorities of the Coastal States
Fisheries control	Federal Ministry of Food, Agriculture and Consumer Protection
	Federal Agency for Agriculture and Food
	Fishery Control
Maritime safety	Federal Ministry of Transport, Building and Urban Development
	Waterways and Shipping Administration, but also: Federal Maritime and Hydrographic Agency
	See-Berufsgenossenschaft/BG-Verkehr
Maritime security	Federal Ministry of the Interior
	Coastal States
	Federal Ministry of Transport, Building and Urban Development
	Federal Ministry of Defense*
	Point of Contact
	Federal Police
	Water Police
	Federal Maritime and Hydrographic Agency; German Navy*
Vessel traffic management	Federal Ministry of Transport, Building and Urban Development
	Federal Waterways and Shipping Administration
	Vessel Traffic Services
Accident and disaster response	Federal Ministry of Transport, Building and Urban Development; Coastal States
	Central Command for Maritime Emergencies – CCME (Joint Organization)
	Joint Emergency Reporting and Assessment Centre
Search and rescue	Federal Ministry of Transport, Building and Urban Development, but also: Ministry of Defense*
	German National Lifeboat Association but also: German Navy*
	Maritime Rescue Coordination Centre; helicopters by German Navy and Federal Police
Law enforcement	by each responsible ministry
	by each responsible authority, mainly Federal Waterways and Shipping Administration; by each responsible body

Network German Coast Guard:	The command centers of the Federation and the Coastal States including the Maritime Emergencies Reporting and Assessment Centre are operating together in the *Joint Emergency Reporting and Assessment Centre under the roof of the German Safety and Security Centre* in Cuxhaven. Each agency retains the same responsibility in terms of geographical area and tasks as before, but information exchange, co-operation, co-ordination of operational means and support are optimized (...). In case of emergency situations, the relevant authority will lead operations.
*Role of the **German Armed Forces:**	The German Armed Forces have the task to provide national security and defense against any threat from outside enemies. In accordance with a recent Supreme Court ruling concerning the Aviation Security Act, protection against imminent *terrorist* attacks may be considered as grave threats to security and the Armed Forces may act to prevent such threats in accordance with the German Constitution (Art. 35). In particular it is the task of the German Armed Forces to monitor all German Air and Water Space and to support other agencies in exercising sovereign rights. Rescue operations, evacuation operations and surveillance missions are also within the scope of tasks of the German Armed Forces.

Source: European Commission (2007, 16-17).

The Federal Republic of Germany is divided into 16 federal states (*Länder*, singular *Land*), with a clear delineation of powers between the Federal and *Länder* governments. The Federal-*Länder* structure is also evident in the security domain and it is not different from other similarly structured domains. Maritime security tasks are, accordingly, carried out by the *Länder*'s Interior Ministers' Conference (IMK 2009).

The responsibilities of the Federation and the *Länder* in the field of maritime defense are intricately defined by the German Constitution (*Grundgesetz*). The Federal Government has assigned enforcement tasks to a multitude of *authorities*. The preservation of maritime security is, thus, according to Hess (2011, 90-91) not effectively and efficiently pursued due to this complicated division of competencies.

On a strategic and operative level, terrorist threats in the maritime area are treated like those on land. Dealing with these threats falls within the remit of the *Länder* as well as to the Federal Police (Bundespolizei, BPOL). The *Länder* Niedersachsen, Bremen, Schleswig-Holstein, Hamburg and Mecklenburg-Vorpommern employ water police services (Wasserschutzpolizeien, WSP) in coastal waters (cf. Hess 2011, 91).

The federal structure determines the responsibilities for coastal areas and the open ocean. They are divided between the *Länder* and federal police forces, following a territorial principle: the *Länder* are responsible for the area 12 nautical miles off the coast, while the Federal German Police (Bundespolizei See, BPOL See), excluding border protection, are responsible for the waters beyond that zone. The coastal *Länder*'s division of responsibility for executing policing in the 12 nm of coastal waters lies with each *Land's* WSP. In sum, the Länder's Police have 'almost' few responsibilities left. They have been divided up at the Federal level using key points that were devised at a Länder–Interior Minister's Conference. Currently, the main responsibilities for maritime security are confined to the German Navy, Federal Criminal Police Office and Federal German Police. These three institutions do cooperate with one another.

Police leadership, at the *Länder* and federal levels, has committed itself to managing maritime threats and major incidents, including but not limited to, situations such as hostage taking, acts of piracy and terrorism, occurring possibly on the coast or out at sea. The response capacities of the police are limited because they lack the resources required to effectively prevent a

large ship from continuing its journey. In order to guarantee maritime security, according to Hess (2011, 93), each analysis oriented towards the asymmetrical threat of international terrorism must conclude that policing services must be allocated the required resources.

In the cases in which hostages are taken, responsibility rests with the respective criminal offices of the *Länder* and the water police services, should an incident occur on German waters. They also enforce port state controls[124] in cooperation with port authorities and the professional organization of transport and traffic economy (Berufsgenossenschaft für Transport und Verkehrswirtschaft, BG Verkehr). In foreign territorial waters or on the high seas, the responsibility lies with the Federal Police (Bundespolizei) (Interview and e-mail BPOL See 2012). The sharing of responsibilities by the coastal *Länder* for the 12-nm coastal waters has hitherto not been challenged by incidents of politically motivated violence (interview WSP 2012).

In 2007, the coastal *Länder,* along with the federal government, established a Maritime Safety and Security Centre (Maritimes Sicherheitszentrum, MSZ) in Cuxhaven with the Joint Emergency and Reporting Assessment Centre (Gemeinsames Lagezentrum See, GLZ See) constituting its operational core in order to improve cooperation in securing the German coast, including the main shipping lanes of all German commercial ports. The Waterways Police of the coastal *Länder* are brought together in the MSZ along with all other relevant federal administrative bodies active at sea, such as the Federal Police, Customs and Federal Waterways and Shipping Administration (WSV), while maintaining each one's separate legal responsibilities and status (IMK 2009, 49). Synergy should, thereby, be utilized without having to change the federalist make-up. The MSZ was founded due to perceived threats following 9/11 and primarily serves as a forum for information exchange. It was created with the intention of integrating different responsibilities in a single institution. The German Armed Forces (Bundeswehr) were represented within the MSZ by a naval representative acting until 2012 only in an advisory capacity.

In safety and security related emergency situations, including incidents of piracy and maritime terrorism, German-flagged ships located beyond German territorial waters could get in touch with the 'Point of Contact' at the MSZ in Cuxhaven.

This changed in December 2012 for cases of piracy: those are taken by the newly established permanent maritime service of the piracy prevention center of the Federal Police (cf. Bundespolizeidirektion Bad Bramstedt 2012).

For ships of all flags, the MSZ is also the central contact point within German waters. The MSZ obtains data for all ships entering German ports because these are obliged to pass on information about previously entered ports and cargo. The Point of Contact (PoC) facilitates communication between ships and security authorities, especially with the GLZ See. There, radar data and ship movements are tracked and, if needed, contact is made. Queries to the PoC and incident reports are passed on to the responsible federal authorities and those of the *Länder* as well as period- or event-related overviews of the situation. Each of the *Länder* hands the MSZ a list containing contact details of contact persons and a listing of domestic ports entered by ships. The PoC can only be utilized for security relevant incidents, such as abductions or bomb attacks and not for accidents. Once the MSZ has been alerted, secret communication

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[124]   Port state controls are controls of foreign-flagged ships without previous registration, e.g. for monitoring technical conditions with the possibility of decreeing a port ban or rewarding ships with fewer controls.

channels are immediately activated to assess whether the alert in question is genuine or not (Interview MSZ 2012).

German ship owners are also able to consult the Bundespolizei's Piracy Prevention Centre in Neustadt/Holstein for their crew training on how to react to piracy attacks (Joint Research Project PiraT 2011). In a comparative study with other coordinating authorities, Renner (2011, 295-296) concludes that the establishment of the MSZ, irrespective of the hesitant establishment of the necessary physical and technical infrastructure, contributed to the effectiveness of security proceedings with a maritime connection. General expansions for the facilities and participation in the EU Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE) were planned by 2014 (BMVBS 2012). This is due to a drive to coordinate civilian and military capabilities of the EU and its Member States. The objective of CISE is to create a situational awareness of activities at sea that impact maritime safety and security (Ehrhart/Petretto 2012, 11). Thiele (2011, 19) points out that there are several governmental, business and military organizations that collect information, but those sets of information are not integrated to offer a shared situational awareness about maritime security.

The Federal Ministry of Defense (Bundesministerium der Verteidigung, BMVg) deploys the German Navy in the framework of mandated operations. At present, the protection of merchant ships by the German Navy only takes place in conjunction with international maritime security missions, such as Operation Atalanta. German forces have, until now, been active in the eastern Mediterranean and in the seas around the Horn of Africa, collecting surveillance and securing operations of other forces (Hess 2011, 88-89). The Navy may indeed perform administrative assistance in cases of major incidents in the maritime environment, but cannot conduct active defense measures in German territorial waters. This can only occur in declared cases of self-defense, severe crises or mutual defense. The German Navy participates in UNIFIL to prevent trafficking of arms into Lebanon via seaways. Germany supports the "fight against terror" by participating in the NATO Operation Active Endeavour (OAE) in the Mediterranean Sea. In German waters, the navy may help in serious incidents. Under normal circumstances, however, it does not usually have a mandate to take active protective measures. Exceptions are possible in, for instance, cases of self-defense or grave crisis situations (In this context, Table 15 indicates especially terrorism).[125]

The Federal Ministry of Interior (Bundesministerium des Inneren, BMI) is responsible for all policing measures. Similarly, the BMI (with its Department of Public Security, Maritime Security Branch/Abteilung Öffentliche Sicherheit, Referat Seesicherheit) is tasked with defining SOLAS[126] (International Convention for the Safety of Life at Sea) security levels and the

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[125] "The German Armed Forces have the task of providing national security and defense against any threat from outside enemies. In accordance with a recent Supreme Court ruling concerning the Aviation Security Act, imminent terrorist attacks may be considered as grave threats to security and the Armed Forces may now act to prevent such attacks in accordance with the German Constitution (Art. 35). In particular, it is the task of the German Armed Forces to monitor all German air and water space and to support other agencies in exercising sovereign rights. Rescue operations, evacuation operations and surveillance missions may also be carried out by the German Armed Forces" (European Commission (2007, 17). However, the employment and jurisdiction of the German Navy to protect merchant ships remains debatable and 'raises fundamental questions relating to [German] constitutional law' (Wahlen 2012: 34; translated by the author). Similarly, while König notes that, theoretically, any navy can be deployed for protection purposes to stop any given ship suspected of piracy (König 2010, 224-225), she also points to 'disputed issues of [German] constitutional law' (König 2010, 231, translated by the author).

[126] Though it has to be noted that responsibilities within SOLAS XI/2 are split, as the convention differentiates between ship security and port security. For ship security, the flag state government is responsible. Thus for defining the ship

designation of the covered areas. This is done in consultation with the Federal Ministry of Transport, Building and Urban Development (Bundesministerium für Verkehr, Bau und Stadtentwicklung, BMVBS). The BMVBS is tasked with overseeing the passive protection (self-protection) of merchant vessels, defining emergency response plans for ships and ensuring adherence to safety regulations (BReg 2011, 15). The subordinate authority that publishes security levels and hazard notices is the Federal Maritime and Hydrographic Agency (Bundesamt für Seeschifffahrt und Hydrographie, BSH).

Differentiating levels of danger according to the ISPS Code and 2005/65/EG:
"Danger level 1" indicates the maintaining of a minimum of accurate protective measures at any time;
"Danger level 2" means maintaining additional accurate protective measures for a certain period of time due to a raised risks of a security relevant event;
"Danger level 3" indicates that further special protective measures need to maintained for a limited period of time. This level applies if a security relevant event is likely or close at hand, even if the exact aim is not known (EU Parliament and Council 2005, Art. 8, para. 2).

The security levels for the big German ports have not yet been raised as such a raise might lead to grave disturbances of maritime traffic and sea trade. Therefore, such a decision should not be taken lightly. If, however, concrete hints of an imminent attack were apparent, an immediate tightening of security levels would – evidently – be very likely (Interview BKA 2012 / Interview WSP 2012).

The Federal Ministry of Economics and Technology (BMWi) plays a special role in this context. The senior state official charged with such tasks used to be Hans-Joachim Otto of the FDP in his capacity as "Coordinator of the Federal Government for the Maritime Economy", or "Maritime Coordinator" for short (since December 2013 this post has been held by Uwe Beckmeyer of the SPD). He and his colleagues cooperate with other federal authorities and those of the *Länder* (cf. BMWi 2011, 1). Also falling within his remit is the organizing of the National Maritime Conference. Furthermore, he has committed to the drafting of a licensing procedure for private security companies at sea. According to the bill for the "Implementing of a licensing procedure for security companies at sea", which was passed by the Bundestag in December 2012, the Federal Office of Economics and Export Control (BAFA) is responsible for the licensing as such, supported by the Federal Police (cf. Bundestag 2012a; 2012b, compare with next chapter).

Next to state ministries and authorities, private and economic actors also play a role in the actor network. They represent their interests as experts by lobbying. For instance, the VDR advocates for its interests, nationally and internationally, e.g. to ensure debating about maritime security and that concrete topics are accurately and practically applied. In the context of cooperation between state and private actors, ship owners, for instance, consent to their ships being used by the police or navy for drill exercises (Interview VDR 2012).

security levels of all ships flying the German flag, the BMI, Referat Seesicherheit, is responsible. The responsibility for publication lies with the Federal Maritime and Hydrography Agency (BSH). For port security, the port state government is in charge of setting the security level for all territorial port facilities. This responsibility was referred to the German Länder, thus Germany has decentralized the responsibility and, currently, seven Länder have the responsibility for setting security levels and publishing these for their territorial port facilities (IMO 2011).

There are only very few German security providers, such as the Result Group or Condor Sicherheit which specialize in ship protection at sea. Until now, they have been deployed on land to protect important infrastructure and ports. Beyond that, the support of sea and port authorities while applying the ISPS regulation could be an interesting area for PMSCs and would offer them the opportunity to expand their fields of activity (Interview BDSW 2012). Recently, a growing cooperation between state authorities and private security companies has been observed (cf. Stober 2010, 2011).

Protection of especially endangered trade ships is, according to BMP, generally considered necessary today. Although those questioned would prefer state protection, at least for German-flagged ships, questionnaires among insurance companies and ship owners, show that a vast number of ship owners deploy PMSCs on their ships (cf. Verbundprojekt PiraT 2011). After having ignored this issue for a long time, the German government is now participating in multilateral navy operations, but does not provide escort teams for German merchant ships. Instead, ship owners should take responsibility for the safety of their own ships themselves, e.g. by deploying PMSCs. In the questionnaire, ship owners emphasized their uncertainty about assessing and dealing with PMSCs. This is, to a great extent, due to the fact that German law has prohibited or did not explicitly permit hiring PMSCs (cf. König / Salomon 2011). Now, this is newly regulated by the previously described licensing procedure. The PMSCs hired can be deployed for protection against any kind of maritime violence as well as political maritime violence, e.g. on cruise ships. The BMP have been enacted to protect against piracy but could potentially be implemented against terrorism as well, so long as it is complemented by specific measures.

The deployment of PMSCs also plays a big role in port security. PMSCs can assume a range of measures which can be expanded as desired, e.g. securing objects or personal protection for VIPs. The city of Hamburg has also carried out the first port controls in Europe (Interview BDSW, 13 March 2012). Securitas offers, for instance, alert management, access surveillance and also operates an "in-house security" service. However, such personnel are salaried and therefore frequently more expensive than externally hired security companies.

In the context of coastal and port protection, there are numerous authority cooperations and associations of Federal institutions and those of the *Länder*, which are described in the following.

The inter-ministerial Working Group for Maritime Security (Arbeitskreis Maritime Sicherheit, AK MarSi) was established due to the risk of losing sight of the many overlapping initiatives and forums that, on a national and, above all, international level, occupied themselves with maritime surveillance or coast guard functions. In addition, this hampered the ability of representatives of the Federal Government to speak with one voice (email BMVBS 22 March 2012). At its inauguration, the AK MarSi was briefly outlined in the following terms: "it will be a working group for 'maritime security' that will regularly meet to share information" (BMVBS 2006). The AK MarSi involves all departments concerned with coast guard duties, including the BMVg, in order to agree on and represent consistent German positions in EU-wide and other initiatives and in projects developed for maritime surveillance (email BMVBS 22 March 2012).

Representatives and executives include a dozen people from five ministries (two from the BMVBS and BMF, one from the BMI, BMELV (Federal Ministry of Food, Agriculture and Consumer Protection/ Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz) and BMVg and a representative from each of the five coastal *Länder*. They

are charged with coordinating the task in hand. It is eye-opening that this same circle represents the steering group for the MSZ. The AK MarSi is, therefore, a pragmatic Federal-*Länder* Working Group, which concerns itself with maritime matters that must be regulated, regardless of whether they fall under the scope of 'safety' or 'security'. This also applies to the agreement concerning the external representation of the Federal Republic of Germany in expert committees (email BMVg 1 March 2012), which runs as follows: "The working group does not generally engage with themes of organized crime, piracy and terrorism" (email BMVg, 16 March 2012). The working circle focuses almost exclusively on German territorial waters and Germany's Exclusive Economic Zone (email BMVg, 16 March 2012).[127]

Piracy is handled by the coordinator as a by-product, especially with respect to the certification of PSCs. The related economic aspects have only a secondary role for the AK MarSi. Here, it is almost solely fixated on German territorial waters and the Exclusive Economic Zone (EEZ). For piracy, there are always further, non-institutionalized, departmental reviews, in which not the *Länder* but the BMWi and the Federal Foreign Office (Auswärtiges Amt, AA) are represented. Again, the BMVBS takes on an executive role (email BMVg 2012).

As mentioned above, the BMI is responsible for all policing matters with the help of its administrative bodies. For example, the maritime branch of the BPOL handles cases of piracy, if there is German involvement, while the BKA handles hostage takings of German nationals outside territorial waters. Inside the 12nm zone, the *Länder* authorities are legally responsible, regardless of the nature of the situation (political, economic or otherwise). However, in hostage situations involving German citizens, the AA with its Crisis Response Centre (Krisenreaktionszentrum, KRZ) takes the leading role (email BKA 5 March 2012).

With respect to law enforcement, piracy cases are usually abandoned because perpetrators often cannot be investigated, as in cases of catch-and-release or no catch at all (interview WSP 12 March 2012). So far there is only one (still ongoing) court proceeding against ten Somali piracy suspects in Hamburg, Germany.

Aside from its responsibilities in piracy, the BKA also has a department which deals with determining risks related to politically motivated crime in the maritime area.

When it comes to hostage situations involving German nationals, cooperation with other authorities (Federal Intelligence Service/Bundesnachrichtendienst, BND, German Armed Forces/Bundeswehr) occurs within the framework of the KRZ. There can be case-based cooperation, inter alia, between intelligence and policing services albeit only if a concrete threat is perceived (email BKA 5 March 2012). The cooperation of police and intelligence services is coordinated by three centers: the Joint Terrorism Protection Center (Gemeinsames Terrorismusabwehrzentrum, GTAZ) is deployed against Islamist Terrorism; the deployment area of the Joint Protection Center against Right-wing Extremism (Gemeinsames Abwehrzentrum gegen Rechtsextremismus, GAR) is self-evident. The Joint Extremism and Terrorism Protection Center (Gemeinsames Extremismus- und Terrorismusabwehrzentrum, GETZ), founded in November 2012, serves as a communication platform between the authorities for information exchange, e.g. concerning issues such as left-wing extremism, proliferation and espionage (cf. Bundestag 2012c). However, the centers are not responsible for questions of maritime security. Therefore, they are only consulted on a case-by-case basis (email BKA 6 March 2012).

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[127]   A predecessor, with varied composition, among other things, with the involvement of the Foreign Office (Auswärtiges Amt, AA), got together to make agreements on the Proliferation Security Initiative.

The MSZ in Cuxhaven, mentioned above, is another example of cooperation. It was created in response to the threats following 9/11 and with the intention of integrating different responsibilities within a single institution. In 2005, the Federal Ministries involved (BMVBS, BMI, BMF, BMELV and BMUB) and the coastal *Länder* signed the agreement to create the MSZ. The agreement came into force in 2007 (cf. MSZ 2013).

According to the CDU/ CSU/ FDP coalition treaty of 2009, the authority structure should come under scrutiny and the establishment of a national coast guard should be considered. Yet this has not been pursued further. Legal obstacles might be a possible reason: Wahlen (2012) concludes in his study that a national coast guard, according to the-then regulations enshrined in constitutional law, would hardly be able to pursue its tasks effectively, because it would lack important competencies. This would seriously impede an effective performance (Wahlen 2012, 186). As a solution, legislative and executive Federal competencies must be expanded by those of the Länder to protect against dangers at sea (Wahlen 2012, 191-193).

The MSZ receives data from ships that they are obligated to report before entering ports. At its core is the GLZ See, which is comprised of the following institutions: (a) Central Command for Maritime Emergencies (Havariekommando), (b) Federal Police (Bundespolizei), (c) Customs, (d) Länder's WSP, (e) WSV, (f) Fisheries Protection, (g) Point of Contact (at WSV), (h) Liaisons officer (Federal Ministry of Defense). The MSZ mainly serves as a forum for information exchange. It offers all participants the same access to information and serves them to mutually support each other. This should lead to synergies without changing the federalist structure of competencies. Therefore, the MSZ may also be seen as an information collecting point, making a national coast guard redundant. The latter would not have the required flexibility and concentrated functional responsibility (Interview MSZ 16 March 2012).

The Coast Guard Working Group, under the aegis of the BMI, therefore declared in September 2011 that "shifts of competencies beyond that which has been achieved (mutual transfer of assignments while maintaining department responsibility) are not meaningful. On the contrary, this would entail the imminent danger of security standards having to be adjusted to meet the lowest common denominator, which would be quite unacceptable. In addition, it would entail serious legal concerns and staffing consequences" (BMVBS 2012). Instead, the cooperation network of the MSZ should be improved, e.g. by an expanding of ethnically mixed crews, the development of a joint deployment concept for the ministries and authorities and, if needed, a centralization of ship ownership (BMVBS 2012).

In an emergency situation, German flagged ships located beyond German territorial waters can contact the Central Contact Point at the Maritime Security Center in Cuxhaven at all hours (this also applies to piracy and terrorism). Similarly, they can consult with the Bundespolizei's Piracy Prevention Center in Neustadt/Holstein in order to receive training on how to behave in cases of emergency (Joint Research Project PiraT 2011). Within German territorial waters, the Central Point of Contact caters to all ships no matter where they are registered.

The central PoC facilitates communication between vessels with security services, especially with the GLZ See, which tracks radar data and ship movements. Detailed requests or perceived abnormalities and registered warnings are transmitted to the relevant federal and *Länder* authorities as necessary. Every *Land* provides the MSZ with a list detailing who should be contacted in such cases, and includes interior harbors that serve the shipping industry. The PoC is intended only for security incidents, such as hijacking or bombing attacks, and not for regular accidents. After the MSZ is notified of a situation, it will attempt to ascertain whether it is a

real or false alarm using secret channels of communication. Furthermore, a daily overview of situations, for example of collisions or thefts, is compiled (Interview MSZ).

In a comparative study with other coordinating authorities pertaining to airspace, Renner (2011, 295-296) concludes that the establishment of the MSZ, irrespective of the hesitant establishment of the required physical and technical infrastructure, contributed to the effectiveness of security regulation proceedings with a maritime connection. A new (bigger) building with the appropriate modern technological equipment was planned by the end of 2014. The expansion was also planned in light of the participation in the "Common Information Sharing Environment for the surveillance of the EU maritime domain" (CISE) of the EU (cf. BMVBS 2012). CISE was to coordinate the civil and military capabilities of the EU and its member states. The aim is to create a situational awareness at sea, which includes maritime security as well (Ehrhart/Petretto 2012, 11).

It is not by chance that these kinds of projects are initiated. Thiele (2011, 19) shows that a number of governmental, economic and military organizations collect information on that domain. This information would help to provide a joint overview of the situation and a sensitization to maritime security. However, it has yet to be consolidated to this end.

Table 32 offers an overview of German state actors and their roles, competencies and responsibilities within maritime security. It depicts central ministries and authorities and divides their most important assignments into five categories: (1) risk analysis, (2) preventive measures, (3) regulation, (4) operative measures/active defense and (5) criminal prosecution. However, these categories are purely hypothetical and can actually overlap in practice, e.g. danger defense and prevention in case of border protection. The list of notes attached at the end of the table expands upon the specific duties assigned to each ministry and / or authority.

Table 32. An overview of the relevant German state-actors' roles & jurisdiction within maritime security (own illustration)

Key Players / Function	Federal State Authorities				
	BMWi (Economic and Technology)	**BMI (Interior)**	**BMVg (Defense /Navy)**	**BMVBS (Transport)**	**AA (Foreign Affairs)**
	Maritime Coordinator	Members of „Working Group Maritime Security" (+ BMF (Finance); + BMELV (Food Agriculture and Consumer Protection); + Representatives of coastal Länder; Lead: BMVBS (Transport))			
Risk Analysis		Yes[1]		Yes[2]	
Preventive measures	Yes[3]			Yes[4]	
Regulation	Yes[5]		Yes[6]		
Operative measures/ Active Defense		Yes[7]	Yes[8]		Yes[9]
Criminal Prosecution					

Key Players / Function	Federal State Authorities					Länder (Federal States)	Integrative Institution
	BKA (Federal Criminal Police Office)	**BSH (Frederal Maritime and Hydrographic Agency)**	**BPOL /See (Federal Police)**	**Zoll (Customs)**	**WSV (Waterways and Shipping Administration)**	**Landeskriminalämter/ Wasserschutzpolizeien (Länder Investigations Bureau/ Waterway Police)**	**MSZ/ GLZ-See (Maritime Safety and Security Center MSZ) & (Joint Emergency and Reporting Assessment Center (GLZSee)**
			Members of MSZ/GLZ See + BMELV;+BMVg (advisory) + Central Command for Maritime Emergencies				
Risk Analysis	Yes[10]	Yes[11]	Yes[12]			Yes[13]	Yes[14]
Preventive measures		Yes[15]	Yes[16]	Yes[17]	Yes[18]	Yes[19]	Yes[20]
Regulation							
Operative measures/ Active Defense	Yes[21]		Yes[22]	Yes[23]	Yes[24]	Yes[25]	Yes[26]
Criminal Prosecution	Yes[27]		Yes[28]			Yes[29]	

1   Determining SOLAS' security levels (ISPS) for German-flagged ships; identifying vulnerable sea areas (in consultation with the BMVBS).

2   Overall control of the passive protection (self-protection) of commercial vessels (e.g. active defense, safety regulations), Adherence to safety measures on board ships (BMPs).

3   'Federal Government Coordinator for the maritime industry', including a task force cooperating with other federal and state ministries.

4   Devising plans for active defense of German ships.

5   Working Groups that develop regulations for PSCs. PSCs should be certified by BAFA.

6   Part of MSZ (observer status)

7   Responsible for all policing measures.

8   Active within mandated operations (e.g. EUNAVFOR; NATO), Administrative assistance when a large scale crisis occurs outside territorial waters.

9   Establishment of Federal Crisis Response Task Force. Overall control in cases of hostage situations involving German nationals.

10   Publishes Annual Situation Reports concerning maritime security.

11   Releases information gathered by the BMVBS or BMI to alert ships and harbor facilities of possible dangers.

12   Publishes weekly and quarterly reports on piracy for the maritime sector.

13   Determining SOLAS' security levels for port areas through Designated Authorities (DA), e.g. Hamburg: Hamburg Police, together with the departments of internal and economic affairs; the DA is unique to each Land. The Länder's Investigation Bureaus inform BSH about the security situation.

14   Surveillance of territorial waters to avert danger.

15   Publishing of SOLAS' security levels and threat assessments. Conducts protection measures for harbor facilities and sets up a crisis response headquarters after an increase in security levels (ISPS).

16   Border protection. Cooperation with associations through the Piracy Prevention Center; providing training courses for Company Security Officers (CSO); acting as a contact point in case of pirate attacks within MSZ and creating status reports.

17   Border protection (delegated by BPOL). Monitoring the transfer of goods across the EU's external borders.

18   Exchanging security information with PoC's of other Länder.

19   Protection against threats (within specific jurisdictions). Enforcing Port State Control in cooperation with port authorities and BG-Verkehr.

20   Combining all waterway police of the Länder together with federal actors (without changing existing jurisdiction).

21   Handling of hostage situations involving German nationals. Handling of maritime security threats carried out by politically motivated criminals.

22   Border protection according to Schengen Agreement. Implementing police responsibilities beyond the 12 nm zone. Examining cases of piracy. Examining emergency situations outside territorial waters.

23   Border protection and monitoring (delegated by BPOL).

24   Administrating Point of Contact (PoC) within MSZ.

25   Carrying out policing tasks within the 12 nm maritime zones. Handling of situations involving terrorists within 12 nm zone (divided by coastal Länder).

26   Federal and coastal Länder institutions work in an optimized network.

27   Handling of the investigative proceedings that fall under their jurisdiction (BKA law). Criminal prosecution carried out by Länder courts (e.g. pirate trial in Hamburg).

28   Criminal prosecution concerning shipping within federal police jurisdiction. Investigation of pirate attacks (when German shipping companies or German flagged ships are involved, provided that no Germans are on board).

29   Criminal prosecution concerning shipping within Länder jurisdiction

The BPOL See, along with the Criminal Investigation Offices of the respective Länder (Landeskriminalämter), cooperates with the private sector (such as associations) in combating piracy. The economic and private actors are experts in their business segments and engage in lobbying activities. The VDR for instance, seeks to underline their position, both nationally and internationally, regarding the issue of piracy. They work towards an appropriate and practical implementation of regulations, such as the PMSC certification process. There are also other forms of cooperation: ship owners provide vessels for the Police or Navy to use for exercises and training purposes (interview VDR 15 March 2012).

Only a few German companies specialize in the protection of ships at sea, but the market is expanding. On land, they have been widely used for the protection of critical infrastructures and port facilities. They could further extend themselves to supporting sea and inland port authorities by implementing ISPS-regulations and, therefore, could be an interesting business area for security companies. There is a tendency for increasing cooperation between state authorities and PMSC in general. The BDSW, for instance, recently concluded an agreement with six ministries of the interior of different *Länder* to support surveillance within legal boundaries (interview BDSW).

Private security companies not only play a role in vessel protection at sea, but also in port security. PMSCs can offer a variety of services (object or VIP security for example.) or just a few. They can be specialized in several disciplines, including port security. These disciplines mostly consist of combined services so, for example, the ferry-cruise terminal at Hamburg pays Securitas for providing port security. Securitas also conducted the first pan-European port security control (interview BDSW). In the contract, Securitas can provide reception services, closing-off services, alarm-reaction services, gate access services, mobile surveillance etc. Furthermore, for security companies, companies which don't hire security companies, but also have to secure their assets, have their own security, also called 'in-house security'. For example, in the Port of Rotterdam, Shell has some of its own, in-house security guards who deliver the same services that could also be delivered by a contracted security company. However, like any other Shell employee, 'in-house security' personnel are employed under contract and are thus often more expensive than hired security guards.

Survey results (Joint Research Project PiraT (2011) amongst insurers and ship owners show that shipping companies use Private Security Companies as a promising form of protection, even though they would prefer staff from the German authorities, at least for German-flagged vessels. Formerly oblivious to the question in hand, the German government is, meanwhile, willing to contribute to multilateral naval operations, though it still refuses to provide vessel protection teams for all merchant ships. Ship owners should provide security on their ships, which could include hiring PMSCs. In the survey, ship owners revealed a lot of insecurity in the assessment and handling of PMSCs. Incidentally, German law does not prohibit the hiring of PMSCs for this purpose (see König / Salomon 2011). However, lawmakers had not expressly supported it either, an ambiguity that changed as the planned certification procedures mentioned earlier took hold.

5   Germany's Key Players and their Involvement in International Maritime Security Governance

How do the key players involved in national maritime security governance act at international level? And how does Germany's involvement in international mechanisms connect with national mechanisms?

The responsibility for international agreements is always dependent on its character. Fundamentally, the AA is responsible for this. Yet in policing matters, the BMI is responsible and with customs related agreements the Ministry of Finance (Bundesministerium für Finanzen, BMF) takes responsibility. All security and maritime traffic related agreements fall within the remit of the BMVBS. Therefore the BMVBS acts as a representative of Germany at the IMO. It is supported by the BMI with expertise on policing measures. Germany has signed up to many international agreements under UN, NATO and EU frameworks. However, Germany often fails to successfully apply international regulations to domestic law, which does not focus on practical implementation (Hess 2011, 94). Furthermore, Germany has maintained a very low profile on the international stage in both IMO meetings and Contact Group on Piracy off the Coast of Somalia (CGPCS) meetings. This restraint appears to be a deliberate choice. Germany did not answer the IMO-questionnaire that surveyed the port/coastal policy on armed guards (MSC-FAL.1/Circ.2). Hence, there is no (bilateral) cooperation between Germany and the IMO at this level (email IMO 1 March 2012).

Various international measures related to harbor and ship protection have been adopted. Similarly, counterterrorism policies are used to legitimize naval missions. The international defensive measures against maritime terrorism (as outlined in Schneider 2011a) can be summarized as follows: the ISPS-Code, focusing on port and ship security; the CSI tasked with customs security (24 Hour Rule); C-TPAT and AEO, facilitating cooperation between commercial enterprises and public authorities, with the PSI focusing on interstate cooperation. Direct measures, such as the various military missions (OEF; GMPI; CMF; CTF 150/151/152) and interstate naval and air patrol cooperation MALSINDO are also evident.

Thus these initiatives, led mainly by the US and less so by the IMO and the EU, create international networks of cooperation, whether legally binding or not (ISPS/CSI/C-TPAT/AEO): First, the increased rights of harbor authorities to verify and access cargo (ISPS/CSI); second, the increased focus on preventive risk management through education and readily available information (ISPS/CSI); third, the national harmonization and improvement of trade security (PSI); and finally, the cooperation of navies (OEF/OAE/GMP/CMF/CTF). German Armed Forces are, *inter alia,* part of NATO and took part, for instance, in the first naval operation within the framework of the Common Security and Defence Policy (CSDP) of the European Union – EUNAVFOR Atalanta.

The Naval Control of Shipping (Marineschiffartleitstelle, MSLtSt) is responsible for ensuring the protection of merchant shipping in times of conflict and crises. Therefore, it establishes Shipping Cooperation Points (SCP). The two SCPs of the German Navy in Bremerhaven and Hamburg are controlled by the German Fleet Command. Among other things, they conduct operational training in NATO procedures and provide personnel. This follows the guidelines of NATO's 'Naval Co-operation and Guidance for Shipping' (NCAGS) programme. Naval forces are able to provide protection for merchant shipping in dangerous situations by clearing mines, escorting convoys or providing boarding teams for the enforcement of embargos and monitoring of ships. In these courses, naval officers and embargo liaison officers are trained

together. The current restructuring of the *Bundeswehr* also has ramifications for the Navy. The German Fleet Command and the Naval Office were combined and restructured, starting 1 October 2012 to create the Navy Command based in Rostock. The MSLtSt continued undertaking sub-tasks (interview MSLtSt 22 March 2012). State Actors, e.g. the German Navy or the Federal Police are incorporated into international structures. Accordingly, the BKA is entitled to cooperate bilaterally with Europol and Interpol as well as other countries (email BKA 22 March 2012).

A brief overview of key German players in the international maritime domain is given in the following diagram.
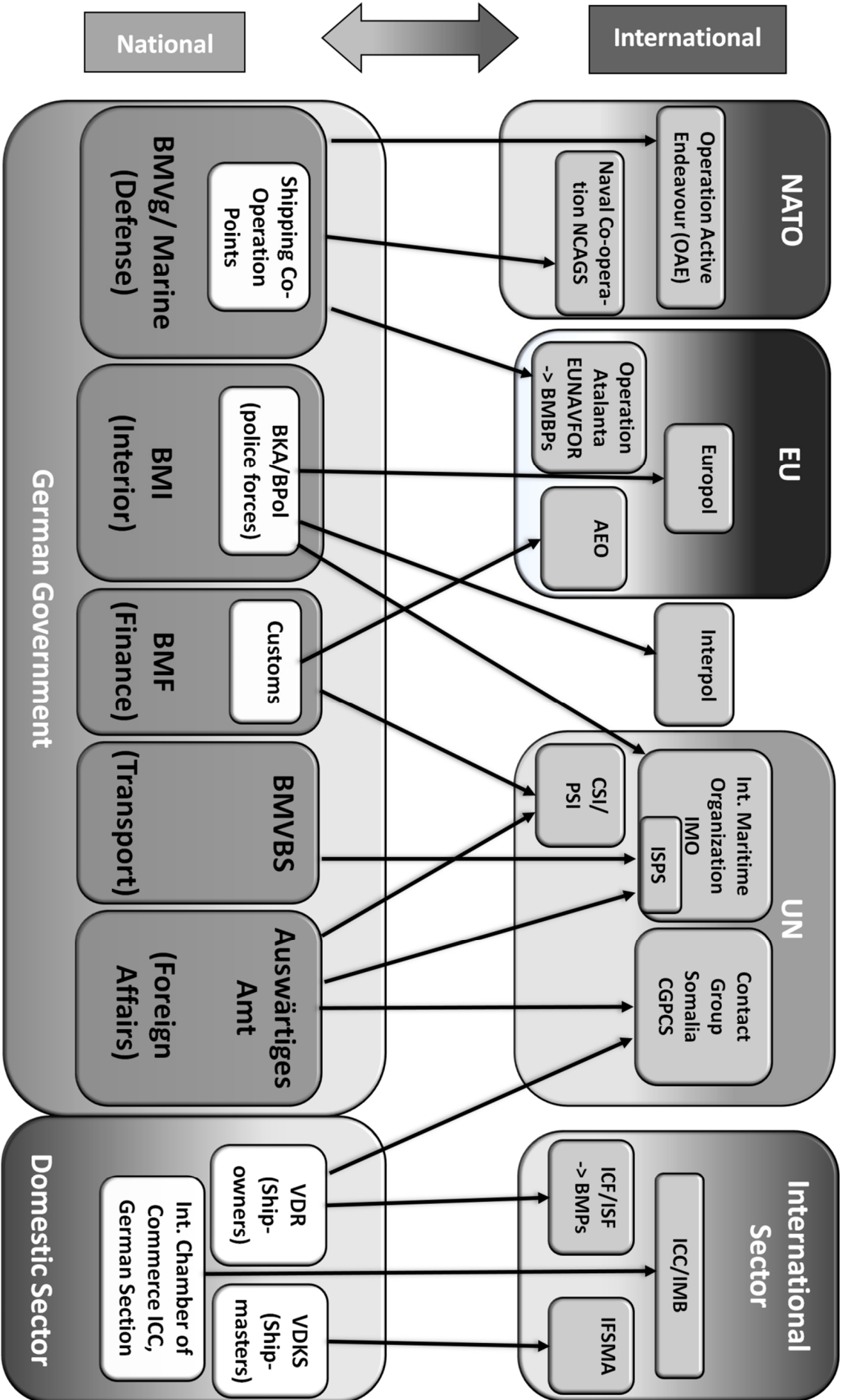
Chart 36.   A select overview of key German players in the international maritime domain (my illustration).

The Federal Police is, along with other authorities, also a member of the Baltic Sea Region Border Control Cooperation (BSRBCC), an instrument of inter-department cooperation between actors. German forces are, among others, part of NATO operations. Furthermore, the European Patrol Network (EPN) is a permanent system for monitoring EU-external borders and is applied together with the European Agency of Operative Cooperation at External Borders (Frontex) by the member states. Navies of eight countries as well cooperate in the context of the Sea Surveillance Co-operation Baltic Sea (SUCBAS) (cf. BMVBS 2010). Also, the Gewerkschaft der Polizei (Police Union, GdP) is a member of the umbrella organization, European Confederation of Police (EuroCOP).

Many associations in the maritime sector, belonging to an umbrella organization, cooperate with international organizations as well. A few examples: The Organization of German Shipmasters and Ship Officers (Verband Deutscher Kapitäne und Schiffsoffiziere, VDKS) is connected to the International Federation of Shipmasters' Associations (IFSMA) and, at the European level, is linked to the Confederation of European Shipmasters' Association (CESMA). In the International Union of Marine Insurance (IUMI), there is a delegate from the German Insurance Association (Gesamtverband der Deutschen Versicherungsgesellschaft, GDV).

The VDR is participating in the process of revising the current version of the "Best Management Practices for Protection against Somalia Based Piracy" (BReg 2011, 15). This is taking place within international federations, which include the International Chamber of Shipping (ICS) along with the International Shipping Federation (ISF) (see www.marisec.org). Also, various naval forces, such as EUNAVFOR, and other industrial associations are supporters of the BMP.

The influence of the International Chamber of Commerce (ICC) is based on its worldwide network of members. Internationally active German companies are, along with chambers of trade and industry, umbrella organizations and professional associations, members of the German National Committee (ICC Germany). There is a connection to the IMB and its Piracy Reporting Centre, as it forms part of the ICC. Figure 2 offers a brief overview of key German players in the international maritime domain.

6   Other Possible Explanations for Germany's Deliberate Restraint

There are always different topics, apparently of more national interest, competing with each other for public and political attention, hence often taking priority in German affairs (e.g. the financial crisis, Arab Spring etc.). Germany's abstention in the UN Security Council on mandating the use of force against the Gaddafi Regime in Libya was heavily criticized and many called for stronger leadership. However, Germany took a leading role in the almost two-year, on-going, debate over the European debt crisis. Germany being the most heavily populated and strongest economy in the EU, took the lead role, with the support of France, in managing the financial crisis. This is very much in the interest of Europe, because European integration, which is essential for European economic and political development in a globalized world, is at stake (Müller-Brandeck-Bocquet 2012).

This competition with other priorities is particularly strong for maritime piracy and terrorism because the overall effects of the two remain low. However, there has been media attention due to the attractiveness of reporting on piracy related issues. This is even more the case when

a national ship is attacked or when readers feel they can link their knowledge about commercial pirate films to press reports or when fears about the piracy-terrorism nexus or energy supply and related rising costs are raised. The proceedings against ten Somali pirates in Hamburg are also being closely followed by the press, as it is the first such case tried in Germany for about 600 years.

Germany is known historically to be a land power with strong armed forces but little naval capability due to its comparatively short coastline relative to its size. This is a different case in historically seagoing nations, such as, for example Great Britain, the Netherlands or Spain. However, even though Germany has a small navy, marine facilities and shipyards are an integral part of Germany's economy as Germany still constructs special custom-made ships, cruise liners, navy vessels and leading edge-technology (i.e. air-independent propulsion conventional) submarines.

7   Conclusion

From the international measures against terrorism with German participation, the following conclusions can be drawn: First, hitherto, there have been no regional points of focus in the "fight" against maritime terrorism among the measures investigated (compared to that, the battle against piracy focuses on hotspots, such as the Gulf of Aden). Second, in order to lower the risk of terrorist attacks in the maritime area, a focus is placed on preventive measures in the civil area (e.g. securing port sites, surveillance of goods to be transported, measures of ship securing). Third, structures of "combating" maritime terrorism are marked by a preponderance of regulations anchored in law, i.e. by a strong difference in hierarchy between state and non-state actors. Fourth, an additional focus is placed on military cooperation. Fifth, with respect to the actors, it is asserted that a large proportion of counterterrorist measures in the maritime area are initiated by states, especially the USA, in a top-down approach and with a so-called coalition of the willing. Next to the UN (by the IMO), the EU is a strong actor, taking up initiatives of the UN and the USA and applying them more comprehensively than initially planned.

In the domain of maritime terrorism, the efficiency of those measures is more difficult to evaluate than those of piracy. In the domain of piracy, there is discord over the efficiency of measures in the interpretation of the data, however, there are more clues here. In order to evaluate measures to combat maritime terrorism, one can use even less data than in the area of piracy. For instance, it is not known how many ships have been stopped and raided by the navies, nor is it known how many terrorists and weapons have, thereby been discovered or deterred by using sea routes or employing maritime attacks. The present databases offer only little information regarding prevented attacks. It is also unclear if, e.g., through strict port and ship security measures, attacks have been averted in this area. This makes statements about the effectiveness of preventive measures difficult. This dilemma, however, does not apply to terrorism only, but also for deterring and protective measures towards other areas of crime.

The economic impact from maritime piracy and terrorism against German shipowners has been relatively low and a large share of the economic risk is insurable. Hence, it does not seem to be a necessity for the German government to be more active than its current involvements in international initiatives. However, there can be severe human costs as a result of piracy and

maritime terrorism in the IOR, which cannot be covered sufficiently by insurance. The potential impact of maritime terrorism and repeated threats that endanger strategic trade routes, stress the importance of the need for effective governance in this field and in other fields of crime governance. Why then does Germany still practice such restraint? Germany is, historically seen, a land power[128] with strong land-based forces, but a relatively weak navy, given the country's short coastline. This is different in traditional sea nations, such as Great Britain, the Netherlands or Spain. As special ships, cruise ships, military ships and submarines are crafted in Germany with top technologies (e.g. drive lines independent of outer air), shipyards constitute, together with other institutions of maritime economy, an important component of German economy.

The reason for Germany's restraint about taking on leadership roles in security governance related to maritime (trade) security can be explained as follows: apart from its status as a land power, the country's complicated bureaucratic structure and the large number of authorities involved have traditionally hampered its ability to achieve consensus. In other words, bureaucratic politics constitute a democratic process that can limit state policies in a modern, federal state. The most important reasons for the exceptionally complicated German structures are fourfold: the federal structure, rivalries between the ministries, competition with more pressing economic and political priorities and the historically strict separation between the police, the armed forces and, to some degree, the intelligence services.

The delimitation of competences between the federal organs, and between the Federal government and the coastal *Länder* is complicated. Political responsibility within this fragmented system remains unclear. This could hamper effective and efficient protection against threats at sea. There are several arguments for reforming responsibilities in Germany. While there are problems with coordination and communication where appropriate mechanisms could be used to improve the situation, the real issue could lie in a lack of sufficient leadership necessary in crisis situations (Hess 2011, 95).

A change in the ways of thinking about these issues is highlighted by the multitude of international maritime security initiatives that exist today (Hess 2011, 91). The high number of these efforts leads to the necessity for limited, but improved, coordination procedures for administrative action on the national level, as has been shown in the German case. The MSZ cooperation network shows an effort for compromise: it coordinates bodies that "are the appropriate administrative instruments of political action in order to attain an improved overall performance of involved authorities, without interfering in the existing division of competences" (Renner 2011, 298, author's translation). But the study of Renner (2011, 298) also shows that "external frame conditions – e.g. the ineligible structural infrastructure of the MSZ or the given legal framework for joint actions (e.g. data protection making data exchange between authorities partly more difficult) – can weaken participants' readiness to cooperate." Therefore, it is to be recommended that the expansion that has begun, also when it comes to participating in the new European structures, should be advanced and that cooperation should deepen as suggested, but that improvements of the legal framework should also be examined.

Leadership in this sphere is unlikely to improve because of the competing rivalries between the different ministries. While preserving performance with the achieved level of cooperation

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[128] In exceptional times, Germany can be seen as a sea power as well: In the Wilhelminian era and in times of the Hanseatic League. Cf. Pfeiffer (2009), who draws lessons from those periods for the "Maritime Complex" today.

is possible, this will be tested should budgets be tightened or its effectiveness possibly questioned following a terrorist attack. The potential of the AK MarSi could be better used today by putting terrorist issues on the agenda. This should ideally happen by incorporating the BMWi and AA, e.g. in the context of CSI, PSI and CISE. The latter could, for example, serve as a political catalyst, or a successful piracy incident involving a German-flagged vessel in the IOR with severe human costs or other impact, such as an accident, being set alight, an oil spill or the like, with no assistance readily available from an international military mission.

However, the participation of Germany in EU and NATO missions and in diverse coordination mechanisms proves its ability to act. In addition, whereas the establishment of the Piracy Prevention Centre by the Federal Police is one of a kind, the BMPs are co-developed and implemented in close cooperation with the German ship owners' association. In sum, more has been done on the piracy issue than on the maritime terrorism issue, which reflects the different perceptions of risk – piracy being perceived as a more acute threat to the shipping industry, with terrorism just being a latent danger. Germany even led the Atalanta mission for several six-month-terms and provided a large share of the ships and Long Range Maritime Patrol and Reconnaissance Aircraft (LR-MPRA) for the mission for a time. Nevertheless, an inter-agency action strategy is still lacking (Joint Research Project PiraT 2011).

The issue of bureaucratic fragmentation has shown that a maritime security strategy with clear (leading) assignments and competencies would be advantageous in cases of crisis. The inability to consolidate the responsibilities of German authorities has hindered the creation of a maritime security strategy, which could otherwise enable this process. Alternatively, another perception is possible: there is no maritime security strategy because a consolidation of efforts would be the precondition for creating the necessary consensus for a maritime strategy. In Germany, strategies are generally unpopular; currently the country lacks even an overall security strategy. It makes sense to create a security strategy for the narrowly defined area of maritime security and to later develop lessons from the coordination process for a comprehensive security strategy of Germany. Furthermore, the share of maritime business in the German economy compared, for example, with Denmark with its ship owner Maersk, is much lower. That could explain why Denmark has a maritime strategy with Maersk lobbying for it, and Germany does not – German shipowners do not have such a strong influence. The procedures already planned for the regulation of private security companies could set international standards if achieved in time and would, therefore, present a more active role for Germany, with a role model function in the international community.

On the EU level, a common strategic culture is missing as well. Although a European Security Strategy (2003) exists, demonstrating general consent to basic values of security policies, it has proven insufficient to serve as a basis for consistent action of the EU member states (Staack/ Krause 2014b, 7). This could be improved by the newly adopted European Union Maritime Security Strategy of June 2014 (cf. Council of the European Union 2014). However, it remains to be seen how it will be implemented.

Some interview partners wished a clear regulation of responsibilities (partly more of their own competencies) in Germany, whereas others were content with the current regulations. The authorities partly wished more expertise in the ministries. Others emphasized the need for joint training exercises involving relevant government departments and the *Länder*.

In the context of the national exercise series, LÜKEX (Länderübergreifende Krisenmanagement Exercise, Crisis Management Exercises between the Länder) comprising two-year exercise cycles for selected threat situations, it would be favorable to exercise maritime terrorist

scenarios, apart from hypothetical scenarios, preferably also those known from practical experience. The exercise "LÜKEX 2015" is planned to have the topic "storm tide". This could include the damage of ships carrying hazardous goods or vessels carrying passengers, yet the incorporating of political violence is less favorable (email BBK, 15 February 2013). It is worth reviewing whether maritime terrorist scenarios could be prospectively included in a later LÜKEX exercise. The last time when this was the case was the first LÜKEX exercise ("LÜKEX 2004"). By so doing, the new coordination mechanisms can be tested, procedures in different zones of responsibility (high sea, coastal waters, port waters) can be tested, leadership roles sounded and political decisions simulated. The workload of an intensive exercise preparation seems, according to BBK, worth the effort. The following conclusion can be drawn from the "LÜKEX 2009/10": Already during preparation, optimizing measures were initiated and individual weaknesses were eliminated (BKK 2011). In the "LÜKEX 2011" exercise report, "smaller" exercises complementing the implementing level are recommended, in order to further develop the exercise culture and to investigate single questions in detail (cf. BKK 2012, 35).

Gupta has argued that if a nation lacks "the power to govern the sea", the country may not have "the ability to do or act in national interest and, if called upon, in national defense" (Gupta 2010, 265). For Gupta, the only remedy is to be found in the firm establishment of 'the political will to be able to act or function at sea in a manner of governing in control' (Gupta 2010, 266). The political will to devote resources and to cooperate with allies is necessary for Germany and other nationals to develop governance solutions to issues that either emanate from or take place in the Indian Ocean waters.

People may not be aware of the importance of sea trade (this phenomenon is often called "maritime blindness") and are too focused on issues that occur on land. However, there is not only a threat of violence by non-state actors (either terrorists or pirates), but there is also the growing geo-strategic importance of the sea and the IOR in particular that touches on many areas of international relations. It becomes the focus for a new era of economic exploitation, sustainable transportation and interstate rivalry. A high number of security initiatives and other regulations indicate that a new security architecture might be needed that reflects current challenges. Due to the importance of maritime trade for Germany, it is advisable to further contribute to these initiatives. Germany's deliberate restraint on the (inter)national stage in the maritime domain (but not only there) could have the effect that its partners do not perceive Germany as reliable or predictable. Staack (2014, 173, 193f.) already observes a declining trust in the reliability of German politics for its allies. Among the reasons he gives are a temporary change of course in German (foreign) policies, including a culture of restraint and aa absent will to shape or even lead in transatlantic and European security policy. However Germany's economic security interests make it imperative to help maintain secure high seas and lines of communication, preferably in a multilateral effort.

The next chapter will analyse the regulation of Private Military Security Companies at Sea by Germany.

XV PRIVATE SECURITY COMPANIES AT SEA

As of 1 December 2013, German flagged ships may only deploy PMSCs that are licensed according to the German Trade Regulation Act's (Gewerbeordnung, GewO) new regulations.[129] Eleven German and foreign companies have been licensed thus far (see permanently updated BAFA list (BAFA 2014c)). The legal regulation of Private Military Security Companies (PMSCs) has become necessary due to the need to protect maritime trade from pirate attacks and hijackings. In order to prevent rogue firms arising, minimum standards as well as reporting and surveillance possibilities had to be created. However, certain questions do arise. Has the much-anticipated licensing procedure tamed the Privately Contracted Armed Security staff? Has the procedure fulfilled, first of all, the hopes of the ship owners and captains about an effective and efficient controlling procedure and second, PMSCs' expectations about improved chances in the market? Are there any justified points of critique and, if so, which problems remain unsolved? All of these questions shall be addressed in the following sections.

1 Background

In 2008, pirate attacks and the hijacking of ships in the Gulf of Aden and the Indian Ocean began to increase drastically. Pirates hijack ships and their crew and take them hostage for months at a time along the Somali coast. More than 200 people are still being held hostage there. This comes as a major blow to ship owners, both in terms of economic and, in particular, human costs. The consequences have been graver than the attacks in Southeast Asia. As a response, the international community and individual states have established different maritime missions, in order to protect ships in, for instance, a narrowly bordered transit corridor in the Gulf of Aden. Among these missions is "EUNAVFOR Atalanta" with German participation and in operation since 2008. Moreover, ship owners had already undertaken security measures on their own (e.g. attaching barbed wire to railings). Until 2010, however, ship owners' unions and sea captains had steadfastly refused to arm themselves or to allow armed security forces aboard their merchant ships. It was only when the number of attacks continued to grow, despite naval missions and measures of self-protection, that the German Ship Owners' Association (VDR) increasingly began to call on the state for protection through police forces or a military presence onboard their vessels, especially when navigating unsafe waters. Moreover, it became increasingly difficult to find crew members for unprotected ships traversing areas of high piracy risks. In addition, insurance companies offered rate reductions to ship owners who agreed to employ PMSCs.

In the summer of 2011, the German Federal Government decided to promote the deployment of PMSCs because the state lacked military and police capacities to directly protect ships. In

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[129] This chapter is a personal and adapted translation of the following article by Patricia Schneider: Private Sicherheitsdienstleister zur See. Das neue Zulassungsverfahren. In: Marineforum 4-2014, 25-27. Extracts of it also appears in a co-edited special issue in the journal "Ocean Development & International Law" (Volume 46, Number 2, 2015).

addition, it also decided that a licensing framework was necessary because, in the absence of effective requirements and a process of evaluation, the number of service providers had sky-rocketed. This, in turn, led to considerable uncertainty about the eligibility and capacity of their employment. Nevertheless, the demand for security on behalf of German ship owners meant that, until the implementation of a licensing procedure, unlicensed PMSCs were employed out of necessity. The initiation of a licensing procedure demonstrated that the German Federal Government, despite being unable to provide sufficient state forces for protection, intended to maintain some form of control and influence over the nature and extent of private maritime security, while simultaneously satisfying the demands of the maritime economic sector (for general information on this see König/Salomon 2014: 240f.) .

2   Outcome

In 2012, the German Bundestag decided to pursue a specific licensing procedure and, in June 2013, approved the new regime. Since 1 December 2013, this regime has consisted of the Trade Regulation Act (GewO) Art. 31 of 4 April 2013, the Sea Surveillance Act (SeeBewachV) of 11 June 2013, and the Implementation Act of the Seas Surveillance Act (SeeBewachDV) of 21 June 2013. They are applicable to all business providers in Germany, regardless of the guarded ship's flag (BAFA 2014a).

The Trade Regulation Act (GewO) § 31 of 4 April 2013, the Sea Surveillance Act (SeeBewachV) of 11 June 2013, and the Implementation Act of the Seas Surveillance Act (SeeBewachDV) of 21 June 2013 are now relevant. The GewO (2013, author's translation) stipulates the following:

(1) Businesses wishing to guard professional lives or property of others on merchant ships from external dangers, beyond the borders of the German economic zone, require a license.

(2) Licenses are to be granted by the Federal Office of Economics and Export Control after consultation with the Federal Police. Licenses must be temporary and tied to conditions, as long as community's and employers' protection requires it; these requirements also permit additional conditions or changes and complements to them. After extensive consultation with the Federal Police, licenses are to be denied or revoked if the applicant:

1. does not fulfill the appropriate organizational and procedural requirements, particularly measures taken to ensure that deployed persons possess the necessary skills and are personally eligible and reliable;

2. does not fulfill requirements for an adequate executive board, as well as company administrators or their affiliates with respect to skills and personal eligibility and reliability; or

3. does not produce proof of employer's liability insurance.

§ 34a, section 1 to 4 is not to be applied; §34a, section 5 is to be applied correspondingly.

(3) The licensing of security companies on oceangoing ships according to paragraphs 1, 2 and 7 issued by the Federal Office of Economics and Export Control is chargeable. By ordinance, the Federal Ministry of Economics and Technology can, in consultation with the Federal Ministry of the Interior, determine the levying of fees and the level of fees for official acts, provisioning for fixed rates, also in form of time fees or frame rates, all without the consent of the Bundesrat. Fee rates are to be measured to the extent that expenditures are covered. The fees must also cover the costs of the Federal Police arising from its participation in the license procedure according to paragraph 2. In addition to administrative expenditures, the economic value calculable in money can be accurately taken into consideration for the creditor. The amount of fees may not be disproportional to the procedure. Due to public interest or inexpensiveness, a lower fee, as required according to sentences 3 to 5, or a remission can be determined. In the ordinance, expenses deviating from § 10 of the administrative costs' law can be determined.

(4) The Federal Ministry of Economics and Technology can, in consultation with the Federal Ministry of the Interior and the Federal Ministry of Transport, Construction and Urban Development, by ordinance, without approval of the Bundesrat (Federal Council of Germany):

1. set binding requirements and the licensing procedure according to paragraph 1 as well as the license duration,

2. set binding requirements for security companies with respect to the company's organization and procedures, technical equipment and measures ensuring observance of arms laws of the flag state as well as port and coastal states,

3. decree rules for the protection of the community and employers about the range of powers and duties during guarding according to paragraph 1, especially with respect to

   (a) security companies' duties around the selection, employment and introduction of persons carrying out guarding assignments, about requirements those persons must fulfill, especially about education, skills, work experience, eligibility and reliability of those persons, as well as required organizational measures ensuring the observance of those requirements by security companies,

   (b) security companies' duties of documentation, to record necessary data about individual business processes as well as employers, to preserve books and records and to send them on demand to the Federal Office of Economics and Export Control,

   (c) security companies' duties to notify the Federal Office of Economics and Export Control about surveillance deployments, to keep protocols and reports about deployments and to send them to the Federal Office of Economics and Export control as well as to the employer, as well as to report to the Federal Office of Economics and Export Control, the Federal Police and the employer incidents, especially those involving the use, loss or replacement of arms,

   (d) security companies' duty to notify the Federal Office of Economics and Export Control about a change of person charged with the leading of a company or one of its branches, to provide descriptions related to this, and to notify it of changes to the company's organization and procedures, and,

   (e) informing the Federal Office of Economics and Export Control through courts and public prosecutor's offices of any legal measures taken against security companies and their employees entrusted with guarding assignments according to paragraph 1,

4. establish the range and requirements for employer's liability assurances required, according to paragraph 2, sentence 3 number 3, particularly the amount of minimum assurance sums, and determine the executive center according to § 117 section 2, sentence 1, of the assurance contract law of 23 November 2007 (BGBI. I S. 2631), which was last changed by article 2 paragraph 79 of the law of 22 December 2011 (BGBI. I S. 3044) with respect to the proof of the employer's liability insurance, notify the Federal office of Economics and Export Control and the insurers of the duties of the respective insurance company, as well as recognize the employer's liability insurance negotiated by assurers authorized outside of this law's area of application for business operations,

5. fix requirements and procedures for recognizing licenses from other states.

The Federal Ministry of Economics and Technology may wholly or partially confer the empowerment, according to sentence 1 by law ordinance, and by ensuring the consultation regulation for the Federal Office of Economics and Export Control; law ordinances of the Federal Office of Economics and Export Control may need, in case they deviate from the consultation regulation according to sentence 1, only the consultation of the Federal Police executive committee and the Federal Maritime and Hydrographic Agency. Law ordinances, according to sentences 1 and 2, need the approval of the Bundestag. Approval is given once the Bundestag has not dealt with the law ordinance, three conference weeks after its entry.

(5) The Federal Office of Economics and Export Control and the Federal Police may send each other information, including personnel-related data, without request, as long as this is required for the fulfilling of assignments outlined in paragraph 2. The Federal Office of Economics and Export Control and the Federal Police may utilize the information sent only in the context of the lawful fulfillment of assignments according paragraph 1. The Federal Office of Economics and Export Control immediately notifies the Federal Maritime and Hydrographic Agency or an authority determined by a law ordinance according to § 3 paragraph 2 or § 9 paragraph 1 number 7 of the sea assignment law in the statement version of 26 July 2002 (BGBl. I S. 2876), which was last amended by article 2 of the law of 22 December 2011 (BGBl. I S. 3069), about the licensing of security companies, about changes, their termination as well as other facts concerning the licensing procedure, if this is required for the fulfilling of assignments according to § 1 number 13 of the sea assignment law.

(6) The Federal Office of Economics and Export Control regularly publishes and updates on its website a list of licensed security companies according to paragraph 1, including their addresses, telephone numbers and e-mail addresses or fax numbers. In each case, permission needs to be obtained from the concerned companies beforehand.

(7) The Federal Office of Economics and Export Control is also responsible, in connection with the implementation of § 31, for the implementation of § 15 paragraph 2, of §§ 29, 46 paragraph 3 and § 47.

The responsibility for issuing licenses under this regime was given to the Federal Office of Economics and Export Control (BAFA), in collaboration with the Maritime Federal Police (BPOL See). This cooperation was born out of the complementary nature of their respective competences: while the BAFA has experience in exporting arms and equipment, as well as licensing procedures, the BPOL See successfully operates the Piracy Prevention Center in Neustadt/Holstein. This center regularly publishes analyses of high-risk areas, offers training for technical and preventive measures as well as for basic principles of conduct, and supports ransom negotiations. During the approval procedure, the BPOL See examines the maritime knowledge, the equipment and the internal procedures of PMSCs seeking licensing (GewO 2013, Art. 31 (2)).

Chart 37. The new licensing procedure for private military security companies (PMSCs) at sea (effective as of June 2013)
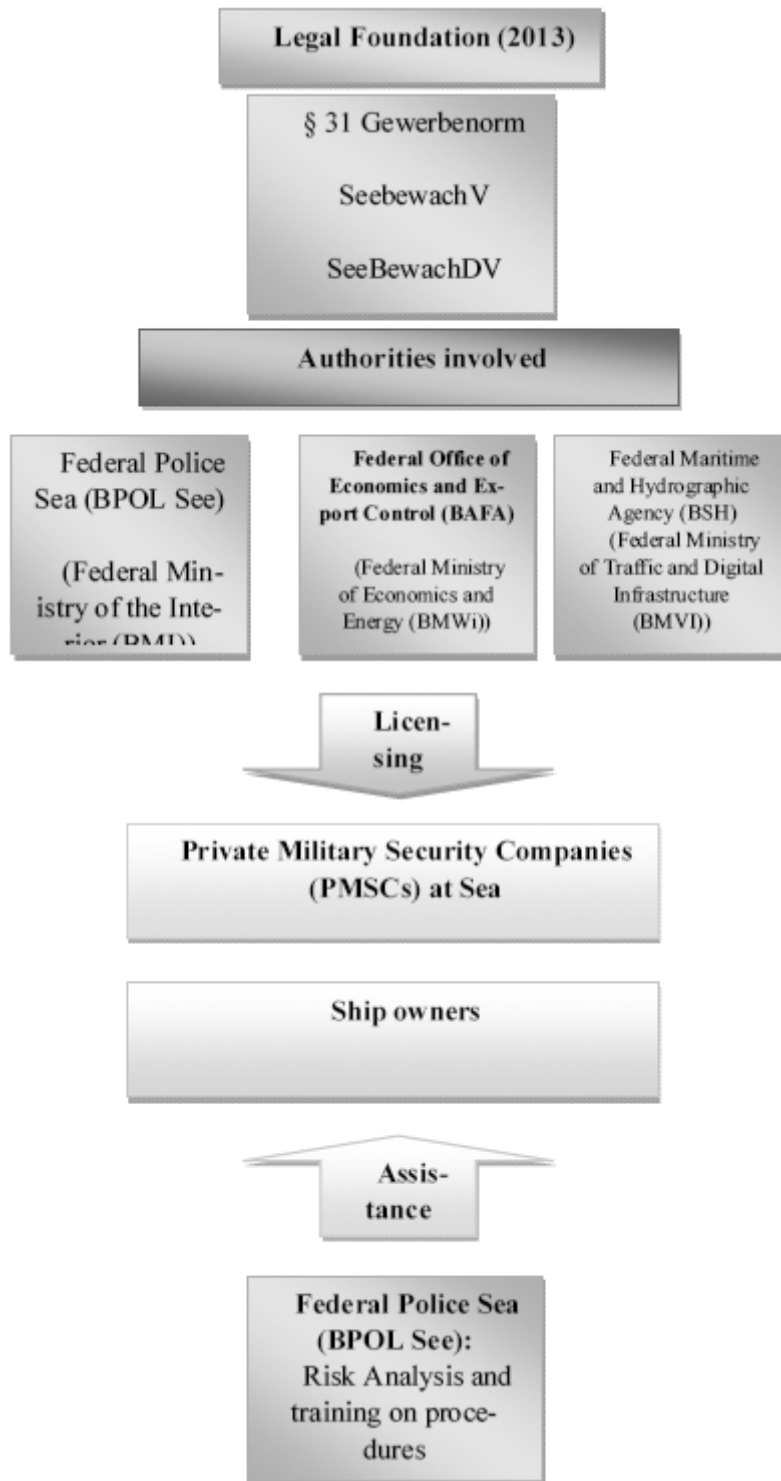
Source: My illustration.

Once successful, a temporary license may be awarded for a period of two years (SeeBewachV 2013, Art. 3). In addition thereto, the Federal Maritime and Hydrographic Agency (BSH) has to approve a supplement to the ship's security plan according to the ISPS-Code (SeeEigensichV 2014, Art. 7 (1b, 2a)). This supplement confirms that only licensed PMSCs are employed and that the guidelines of the UN International Maritime Organization (IMO) are observed. Once the licensing and BSH-approval are in order, the deployment of PMSCs on German flagged ships must be reported to the Center of Alarm Signals, the Point of Contact in Cuxhaven. The usage of internationally established reporting systems for traversing dangerous maritime areas is now compulsory, e.g. MSCHOA (Maritime Security Center – Horn of Africa) and UKMTO (UK Maritime Trade Operations) at the Horn of Africa (BSH 2014).

There are hardly any states requiring a comparable licensing procedure which is so strongly promoted by ship owners and the industry. A number of regimes have been set up, e.g. an ISO norm or an International Code of Conduct which are, however, vaguely worded and not mandatory either. Other states appear to appreciate the possibility of employing inexpensive providers more than regulations. To some extent, they may have missed the opportunity. Ship owners and insurance companies of those states regulate assessments of PMSCs partly through private agencies.

Thus, the German procedure sets a concrete benchmark for the first time, e.g. with respect to education and equipment (at home or abroad). It precisely fixes, for example, the minimum number of team members at four persons (SeeBewachDV 2013) and their assignments as well as procedures in stages of escalation (SeeBewachDV 2013).

The number of Somali pirate attacks in the Indian Ocean has drastically decreased. A more robust deployment of military forces and, above all, the increasing use of PMSCs account for this development. Therefore, insurance rates have dropped significantly. As long as conditions on land do not change, the area will still be considered as high risk in which protective measures need to be taken. The Indian navy lists the number of active PMSCs in the Indian Ocean at 140 and laments that their activities are not adequately regulated. First of all, they are thought to pose a threat to fishermen who would become innocent targets, second, it is feared that PMSCs themselves may be entangled in organized crime. The German license procedure should also serve to dissipate such concerns held by coastal states and the employers of PMSCs.

Mr. Hosseus, a member of the German Ship Owners' Association, emphasized at a discussion at the IFSH that the economic consequences of piracy for Germany ought not to be underestimated. Being a world exporter and a country dependent on imports with the world's third-biggest trade fleet, safe seaways are of huge importance for Germany. Moreover, the new licensing procedure for PMSCs makes sense as it better regulates the relationship between the captain and the PMSC team onboard. But he emphasizes the ship owners' viewpoint of continuing to prefer state forces for protecting ships. The reason lies in the legal situation, technical aspects of deployment and a possible interest of PMSCs in maintaining those structures of violence.

3   Points of Commendation and Critique

An assessment of the licensing procedure at hand for its effectiveness and efficiency is founded on commendations and critiques put forward by ship owners, captains' unions, academia and the public as a result of the political debate surrounding the use of PMSCs. It can be presented according to the following topics: a) the background checks, b) the nature and transportation of arms, c) the legal risks of liability faced by captains and PMSCs, d) PMSCs' reporting and documentation duties and e) the deployment of sub-contractors.

a)   Corresponding to the IMO guidelines on which the German licensing procedures are based, company files and track records are at the core of the examination in the evaluation process of PMSCs. This process has, however, been subject to repeated, but also misplaced, criticism. For, not only the management of PMSCs, to whom the examination under the IMO guidelines is restricted, but also their selection of employees comes under scrutiny by the BAFA. This is because it can request and examine all documents held by a PMSC.[130] In addition, arms authorities carry out systematic background checks of all guards whenever arms licenses are granted.[131] The Hamburg Arms Authority is centrally responsible for all German flagged ships. If a company wishes to work on foreign flagged ships, it still needs to address the authorities at the company's headquarters (BAFA 2014b). Furthermore, in order to complement the evaluation process of PMSCs, *ad hoc* inspections in a vessel's area of deployment would, in principle, be desirable. However, it cannot be handled by the authorities. Nevertheless, the German approach merits praise because it goes to great lengths to run background checks – not only on security contractors as such, but also on their employees.

b)   The German approach can also be praised for the fact that PMSCs must account for the entire arms supply chain, including the transport of weapons, and all weapons held by each Privately Contracted Armed Security Personnel (PCASP) (SeeBewachDV 2013, Art. 12 (8)). Such licenses do not extend to weapons of war, which are deemed unnecessary for the operational context of PCASP (BAFA 2014a). Despite these commendable efforts, however, the deployment of so-called "floating armories" at sea, which offer weapon storage services to PMSCs, circumvent coastal states' regulations and remains a problem that is currently outside the remit of the licensing procedure.

c)   The German approach has also been criticized for the persistence of other legal uncertainties. Despite a new legal framework, certain liabilities have yet to be clarified; notably for captains if they, for example, fail to intervene in cases of excessive self-defense of PCASP. Nils Retkowski from Result Group GmbH, the first German company to receive a license, reports that all potential procedures and scenarios are simulated in training exercises prior to deployment and that the captain's approval to previously agreed procedures can be obtained in advance. The approval is then, for example, documented via audio recordings so as to provide evidence more easily in the case of

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130   This includes, for example, the sample examination of deployment reports, cf. SeeBewachV, paragraph 13 on reporting and preserving duties.

131   This results from arms law, cf. WaffG 2014, paragraph 28 on acquisition, possession and using weapons and ammunition through security companies and their personnel, http://www.jusline.de/index.php?cpid=f92f99b766343e040d46fcd6b03d3ee8&lawid=550&paid=28, 2014, accessed 25 February 2014.

an escalation in the use of force.[132] Moreover, a serious problem emerges if criminal charges are brought against captains or security providers in front of foreign courts, where they are judged according to foreign law. This issue cannot be solved through German law alone, but ensuring a high quality of standards for PMSCs through a state-sanctioned licensing procedure may have a positive effect by strengthening coastal states' trust in the prosecution of misconduct at sea by flag states.

d)   Since the results of lawsuits and the granting of insurance protection are difficult to predict, it is feared that PMSCs might not report incidents where fire was exchanged, especially when they involve injury. It is for this very reason, that the German licensing procedure requires both PMSCs and ships' masters to log any defensive event (SeeBe-wachV 2013, Art. 14 (2)). While the required equipment for PCASP also includes a camera, there is no requirement to provide photographic or video documentation (SeeBewachDV 2013, Art. 14 (2)). Such records would, however, be desirable. In the event of an attack, for example, it would be in the interest of PMSCs to be able to provide pictorial evidence that weapons were deployed lawfully. Once initial evaluations have been carried out by the relevant authorities, an incorporation of this rule should be reconsidered.

e)   A final point of criticism is that the German licensing procedure permits subcontractors, providing they satisfy the security companies' standards of education and continued training and are committed to wholly following its instructions (Interview BAFA, 25 February 2014).

4   The Problem of West Africa

As pirate attacks in the Indian Ocean decrease, we hear of piracy activities with different characteristics in other regions of the world. Apart from Southeast Asia, West Africa especially, with the Gulf of Guinea, is a hotspot. Nigerian pirates are comparatively more violent, abduct select hostages onto land, and hijack mostly tankers in order to steal the cargo, which is sold on the prospering black market. In the first half of the year, for instance, crew members of two container vessels were kidnapped by Nigerian pirates and were released after ransom was paid. Coast guards in the Gulf of Guinea are weak and authorities and forces are said to profit from attacks. In the coastal waters of states in the Gulf of Guinea, no private armed teams onboard are allowed. Therefore, ship owners are reduced to hiring regional state forces.

At the beginning of 2013, the EU announced the Critical Maritime Routes in the Gulf of Guinea Program (CRIMGO), which stipulates the training of coast guards of seven countries and the setting up of a network. This has obviously still had little success. In the future, African forces in joint exercises will be trained in cooperation with the German and U.S. navies and others. This US-initiative, named, Obangame Express 2014, in context of the African Partnership Station, is alleged to have the desire to better protect the drilling of oil. The German Ship Owners' Association supports the starting point to help coast guards of neighboring states ensure ships' protection.

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[132]   Interview Result Group, 10 December 2013.

5   Costs, Workload and Economic Benefits

As of 1 December 2013, German flagged ships may only deploy PMSCs that are licensed according to the German Trade Regulation Act's new regulations. Eleven German and foreign companies have, hitherto, been licensed (see permanently updated BAFA list). Therefore, a sufficient number of licenses seem to have been granted to PMSCs to adequately protect German flagged ships and further companies continue to apply. Depending on the quality of applications submitted and the resulting workload, the BAFA charges between 10,000 and 19,000 Euros (SeeBewachGebV 2013, Appendix to Art. 1 (1)), per assessment. Reviews can take a couple of months to complete. Accordingly, a PMSC's internal expenditure is estimated at 100,000 €. Furthermore, given the more stringent requirements that apply to certified PMSCs, with respect to their training, the number of PCASPs they employ as well as their observance of labor rights, it becomes understandable that it is more costly to hire these companies than a foreign-registered, non-certified provider.

Costs and workload are possible explanations for some companies' reticence when it comes to procuring proper security certification. In addition, another reason may be the low volume of trade for German flagged ships, particularly in light of habitual outflagging of merchant vessels. Finally, some may choose not to apply for licensing, and, therefore, not offer maritime services, because of the risk of negative headlines in the event of an incident.

Desirable though it may be, any competitive advantage for licensed PMSCs as opposed to their non-certified fellow applicants has yet to emerge. Many companies not affected by regulations and legal requirements pertaining to security actually prefer hiring cheaper, non-licensed applicants to save money in a financially stretched market. Moreover, hiring unlicensed security teams operating with fewer personnel is economically viable and significantly cheaper than a rise in fuel expenses that would occur as a result of detours or from trying to outrun potential threats (even if this is still required by law). However it is still too early to judge the impact of certification on the effective control of PMSCs, as certified PMSCs have not been around long enough to provide conclusive data sets.

6   Outlook

There are good reasons to prefer state forces over private ones. The deployment of PMSCs has, however, become an internationally accepted standard. The procedure introduced by the German legislature has set the stage for proper long-term regulations that are widely deemed indispensable. For instance, it is currently uncertain how often the mandate of the military missions in the Indian Ocean will be renewed. Meanwhile, it is obvious that ending these missions would then increase ship owners' dependence on PMSCs. The points of critique outlined were widely taken into consideration and potentially effective control mechanisms and an efficient licensing procedure have been crafted. In order to prevent rogue firms from gaining a foothold in the sector, certain minimum standards as well as regular reporting and surveillance mechanisms for maritime PMSCs were introduced. German policy makers took the demands made by ship owners, masters, as well as German security providers, into consideration. Since they felt they could only provide insufficient numbers of state forces/VPDs,[133] as an alternative approach to demonstrate state control a potentially effective and efficient licensing procedure was subsequently drafted.

Initial experiences of authorities working together with each other and with PMSCs were broadly positive.[134] At this juncture, it is down to implementing the procedures in question and tackling any acceptance issues. Set standards can potentially serve as examples for similar procedures implemented by other states. But, only permanent, independent control of the observance of regulations through state authorities with sanction capabilities, such as fines and the removal of licenses, can strengthen trust in PMSCs.

The federal government should also seek to cooperate with coastal, port and flagged states in order to curtail legal liability risks for captains and security providers (Ehrhart et al. 2013, 323). One needs to critically observe whether the reporting of serious incidents will be omitted due to fear of criminal liability, and whether aid measures incorporated into the licensing procedure will take effect. Doris König and Tim René Salomon, for example, argue that mere fines do not suffice to encourage the reporting of serious incidents, for this could be a preferred option compared to potential criminal charges (König/Salomon 2014, 245f.). Furthermore, time will tell whether the current modes of documentation are sufficient to provide evidence in case of serious incidents.

It is commendable to have made the vague IMO guidelines more precise. The licensing procedure should be further adjusted as experience increases. In this context, it is advantageous that German regulations apply everywhere. Also, rules apply to maritime ship surveillance in general and thus not only in cases of piracy. This allows a future flexibility regulating the deployment of PMSCs in case of shifting kinds and places of maritime violence without necessitating a lengthy legislative procedure.

Next steps to be taken are the extension of rules to non-German flagged ships as well as the prevention of outflagging German ships. By extending more strict rules, PMSCs might be prevented from evading the license procedures by moving abroad. If PMSCs cannot seize anticipated competitive advantages, the additional costs of the licensing procedure are hardly worthwhile, negating positive effects of increased transparency and quality management.

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[133]   The German navy only has one VPD at its disposal, and only to protect especially vulnerable ships.

[134]   Interview BPOL See, 13 December 2013 and BAFA, 6 December 2013.

The federal government should, therefore, support internationally harmonized quality standards with robust reporting and surveillance possibilities in the context of the EU and IMO, creating equal competitive conditions. Since other states, such as France, Italy and Spain permit the use of PMSCs on ships, they are possible allies (see Liss/Schneider 2015). However, the necessity to produce tailored solutions for the given contexts means that noticeable differences in the handling and licensing of PMSCS, as well as the types of weapons permitted, exist. Possibilities to mobilize agreement on international standards will also depend on the further development of pirate attacks. Therefore, instead of having a single, harmonized framework, it is more likely that we will see the inter-state recognition of each other's licensing procedures. Such recognition is already possible in Germany for other European licensing schemes (see SeeBewachV 2013, Art. 15 (1, 2)), where similar requirements can be exempted from satisfactory parts of the national procedure.

A further problem is to be found in West Africa. No private security teams are allowed onboard in the states' coastal waters of the Gulf of Guinea, for instance because West African states want to suppress the flourishing trade of arms in their area of sovereignty. Therefore, ship owners are reduced to engaging regional state forces. Until corruption is swept away and protection by state forces in West Africa starts to function effectively, the federal government should endeavor, via diplomatic channels, to gain approval for companies licensed in Germany to work in the coastal waters of the Gulf of Guinea.

The privatization of security through Private Military and Security Companies (PMSCs) gained importance in the international shipping industry, especially in the light of pirate attacks. Challenging the states' violence monopoly, national legislation may be, at least partly, a solution to regain state control over an increasingly privatized security sector. *Carolin Liss* says it is possible that the states tolerate the limited control of PMSCs – "which could indicate that private actors are indeed playing a more central role in (security) governance" (Liss 2015: 96) – because these companies "provide services that are in their interest – the protection of ships under their flag against pirates" (Liss 2015: 96). Birgit Feldtmann (2015) elaborates upon the question of whether seafarers are legally obliged to provide assistance to pirates in distress and illustrates this legal grey zone by referring to practices in Denmark. She comes to the conclusion that maritime stakeholders only get very little guidance on post incident obligations from the flag state while operating in a quite complex legal environment.

What experience do other countries have with the regulation of PMSCs? Joakim Berndtsson and Åse Gilje Østenson (2015) analyzed the instances of Denmark, Sweden and Norway in which armed guards were authorized on commercial vessels. Although these three countries have differences in security privatization, the outsourcing of what may potentially be lethal force is, nonetheless, questionable in all three countries. Because there are many contextual factors that influence security and governance arrangements, it is difficult to discuss only one Scandinavian approach to private maritime security. In her article, Renée de Nevers (2015) compares the approaches of the United States and the United Kingdom to maritime PMSCs. Most of the PMSCs in the world have their headquarters in these two states. Although the two states maintain different priorities and could not develop any more compelling general regulations for the private security industry, they both direct their attention to ensuring control over the use of weapons by PMSCs. Eugenio Cusumano and Stefano Ruzza (2015) look into the matter of the Italian Hybrid Approach, as in Italy the use of military personnel is justified through the deployment of VPDs. Because the activities of VPDs are financed by the ship owner, this "already entails a blurring of the line between the public and the private domain"

(Cusumano/Ruzza 2015: 118). The article of Annina Bürgin and Patricia Schneider (2015) compares the German with the Spanish legal practice, which are both, undeniably, important European maritime actors. Spain transferred its framework for security providers on land to the maritime sector early and even temporarily subsidized certain security providers for the fishing fleet.

Ultimately, all protective measures at sea and on ships merely help combat symptoms and can only constitute individual portions of an entire strategy against maritime violence. It should also involve long-term effective measures on land. The possibilities to mobilize agreement on international standards will depend on the further development of pirate attacks. If one compares the licensing of PMSCs as a "headache pill", its regular taking remains effective as long as it combats symptoms and the disease does not become aggravated.

The next chapter will deal in more detail with Somali Piracy with empirical observations, an analysis of justification patterns and the "Hamburg Pirate Trial".

XVI SOMALI PIRACY: EMPIRICAL OBSERVATIONS, JUSTIFICATION PATTERNS AND TRIALS

1 Introduction

Since November 2010, ten Somali pirates have been tried in Hamburg District Court.[135] During this process, the extent to which patterns of justification were being sought to legitimize their acts became increasingly evident. Although the legal position should be obvious, as the pirates were caught in the act, the court proceedings and dealing with details such as, determining the real age of the suspects and who fulfilled what role with what responsibilities has, nevertheless, been lengthy. Given that the penalty is determined by the particular circumstances and sequence of events of the offense, the motives and personal state of affairs of the perpetrators, such as the poverty in Somalia and the indifference of the international community, are relevant. What motivates pirates?[136] To what extent are the living conditions related to the actual motives? What type of phenomenon are we dealing with when it comes to piracy?

This chapter is mainly divided into three parts. The introduction is followed by an overview of the empirical development of pirate attacks worldwide, a discussion of the justification patterns of Somali pirates and an analysis of the court proceedings against Somali pirates in Hamburg, which the author attended.

Piracy exists in various manifestations.[137] Pirates in Southeast Asia and in the Gulf of Guinea concentrate mainly on robbery and partly on ransom demands, while Somali pirates hijack entire ships along with crews, and only set them free in return for ransoms in the millions of dollars (Petretto 2011). This "Somali Business Model" was limited for a long time to the Horn of Africa and is seen as being closely related to circumstances on land (Murphy 2009, 24).

Piracy in the Horn of Africa was omnipresent in the media. This was partly due to the nature of the Somali piracy and to the special situation in the country. Somalia has been a failed state since the overthrow of Siad Barre in 1991 (Lewis 2011). Thus, for a long time, it has been virtually impossible to contain piracy effectively.

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[135] This chapter is based on and also found in Schneider / Winkler 2013.

[136] This raises the epistemological problem that "true motives" cannot be proven. For the purposes here, the authors have relied on the pirates' remarks and the statements made either to cited authors (Hansen 2009, Weldemichael 2012, Bahadur 2011a, Bahadur 2011b, Petrovic 2011) or during interviews reported in the (mostly Somali) press.

[137] Petretto (2011, 14) explains the different definitions of piracy and summarizes the characteristics of piracy as follows: "A private actor, thus not acting on government order, conducts or precipitates an attack on a ship, either within the coastal waters of a state or on the High Seas, thereby resulting in their primary intention of achieving material gain. […] The term […] is used as a generic category for different offences, which range from theft and armed robbery, extortion, kidnapping and murder, to manslaughter – however, all taking place in the maritime domain" (author's translation).

Nevertheless, there are regions in Somalia where the rule of law functions to a certain degree. This includes Puntland and, to a greater degree, Somaliland.[138] They partner in combating piracy with local authorities and the Transitional Federal Government (TFG), which has the support of the international community.

Warships of many nations are currently stationed around the Horn of Africa. Military presence is either demonstrated by cooperative operations, such as the European Union Naval Force (EUNAVFOR (Atalanta)) and the Standing NATO Maritime Groups, or by individual states, such as China or Russia. Best management practices have been developed in cooperation with associations from trade and industry, along with the European Union and NATO military missions. This includes the cooperation of private security contractors on board merchant vessels (Schneider 2012). However, experts agree that a successful crackdown on piracy can only be achieved on land (e.g., Middleton 2008; Geise 2009; Menkhaus 2009; Chalk 2010). Without a long-term prospect for sustainable political regulation, the problem cannot be overcome (United Nations 2012, 1). A naval crackdown is unpromising in the long run. This is because, partly due to the military presence along the coast, pirates have extended their field of operation to the Indian Ocean and the area is too large to be effectively protected with patrols.

By contrast to the pirates in Southeast Asia or West Africa, Somali pirates have provided justification and vindication for their trade (Petretto 2011, 57). The pirates deny the legitimacy of those trying to control them. They reject being called pirates because the term implies criminality. Rather, they see themselves as the "Saviors of the Sea" (Bahadur 2011a). This defiance needs to be addressed, as it is fueling their conviction of righteousness and thus, attempts to suppress the phenomenon could founder due to the ambivalence about piracy within Somalia. It will not be possible to gain the support of the Somali people in the fight against piracy without undermining the compelling "Robin Hood Narrative".

The Robin Hood Narrative can be summarized using the following syllogism: on the descriptive level, the pirates claim that they have had their livelihoods destroyed by wrongful acts. Consequently, they have resolved to capture ships. Prescriptively, their argument is based on the following principle: whoever has had their livelihoods taken away through an act of injustice may forcibly take from those that perpetrated the injustice. Thus, they have concluded that their violent action is not illegal piracy, but a legitimate fight for survival. While recognizing this claim, the justification has been rejected by the United Nations Security Council in its calls to the international community to combat Somali piracy (United Nations 2012, 9-10).

Based on empirical analysis, there is only a weak connection between the injustice that the Somali fishermen have endured and the troubling piracy scourge in the Horn of Africa today. Moreover, on the prescriptive level, the ethical principle that underlies the piracy argument is not convincing: it is debatable whether rights can be derived from injustice. Even if this is accepted, one is faced with the substantial problem as to who may be held accountable. Should the crews of maritime vessels traversing the maritime area put their lives at risk and be held liable for the injustice caused by others?

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[138]   Volker Matthies refers to a "real existing Somaliland Republic […] The example of this Republic which hitherto is unrecognized by international law, shows that Somalis are definitely capable of governing in a democratic, effective and peaceful manner" (author's translation) (Matthies 2010a, 71).

2   Empirical Observations on Pirate Attacks Worldwide

There are several private and public reporting mechanisms in place. For the overview on pirate attacks worldwide, I have used data from the German Federal Martime Police (Bundespolizei See), which combines data from sources such as IMO, IMB, Eunavfor Atalanta, and is collected by their Piracy Prevention Centre. Alternatively, I have taken data from the International Maritime Bureau (IMB, a branch of the International Chamber of Commerce).

Table 33 begins in 2008. This is commonly accepted as the year in which the Somalian piracy began to have a considerable impact on shipping. The numbers are clustered to show the development not only worldwide, but also in the maritime piracy hotspots in the HRA East Africa, Gulf of Guinea and Southeast Asia. It shows that East African piracy contributed to the overall rise in worldwide attacks from 2008-2011. When it declined, the number of worldwide attacks declined as well. Though the Gulf of Guinea received a lot of attention afterwards, the numbers show comparatively little variation over time and the trend has been going downwards, especially since 2014, whereas the numbers in South East Asia are still rising, though they have not reached the level Somalian piracy had at its peak.

Worldwide attacks hit a 22-year low in 2017, with rising tendencies in 2018 (ICC 2018). The potential for attacks by Somali pirates remains: the situation on land is still unstable, and there is a risk that once naval missions and private guards on ships disappear, attacks will once again increase. The Gulf of Guinea has become a key piracy hotspot. It was the focal point of global piracy in 2018, accounting for 40 percent of all recorded cases (BPOL See 2018: 27). The region has witnessed the kidnapping of crewmembers (with preference given to Western crewmembers for higher ransom), the stealing of shiploads and robbery. Although this is very similar to the behavior of Somali pirates, the main differences are that ships are not safely detained on the coast for months and crewmembers are kidnapped, taken ashore and cared for by the same people in the Niger Delta, whereas piracy in Somalia involves a greater division of labor. When attacks against international merchant ships have failed, partly due to the security forces on board and defensive measures, they have quickly sought new targets nearby. A particular difficulty for Nigerian security forces is that the Niger Delta as a hiding place is difficult to control, and the forces are occupied with counter-terrorism operations. In addition, private armed security forces cannot be deployed in the same way they are deployed in the Gulf of Aden, as Nigeria has banned their deployment on ships in its waters (BPOL See 2018: 30-42; BPOL See 2019: 35).

Table 33. Selected maritime piracy hotspots 2008-2018

Cases	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
World-wide	293	406	445	437	297	264	245	246	191	180	201
HRA (High Risk Area) East-Africa	92	126	219	237	75	15	11	0	2	12	5
Gulf of Guinea	54	39	28	39	56	51	41	31	55	45	82
Southeast Asia	54	45	70	80	80	104	141	147	68	6	60

Source: *BPOL See 2015, p. 10; BPOL See 2016, BPOL See 2019, author's translation*

Table 34 shows the trend since 2010, also for other areas of the world, pointing out that there are also piracy incidents in the waters of the Indian Subcontinent and South America, but comparatively on a much lower level than the one we have in South East-Asia or have had in East Africa.

Table 34. Locations of actual and attempted pirate attacks as per region of the world, January 2010-July 2016

	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016 (1.-2-Q.)**
South East-Asia	114	103	104	141	150	178	39
Indian Subcontinent	28	16	26	26	34	24	15
South America	40	25	17	18	5	8	9
Africa (Somalia)	259	293	150	79	54	35	34
Rest	4	2	-	-	2	1	1
Total	445	439	297	264	245	246	98

Source: *ICC 2015 p. 5; ICC 2016 p. 5-6*

Table 35 points out that various types of attacks took place and that we differentiate between attempted, boarded, fired upon and hijack incidents. The more dangerous types of using gunfire and hijacking dropped with the diminishing Somalian piracy but, as especially in the Gulf of Guinea, we have also had acts of violence and hijacking incidents (less hijacking of ships but rather kidnapping of crew members from the ship, bringing them mostly to Nigeria instead). The numbers have not tapered off completely and remain a problem for the maritime industry and its crews.

Table 35. Comparison of the type of pirate attacks, January-December 2010-2015, January-July 2016

Category	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016 1.-2. Q.**
Attempted	89	105	67	28	28	27	12
Boarded	196	176	174	202	183	203	72
Fired upon	107	113	28	22	13	1	9
Hijack	53	45	28	12	21	15	5
Total	445	439	297	264	245	246	98

Source: *ICC 2015, p. 9; ICC 2016, p. 10*

Table 36 differentiates the types of violence to crew into the categories of "assaulted, hostage, injured, kidnap/ransom, killed, missing and threatened" and shows that, apart from kidnap/ransom figures, the level of maritime violence has declined, especially since 2015.

Table 36. Types of pirate violence to crew, January-December 2010-2015, January-July 2016

Types of violence	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016 1.-2. Q.**
Assaulted	6	6	4	-	1	14	3
Hostage	1174	802	585	304	442	271	64
Injured	47	42	28	21	13	14	4
Kidnap/ Ransom	27	10	26	36	9	19	44
Killed	8	8	6	1	4	1	-
Missing	-	-	-	1	1	-	
Threatened	18	27	13	10	9	14	3
Total	1270	895	662	373	479	333	118

Source: *ICC 2015, p. 9; ICC 2016, p. 10*

Chart 38 shows which managing countries were most affected by piracy in 2015 - 12 times or more. Most affected were Singapore, followed by Greece and Germany [Japan has the same number as Germany – EH] due to their high number of shipping passages in the risk areas. The rankings in the previous years are very similar than the one below.
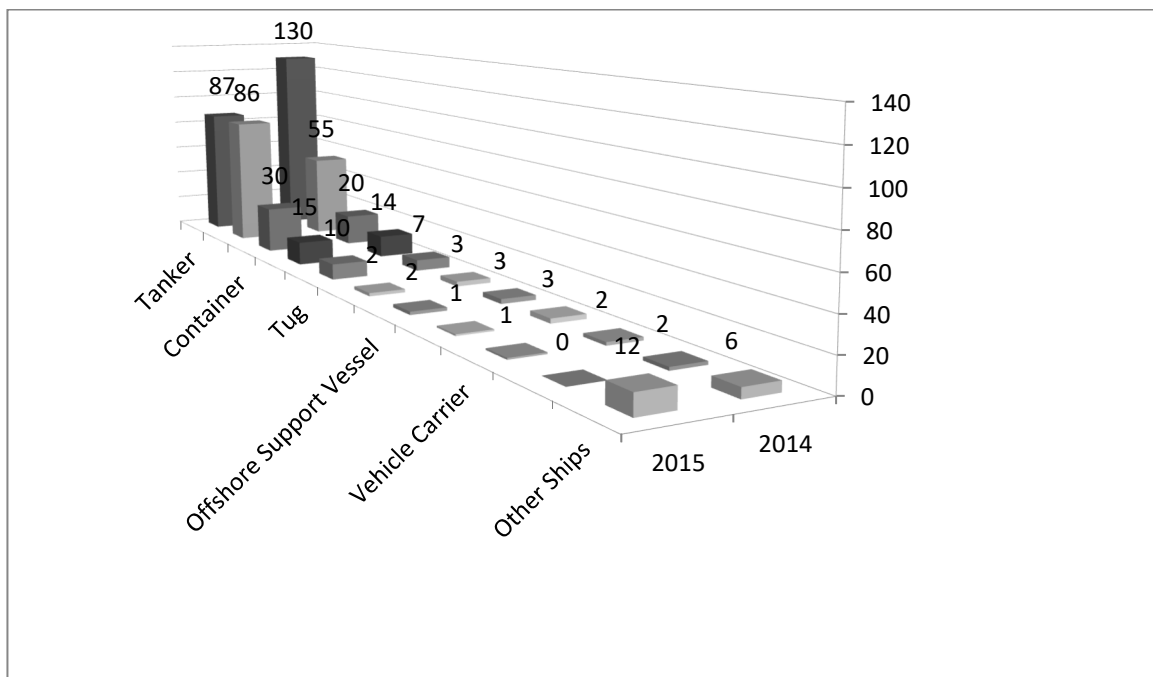
Chart 38. Managing countries whose ships were attacked by pirates, January-December 2015
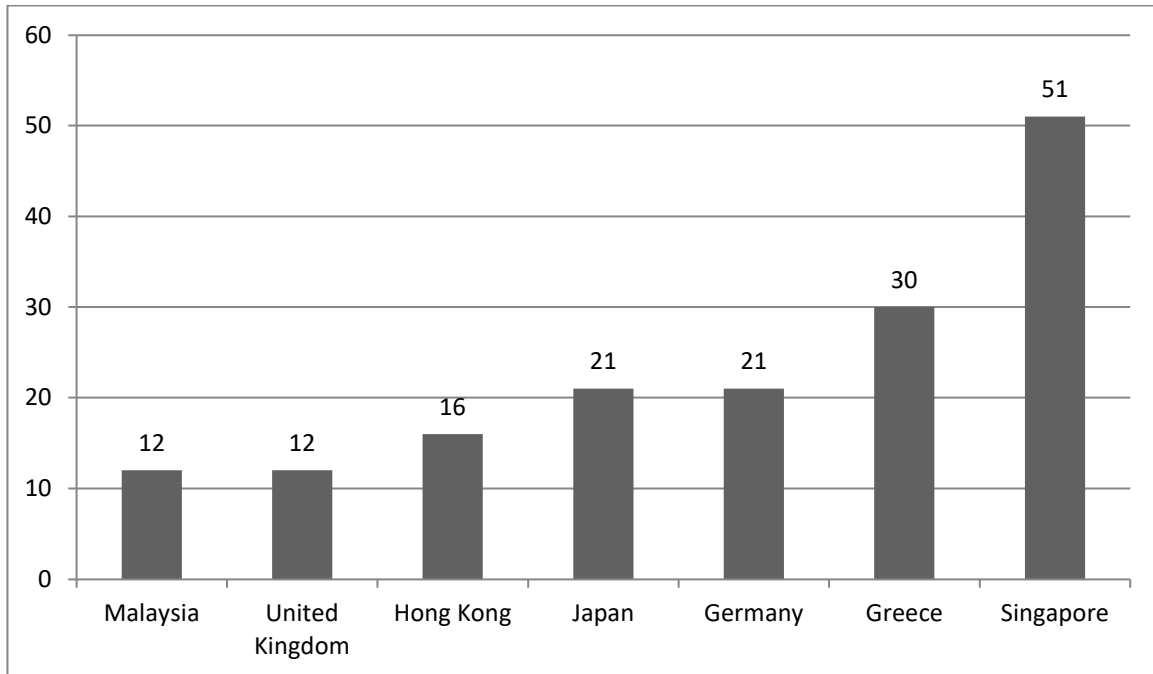
Source**:** *ICC 2015, p. 16*

The types of vessels most attacked were tankers, bulk carriers, containers, general cargo vessels and tugs, as outlined in **chart 39** below.

Chart 39. Types of vessels attacked by pirates, comparison January-December 2014/2015

Source: *BPOL See 2015, p. 16, author's translation*

Despite the fact that Somali piracy seems to be broadly contained to an acceptable level and most former hostages are back at sea, Eunavfor Atalanta's Operation Commander as well as IMO's Secretary General maintain that there is still a threat to ships in the GoA requiring naval deterrence and self-protection on board (EU Navfor Somalia 2016)

The problem of overreporting or underreporting of incidents and. Therefore, the reliability of the data also remains. Overreporting of pirate incidents generate media headlines, but lead to the misallocation of scarce resources of littoral states. However, more pressing is most often the underreporting of pirate incidents, which can be an insufficient basis for maritime domain awareness, reports and trainings of crews. That is why a new voluntary reporting mechanism for the Gulf of Guinea, the "Marine Domain Awareness for Trade – Gulf of Guinea service (MDAT-GoG)", was created in 2016, It is a mechanism established by France and UK which draws on best practices by the reporting mechanism for the Gulf of Aden, the UKMTO MSCHOA. However, it remains unclear whether there is enough cooperation between the different reporting centers (e.g. with ReCAAP in South East Asia) to have a true picture of the threat and how to cope with limited response capabilities in most regions. Similar to the "Best Management Practices for Protection against Somalia Based Piracy" (BMP, Version 4 in August 2011) "Guidelines for Owners, Operators and Masters for protection against piracy in the Gulf of Guinea region" were also issued by the maritime industry (Version 2 in June 2016, see UK P&I Club 2016) to encourage self-protection measures. Furthermore, Behlendorf/Belur/Kumar (2016: 1) point out that terrorism in developing countries is also underreported.

The numbers show that the concern of the seafarers and the maritime industry is based on real facts about maritime violence with a recently overall declining trend. If we were to compare the maritime piracy numbers to general terrorist events, the piracy numbers would be much lower. However, if we compare piracy and armed robbery to maritime terrorism events only, piracy events are much more common but also very volatile depending on the context referring to regional developments, such as opportunities for criminal groups on land and countermeasures by crews and maritime industry, the littoral states and the international community. In a study, Brandon Behlendorf and Gary LaFree (2013: 3, 28, 29, 49) examine the extent to which situational variables in criminology help to predict the success of pirates, using IMO data. They conclude that target attractiveness, pirate capabilities and the strength of crew guardianship and other dynamic countermeasures are important factors. These can easily be related to the risk model from chapter IV.

3   The Robin Hood Narrative

The patterns of justification used by Somali pirates to legitimize their actions depend first and foremost on the accusation of illegal fishing and dumping of toxic materials. There are four patterns of legitimization. First, it is claimed that the pirates are a sort of coast guard protecting the Somali shore. Second, Somalis are said to be forced into piracy because of poverty and insufficient economic alternatives. These two allegations constitute the core of the Robin Hood Narrative. Two other popular legitimizations are that the illegal fishing is the reason for the beginning of piracy and that there is a "general anger" among Somalis at the behavior of the international community, which drives them into supporting piracy (Hansen 2009, 8-12). This perception was confirmed by one of the pirates, Abdirashid Muse in an interview with Aljazeera (2009):

> We used to work as fishermen until 1991. After the collapse of the central government, we faced attacks by international fishing vessels […] They dumped toxic waste and nuclear waste in our seas. We had no central government to defend us and then we took the responsibility to fight them […]. I was captured doing this work and it is not something that we have caused, but it is the Europeans and the Americans that have caused it. […] Behind every navy ship that is supposedly guarding against the pirates, they are also bringing with them many foreign fishing vessels.

This statement, however, requires examination.

There is credible evidence that, after the collapse of the Barre regime, foreign fishing occurred in the Somali 200-nautical-mile zone and even in its territorial waters (Murphy 2011; Samatar et al. 2011; Menkhaus 2009). An Exclusive Economic Zone (EEZ) may extend up to 200 nautical miles off a state's coast. As long as the state claims an EEZ, the state holds exclusive rights over the economic resources, including fish. However, the existence of a Somali EEZ is problematic. Somalia's declaration of a 200-mile territorial sea is not seen as legitimate, because the territorial waters of a country are limited to 12 nautical miles. Neumann and Solomon (2012), on the other hand, propose that the claim could be reinterpreted as a claim for the 200 nautical mile EEZ. Thus, the EEZ would be established and foreign fishing in the area would be illegal without the permission of Somalia.

According to Weldemichael (2012, 6), the Somalis speak of "corporate maritime terrorism" perpetrated by foreign fishing fleets. Clashes have been reported where local fishermen were deliberately attacked (Knaup 2008; Lehr/ Lehmann 2007, 13; Puntlandi 2013). Artisanal fishermen armed themselves and started to fight back (Menkhaus 2009; Knaup 2008; Lehr/Lehmann 2007, 13). Professor Mthuli Ncube from the African Development Bank described these developments as follows: "These fishermen then took the law into their own hands and said, 'look we'll start hijacking ships as a way of getting back'. Then it became an easy business, a way of life, they got hooked onto it" (cited in Curnow / Macguire 2011). This is the Robin Hood Narrative, which still forms the legitimization for piracy today, as accusations that piracy is linked to illegal fishing in Somali waters remain. "We don't consider ourselves sea bandits. We consider sea bandits [to be] those who illegally fish and dump in our seas" (Gettleman 2008).

Apart from illegal fishing, the second accusation, which is not as prominent, is that of chemical and nuclear material dumping by foreign vessels in Somali waters, some of which was, incidentally, washed ashore by the tsunami in 2004 (Murphy 2011, 21, Greenpeace Italy 2010, 21). According to a United Nations Environment Programme (UNEP) report (2006, 133-135), European firms were responsible for the dumping of toxic waste off the Somali coast.

The pirate gangs define themselves as "social bandits"[139] who capture ships for the sake of their suffering society. In their view, blackmailing for ransom is not a criminal act, but is a "legitimate, compensatory 'taxation'" (author's translation) (Matthies 2010b, 78). Since Somali fishing is focused primarily on self-sufficiency, the exploitation of fishing grounds means depletion of the resource and, in the worst case, the starvation of people living on the coast. "Previously we were honest fishermen, but since foreigners fished our seas empty, we have had to search for other ways to survive" (author's translation) (Müller/Querouil/ Rienhardt 2008). The narrative is strongly based on a moral argument – the rich industrial nations are exploiting the Somali fishing grounds, while the local fishermen are having their "livelihoods" (author's translation) (Trittin 2011, 355) taken away. Bahadur describes the analogy between the subjugated "terrorist" and the self-determined "freedom fighter" and the names which the Somali pirates give themselves. For instance, not "burcad badeed", meaning ocean robber, but rather" badaadinta badah", meaning saviors of the sea (Bahadur 2011a).

The above explains the social support which various pirate groups receive from the local population. This is important as captured ships are sometimes held for long periods of time and their crews and guards must be provided for. This is not possible without the consent of some of the local population. A Somali stated in an interview that a portion of the spoils of piracy are distributed within the local community, among the poor and needy, and results in the pirate group being seen as Robin-Hood-like figures (Bahadur 2011a). Moreover, as Hallwood and Micelli (2012, 191) point out, in one pirate village, Harardhere, there is a stock exchange, which makes it possible for pirates to raise money for their activities and "allows non-pirates to share in the profits of piracy".

Alongside the legitimization of piracy by the local population and the Somali diaspora, the Robin Hood Narrative serves as a justification on the international level (Petretto 2011, 31-32). This can be seen in the German discourse. The parliamentary leader of the German Green Party, Jürgen Trittin, wrote of an "Armada of European fishing trawlers" that have "almost fished empty" the large area of the Somali coast. In addition, he seeks to prevent a situation "where the defense against Somali piracy implies the protection of European and other industrial fisheries that exploit Somali fishing grounds" (author's translation) (Trittin 2011, 355; 357 ff.). The Monitoring Group on Somalia, a United Nations body, has identified the fishing villages along the coast to be the origin of the pirate groups. It sees their formation as a result of years of illegal fishing by foreign fleets and the dumping of toxic waste (United Nations 2008, 28; United Nations 2003, 32).

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139   The "social bandit" is a concept of Hobsbawm: "It is a special characteristic of the social bandits, that the feudal lord and the state consider the peasant 'bandit' a criminal, while he ͵ nevertheless ͵ remains part of the peasant society and is considered a hero, avenger, or fighter for justice, by the society" (author's translation) (Hobsbawm 2007, 32).

4   Somali Piracy

It is not disputed that Somali waters have been plundered by international fishing companies. However, the illegality of these activities is often disputed, due to the debate on the legality of Somalia's EEZ.[140] What can be empirically tested are these arguments: that foreign fishing was the trigger for piracy; that the pirates protect the Somali coast; and that the fishermen are forced to attack commercial ships because of poverty. Not in question, however, is the "general anger" of Somalis towards the international community.[141]

Somalia was never a land of fishermen as the population is largely nomadic. In the 1970s and 1980s, tens of thousands Somalis were resettled to coastal areas due to a prolonged drought. Consequently, by the year 2000, out of a population of nine to ten million, there were roughly 30,000 professional fishermen and about 60,000 who were fishermen as a secondary occupation (Murphy 2011, 19-20).[142] Following the civil war and the collapse of the government, there has been no acknowledged central government. Various local militias and warlords began lucrative businesses providing fishing licenses to foreign fleets, thereby generating up to a million dollars per year (Murphy 2011, 20). The yields of the foreign fishing fleets were high. Tuna, swordfish and lobster to the value of US$300 million were annually fished within the 200 nautical mile zone off the coast of Somalia (Marchal 2011, 46).

The artisanal fishermen tried to protect their fishing grounds, but they were not prepared for the financially and technically better equipped fishing companies from Europe and Asia. By contrast to "subsistence piracy", there were groups, which were driven by profit from the beginning. Most likely, there was cooperation between artisanal fishermen and local militias or warlord groups, where the fishermen brought their navigational skills and knowledge at sea (Marchal 2011, 37; Menkhaus 2009, 23). Many attacks in the 1990s were executed in this constellation. The maritime and navigation experience of the fishermen, as well as the assumption of the pirates that the robberies and kidnappings were a profitable alternative source of income, might serve as an explanation for the early preference of pirates to target commercial vessels rather than fishing boats (Hansen 2011, 28, 2009, 20-21). It can be assumed that the pirates quickly identified the economic importance of merchant ships to their owners and respective companies. They then further commercialized their piracy through successful hijackings and negotiating ransoms (Klein 2012, 65; Hansen 2009, 39). The financial motivation was confirmed by a Somali pirate: "there is the tremendous wealth gleaned from hijacked ships. The local people coming back home with huge amounts of money also attracted me" (Hansen 2009, 12).

The reason that fishing vessels do not appear in piracy statistics can be explained by the fact that it would have been uncomfortable for many companies and fleets to publicly admit that

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140   Since Somalia has not officially declared an Exclusive Economic Zone (EEZ) there can be no "illegal" fishing off the coast of Somalia. Neumann and Salomon (2012) see the lack of an EEZ declaration as not being critical and argue for a reinterpretation of the Somali claim and the existence of an EEZ.

141   Hansen (2009: 11-12) reports that "general anger" was not raised by all interviewed pirates, but it can certainly be considered to be a motive for many.

142   In the 1990s Somali fishing returns were good despite the strong international competition. Being a fisherman was a recognized profession and there were small local businesses, which created jobs, at least temporarily (Weldemichael 2012: 15-16).

they were exploiting the fishing grounds of Somalia. In addition, not acknowledging a piracy event can prevent an increase of insurance premiums.[143]

It is problematic that there is no comprehensive data on recent illegal fishing in Somali waters or the dumping of waste. It needs to be assumed that there are a high number of unreported cases. While Agnew, et al. perceive a decline in the proportion of illegal fishing in the Indian Ocean in the period from 1980 to 2003 (Agnew, et al. 2009, 2), this tendency cannot be presumed to apply to the period after 2003. A report of the United Kingdom, Illegal, Unreported and Unregulated (IUU) Fishing Coordination Unit, "Closing the Net: Stopping Illegal Fishing on the High Seas," (2006) classified illegal and unregulated fishing as significant. Unfortunately, the report provides no data from which a development over time can be determined.[144] Nonetheless, it must be assumed that both piracy activities and the deployment of international naval ships in the Western Indian Ocean have negatively influenced the occurrence of illegal fishing and waste-dumping. Ultimately, a final judgment is not possible. Equally difficult is the "determination of the actual extent of financial damages (...) for illegal activities such as piracy and maritime terrorism often remain in the dark" (Engerer 2011, 7).

The legitimizations of piracy as coastguarding and the fact that the pirates are forced into piracy are the core of the Robin Hood narrative. But what about the role of piracy as coastguarding today? Does the development of a piracy business model fit with their legitimization claims?

The surge in piracy, with more than 200 attacks a year in the Horn of Africa and in the Indian Ocean, began in the second half of the 2000s (Joint Project PiraT 2011, 7). According to one explanation, two private security companies were tasked with training a coast guard for Puntland. To achieve the objective, over 1,500 Somalis were trained to use Global Positioning Systems (GPS) and special boarding techniques. When the companies had their contracts withdrawn (one in 2000 and the other in 2005) the trainees were left unemployed and were recruited by several pirate gangs. After a short campaign in which the Puntland government drove the group south, the pirates shared their new skills with the gangs in southern Somalia (Marchal 2011, 37-38). Murphy also acknowledges the increase in the emergence of organizations that specialize in ransom negotiations and ransom transfers (Murphy 2011, 26).

The degree of organization of the pirate gangs, in particular their technical supplies, ability to house hostages and ships, their ever-increasing professionalized ransom negotiations with ship owners, and their ability to launder money are considered major logistical efforts which are used as a justification to classify Somali piracy as transnational organized crime (Jakobi 2010). There is no question that ransoms have increased (United Nations 2010, 36). In 2005, an average of US$150,000 was paid per ship. By 2010 the sum was US$5.4MN (Petretto 2011, 22-23).

The (self-) defense argument of Somali pirates can be disputed since pirates today operate in a wide area, including large parts of the Indian Ocean. According to the 2011 report, "IMB Piracy and Armed Robbery Against Ships", the area of attacks has extended up to the waters

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143   According to Oceans Beyond Piracy (2010, 10-11), for example, the insurance premium for the Gulf of Aden risk areas had increased dramatically in 2008, with the premium going from $500 to $150,000. Oceans Beyond Piracy notes further that, according to the Munich Reinsurance GmbH insurance, premiums to protect against kidnapping and extortion had increased tenfold from 2008 to 2009.

144   There are no current studies on the cost or extent of illegal fishing activities by European players. A 2008 study dealt only with cost of illegal fishing in European waters (Tinch et al. 2008).

of Kenya, Tanzania, Madagascar, into the Mozambique Channel, the Indian and Arabian Ocean of Oman and the western coast of India and the Maldives (ICC 2012a, 22).

The defense argument is further weakened by fact that recent attacks and abductions have shifted to central Somalia. Some pirate groups have specialized in the kidnapping of laborers, journalists and tourists on land (DefenceWeb 2012). This development follows a prolonged period of low activity and minimal success for pirates on the waters in the first half of 2012 (ICC 2012b). According to statistics from the International Maritime Bureau (IMB 2012b), worldwide attacks by pirates steadily increased until 2011. However off of Somalia, the number fell sharply by 2012. Instead, there are an increasing number of attacks in West Africa. However, overall, worldwide attacks hit a 5-year low in 2012 (ICC 2013, 5, 6, 24). Moreover, compared to previous years, pirates have been far less successful at hijacking ships, but at the same time, higher ransoms have been demanded, increasing the overall economic damage. Finally, pirates have also tended to increase their use of force (Joint Project PiraT 2011, ICC 2013).

Although no direct causality can be derived from these developments, it nevertheless indicates a relationship between financial motives and piracy, rather than piracy and the need for coastal protection. Similarly, there are several problems with the argument that fishermen are forced into piracy because of poverty and the lack of alternatives. Based on the threats against ships by pirates and the strong international military presence and situation-monitoring of Somalia, one can assume that large-scale illegal fishing and the dumping of illegal waste in the Somali 200 nautical mile zone has been reduced.[145]

Shortland (2010) indicates that the fish stocks off the coast must have recovered due to the reduction of illegal fishing. At the same time, there is a lack of fishermen for vessels in Somalia. This is because the fishing infrastructure was severely affected by the 2004 tsunami and because the majority of fishermen have turned to piracy. It can be said that Somali piracy harms the local fishery more than it helps it (Hansen 2011, 30; Stehr 2011, 11). Additionally, the proceeds from hostage-taking do not benefit impoverished fishermen or the local infrastructure. Rather, the proceeds have been used mainly for drugs and alcohol and land acquisition. The situation is getting worse because piracy has led to an increase in bride prices, prostitution and overall inflation in the affected areas (Weldemichael 2012, 24; Jakobi 2010, 2; Petretto 2011, 30).[146]

In an interview, Saeed Mohammed Rage, Puntland's Minister for Maritime Affairs and Ports, emphasized that the Somali people are "the first victims of the pirates" because "trade is decreasing in our ports, [while] our prices for foodstuffs, [and] the prices for almost all goods are increasing rapidly" (author's translation, Petrovic 2011). Furthermore, Rage reported that: "Fishers no longer go onto the seas because they are scared: they are scared of pirates, scared of navy forces or scared because private security companies on merchant ships might mistake them for pirates and shoot them" (author's translation, Petrovic 2011). Similarly, MacAskill and Patnaik (2013) report that fishermen have been mistaken for pirates by Italian marines with deadly consequences. Rage himself was captured by pirates and many of Puntland's security

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145   The Food and Agricultural Organization (FAO) indicates that piracy has reduced illegal fishing activities in Puntland (FAO 2011, 40). According to Weldemichael (2012, 22) there is still illegal fishing especially by Spanish, Yemeni and Iranian ships.

146   A different opinion, confined to the case of Puntland, is provided by Marchal (2011: 41). In Puntland, ransom monies reportedly have been invested locally or regionally.

forces have died when attempting to defeat or detain pirates. He demands, among other things, that "paying of ransoms must end" as the high amount of ransoms "undermines our efforts to get the situation under control" (author's translation, Petrovic 2011). Rage also notes that, as a result of pirates possessing large sums of money, "prostitutes come to the villages where the pirates are and drink alcohol. (...) The pirates are destroying our culture" (author's translation, Petrovic 2011).

There is no empirical validation of the claim that pirates operate as a coast guard. Many pirate groups focus on merchant ships. In addition, the radius of attacks has extended to the Indian Ocean and to ships with goods destined for the Somali population, such as those under the U.N. World Food Programme. More difficult is the assertion that the displaced fishermen have no alternative. But there are also weaknesses here since, even if we assume that fish stocks have recovered (it is extremely difficult to determine fish stocks and therefore to prove this), the Somali fishing industry cannot compete with piracy. More generally, the pirates do not use ransoms to support society but only for their personal enrichment. Thus, they cannot be defined as "social bandits" in a Robin Hood-like sense.

Pirate groups are very heterogeneous. Some are under the protection of a clan and some are not. Some are greed oriented, while others are, perhaps, artisanal fishermen who capture ships because of grievances. Hence, the argument that there are some groups which fulfill the claims of the Robin Hood Narrative cannot be rejected completely. Nevertheless, based on empirical evidence, it can be argued that most pirate groups in Somalia do not fit the narrative.

5   Claims from a Theoretical Perspective: Justice and the Use of Force?

Alongside the descriptive portrayal of what has occurred, it is central to this article that the prescriptive lines of argumentation be scrutinized. Can one, based on injustice, derive legitimacy for illegal actions? John Rawls' *Theory of Justice* and *The Law of Peoples* provided the impetus for such a debate in political philosophy. Thomas Pogge (2002) has further developed the theory of justice and transmitted it to the global level. In Pogge's approach, there is a very strong understanding of moral obligation, particularly in western communities, to take action against poverty in the world.

Concerning the prescriptive argument, the first step is to present how injustice is defined at the global level and what consequences this has for the international community. In the debate about a "just world order," some are in favor of redistribution, a sort of "duty to give". The pirates' justification patterns, however, point in a different direction – they define their actions as self-defense and compensatory justice; they claim to take what is "rightfully theirs". To derive such a right, it is first necessary to establish the complicity of the international community with the situation in Somalia. In the second step, the conditions are clarified under which the use of force would be legitimate. Here the application of the theory of a "Just War," as adapted by Nicholas Fotion (2007), is examined.

According to Rawls (1979, 29) people decide, in a primal state, on the future shape of their society. The primitive state, as Rawls claims, is to be understood as a theoretical thought experiment. The people are under a veil of ignorance, i.e., they cannot know which position they will hold in the future society, nor what "natural gifts" they have nor what culture they belong to, etc. (Rawls 1979, 160). If rational people have to decide under these conditions, it is submitted that they would decide on two principles of justice. First, would be the principle that

everyone is entitled to the greatest possible freedom and to the same extent, and second, the difference principle. The latter states that inequalities, economic or social, must be such that it is "(a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all " (Rawls 1999, 53). Rawls excludes an international context as he defines society as a closed system with no connections to any other systems (Rawls 1979, 24).

In *The Law of Peoples,* Rawls tries to apply his domestic social concept on a global scale. Comparable to individuals within a society, nations need to rely on the thought experiment of the natural state. Representatives of democratic nations will then come to an agreement that sets binding principles of political justice. These include freedom and equality, independence, contract compliance, respect for human rights, the duty of non-interference, the right to self-defense, respect for law of war regimes and, finally, the duty to help other nations that are not able to build a just and honorable political order on their own (Rawls 2002, 33-42). The so-called "burdened societies" are the ones not able to develop into well-ordered nations because they lack "the political and cultural traditions, the human capital, know-how and often the necessary material and technological resources" (Rawls 2002, 131). In these cases, the well-ordered nations have a duty to help. This "duty", however, remains rather vague. It can be understood as an aid to facilitate self-help. Rawls rejects distributive justice pointing out that well-ordered societies are not necessarily wealthy (Rawls 2002, 132). The goal is, therefore, to adapt the level of development, by way of advice, until "burdened societies" are in a position to regulate "their own affairs in a reasonable and rational way" (Rawls 2002, 132-138).

Applying Rawls, one could define Somalia as a "burdened society" and deduce a duty to help Somalia. The duty that emerges from Rawls is too imprecise to deduce a justification for illegal actions from their non-fulfillment. Based on Rawls, there is only a "positive" obligation and he notes that "negative duties [such as not to harm anyone] have more weight than positive ones" (Rawls 1999, 98). Thus, even if one concedes that the international community is inactive in responding to the suffering in Somalia, blame can only be voiced in relation to a failure to help. It is hardly possible to derive from this failure to help a right to act illegally in order to achieve self-defense.

Pogge recognizes that the problem in Rawls' theory is that the duty to do something is always weaker than the duty to refrain from doing something (Pogge 2002, 130). He writes that basic goods, such as political participation, physical integrity, food and clothing should be sufficiently available to all people (Pogge 2002, 49). Social institutions are responsible for the distribution of these goods and have to be formed by the members of a community in such a way that no one is disadvantaged (Pogge 2002, 66). Although Pogge presents national communities as a prime example for social communities, he strongly rejects the preference of nationals over other individuals. He, therefore, draws an analogy to intra-societal conditions.

> How can we ask our officials to put their own family's finances out of their minds when deliberating about the domestic economic order (e.g. the tax code) and yet expect those same officials to have their own nation's finances uppermost in their minds when deliberating about the global economic order? (Pogge 2002, 124-125).

He also rejects the justification of nationalism, which provides that we have greater duties towards our fellow citizens than towards citizens of other States. Even if this applied to positive undertakings, it would not hold in the case of negative undertakings. There is always the duty

to minimize the damage one causes, even if this causes harm to our citizens instead of foreigners (Pogge 2002, 130-133). What does this mean for the obligations of the international community towards states like Somalia?

If unjust institutions harm people, then those who take advantage of these institutions have a duty to change them in such a way that makes them fairer. In relation to poverty, this requires an economic system which raises the standard of living (Pogge 2002, 135-136). Even though there are arguments that attribute the responsibility to poor countries themselves, e.g., in the case of mismanagement, corruption or bad institutions, these arguments disregard the role of institutions on a global scale. A small elite portion of the world's population benefits from the exploitation of resources from the poorest parts of the world. Further, despots will, without the consent of their people, exercise the right to decide about their country's resources, including the selling of exploitation rights to foreign firms.[147] The global economic system and its rules are maintained by developed countries and their military and economic dominance. Thus, these states bear the responsibility for the consequences of the system. Insofar as the global poor are worse off than they might be under a feasible alternative global economic order, the existing global economic order can be seen as being unjust. "By imposing this order upon them, we are therefore harming them unduly" (Pogge 2002, 136). Such an order could be substantially improved by small adjustments. Pogge proposes the development of an international treaty which removes the right of despots to make decisions about the resources of their countries, who, against constitutional right and without democratic legitimation, cling to power. In addition, international companies should not be able to have access to such resources (Pogge 2002, 139-144).

Concerning the situation in Somalia, it can be stated that this duty of doing no harm has been violated. Although Somalia receives U.N. relief supplies, in Pogge's perspective, this is no more than an attempt to fight the symptoms. As long as the basic rules of international order are not changed, no real improvement can be achieved.

The "duty not to harm" forms a basis for assessing the justification of illegal acts as a positive duty which Rawls (2002) developed. In principle, it could be argued that once a negative obligation is not fulfilled, the right to self-help arises. Every individual has the right to defend himself against harm done to him. The problem is that the damage is difficult to measure. Apart from the fact that there is little information for measuring the economic damage of illegal fishing, it is even more difficult to determine which institution or action taken by which State harmed the Somali people. Second, the piracy violence does not focus on the "responsible" ships and their crews, but primarily on innocent vessels. Even if a right for the Somalis to use force could be derived from the above arguments - which is questionable - the violence would still be subject to strict conditions.

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147   According to Pogge: As ordinary citizens of the rich countries, we are deeply implicated in these harms. We authorize our firms to acquire natural resources from tyrants and we protect their property rights in resources so acquired. We purchase what our firms produce out of such resources and thereby encourage them to act as authorized. In these ways we recognize the authority of tyrants to sell the natural resources of the countries they rule. We also authorize and encourage other firms of ours to sell to the tyrants what they need to stay in power – from aircraft and arms to surveillance and torture equipment" (Pogge 2002, 142).

The attempt to justify violence from a justice perspective has principally been undertaken in relation to war. The theory of the "just war" has long been considered a benchmark for countries to justify collective violence. The two approaches that can be considered as a modern adaptation of this classic theory are considered below.

The concept of the "responsibility to protect" was first presented in 2001 by the International Commission on Intervention and State Sovereignty (ICISS 2001). If a state does not want to or cannot comply with the responsibility to protect its own population, the responsibility falls upon the international community (ICISS 2001, 17). This can, under some circumstances, include military intervention (ICISS 2001, 32). However, in considering the Somali pirates, the responsibility to protect concept is not relevant. Although the criteria for military intervention are carefully defined (ICISS 2001, 32-37), the concept does not indicate what happens in a case of non-state actors seeking to exercise the rights of responsibility.[148]

Nicholas Fotion (2007) tries in *Irregular Just War Theory* to create a framework in which asymmetric conflicts, i.e., conflicts between states and non-state actors can be considered.

Fotion develops the classic principles of *jus ad bellum* (law of war) and *jus in bello* (law in war) to apply them to non-State actors: just cause; *Ultima Ratio*; probability of success; proportionality; fair intentions, legitimate authority; and discrimination principle (Fotion 2007, 111-124).

Just cause in the classic sense entails the right to self-defense, pre-emption, defense of a friendly nation and/or the prevention of a humanitarian disaster. For irregular non-state actors the concept of a just cause is different. Exploitation, subjugation, or attempted annihilation of the group may be considered to be aggression and, therefore, a just cause.

The principle of *Ultima Ratio* commands a state to exhaust all other options before using violence. Again, this applies to non-state actors in a modified form. Fotion says that non-state actors have at least the duty to solve their grievances in other ways before resorting to weapons.

The probability of success deters states from initiating wars in which they see no chance of achieving their goals. The principle is easily manipulated, since few states achieve their goals, but at some point adapt their objectives (Fotion 2007, 114). Application of this to non-state actors would prove fatal. For example, a revolutionary movement, which would lead a guerrilla war against a regular army, has little chance of success in achieving its overall objectives. Consequently, this principle should not be applied to a revolutionary movement as a justification to wage a "just fight". However, to deny them the right to wage a "just war" only because of their reduced chances of success is not in line with the theory. Fotion excludes the principle of the probability of success for non-state actors.

The requirement of proportionality is disputed in classic theory, since it is difficult to determine. Fotion solves this problem by allowing either side the right to decide proportionality within the meaning of their own ideology. For a State, it would be just as rational to refer to the preservation of its market economy, as it would be for a non-governmental group to pursue political or religious aims (Fotion 2007, 121). It is not possible to determine a hierarchy of standards. The same applies to the "just intent" of a belligerent. Although it is required for both sides, it is always a subjective decision, especially since there is no guarantee that the justification supplied is equivalent to the real, underlying one.

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148   Non-state (violent) actors are only considered in their role as perpetrators (ICISS 2001, 33).

The last principle, *jus ad bellum,* is that of legitimate authority. Again, there is an asymmetry between states and non-state actors, as state actors have to rely on a legitimate authority, whereas irregular groups are exempted from this requirement in the absence of such authority.

Jus in bello contains two principles – proportionality and the duty to distinguish. During war or warlike situations, states and non-state actors focus on the proportionality of their actions. Above all, both sides must distinguish between combatants and civilians. Non-state actors face an opponent who is clearly identifiable.[149] State actors, however, have more difficulties in distinguishing between civilians and non-uniformed enemies. For this reason, higher collateral damage is allowed by comparison to a traditional war comprised of regular armies.

The following is an attempt to apply Fotion's approach to Somalia. Some adjustments to the theory are necessary. The conflict in Somalia is arguably between non-state actors – the local and the international (illegal) fishermen and the background actors. Although Fotion mentions only conflicts between states and those between states and non-state actors, it is the next logical step to expand the concept to strictly non-state conflicts. The strongest argument for an application of the *Irregular Just War Theory* to the Somali pirates is their claim that they are acting on the basis of just cause principles.

It might be a something of a reach to define the pirates as a party to a war. Yet the presence of an asymmetric conflict is also difficult to deny and is underlined by the presence of international navies off the Somali coast, although those navies are acting largely in a protective role.

If pirate groups want to legitimize their violent behavior based on just causes, they have to fulfill the criteria according to the theory although to a lesser extent, due to the fact that it is a conflict between non-state actors.

The pirate groups in Somalia will have no difficulty in relying on just cause. The exploitation of the Somali fishing grounds can be put forward as a reason, just as the damage to the coastal population by toxic waste can. This may be considered as "aggression" in Fotion's terminology. The problem is that the initiator of the aggression is difficult to define. Is it the states which do not stop their fishing fleets? Are, thus, all members of these states initiators or only the fleets' fishermen and the business actors in the background? In order to fulfill the obligation to distinguish, it is necessary to determine who the enemy is. A broad definition of "aggression", which considers each and every beneficiary of the unjust-order (in the sense of Pogge (2002)) as an aggressor contradicts the intent of the theory. This includes the requirement not to let the number of combatants become too large. By using a broad definition, the number of aggressors could result in each inhabitant of an industrialized country being held accountable. In terms of a "duty to provide" economic support to poor countries, this may be supportable. However, as this would mean that legitimate violence against any of these people could technically be applied, this position is no longer tenable.

As long as pirates attack and kidnap fishing boats, one could possibly argue that this was a fair fight.[150] If however, the pirates, attack civilian merchant ships and use violence against the crew, they violate this principle. First of all, merchant ships can be clearly distinguished from fishing boats and second, even if these ships come from nations which are responsible for the suffering in Somalia, it is an injustice to single out one group from the collective responsibility

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149   Fotion dismisses the approach of many groups of classifying almost everyone who is connected in any way with a regime as a combatant (Fotion 2007, 122-123).

150   This holds as long as the other principles are also followed. These include, for example, that other means would have needed to be used to drive ships from Somali waters and that as little violence as possible would have been applied.

of the industrialized world. This is especially so, considering that the crews whose lives are at risk or whose lives are taken often do not come from the industrialized nations that are responsible. There is no moral principle that yields a permission to fight against injustice by personally committing injustice.

Raids on ships do not result in a restoration of justice. The Somali people receive little or no benefit from the profits of piracy. Although many Somali groups claim to follow just intentions, this claim does not pass the test in most cases. The claims and facts are not strong enough to derive a legitimate right for pirates to use force that might be derived from Fotion's *Irregular Theory of Just War*.

A prescriptive legitimization of piracy is not possible. The first precondition would be the existence of a strong responsibility of the international community for the situation in Somalia. This is debatable. Although Pogge's theories (2002) establish a basis for a guilty international community with respect to the situation in Somalia, the pirates' justification for the "right to take" by use of force undermines this approach. Collective violence must overcome significant obstacles in order to be legitimized by just causes. Fundamentally, it is not reasonable that the crews of ships transiting the region are held liable with life and limb.[151]

6   Conclusion

The Somali pirates' patterns of justification do not provide them with any legitimacy for their actions. It is empirically questionable whether today's pirates engage in piracy in order to protect local fishermen. Moreover, the justification based on the prescriptive argumentation is also not convincing. The harm inflicted by piracy on the remaining Somali fishermen and society as a whole is substantial. This is also confirmed by field research in Somalia carried out by Awet Weldemichael, who notes among other things that "Somali fishermen have consistently complained about pirates stealing their fishing boats and catch, fighting and injuring or killing them in the process" (Weldemichael 2014, 228).

The shortcomings of the Robin Hood Narrative, both empirically and theoretically, should be made clear to the Somali elites who still refer to this narrative.[152] This could be a first step in tackling the problem comprehensively (Petretto 2011, 32). For as long as pirates have support from at least a small segment of the population and the ability to recruit, their activities will continue. On the other hand, the problem of piracy is not a priority in Somalia. The country is still affected by civil war and food crises and the (transitional) government, supported by the international community, suffers from a lack of legitimacy due to alleged corruption. In order to appeal to the interests of the Somali public, the goal needs to be an improvement of the situation, both politically and economically, especially in the coastal regions.

The announcement by the Somali Prime Minister Abdiweli Mohamed Ali Mo on the creation of an effective national navy shows that the protection of the coast is a key concern for Somali society. The Navy should focus on putting "a stop to the foreign countries and companies … taking Somalia's resources illegitimately" (Shabelle Media Network, 2012). In order to address these concerns at the global level the Food and Agricultural Organization of the United Nations

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151   For the human costs of piracy, please see: ICC International Maritime Bureau and Oceans Beyond Piracy (2012).

152   Bahadur (2011b, 72) quotes the President Abdirahran Farole of Puntland: "Piracy is [the international community's] problem – well, it's ours too – but what is specifically [sic] our problem is illegal fishing."

(FAO) in 2001 created an "International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing" (IPOA-IUU) (Environmental Justice Foundation 2005, 3). While this is a good approach, it has, thus far, been poorly implemented as only about fifty states have subscribed to the agreement and even fewer have developed National Plans of Action (FAO 2012, 24-25). (Members include the EU as well as the member states.) One should note that participation is voluntary. Transparency can be improved by clearly publicizing an updated list of signatory and accession countries and their Plans of Action, if any. Thus, a deficit remains in the realm of IUU fishing and this presum-ably contributes to the persistent negative and narrative-enforcing attitudes.

To the Somalis, there are two types of pirates: those who protect their waters and criminals who focus on ransoms. In the eyes of the local population, the actions of the international community are wrong because they equate the two types. The problems which piracy poses for the international merchant shipping community appear marginal to average Somalis in relation to the problems in their country (Samatar et al. 2011, 1389). The local perceptions in the above discussion of justice should not be ignored. To Somalis, the entire piracy discourse is a "manifestation of Western double standards" (Samatar et al. 2011, 1389). If a change is to be achieved, the improvement of the living standards of the Somalis should be actively pursued. The way towards this could be, as Pogge (2002) asserts, to change the institutions and rules which cause the Somalis suffering. For example, it should be possible to recognize Somaliland as an established State. The lack of recognition has many disadvantages, which, considering the relative stability of this area (compared to the rest of Somalia) is difficult to explain.

Among other things, it would be helpful if the international community were to generally prohibit fishing in Somalia's 200-mile zone. In order to establish more clearly which activities are legal or illegal, it is necessary for the Transitional Government of Somalia and local authorities to cooperate on the granting of fishing licenses. In addition, the warships that are currently stationed in the Gulf of Aden could report any ship that is fishing illegally or dumping toxic waste.[153] The Atalanta mission has the mandate to monitor illegal fishing activities off the coast of Somalia.[154] In support of the Atalanta mission, the European Union adopted a Crisis Management Concept as the foundation for the civilian mission "EUCAP NESTOR" (European Union Mission on Regional Maritime Capacity-Building for the Horn of Africa) in December 2011. The main goal of EUCAP NESTOR is to strengthen the rule of law in the regions of Puntland and Somaliland and to support the EU Training Mission. The overall goal is to contribute to regional stability by strengthening the maritime abilities of the eight states located in the Horn of Africa (European Union 2012).

7   Outlook

The potential for an attack by Somali pirates remains high, as the situation on land is still unstable and there is a risk that, as soon as naval missions and private guards on ships disappear,

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[153]   In January 2010, new EU regulations for the common fisheries policy and the prevention of illegal fishing entered into force. However, there are no studies on how effectively these could be implemented outside of European waters (see Baumüller 2010).

[154]   According to Ehrhart and Petretto (2012, 35-36) this is difficult for two reasons. First, the EU military mission Atalanta EUNAVOR does not have sufficient capabilities or capacities. Second, there is the fundamental problem of the legally ambiguous situation of the Somalia EEZ.

these would pop up again.[155] First of all, ongoing efforts are needed for stabilizing the situation, including capacity building on land to protect Somali's coast and the prosecution not only of pirate foot soldiers, but also of masterminds/financiers. Second, we need to better address the narrative which the pirates use to justify and legitimize their actions: illegal fishing and waste dumping to enhance external legitimacy (versus internal legitimacy created by the common norms of the governance participating actors). Third, unresolved issues remain over the state control of PMSCs e.g, in the field of arms control. If, for example, weapons from floating armories, where some PMSCs store their weapons, are used by criminals and or terrorists, this would seriously undermine the acceptance of the use of PMSCs. On the other hand, many states, such as Germany, introduced rather comprehensive licencing schemes for PMSCs to regain state control, enhance security and legitimacy of these companies, but they are not allowed to be used on all waters, e.g., the territorial waters of Nigeria, another hotspot of piracy. Fourth, in the light of declining attacks in the IOR it is harder to lobby for naval missions which are costly and may be needed in other areas, such as maritime migration.

Therefore and because piracy in the IOR is still seen as a potential risk, there is a trend to uphold the security governance measures. They are still perceived as legitimate by their actors and we can assume that the common norm basis has been strengthened. At the same time, new frameworks, which could make use of the positive cooperation experience, are being sought. The successfully established cooperation mechanisms (such as SHADE, ITRC, CGPS) could either be institutionalized or/and existing regimes and practices to address maritime security challenges through enhanced regionalism of the lands around the rim of the Indian Ocean could be strengthened. Meanwhile, none of the nations or organizations want to draw back, as they feel that they only have a say in this process and make sure that the problem is tackled, seriously as long as they participate, no matter how costly that is.

When Germany was presiding over the G7 in 2015, it declared maritime security as the main field of concern, which was later taken up by Japan when presiding over the G7 in 2016. In June 2015, Germany declared that it was ready to support the littoral states of the IOR by supporting the IORA (Indian Ocean Rim Association), which takes care of maritime safety and security, by becoming a dialogue partner (Steinmeier 2015). This association, which was rather unknown and insignificant before, has the potential to become a more important forum in the future, as it is the only organization existing in this area. It might also become the home of the contact group, as a new roof is being sought for it. The United Nations, which hosted the group before, does not want to be the permanent seat of the contact group, which does not consist only of states, which are members of the UN. Strengthening existing regimes, such as the IORA, to address maritime security challenges through enhanced regionalism, also makes sense, as no new contract is then needed. However, the challenges lie in lobbying for membership and allocation of resources. At the same time, the coastal states of the IOR are so diverse in their cultures, traditions and sensitive security problems that they are skeptical, that they would be well represented in such an inter-regional security forum. This skepticism was shown in the verbal contributions by the participants of the Indian Ocean Conference in fall 2015 in the Foreign Office in Berlin. This diversity could result in a lack of legitimacy if practices,

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155   The section "Outlook", which was authored by Patricia Schneider, was also used for an article written together with Sybille Reinke de Buitrage (Reinke de Buitrago / Schneider 2020)..

coordinated e.g., by IORA, do not create a common view, norms and culture on dealing with these issues in the future.

To Somalis, the entire piracy discourse is a "manifestation of Western double standards" (Samatar, Lindberg, and Mahayni 2011, 1389). If a change is to be achieved, the improvement of the living standards of the Somalis should be actively pursued and IUU should be fought. The main goal of EUCAP NESTOR is to strengthen the rule of law in the regions of Puntland and Somaliland and to support the EU Training Mission. The overall goal is to contribute to regional stability by strengthening the maritime abilities of the eight states located in the Horn of Africa (European Union 2015). However, there seems to be little coherence or coordination between missions on land and at sea and EUCAP Nestor has only little scope. The planned merging of the two EU Navfor Atalanta und EUCAP Nestor might change this in the future. A coherent, norms-guided and inclusive approach could enhance its legitimacy.

Newer developments aim to address the complaints and the improvement of living standards: Since 2011, SmartFish has been a Regional Fisheries Strategy for the ESA-IO region Project that aims to increase levels of social, economic and environmental development and deeper regional integration in the ESA-IO region through the sustainable exploitation of fisheries resources. This initiative is led by the Indian Ocean Commission in cooperation with many other organizations and 19 (West-) African countries (view http://www.fao.org/fishery/ smart-fish/en).

The regional cooperation, FISH-i-Africa, composed of eight countries along the West-Indian Ocean (Comoros, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Somalia and Tanzania) was founded in December 2012 as a reaction to illegal, unreported and unregulated (IUU) fishing believing that "*regional cooperation, information and intelligence sharing, coupled with dedicated data analysis, technical advice and strong political motivation can slowly, but surely, turn illegal fishing into a high risk/low reward business*". Technical experts track vessels that are suspected of fishing illegally and the country representatives (Task Force) can inspect the vessels when they reach a port in any of the member countries, deny them entrance to their ports (forcing the operator to pay) or hunt them down (force them to buy legal fishing licenses and, therefore, improve government revenue), all of which is coordinated between the member countries. There are also conferences that promote the communication and the sharing of information between member countries as well as the development of common strategies (http://www.fish-i-africa.org/). The SmartFish and the FISH-i-Africa imitative could partly refute criticism of the security governance in the IOR in the field of piracy, which demands that the solution come from the Somali themselves (Ehrhart and Petretto 2014: 194). With the declared aims, the littoral states stipulated common norms and responsibilities; their ownership also stimulates the legitimacy of this cooperation.

Examples of good practices, with future potential, also include the above mentioned SHADE – Shared Awareness and Deconfliction mechanism in IOR for information sharing and the exchange of views between stakeholders from force-providing nations, regional countries, international organizations, such as EU and NATO and industry groups. For example, it helped to coordinate and discuss convoys through the Internationally Recognized Transit Corridor (IRTC), with one country being the 'reference nation' for a period of three months on a rotational basis, including China, India and Japan. This rotation enhanced legitimacy, as no nation

could be the only leader pursing its geopolitical leadership interest. This confidence-building approach for a norms-based system could be a model for other regions as well.

Also, the cooperation mechanisms (such as the Contact Group) and stakeholder-driven approaches to addressing Maritime Piracy developed in the limited field of anti-piracy could have the potential to be extended to govern other transnational risks in the IOR, such as illegal trafficking and maritime terrorism. They could also be considered for monitoring illegal fishing and waste dumping and maritime migration. However, the prospect for establishing *new* permanent institutions to deal with maritime security, such as piracy, and perhaps link them with other maritime challenges to have additional benefits, are low. For example a much discussed special worldwide court for piracy was never established. It is more promising to keep up less formal working groups (such as the Contact Group off the Coast of Somalia) or the information-sharing mechanisms on operational level, such as SHADE, to circumvent disputes on states' territorial sovereignty or focus on common interests and norms, such as fighting hunger by the World Food Programme and granting access via sea for them and the freedom of navigation for all in general, as well as secure sea lanes and recognize the ocean as a common good. While there is no common culture and identity which could serve as a basis for cooperation of the non-littoral states, the littoral states created common norms and shared responsibilities with initiatives, such as FISH-i-Africa and SmartFish, against IUU, which has the potential to create common norms and cultural practices that could also be helpful in taking ownership in the fight of other transnational crimes in the future.

8   The "Hamburg Pirate Trial"

On 19.10.2012 the judgment in the "Hamburg Pirate Trial" was handed down and prison sentences imposed.[156] The proceedings can serve as an example of flag state jurisdiction executed on pirates and its challenges. The trial also shows how arguments of the Robin Hood narrative are picked up and how prosecution can go hand-in-hand with other security governance measures.

Everything appeared to have been handled correctly: the MV Taipan was on its way from Haifa, Israel to Mombasa, Kenya, initially travelling through the transit corridor covered by the EU Atalanta mission and bowed wide in order to avoid a possible pirate attack. The crew practiced steering maneuvers, attached barbed wire to the railings and used water jets installed on the ship to discourage a possible boarding of the ship - all recommended self-protection measures. Nevertheless, the container ship was unable to escape two suspicious motor boats equipped with strong outboard engines. Despite travelling at full speed, the Taipan was eventually boarded. The pirates had RPGs, Kalashnikovs, pistols and blunt instruments, and fired on the bridge until the team withdrew to shelter in the ship's citadel. The pirates managed to quickly change the ship's course in the direction of Somalia, whereupon the captain of the Taipan severed the ship's power lines. The crew made up of members from Germany, Russia, Sri Lanka and Ukraine, spent 4 anxious hours sweating in the dark. If the pirates had found and broken into the citadel/shelter before the Dutch frigate arrived after receiving emergency calls from the ship, the rescue and security of the hostages would have been jeopardized. The crew faced a similar fate to previous kidnappings, in which hostages were held for months or even years, until a multi-million dollar ransom is negotiated and delivered. The kidnappers would have expected a small portion of the ransom for themselves. Nevertheless, it was a quick and successful rescue operation. Afterwards, the suspects were transferred via Djibouti to the Netherlands and then extradited to Germany. The first German piracy trial in 400 years had begun.

The Hamburg court was given responsibility for the trial of the 10 Somalis, as it is the home port of the shipping company affected by the hijacking. German criminal law applies to the case, not only in terms of the attack on the ship, but also for the extortionate kidnapping. This is because the ship was sailing under a German flag and two German sailors were involved. The trial and the judgment were followed with great public interest.

Court proceedings were initially scheduled for a short process of about four months, due to the circumstances of the offence being committed. However, the trial dragged on for almost two years (from 22.11.2010 to 19.10.2012). This was an enormous effort and cost over a million euros. The 105 day trial involved 4 judges (including a proxy), 2 prosecutors, 3 interpreters, 20 defense lawyers, 4 members of the jury (including 2 proxies), the secretary and a dozen correctional employees actively operating in a fair trial of the 10 defendants. In addition, a number of witnesses to the sequence of events, as well as experts on the ages of the accused and the situation in Somalia were heard. The court considered that the conduct of the defendants was a reason for the long duration of the court proceedings. For instance, many applications to produce evidence were filed late: in such high profile proceedings, it is not uncommon for the defense to use tactics to raise doubts about the credibility of expert witnesses and the judges. Also, the proceedings dragged on because the defendants changed their statements midway. The first defendant, for example, only protested his innocence after the 40th day of the

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156 This chapter is a translation from Schneider 2013d.

trial. The accused also suffered as a consequence of the drawn out proceedings, which had an impact on the certainty of their futures. Helplessness, resignation, despair and other such emotions were reflected in the accused's statements. One of the accused testified that he saw no future prospects, felt abandoned by God, and often thought about suicide. Another asked for the court to kill him (he later withdrew the request). All of the accused asked for a fair sentence. They claimed not to have played a large role: none intended to shoot and four of the accused claimed that their involvement was coerced. Six of the defendants requested acquittal or discontinuation of the trial. The court did not accept the argumentation of the defendants, due to a lack of provability of guilt. Furthermore, the court did not accept the claim that the defendants were coerced and held that all of the defendants were fully responsible and guilty as charged. This is true, as it could not be proven who the first to board the ship was or the first to shoot, as per the view of the court. The underlying fact was that the act was a combined, planned and methodical effort, with a clear division of labor.

The judgment of the court appears to be reasonable and plausible. It addresses both the guilt of the accused with respect to the professionalism of the circumstances, which led to the offence being committed and to the facts. In addition, the accused entrapped themselves in inconsistent and contradictory testimonies and couldn't deliver any plausible documentation to substantiate their claims. For example, there was no indication that the Indian fishermen, whose boat had been seized beforehand, served as a 'mothership' and that the pirates were acting under duress. The doubts about the testimonies were valid also for the accused Khalief Diiir, who, after the prosecutor had already upheld his plea on 25.01.2012, filed a new and comprehensive confession on 29.02.2012. He seriously incriminated his co-defendants and declared that, *inter alia,* they had all previously entered into a signed contract wherein their respective roles and shares of the spoils had been defined. The court held that his confession was indeed plausible, although the other lawyers and defendants labeled him a "liar" or "traitor". Nevertheless, the opinion of the court eventually referred back to its previous judgment due to gaps in his testimony.

The sentences for the 7 adult defendants were 6-7 years. The three defendants under the age of 21 who were tried by the juvenile justice system, were sentenced to 2 years each. This means that, as minors they were remanded in custody for a disproportionate amount of time. As a result, they were released and no longer required to be kept in custody. For the moment they are allowed to continue living in Germany, attend school, and, where applicable, stay in their living groups, but their exemplary behavior will need to be monitored. One of them even apologized for his deeds using a German sentence in his closing words: "Thank you, I will not disappoint you."

The possible range of sentences were based on the facts of the case, the "vollendeten erpresserischen Menschenraub" (§239a Criminal Code) and the "predatory attack on maritime traffic" (§316c Criminal Code), for which the defendants were found guilty. Since typical sentences for adults vary from 5 to 15 years (for adolescents 0 to 10 years), the challenge in this context is arriving at a balanced and reasonable judgment. At the same time, it is important to consider the mitigating factors and the claims of the prosecution. The very trauma of growing up – and surviving – in strife-torn Somalia were considered an integral part of the mitigating circumstances. Therefore, the following were taken into account: none of the accused were instigators of the crime; the victims did not sustain lasting injuries or damage to their material circumstances; the accused did not have any known criminal records prior to being apprehended *in flagrante delicto,* the accused showed evidence of positive developments while in custody; and,

where relevant, prior (partial) confessions were given. Aggravating circumstances, meanwhile, included: the clear and present danger of the heavily armed assault; the obvious imperilment of a large number of victims (15-man crew); involvement in organized crime; the significant value of the ship and the damage caused to the ship.

The piracy careers of some of these individuals was over. This result is also considered a success, because one of the accused had been caught previously by naval forces a few weeks before and released. A year-long imprisonment in a foreign country is surely an uncomfortable experience. Their incarceration could be used to facilitate their education, even if it merely involves learning how to read and write. Subsequently, the whereabouts of the perpetrators in Germany must and can be taken into consideration, as extradition to Somalia is not possible under current circumstances.

A general deterrent to other Somali pirates from the judgment is, nevertheless, not expected. In addition, the possibility of prosecution is slim, and even the danger of dying at sea has not hampered recruitment. The number of pirate attacks have dropped noticeably since 2012, but this has been attributed mainly to the increasing use of private security companies, the more robust military missions and the sometimes harsh weather conditions. As the presiding judge, Bern Steinmetz, emphasized that the punishment should not solely be deemed a deterrent, but rather a judgment on the seriousness of personal culpability. This concerns, *inter alia*, the issues of atonement for one's actions and justice for the victims. However, during the trial, the defendants frequently cast themselves in the role of victims. Illegal fishing and the dumping of toxic waste off Somalia's coast is also said to have driven them to piracy. One of the defendants said that he was a fisherman, but could not catch fish any more. This was rejected in the oral judgment based on the testimonies of the expert witnesses, Volker Matthies und Stig Hansen. While illegal fishing and toxic waste disposal are admittedly responsible for the emergence of piracy, the current form of piracy off Somalia that exhibits traits of organized crime cannot be explained by it. Piracy is a lucrative business for all involved, which likely constitutes the actual reason for the hijacking of foreign vessels and their crews.

Many critics held that the trial lacked legitimacy, due to cultural differences and since the problem of piracy off Somalia could not be solved by it. Suspicion has been expressed that the trial served as a source of legitimacy for the EU Atalanta Mission, and the participation of the Bundeswehr. The speech of the defense raised the question whether this was, in fact, a politically motivated trial conducted to justify the costly Atalanta military mission; whether, perhaps, an impoverished and powerless South Somalia was being sat in the dock to deflect attention away from the true culprit!? In another plea, the defense added that as the defendants came from a failed state that had long forfeited the rule of law, they would have not known that their actions were wrong. In response to this indictment, Steinmetz made it quite clear that the court always acted independently and that this particular case was focused on the defendants. This arises from the UN Convention on the Law of the Sea, which was also signed by the former Somali government. This obligates Germany to also combat piracy. Everyone in Somalia knows that piracy is wrong; piracy is also outlawed as "un-Islamic" as it does not correspond to the value system laid down by the Muslim faith. The pirates had to expect to be held accountable if they attacked international shipping. That they have committed wrong seems to have become clear to the accused: One of the defendants expressed in his closing words that he had been blind, and that he now knew the difference between right and wrong. Another expressed that in the course of his imprisonment he had learned to distinguish between right and wrong by studying the Quran and Islamic law, and that he was very glad not to have killed

anyone. Ralf Nagel of the German Ship Owners' Association expressed the following point to the press: "Piracy is a crime, and crimes belong in court".

The trial showed that German criminal prosecution in such cases faces many challenges that cannot always be solved satisfactorily. For example, the question even arose of whether bribes might by be permissible in order to facilitate the appearance of a witness. It is no longer possible to completely reconstruct something that happened thousands of kilometers away. The defendants' statements were, accordingly, difficult to validate. Therefore, the call for an alternative to a trial in distant Germany is understandable. One must, however, keep the otherwise popular catch-and-release practices (disarmament and immediate release) in mind. This should affect 90 percent of those captured at sea, since individual states are rarely prepared to take on the alleged criminals and ensure prosecution and punishment. As long as the local and regional capacities to prosecute pirates are low and as long as human rights standards are not adhered to when suspects are handed over to regional authorities, there are currently no feasible alternatives to trying these cases before the courts of the nations whose ships and crews are affected (for example, this has already happened in the Netherlands, France, Malaysia and the USA). It should be noted in this context that the establishment of an international criminal court for piracy has yet to be agreed on, and that the corresponding capacity building in the region has barely gone ahead. This stalemate situation also hinders the alternative solution of establishing mixed or international criminal divisions in local courts.

According to an article from March 2015 in the weekly Newspaper "Die Zeit", all ten of the convicted men have been released from prison and are still living in Germany. The question of a residency permit is not yet fully resolved, because they only have a temporary suspension of deportation, which has to be renewed every three months. According to German law, foreign criminals who have been in prison for several years have to be deported afterwards so as to not commit any crime on German territory again. But because of the political situation in Somalia nobody has been deported since 2010. Instead, these men have gotten a temporary suspension of deportation, which is why they criticize that these conditions prevent them from getting (re)integrated into society.

What will happen in the future? The prosecution of perpetrators who are active at sea is only a small part of the measures against maritime violence. The roots of organized piracy cannot be fought successfully as long as backers and money launderers are not convicted,[157] while conditions in the Somali provinces allow for ships to be held off their coasts and hostages to be provided for. In addition, as long as the judiciary, police and governing authorities fail to do their duty by the Somali people, legal income opportunities will remain scarce and development assistance will be jeopardized by the security situation. Furthermore, the criminal and corrupt governance on land serve to further complicate the fight against the root causes of piracy.

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[157]   Kenneth Scott (2014 summarizes the international efforts to prosecute pirates very well in an "Oceans Beyond Piracy" Report: "Approximately 1,200 cases of piracy in East Africa have been brought in various jurisdictions and have either been completed or are in progress, with a substantial majority of these cases having been brought between June 2009 and June 2012. Most were brought in the East Africa/Indian Ocean region (including Yemen). The UNODC has actively supported about 300 of these cases at an estimated cost of approximately $30 million. With very limited exceptions, the cases against East Africa's pirates have focused on the lowest-level pirates, with the highest-level pirates convicted to date being the pirate ransom negotiators in United States v. Shibin and United States v. Ali. Apart from the recent arrest of Mohamed Abdi Hassan in Belgium, no pirate kingpins—neither top leaders, facilitators, nor financiers—have been prosecuted."

The problems faced by international merchant shipping are aggravated by piracy to a significant extent which, in turn, is a result of the internal problems within Somalia. Somalis view their marine resources as having been pillaged by other countries and foreign companies, and they view the outrage over Somali pirates as an expression of Western double standards.

The international community should support the Somali government, which was elected in August 2012, in its claim to Somalia's Exclusive Economic Zone (EEZ) in accordance with international law.[158] The Atalanta mission should enable, as part of their mandate, the monitoring of illegal fishing activities off the Somali coast. In order to better establish which activities are legal or illegal, cooperation between government and local authorities that issue fishing licenses is necessary. Under the circumstances then extant, the trial was necessary and fair. Should a renewed extradition of the accused pirates be requested, it may be denied given the expense, duration of the trial and the emotionally charged debate. Nevertheless, the following applies: international shipping can only be protected through the combined efforts of all seafaring nations. This is of central interest to Germany in its capacity as an export nation that is heavily dependent on secure supply chains and safe trade routes. This protection should apply in particular to the threatened sailors whose work forms an integral – and indispensable – part of international shipping. Sailors, however, have hardly any lobbying power, and often come from underdeveloped countries themselves. If a stronger German involvement were advanced, further trials in Germany would constitute a sensible strategy against piracy, pending feasible judicial alternatives at international level. This would also provide an alternative response to the prevalent culture of impunity that would simultaneously fulfill international obligations towards criminal prosecution of piracy.

The conclusions wich emerge from this analysis are presented in the final chapter.

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[158]   Somalia did declare its EEZ in June 2014 and asked the Internatinonal Court of Justice (ICJ) to determine the maritime boundary with Kenya. The court began the public hearings on the preliminary objections raised by Kenya in May 2016 (see http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=161, accessed 29 October 2016).

XVII CONCLUSION

This chapter is divided into three sections. The first presents a summary of results; the second elaborates on the relevance of maritime security for Germany's policy and research landscape; and the third outlines the need for future research and the design of the ocean governance model recommended by this study.

1 Summary of Results

This section answers the research questions while summarizing the results of the study. The potential impact of maritime terrorism and the repeated threats to strategically important trade routes underscore the importance of effective governance in this and other fields of crime governance. As noted, cooperation between public and private actors plays an integral role in influencing the way in which governance is developed, carried out and enforced. It can be said that public and private actors have a symbiotic relationship in that each reacts to the other's actions and each must react to stimuli that are characteristic of the maritime domain. Their actions and reactions shape the evolution of maritime security governance. This complex relationship between public and private actors in the governance of maritime terrorism shows that effective regulation of transnational crime requires the involvement of public and private actors at various levels. It is also important to work with a set of incentives and common interests while setting up frameworks to ensure compliance even in non-hierarchical relationships.

Schnapp et al. (2016:17-18, 21) stress that both qualitative and quantitative research call for a reflective approach to the survey and analysis process. Methods are selected as a means to an end, depending on the research task. The research process should be verifiable by third parties, generalizations should be carried out with caution, and one's own research should be critically reflected upon. Not only should this process of reflection avoid technical errors, but it should also take into account the context dependency and open interpretation of the results. **Chapter 2 (**"Reflections on Methodology") explained the author's research perspective and outlined the reasons for the study's mixed method approach, its use of case studies and elite interviews, and its chosen modelling method.

The first main research question was "*What is the nature of the risk posed by maritime terrorism and piracy as discussed in the context of maritime security?*" To respond, the study first had to clarify how the terms "piracy" and "maritime terrorism" were used. **Chapter 3** demonstrated that when it comes to research on this topic, it is helpful to separate maritime terrorism from the broader concept of terrorism. It defines maritime terrorism according to the terrorist methods employed by the perpetrators and in terms of location, just as a distinction is made between air and sea piracy, or between fighting on land, at sea and in the air. These distinctions make possible both further research into violence at sea and an evaluation of the risk to trade at sea. The advantage of using concepts is that they "make sense of a messy reality by reducing

its complexity (…) and provide a language that enables scholars to communicate their theoretical arguments and empirical findings" (Berenskoetter 2016b: 1). The definitions of terrorism and piracy were chosen in a way that made working with the databases possible, meaning that they had to comply with their main principles. These concepts must be contextualized and more clearly defined. Nonetheless, the term 'maritime terrorism' remains rather broadly defined, which will hopefully provide plenty of scope for future debate.

Both types of activities can be placed on a continuum of illegal maritime behavior. As both piracy and maritime terrorism potentially comprise (the threat of) direct violence against humans, they contribute to the corrosion of maritime law and order even more than other maritime crimes, making maritime security governance that strives for good order at sea necessary. I have therefore concentrated on these two phenomena in this study and have defined sea piracy and maritime terrorism as maritime crimes that are usually delineated in terms of their motives, with the pirates' motives being mainly profit oriented.

The next step was to ask: *What risk model can be developed from risk theory and subsequently employed in this study?* The challenges within security policy detach themselves from more traditional concepts of international order and security policy and are attributed to an increasingly significant body of non-governmental actors in the context of a growing "post-national constellation" (Habermas 2006) in times of rapid globalization. "With no unifying theme or theory (…) the study of security has become more pluralistic and less coherent than during the Cold War. (…) [The debate is characterized] by a greater awareness of the dynamics of various regional, national and local particularities (…) [and] contemporary security scholarship tends to be more inclusive (…) [One could] celebrate this diversity as a major strength" (Stritzel/Vuori 2016: 52). In **Chapter 4,** different schools of thought were presented so as to serve as a basis for the debate on risk and security. These were then applied to the context of piracy and maritime terrorism. The classic risk formula was made more precise, and the PiraT-risk model and its indicators were presented to help measure risk assessment (see also chart 40 below).

As Florian P. Kühn argues, "[t]he central problem of risk policy is that decisions are taken under conditions of uncertainty and incomplete knowledge" (Kühn 2017: 179, author's translation). Kühn (2017: 183, 187) explains how specific knowledge, values, and cultural practices help the relevant actors to decide how to deal with risks. He observes that in modern societies, "the logic of compensation is replaced by the principle of prevention" (Kühn 2017: 192, author's translation). This can be observed in the area of anti-terrorism measures in particular. Risks also reflect power relations in the sense that we think more about what risks affect us and less about the effects on less powerful actors (in the international system), such that it is always necessary to deal with contextual conditions (Kühn 2017: 193-201). The contextual nature of risk perception has also been confirmed by analysis of the transnational risks of terrorism and piracy.

Chapter 5 ("Theorizing Maritime Violence by Applying Social Movement Theory to Terrorism and Piracy in the Cases of Nigeria and Somalia") then looked at the question "*Can*

terrorists and pirates be understood as social movements, and if so, what are the possible benefits and limits of this approach?" It deals with the application of social movement theory to terrorism and piracy. Social movement theory has been applied to terrorism before, but not yet to piracy. This chapter examined how social movement theory, which largely focuses on peaceful protest movements, deals with violence. It provided a novel, systematic analysis of whether the characteristics and modes of social movement theory apply to the cases of Nigeria and Somalia, using some of the author's empirical results. After critically examining these characteristics and modes, and after having established the benefits of the use of social movement theory, the chapter built on these results to address the limits of this approach. The concepts highlighted by social movement theory would seem to be of use primarily where a strong narrative is used to underpin an attitude of social protest to legitimize violence. Social movement theory can be applied to both phenomena if one concentrates on a single form of piracy, such as Somali piracy, which justifies its action as a form of protest regarding current practices. A case could also be made for extending this notion to some of the Nigerian pirate and/or terrorist groups in the Niger Delta, whose demands include the redistribution of revenues from oil resources (often leading to theft, robbery and hijackings) and oil spill cleanup measures to mitigate environmental damage and its consequences for society (see Chapter 7). Nevertheless, in most regions of the world pirates do not use "Robin Hood" narratives (see Chapter 13). We can observe not only differences but also a number of similarities between pirate and terrorist groups, both on the psychological and the group dynamic level, for example. This approach has its limits, however, when it comes to explaining maritime violence and its dynamics. This study therefore draws on alternative perspectives from philosophy and sociology to provide a broader global social context and on political psychology to incorporate views on the inner dynamics at work at the individual and the group level. The findings from these disciplines can be situated alongside the social movement approach to add to our understanding of these social phenomena. Political psychology can, for instance, add to our conceptual explanations of group identities and dynamics, identifying the emotional aspects of threat perception and reaction patterns, whereas philosophical and sociological approaches provide general discussions of grievances, inequality, globalization, human security, actor networks, regime types and historical processes of (de-)colonialization. These factors clearly have an impact on the agents of maritime violence. Providing a common conceptual roof so as to better understand terrorists and pirates in the maritime domain helps us to view these groups not merely as risk factors and addressees of security governance but through the lens of social protest and the mechanisms and dynamics outlined by social movement theory. This study uses this approach to contextualize and theorize these phenomena from a perspective that has been broadened by other useful concepts. These contextual explanations and dynamics will have to be taken into account further in the future – a notion that will be proposed later in the model at the end of this chapter.

What is maritime terrorism, and how relevant is it? The core aim of the middle part of the book is, first, to present an empirical evaluation of past attacks, including information on perpetrator groups, the frequency of attacks, the regional distribution and the number of victims. It further presents the PiraT data bank of maritime terrorism, which was created for this study, and is comprised of information taken from various databases which have been filtered and classified. This study summarizes a number of findings (see **Chapters 6-10**). There were problems, however, *with the state of the data* available and its categorization. Thus, conclusions

must be drawn cautiously. Under no circumstances ought unqualified conclusions to be drawn in the absence of qualitative analysis of the cases. At this point, the databases themselves consist of different collections and cover different time periods. In particular, RAND started with data from 1968 and recorded no further cases after 2009, and WITS only began acquisition in 2004 and has already discontinued its collection with cases from 2011. Only the GTD, which began data compilation in 1970, is an ongoing project that is continuously evolving and up to date. The results presented from the analysis of the databases can still help to identify trends that should be investigated further.

To answer the disputed question on relevance, a number of sub-questions were examined. *Is the number of terrorist groups in the maritime domain too low to justify directing valuable resources to defense mechanisms?* Well-known examples of maritime terrorism include the hijacking of the Italian cruise ship *Achille Lauro* during the Palestinian uprising (1985), the al-Qaeda attacks on the *USS Cole* (2000) and the French oil tanker *Limburg* (2002), and the bomb explosion on the Filipino *Superferry 14* (2004), perpetrated by the ASG. One could assume that, given the small number of well-known incidents, the number and impact of terrorist attacks in the maritime arena is so low that it is not worthwhile focusing resources on defending against them.

By contrast, the *number of actual attacks* in the maritime sector in the time period assessed is in the hundreds, which provides evidence for the relevance of the field. In comparison to the total number of terrorist incidents within the same period, however, this number is relatively small, and therefore less alarming. Or, as Asal/ Hastings (2015: 724) put it: "maritime terrorism is rare but nonetheless exists." Consequently, maritime terrorism has remained a relatively minor threat so far. The evidence presented in this study, which should only be regarded as an approximation of empirical reality, has shown the following: Over time, the *attack numbers* vary greatly, and thus the data does not suffice for a statistical trend analysis. The past figures are not necessarily indicative of the possible catastrophic consequences of future maritime terrorist attacks. However, repeated threats affecting strategically important routes should at least justify a consistently high level of attention (see Chapter 1). Therefore, effective governance of this particular risk will remain necessary, together with measures against other forms of crime (as defined in Global Crime Governance; see Jakobi 2010 and 2011) and for the resolving of civil war situations, where armed groups engage in terrorist activities. The study is *limited* however, as it could not capture the full spectrum of terrorist maritime activity (for example state-sponsored terrorism) due to lack of data.

What are the characteristics of the actors and attacks (motives, methods and regional distribution of the terrorist groups)? Seven *regions* were affected in the time period observed, and in recent times this number has been reduced to four (along with a shift in focus). In recent years, especially during the period since 2001, sub-Saharan Africa and South America have recorded a significant increase, while the number of attacks in South and Southeast Asia has remained at a consistently higher level, although figures for the Middle East and North Africa have declined slightly.

This matches insights from general trends of terrorism from the GTD: Although one might think, particularly in light of recent events in France, Belgium, Germany and the US, that no location is safe from terrorism, the data shows that terrorist attacks are highly concentrated in

relatively few locations by region, by country and by city and that the regional distribution (as well as the perpetrator groups themselves) has changed over time (LaFree, Dugan, and Miller 2015: 49, 67, 234). This is also true of maritime terrorism.

As a result of there being only a few well-known cases of maritime terrorism, it could be assumed that the *small number of groups* that have carried out terrorist attacks in the maritime sector share similar motives. This study shows that the opposite is in fact the case. Results demonstrate that the number of actors is significant and that their motives are multifaceted and strongly informed by their respective circumstances. Nationalist-separatist groups and Islamic groups have carried out the most attacks to date, and leftist groups have also been responsible, although not to the same extent. Since 2000, Islamic groups have been responsible for the most victims, at least when groups that have other motives in addition to their Islamist goals are included. This goes together with the general increase in the lethality of worldwide terrorist attacks (LaFree/Dugan/Miller 2015: 144). Islamist groups also pose a particular threat to international shipping insofar as they have the highest number of international targets.[159]

The participation of different perpetrator groups (60 groups since 1968, 24 since 2001) is one factor that explains the impossibility of simply providing a general overview of the phenomenon of maritime terrorism and thus the importance of multi-dimensional analysis. When analyzing perpetrator groups, this study focused on the *characteristics of* and maritime attacks perpetrated by eight specific groups that were responsible for the most attacks and the most victims: the Liberation Tigers of Tamil Eelam (LTTE), the Abu Sayyaf Group (ASG), the Moro Islamic Liberation Front (MILF), the revolutionary Armed Forces of Columbia (FARC), the Somali al-Shabaab, al-Qaeda, the Movement for the Emancipation of the Niger Delta (MEND) and the Free Aceh Movement (GAM). Their *motives* are described in Chapter 9.

A comparison of two time periods was made in **Chapter 10** so as to identify new trends that challenge previous findings. Three *regions* were most affected in the time between 2010 and 2017 (using GTD data only): Southeast Asia, the Middle East and North Africa, and Sub Saharan Africa. The *countries* most affected were the Philippines, Malaysia, Yemen, Libya, and Somalia. Firearms and explosives/bombs/dynamite were by far the most popular *weapon types*. The most common *attack types* for the research period and maritime targets were hostage taking and bombs/explosions. This is followed by vehicle hijacking and armed assault. The analysis of weapon types and attack types goes hand in hand with the results of analyzing the *attack scenarios*. These results show that the most feared scenarios are future scenarios that have yet to become reality. As in attacks on land, mainly "ordinary" and conventional means and plots have been carried out. This matches the insights from general terrorism trends from the GTD to the effect that attacks can cause great loss of life and destruction: "the vast majority of terrorist attacks rely on readily accessible weapons (...) [such as] explosives and firearms" (LaFree, Dugan, and Miller 2015: 100). The number of *casualties* varies, and single attacks can cause huge losses, whereas most attacks have no or unknown casualties. Islamist groups (alone or combined with national/separatist motives) have caused the greatest casualties. Within that group, the Abu Sayyaf Group carried out most of the maritime attacks from 2010 to 2017. The number of casualties was much higher in attacks by Houthi extremists, however, followed by al-Shabaab. If we look at the groups who carried out the 72 attacks altogether, we

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[159] To avoid adding to the securitzation of Islam and to a climate of fear and victimization of the Muslim community, we should distinguish between terrorist groups and the Islamic faith in general (see Ajala/Candino/Fouad 2016).

see that few groups were responsible for the majority of the incidents. All cases demonstrate that maritime terrorism is only a partial aspect of the disputes on land.

How relevant are these groups today? Al Qaeda has recently had very little capacity to carry out attacks, but a number of active terror groups have emerged as offshoots. It has been overshadowed by the competition from *IS*, which is currently one of the most active and deadly terrorist organizations in the world. The *Abu Sayyaf Group*, still active in the Philippines and Malaysia, has even changed its affiliation from al-Qaeda to the IS. In Yemen, attacks are mainly by *Houthi extremists (Ansar Allah)* or *al-Qaeda in the Arabian Peninsula* (AQAP). Despite this, al-Qaeda "worries about its ability to win the war of ideas with the future generation of global jihadists" (Zelin 2014: 6). Conflicts over authority, methodology and revisionist history have led disaffiliation and overt enmity between al-Qaeda and the Islamic State of Iraq and Syria (ISIS) (Zelin 2014: 4-5). Since then, ISIS's importance has been growing: "unlike al-Qaeda, which has not had a clear victory in a decade, ISIS continues to build its prestige and legitimacy within the overall movement" (Zelin 2014: 7). Erin Miller outlines the development of ISIS-related terrorist attacks from 2002 to 2015 and finds that it is "one of the most active and deadly terrorist organizations in recent history" (Miller 2016: 1). However, plans for maritime attacks by ISIS have not yet been made public.

Unlike al-Qaeda, IS has no known maritime strategy, although they should have some driving motives in common. Al-Qaeda have stated that they are out to destroy the oil and gas supply and have explicitly named the sea routes they will attack. Their factions carried out attacks with high symbolic value in the chokepoints of Bab-el-Mandeb and the Suez Canal. Al-Qaeda has mixed motives: they want to end 'imperialistic' Western influence in order to destroy the Western economy and to replace Western-oriented political systems with fundamentalist Islamic regimes. At the same time, there is no reason to assume that terrorists never engage in piracy for profit or collaborate, as has been shown in the case of Nigeria and Somalia.

Al-Shabaab has lost control of many territories but continues to carry out attacks – not only in Somalia. Meanwhile, the *MEND* has become increasingly fragmented and less aggression has been reported, while other groups like the *Delta Avengers* have emerged in Nigeria. The *Abu Sayyaf Group* was thought to have been contained militarily but continues its attacks despite peace negotiations. The violence of the *Free Aceh Movement* was mainly ended after a peace agreement and political participation. The Movement has remained inactive since the 2005 peace treaty. Sri Lanka has declared victory over the *Liberation Tigers of Tamil Eelam* in 2009. A peace agreement with the Moro Islamic Liberation Front still needs to be implemented, and violations of the ceasefire have been reported. The peace agreement with *FARC* of December 2016 is awaiting implementation. Further qualitative analysis of old and of new groups, their contexts and areas of opportunity are necessary.

It will be necessary to track the development of *cooperation between terrorists and pirates*. Even though there is no concrete evidence linking these two groups, there are concerns regarding possible collaboration between the Islamic al-Shabaab and pirates in Somalia. This is how pirates would be able to buy their freedom to operate and smuggle weapons. Al-Shabaab fighters could be specifically trained in this scenario to operate in a maritime environment. Al-

Shabaab has already profited from this cooperation as it has allowed them to use their share of the ransoms they received for granting freedom of action to finance other activities.

Despite ulterior *motives* that go beyond the purely material level, there is no reason to assume that terrorists never engage in piracy for profit. However, there is no clear indication that there has been institutionalized cooperation between Islamic groups and Somali pirates. So far, only few cases are known. This could be due to different interests. On the one hand, al-Qaeda has stated that they are out to destroy the oil and gas supply and have explicitly named the sea routes they will attack. On the other hand, pirates are interested in a frequent flow of international shipping traffic, which evidently facilitates robbery at sea. Nonetheless, there have been suggestions that groups labeled terrorists simply sell their hostages to middlemen, such as pirate groups.[160]

The typical *scenarios*, as filtered out of the data in **Chapter 11**, were helpful in illustrating the *methods of attack* that have previously been used in maritime contexts. It was then possible to relate these to specific potential scenarios. Due to the vast number of scenarios discussed compared to the number of attacks that are known to have occurred, one could assume that hardly any of the projected attack scenarios have actually taken place. However, an analysis of the types of attacks carried out and their typing shows that approximately half of the most frequently discussed scenarios with the action location "ship" have already occurred, and thus that the discussion is not based on fiction. Despite this, the scenarios with the greatest potential impact have not yet occurred. These include, for example, the explosion of an LNG (Liquefied Natural Gas) tanker, the use of CBRNE weapons, the insertion of bombs into containers for transport to then be exploded in harbors, and the scuttling of ships in order to block seaways. Other scenarios from the above-mentioned literature include an attack on a ship by a suicide diver and the ignition, ramming, and sinking of a cruise ship with thousands of people on board.

Florian P. Kühn rightly points out that this is an irreconcilable contradiction: we use knowledge from the past to draw conclusions about the future, but we are unable to depict the radically new in this way. Nevertheless, he calls for a "return to that which is calculable and that which can be sensibly processed – on the question of terrorism, however, such pragmatism is lacking" (Kühn 2017: 158, author's translation). In analyzing attack scenarios and defense measures, this study has sought to add to this pragmatic spirit while still exercising all necessary caution.

The second main question was: "*What are the governance measures for defense, and are they suitable?*" To address this question, we must first ask: *Are the governance measures tailored to the characteristics, motives, methods and regional distribution of the terrorist groups?* The governance measures examined in this study were most often unspecified. Only a few methods were focused on. It is safe to assume that the types of attacks that have been implemented in practice are currently the more likely forms of maritime terrorism, i.e. more likely to be repeated. Therefore, these methods should be the main focus of, or at least demand an equal share of, the related defense measures. This has not been the case so far, as current defense measures tend to concentrate on attack scenarios that have yet to occur. Nevertheless, it

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160 For this information, see John Huggins, Help Somalia fights roots of piracy (CNN.com, 27 Jan. 2012), http://edition.cnn.com/2012/01/27/opinion/huggins-piracy/index.html, accessed 28 January 2012.

could also be argued that yet-to-occur attacks have been foiled precisely because countermeasures were trained on them. In any case, it is essential that we also contemplate these potential threats in order to arrive at a more balanced analysis of risk.

However, this attitude toward maritime terrorism seems to reflect a general way of thinking about terrorism that developed after 9/11, an "impression that most attacks have been rapidly increasing, that most attacks originate in the Middle East, that terrorist attacks rely on complex planning and sophisticated weaponry and are incredibly lethal, and that most terrorist groups make irrational demands that cannot be solved by negotiation" (LaFree/Dugan/Miller 2015: 7). The data on maritime terrorism shows that this understanding of terrorism is distorted. This is also true of terrorism in general: "over the past four decades terrorists most often relied on readily available weapons that are relatively unsophisticated (...)[;] the range of targets is extremely broad[,] (...) [and the] examination of more than 100,000 terrorist attacks from the GTD shows that mass fatality attacks are rare and that attacks that claim no fatalities are actually more common that attacks that do" (LaFree/Dugan/Miller 2015: 9). At the same time, incidents such as the attacks in Madrid, London, Mumbai and Norway (Brevik) demonstrate that unexpected attacks with disproportional effects can take place. Such attacks "share the characteristics of black swan events in that they were high profile, hard to predict, and outside the realm of normal expectation" (LaFree/Dugan/Miller 2015: 7). This leads us to a general dilemma faced by governments in dealing with terrorism (and other extraordinary crimes): while a "black swan encourages outsized responses, whose scope may be greater than it needs to be to prevent further attacks, (…) [this] overreaction by governments has been a stated goal of those that use terrorist attacks" (LaFree/Dugan/Miller 2015: 10). It can be expected that balancing the concerns of preventing catastrophic events and taking into account terrorists' evolving tactical innovations, while at the same time avoiding wasting resources and playing into the hands of terrorists, will continues to be a challenge in the future, especially for liberal governments (ibid).

The analysis here cannot prove or disprove the possible effects of past security governance measures on the abovementioned perpetrator groups. However, several conclusions emerge from this analysis. The examined governance measures were most often not specific to a region or group. The existing governance measures against maritime terrorism are in general not specific to a certain region or group, do not usually include non-state actors/civil society and stakeholders other than states, and only use formal mechanisms (see Chapter 12; Ehrhart/Petretto, Schneider/Blecker/Engerer/König 2013; Schneider 2013).

The study of the governance measures in **Chapter 12** leads to the following conclusions: First, when fighting maritime terrorism, there are no regional focal points (unlike piracy, especially in the case of the Malacca Straits and Golf of Aden). Second, there is an emphasis on preventive measures within civilian infrastructure (e.g., security for harbor facilities, oversight of goods being transported, and arrangements for the security of ships). Third, the structures for the 'fight' against maritime terrorism distinguish themselves through the ascendancy of legal regulations, i.e. through a strongly differentiated hierarchy between states and non-state actors. In piracy, non-state actors are more involved, and, in addition to formal mechanisms, informal mechanisms have also been established. There is also a major emphasis on military cooperation. A large number of the counterterror measures in the maritime vicinity have been initiated by the USA and are carried out using a top-down approach with a coalition of the

willing. In piracy, we see a larger number of states and other stakeholders taking an active role. Alongside the UN (through the IMO), the EU is a strong actor that has adopted most of the UN and US initiatives, implementing them as it has seen fit. The chapter's final conclusion was that non-state involvement in governance still plays a role in the governance of maritime security in all of the analyzed categories (addressee, advocacy, co-regulation and delegation). What is particularly interesting is the absence of advocates from civil society, a situation that somewhat distinguishes maritime terrorism from other subjects of maritime security, such as piracy.

With respect to policy recommendations, the core message of **Chapters 8-12** is that the governance measures used in this area show that most such recommendations are not specific to the characteristics, motives, methods, and regional distribution of the (key) perpetrator groups, even though they differ greatly. As I have argued, it is clear that a more specific analysis of the attack characteristics and the actors involved may lead to a more specific response. In order to enhance the effectiveness of governance measures so as to avoid limiting them to general and defensive solutions, an analysis of the relevant actors is required, e.g. by arranging them in a regional/local context in order to identify conditions, motivations, methods, capacity, and scope for development. Furthermore, when the aim is the prevention (not just the neutralization) of an immediate attack, it is crucial to consider ideology and motives in the creation of incentives and disincentives, as well as strategies of de-legitimization, including counter-narratives (Schmid/Schneider 2011: 14-18). Ultimately, in general, the efforts needed to 'fight the causes' of political radicalization can only be completed effectively in a unified and concerted effort by all parties. The aim should be to ensure that terrorist organizations and political groups that operate using terrorist methods lose their support base and are prevented from securing the resources needed to carry out further attacks. Since the general measures against terrorism are so diverse, the effectiveness of such efforts is hard to judge. By contrast, the motives of pirate groups have been more thoroughly taken into account (though still not sufficiently). Furthermore, a continuous assessment and evaluation of cooperation between terrorists and pirates is an ongoing necessity.

Nonetheless, for the reasons stated above, *measures related to port and maritime security should be pursued with current levels of attentiveness and embedded in the overall fight against terrorism and other criminal networks*. Cases of "lone wolf terrorism" have demonstrated that terrorism is difficult to predict and that the internet also plays a critical role (for the case of Anders Breivik in Norway in 2011, see Ranstorp 2013). Central to this are police intelligence investigations, training and safety measures, together with the involvement of all relevant ministries, administrative bodies, and especially the civil actors affected. Ultimately, the link back to social discourse should always be sought. Political (in-)action, together with measures for risk-containment and the necessary resources, must also be critically scrutinized in proportion with other dangers and with respect to their effectiveness. The issues of political priority must in turn be regularly adapted to changing trends and to the needs of those concerned.

Because "not even the best intelligence is able to eliminate all the risks that emanate from terrorism (...)[,] states and governments might feel inclined to take preventive security measures (...) that at best have questionable protective effects and may even contain civic rights in a disproportionate manner. (...) [States may also] operate in legally grey zones" (Giessmann

2013c: IV). The emergence of the transnationalization of the risk of violence, as occurred in the 9/11 attacks, created the need for new mechanisms to counter such tendencies. This is addressed by the new smart sanctions system of the UN terror blacklist, which is concerned not with states but with individuals and institutions.

Does the new UN (and EU) smart sanctions system of placing people and organizations on or removing them from a blacklist conflict with human rights standards if we take into account legal and legitimacy considerations? **Chapter 13** examined the UN methods of listing and delisting people and organizations on the blacklist and subsequently dealt with the EU's terrorist blacklisting procedures, which have also come under scrutiny for possible breaches of basic human rights standards. The listing and de-listing of individuals and organizations has been criticized for being opaque. Suspects on the list do not have the chance to be heard before being listed. Furthermore, it is very difficult to be de-listed, and delisting is not always successful. With respect to the ECJ decision in 2008, the new smart sanction system is supposed to comply with human rights standards and should therefore offer the suspect the opportunity to challenge the listing by lawful means. In practice, this is still not the case, but procedures for delisting have been established and enhanced. Certain gaps remain, however. In an effort to counter various criticisms, the UNSC introduced the Office of the Ombudsperson in 2009 and further expanded its functions in December 2012. The Ombudsperson acts as a mediator between the sanctions committee and the blacklisted person. However, the office of the new ombudsperson is still weakened by the fact that it does not fulfill the criteria for a judicial review mechanism. Rather, the procedure is essentially a political one. Even if the institutional players presume that the blacklisting is effective, is this a legitimate reason to infringe on human rights? Are the new smart sanctions of the UN terror blacklist a justified innovation in international law? As Michael Brzoska notes, "[p]roblems with blacklisting have (…) primarily affected international organizations, such as the UN and the EU, where remedies are difficult to find without changing the nature of the organisations" (Brzoska 2014: X). Although much has been done to improve and revise the blacklisting procedures of the UN, maintaining human rights obligations while tackling transnational risks in an appropriate manner remains a challenge. In addition, improving legal standards and norms will not be enough to prevent human rights violations in countering terrorism. "Rather, it is about encouraging all actors – state, societal and international, and also human rights defenders – to accept political responsibility and tackle threats to human rights pro-actively using all the non-violent means at their disposal" (Giessmann 2013b: 64).

Why is Germany not taking the initiative and acting as a leading figure in maritime (trade) security related to the Indian Ocean Region (within the framework of International Organizations)? Using a case study**, Chapter 14** analyzed the German regime of maritime security governance concerned with piracy and maritime terrorism and also discussed international legal and regulatory responses to maritime security in the Indian Ocean. While Germany is actively committed to multilateral counter-piracy operations in the Indian Ocean, mainly through EUNAVFOR Operation Atalanta, there is a near-paralyzing conflict of interest among the very diverse German stakeholders and the complex German federal system. Germany bestows responsibility for maritime security on various authorities, from both the federal states and Ber-

lin. The most important reasons for the exceptionally complicated German structures are four-fold: the nature of a federal construct; the rivalries between the ministries; the competition with more pressing economic and political priorities; and the historically strict separation between the police, the armed forces and, to some degree, the intelligence services. Political responsibility and leadership within this fragmented system remains unclear. This could hamper effective and efficient protection against threats at sea. The chapter includes several proposals for reforming responsibilities in Germany.

How relevant is maritime security in the IOR to Germany, and how is this reflected in domestic German politics and its international engagement? The economic impact of maritime piracy and terrorism against German ship owners has been relatively low, and a large share of the economic risk is insurable. Accordingly, the German government is unlikely to feel moved to increase its current involvement in international initiatives. However, there is a risk of serious human costs as a result of piracy and maritime terrorism in the IOR – costs that would not be sufficiently covered by insurance. Nevertheless, Germany's participation in EU and NATO missions, as well as in diverse other coordination mechanisms, demonstrates its ability to act. In addition, while the establishment of the Piracy Prevention Centre by the Federal Police was a unique initiative, the BMPs were, and continue to be, co-developed and implemented in close cooperation with the German Shipowners Association. In sum, more has been done for the issue of piracy than for the issue of maritime terrorism, which reflects different perceptions of risk. Piracy is perceived as a more acute threat to the shipping industry, while terrorism is merely considered a latent danger. Despite this, an inter-agency action strategy and a maritime security strategy have yet to be enacted.

As a leading maritime nation with a large container shipping industry, Germany has often been subjected to Indian Ocean piracy, and its ship owners have repeatedly asked for state and private protection. While there are good reasons to prefer state forces over private ones, world-wide ship owners have resorted to their own measures of self-protection and have increasingly relied on the deployment of private security companies on civilian vessels. The deployment of PMSCs has thus become an internationally accepted standard. A number of regimes have been set up, e.g. an ISO norm and an International Code of Conduct. Both are vaguely worded and not mandatory, however. Furthermore, in the absence of a binding global regime regulating such private security companies, their regulation differs from state to state. Only permanent and independent control over the observance of such regulations through state authorities with the ability to sanction, such as through the handing down of fines or the removal of licenses, can strengthen trust in the use of PMSCs.

Has Germany's licensing procedure, taken as a case study, fulfilled the hopes of ship owners, captains and scholars regarding an effective and efficient control? Until recently, Germany has avoided facilitating private security companies. **Chapter 15** explains in detail why Germany decided to change course and introduce a licensing procedure in 2013. It also examines the benefits and drawbacks of this procedure. The procedure introduced by the German legislature sets the stage for much-needed, sound, long-term regulation. For the first time, the German procedure has set a concrete benchmark, e.g. with respect to education and equipment (at home and abroad). It determines precisely, for example, the minimum number of team members (four persons), as well as their assignments and procedures in stages of escalation. It also

accounts for the entire arms supply chain. This does make them more expensive, however, and charterers, which are not affected by the regulations, prefer cheaper fellow applicants due to the tense financial situation in the maritime industry. The Federal Government should therefore support internationally harmonized quality standards with robust reporting and surveillance possibilities in the context of the EU and IMO, thereby creating equal, competitive conditions.

The German system does not restrict the area of action of PMCs to the Indian Ocean or to attacks by pirates. As such, they can be flexibly used for the protection of ships against various forms of maritime violence. It is nevertheless too early to draw conclusions, as there are still too few experiences with certified PMSCs. In addition, as pirate attacks in the Indian Ocean decrease, we are learning about piracy activities with different characteristics in other regions around the world. Southeast Asia and the Gulf of Guinea in Western Africa are two other contemporary hotspots. In the coastal waters of the Gulf of Guinea, for example, no private armed teams are allowed to board civilian vessels. Therefore, ship owners are forced to engage with (not always trustworthy) regional state forces.

Maritime violence is a well-founded concern of seafarers and the maritime industry, as is made apparent by the data on piracy outlined in Chapter 16. Recently, however, an overall declining trend can be identified. Moreover, in comparison to general terrorist events, maritime violence does not appear to be as prevalent. Comparing piracy and armed robbery to maritime terrorism alone, it can be observed that the latter is much less common, but also less volatile. Regional developments, such as opportunities for criminal groups on land and countermeasures by the littoral states, the international community and the maritime industry, help to explain this observed volatility.

How has the number of attacks and hostages taken by modern pirates evolved over the past few years in different world regions? The data on piracy outlined in **Chapter 16** show that the concerns of the seafarers and the maritime industry are based on real facts about maritime violence, with an overall declining trend. If we were to compare the maritime piracy numbers to general terrorist events, the piracy numbers would be much lower. However, if we compare piracy and armed robbery to maritime terrorism events alone, piracy events are much more common (as outlined in detail in the first section of the chapter) but also very volatile depending on the context and regional developments such as opportunities for criminal groups on land and countermeasures by the littoral states, the international community and maritime industries.

What motivates Somali pirates? To what extent are living conditions related to their actual motives? Should the crews of maritime vessels traversing the maritime area put their lives at risk, and should they be held responsible for injustices caused by others? Somali pirates pose not only a major economic but also a major moral challenge for the international community. They have attempted to legitimize their actions by reference to a number of arguments that appeal to the international community. Allegedly, illegal fishing and waste dumping in Somali waters initially triggered their pirating in an attempt to protect their coasts. These legitimacy arguments form the so-called Robin Hood narrative. This narrative is critically examined in Chapter 16. The analysis includes a discussion of justice theories and related claims based on the works of John Rawls and Thomas Pogge. This is followed by a discussion of the justification of violence, using Nicholas Fotion's irregular just war theory.

The chapter concludes that the Somali pirates' patterns of justification do not lend any legitimacy for their actions. The claim that pirates currently engage in piracy in order to protect local fishermen is empirically questionable. Moreover, the justification based on the prescriptive argumentation fails to be convincing. The harm inflicted by piracy on the remaining Somali fishermen and society as a whole is substantial. However, a deficit remains in the realm of IUU fishing, and this presumably contributes to persistent negative and narrative-enforcing attitudes.

The problems that piracy poses for the international merchant shipping community appear marginal to average to Somalis in relation to the problems faced by their country. In the above discussion of justice, these local perceptions should not be ignored. To Somalis, the entire piracy discourse is a matter of double standards. In order to appeal to the interests of the Somali public, the goal needs to be the improvement of the situation, both politically and economically, especially in the coastal regions.

Several proposals have been put forward. These include: recognizing Somaliland as an established state; generally prohibiting fishing in Somalia's 200-mile zone and reporting any ship found to be fishing illegally or dumping toxic waste by the warships currently stationed in the Gulf of Aden; strengthening the rule of law in the regions of Puntland and Somaliland; and contributing to regional stability by civil missions.

How can prosecution of Somali pirates in Western states go hand in hand with other security governance measures? In the **last part of Chapter 16,** the "Hamburg Pirate Trial" serves as an example of executing flag state jurisdiction over pirates and the challenges this presents. The trial also showed how arguments based on the Robin Hood narrative have been used and how prosecution can go hand in hand with other security governance measures.

While under the circumstances the trial was necessary and fair, it also showed that the German criminal prosecution faces various challenges that cannot always be resolved successfully when dealing with such cases: it is not possible to completely reconstruct something that happened thousands of kilometers away. Therefore, the call for an alternative solution is understandable. One must, however, keep the otherwise popular catch-and-release practices (disarmament and immediate release) in mind. As long as the local and regional capacity to prosecute pirates remain low, and as long as human rights standards are not adhered to when suspects are handed over to regional authorities, there are currently no feasible alternatives to trying these cases before the courts of the nations whose ships and crews are affected (this has already occurred, for example, in the Netherlands, France, Malaysia and the USA). It should be noted in this context that the establishment of an international criminal court for piracy has yet to be agreed on and that the corresponding capacity building in the region has barely gone ahead. This stalemate also hinders the alternative solution of establishing mixed or international criminal divisions in local courts.

Accordingly, international shipping can only be protected through the combined efforts of all seafaring nations. This protection should apply in particular to the threatened sailors, whose work forms an integral – and indispensable – part of international shipping. Sailors hardly have any lobbying power, however, and often come from underdeveloped countries themselves. National trials thus constitute a sensible strategy for dealing with piracy pending feasible judicial alternatives at an international level.

The prosecution of perpetrators who are active at sea is only a small part of the required measures against maritime violence. The roots of organized piracy cannot be fought successfully as long as backers and money launderers are not convicted, while conditions in the Somali provinces allow for ships to be held off their coasts and hostages to be provided for. Additionally, as long as the judiciary, police and governing authorities fail to fulfill their duty towards the Somali people, legal income opportunities will remain rare, and development assistance will be jeopardized by the security situation. In addition, criminal and corrupt governance on land serves to further complicate the fight against the root causes of piracy.

To summarize, the topic of this study (*Maritime Terrorism and Piracy: The Development of Maritime Security and its Governance*) was divided into **two main research areas: risk and its governance**. What is the **nature of the risk posed by (and the relevance of) maritime terrorism and piracy,** as discussed in the context of maritime security? What **governance measures** have been adopted to defend against maritime terrorism and piracy, and are they adequate? How might such measures be optimized, and how can governance efforts that have been successful in one case be implemented in others?

The results of the study can be used to determine the **risk model** factors developed in Chapter 3: The determination of risk levels is based on the assumption that the damage potentials of piracy and maritime terrorism are defined by vulnerabilities on the victim's side (passage in high risk areas, relevance of vulnerability of ships/crews/passengers, trade, ports and coastal areas), alongside the capacities of the attackers (numbers, characteristics, methods). The occurrence probabilities of damage, however, are a result of the perpetrators' specific motivations (motives, narratives, group dynamics, messaging) and their respective opportunities (regional distribution, national/international governance measures, private security teams, smart sanctions, prosecution). The aim was to contribute to the evaluation of the security governance measures which have been undertaken to reduce levels of damage and the probability of potential dangers stemming from current pirate activity and maritime terrorism (see **chart 40**).
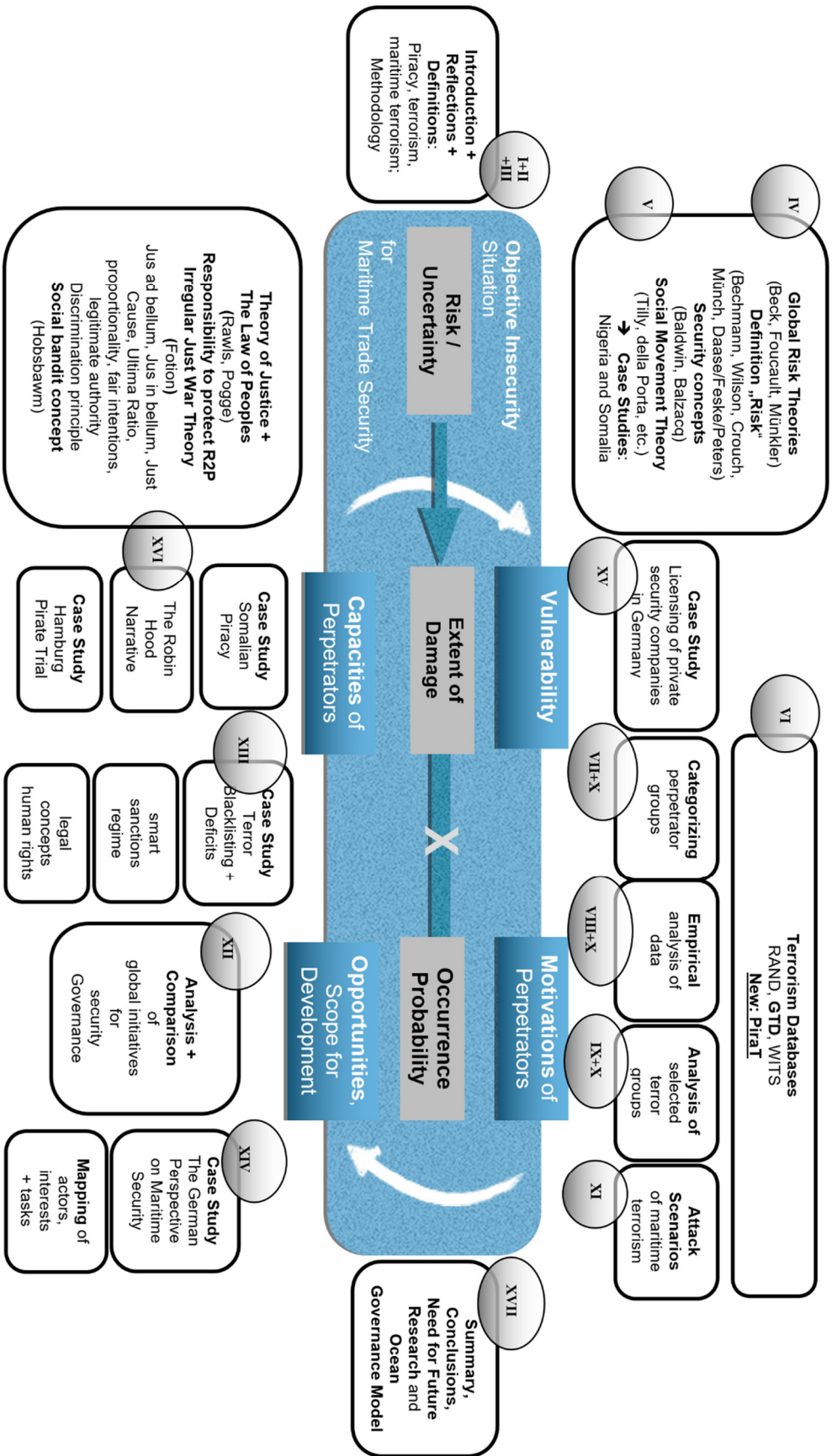
Chart 40.   Structure of the study along the risk model for maritime terrorism and piracy

I+II+III — Introduction + Reflections + Definitions: Piracy, terrorism; maritime terrorism; Methodology

Objective Insecurity Situation

Risk / Uncertainty

for Maritime Trade Security

Extent of Damage

X

Occurrence Probability

Vulnerability

Capacities of Perpetrators

Opportunities, Scope for Development

Motivations of Perpetrators

IV — Global Risk Theories (Beck, Foucault, Münkler) **Definition „Risk"** (Bechmann, Wilson, Crouch, Münch, Daase/Feske/Peters) **Security concepts** (Baldwin, Balzacq) **Social Movement Theory** (Tilly, della Porta, etc.) **Case Studies:** Nigeria and Somalia

V — (grouping marker)

XV — Case Study Licensing of private security companies in Germany

VI — Terrorism Databases RAND, **GTD**, WITS **New: PiraT**

VII+X — Categorizing perpetrator groups

VIII+X — Empirical analysis of data

IX+X — Analysis of selected terror groups

XI — Attack Scenarios of maritime terrorism

XVI — Theory of Justice + The Law of Peoples (Rawls, Pogge) **Responsibility to protect R2P** **Irregular Just War Theory** (Fotion) Jus ad bellum, Jus in bellum, Just Cause, Ultima Ratio, proportionality, fair intentions, legitimate authority Discrimination principle **Social bandit concept** (Hobsbawm)

Case Study Hamburg Pirate Trial

The Robin Hood Narrative

Case Study Somalian Piracy

XIII — **Case Study** Terror Blacklisting + Deficits

smart sanctions regime

legal concepts human rights

XII — **Analysis + Comparison** of global initiatives for security Governance

XIV — **Case Study** The German Perspective on Maritime Security

Mapping of actors, interests + tasks

XVII — Summary, Conclusions, Need for Future Research and **Ocean Governance Model**

Consequently, the study used a refined risk model for the context of these maritime crimes and built the chapters around this to explore the factors and indicators for determining the risk for sea trade security. Empirical data was used for both phenomena. Maritime cases were selected from terrorist event databases and integrated into a new database to facilitate the analysis. This allowed us to obtain a better picture of the relevance of maritime terrorism in the past. Where previous scholars have been divided regarding the relevance of maritime terrorism (see Chapter 1), this chapter concludes that past events show that in comparison to all kinds of terrorist attacks worldwide, maritime terrorism poses a minor threat. However, the chapter also shows that there are more cases, with more diverse actors, techniques, regional distribution and victims than most scholars refer to (without having undertaken an empirical study). The analysis of the attack scenarios used in the past shows a variety of (and a concentration on) conservative means that do not always fit well alongside the global governance mechanisms which were created as defense measures. The mechanism often concentrates on worst-case scenarios like the use of CBRNE, which of course makes the potential effects of maritime attacks especially catastrophic. While one can hope that such attacks have not occurred *because* these measures have helped to prevent them (instead of being useless insofar as terrorists would rather act on land or in air, which might be easier to handle), the efficiency of these measures is difficult to judge. The level of inclusion of private actors, although varying, shows that incentives for the maritime industry could also be used as leverage, although in the area of maritime terrorism most actions are state centered, unlike piracy. Sea routes can nonetheless be viewed as critical infrastructures and thus as deserving of some level of attention.

With this said, with conventional weapons and insiders, certain of the more catastrophic scenarios may one day be realized. Media attention and messaging to a wider audience to generate fear and terror and to lobby for ideological and other aims can be gained by using photo and video footage, as perpetrators have done in the past, for example when firing rocket-propelled grenades at ships in the Suez Canal.

The use of terrorist event databases also has its *limits*, however. Using different databases posed the challenge of coping with their different definitions, modes of incident detection, and event classifications. This study has tried to be as transparent as possible about where the cases come from, but because maritime terrorism shows few patterns, these did not greatly affect the results. We should not take it for granted that these databases have been made available to researchers and that their quality is constantly evolving. In August of 2018, the GTD announced that because of the loss of US State Department funding, it was not sure whether they could collect or publish data beyond 2017. In February and October of 2019, they announced that short-term funding from the German Federal Foreign Office and the Department of Defense Combating Terrorism and Technical Support Office allowed it to complete the 2018 GTD collection and made further improvements possible. As they stated: "The GTD's accessible, transparent, well-documented, structured and unstructured data make it a critical resource for governments and scholars alike. It is used by thousands of analysts around the world, including government-based intelligence analysts seeking to inform policy and promote national security; academic scholars and students seeking to develop better theories and methods for understanding terrorism; data journalists seeking to better inform the public about a frequently misunderstood topic; and non-governmental/inter-governmental organizations that benefit from high-quality data for both operational and analytical purposes" (GTD 2019a). One reason for Germany's financial support might be that the German authorities also make use of GTD data.

This was critically discussed in Parliament, for example, in the context of the Ministry of Defense's use of the software IBM Watson. For early crisis detection, the software also uses several event databases, including the GTD. The use of event databases was criticized for being "as supposedly neutral as the media reports whose contents are processed in them" (Krempl 2019). Though it is true that the data is only as good as its sources, the GTD states openly which news sources from around the world it draws from for each case, combining artificial and human intelligence in its data collection. This gives researchers the opportunity to evaluate these sources, even if this does not fully resolve the problem of source selection, possible bias and limited information. In response to a request by the parliamentary group DIE LINKE for information on the reliability of the databases, the German government replied: "The above-mentioned databases are the result of scientific research and are publicly available. All currently connected sources are regularly checked and evaluated for their reliability. According to the current evaluation, the connected sources are fundamentally reliable" (BT-Drucksache 19/7604: 3, author's translation).[161] With these limits in mind, working with databases like the GDT has proven useful for researchers and authorities alike. In their quest for consistent funding, the GTD "partnered with CHC Global, a London-based consulting company focused on the terrorism and reinsurance market, to serve as START's exclusive commercial distribution partner … [while] ensure[ing] it remains freely available for personal and academic research use" (START 2019b). It remains to be seen whether this will affect quality or access to information.

Moreover, even if this study had used only one database, it would have made sense to stick to the most comprehensive one, the GTD. However, even the GTD has its *limits*. Detailed information is often missing due to the vagaries of media reporting, with which open source databases must contend. Distinguishing terrorism from piracy as two of the most important phenomena related to maritime violence was also a challenge for this study. The definitions chosen were sufficient to serve as working definitions to delimit the two phenomena from each other along the (non-)existent motive of profit. As analytical categories, they can be further refined. This study attempted to do so by using social movement theory and other concepts for the first time to find a conceptual roof for the two phenomena, but it stretched the approach rather far. The analysis of the most important terror groups in this work needs to go much deeper so as to tailor some of the security governance measures and to better take the motivations of the perpetrators and their capacities (see the risk model) into account. There is a need for contextual explanation, such as information on the relevant socioeconomic, cultural and political factors and their relational, constructivist and dynamic character. The parts that touched on the analysis of terrorist and pirate actors in the previous chapters bring out the importance of such research.

Michael Brzoska (2016: 195-200) points out that data sets on various forms of violence are continuously evolving (for example by including geo-referenced events data and by using data mining methods), while different methods of data collection and the lack of common, comprehensive indicators are challenging and lead to heterogeneous data. For a better understanding of the causes, costs and consequences of violence, we need to link information on these factors

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161 Deutscher Bundestag: Drucksache 19/7604. Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Andrej Hunko, Heike Hänsel, Anke Domscheit-Berg, weiterer Abgeordneter und der Fraktion DIE LINKE. Drucksache 19/6981. 11 February 2019. http://dip21.bundestag.de/dip21/btd/19/076/1907604.pdf, accessed 01 November 2019. p. 3 (author's translation).

in the databases with information on political processes, the mobilization of groups, their choice of methods and their external support (ibid). This would also be desirable in the context of research on maritime violence and other maritime crimes. Such research should examine how the use of evolving databases and the linking of different databases offers a chance to gain greater insight into maritime crimes and should use this as a basis for political action.

What makes this difficult is that the regimes related to terrorism and piracy are also different, on the one hand, and overlapping, on the other. This makes sense as certain elements, such as maritime surveillance and patrolling and port security, can help to fight both crimes and since the maritime area is too vast not to use the scarce resources as best as possible. For this, a common goal/interest and shared norms are necessary, as stated in the concept of security governance that maps how state, sub-state and non-state actors work together to fight (maritime) crimes. The common goal is to ensure that the seaways are able to offer secure (trade) routes and sea lines of communication in a globalized world which is highly dependent on the transport of goods and people and vulnerable to transnational criminality. At the same time, national interests and diverse cultures can hamper the level of cooperation. The role of norms, interests, and cultures in international relations in the field of maritime security governance needs to be further explored.

The level of cooperation in the fight against Somali piracy has been unprecedentedly high. Due to the very special circumstances of the failed state of Somalia, the UN mandate in reaction to the attacks on the delivery of the WFP to Somalia, and the new model of Somali piracy (which involves hijacking entire ships and keeping them and their crew hostage for months, or even years, for ransom), it is difficult to transfer governance mechanisms such as the Piracy Contact Group of Somalia (which also consists of a large number of non-state actors and a high level of cooperation between navies from countries like the USA, Germany, China and Russia, among many others) and the self-protective measures of the maritime industry, such as best management practices and the use of private armed guards. It was a concert of efforts at sea and on land that led to the decline of Somali piracy. A number of factors of our risk model were addressed; it is feared, however, that Somali piracy could re-emerge at any time if the level of statehood, overall stability and socioeconomic conditions on land do not improve further.

Whereas the EU has prolonged its missions in the Gulf of Aden and in Somalia, Germany decided in 2016 not to prolong its participation in Eunavfor Atalanta, feeling that its forces were needed in other contexts, such as operations in the Mediterranean fighting human smuggling in the context of migration (another maritime crime). The extent to which governance mechanisms of cooperation developed for piracy might be useful in this context (while addressing the dilemma that the legally and morally required search-and-rescue operations by police and military forces play into the hands of smugglers and their business models) needs to be addressed by future research. A legitimate interest in border protection could potentially serve as a shared norm and a driver of cooperation in a way that promotes human rights standards and withstands the "securitizing" of maritime migrants.

The following section outlines Germany's policy and research landscape in more detail.

2   The Relevance of Maritime Security for Germany's Policy and Research Landscape

In terms of Germany's economy, maritime security is a precondition for the country's prosperity. The disruption of maritime connections can have an impact on maritime commerce, resulting, for example, in the need to take significantly longer routes, thereby increasing operational and insurance costs. Today's just-in-time division of production and distribution is dependent on timely, safe, predictable maritime routes. The fleet managed by German ship owners accounts for 25.8% of the world's container-carrying capacity (Marinekommando Annual Report 2016: 10). In addition, the number of Europeans taking cruises is at an all-time high, with German passengers being the largest group to take cruise holidays, with 1.81 million passengers in 2015 (Marinekommando Annual Report 2016: 118; Cruise Lines International Association CLIA 2015). Continuous attention must be (and already has been) paid by security authorities; the symbolism of maritime targets promises much media attention, the possibility of a greater number of victims, and a significant impact on infrastructure. If ships, along with their crew and cargo, are held up (be it for political or economic reasons), months-long negotiations will lead to substantial costs: in such a situation, the cargo cannot be sold, the vessels cannot be used, and the holding of hundreds of sailors or passengers causes human suffering, which cannot be ignored. This danger can come not only from well-known terrorist and pirate groups but also from emotional and fanatical individual perpetrators. Germany has become a general focus of terrorist groups due to its engagement in Afghanistan, Syria and Iraq; as a result, German merchant marines, cruise ships and port facilities are subject to the same threats. It is important to emphasize, however, that until now there have been no indications of any concrete planned attempts in this sector (interview BKA). In July 2014, the German cruise ship AIDAdiva (carrying 2,700 passengers) was hit by rocket shrapnel from Hamas close to an Israeli port, but no damage or injuries were reported (The Telegraph 2014). Moreover, there have been few incidents of maritime terrorism in German territory. Only two incidents have been registered. There were also preliminary plans to attack the port in Duisburg (Duisport) in 2002. One of the consequences of this was the implementation of a new port security law in Germany in 2005, which was extended in 2007 (see Chapter 14, "Case Study: The German Perspective").

Somali piracy has put the discussion of maritime security on Germany's agenda. *Have institutions, scientific bodies and the political administration been concerned with maritime security since Somali piracy has subsided?* It is still of vital economic importance to Germany, as an exporting nation, that key international maritime trade routes be navigable without endangering crew and loaded goods. To counter global piracy, Germany has established both the Piracy Centre of the Federal Police (PPZ) and a licensing procedure for private maritime security services.[162]

In principle, the establishment of the PPZ and the introduction of a licensing procedure for maritime private security services constitute important steps towards countering piracy. Not only is the PPZ relevant to piracy – not only Somali piracy – but it also deals with maritime

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[162] For the costs, for Germany, of combating piracy and the current status of the approval of security services, see German Federal Government 2018.

violence in general, fulfilling several functions. These include being a contact point for ship owners, security officers and captains, on the one hand, and bundling information from various sources and producing comprehensive worldwide situation pictures, including the pirates' procedures, on the other. It advises and provides training on improved safety, security management and the application of defensive measures. Finally, it registers ship passages in the high-risk area of the Horn of Africa (BPOL See 2019: 7-8). It also deals with the situation in sea areas with regard to other hazards such as the Yemen conflict, in relation to which it has warned merchant ships of the danger of being hit accidentally by rocket fire and sea mines in the Red Sea and Bab al-Mandeb. Other warnings were aimed at attacks from land and air as a result of the civil war in Libya, partly due to battles for control over seaports, and thus for securing supplies. In one case, migrants seized a tanker meant to rescue them, forcing it to dock on European soil. Al-Qaeda has also launched attacks in Yemen. Here too, civilian merchant shipping has been affected by the effects of the global conflict situation, and the maritime situation cannot be viewed independently of onshore conflict. The PPZ has also warned against kidnappings and ransom extortion by the terrorist group Abu Sayyaf in the Philippines and Malaysia (BPOL See 2019: 23, 47, 50, 52). The picture of the situation provided by PPZ therefore goes far beyond piracy, portraying maritime violence worldwide.

Germany is also still involved in European missions to combat piracy in the Indian Ocean. Piracy off the coast of Somalia has led to unprecedented international cooperation with numerous national and international missions at sea and on land. This cooperation was made possible by the unique conditions of Somalia's being a failed state and there being a strong mandate from the United Nations Security Council. The fight against piracy is based on shared norms and a common interest in securing strategic seaways; it is also a testing field for strategic maritime capabilities. The future of governance frameworks is rendered unclear, however, when priorities shift and piracy attack levels remain low. The involvement of the maritime industry and the use of private security services have contributed significantly to curbing piracy. The continuing instability on land, not least the fighting against the al-Shabaab militias and the persistence of illegal fishing, continues to raise the risk of maritime violence. The example of maritime terrorism shows that the situations at sea and on land cannot be considered independently of each other.

The diversity of traditions, forms of government, and alliances makes it difficult to institutionalize governance efforts or to apply positive examples to other regions. Germany declared that it had joined the Indian Ocean Rim Association (IORA) as a dialogue partner in the context of the G7 meeting in Berlin in 2015. Strengthening existing regimes such as the IORA to address maritime security challenges makes sense, as no new contract is then required. Currently, the agenda of IORA and its 23 member states concentrates on deliberate measures to develop a blue economy guided by governance frameworks and fostering development (Attri / Bohler-Muller 2018). The challenges lie in membership lobbying and resource allocation. The diversity of culture/traditions and the sensitivity of the security problems involved could endanger legitimacy if practices, e.g. coordinated by IORA, do not create a common view and norms for dealing with security issues in the future.

In Nigeria, terrorism and piracy are not easily separated. Nigerian piracy has become the most important hotspot, and even here the negative effects of globalization arise, such as pollution resulting from oil production or from attacks on production plants. Nigeria is an important but difficult partner. Nevertheless, local peace processes and the transnational approach to this maritime problem deserve support. The problem is that piracy is not a priority for the Nigerian government due to the current political situation. It is fighting on several fronts against violent conflicts, such as the presence of Boko Haram in the north. In addition, the country is facing a severe economic crisis and widespread organized crime. Corrupt state structures make cooperation with Nigeria more difficult; nevertheless, those who want to contribute to the containment of maritime violence in the Gulf of Guinea must support the search for a political solution on land (including all relevant interest groups and regional partners) and the strengthening of Nigerian capacities, in addition to taking the recommended self-protection measures (see the Nigerian case study in the chapter on social movement, Chapter 5).[163]

This complex of issues has received so much attention that it is no longer possible to speak of "sea blindness". Germany remains committed to international maritime policing, military missions and the implementation of international agreements, as described in Chapter 12 ("Defense Measures: Security Governance"). The institutions and mechanisms mentioned in Chapter 14 ("Case Study: The German Perspective") are still active in Germany, including the PPZ in Bad Bramstedt, the Maritime Safety and Security Centre (MSZ) in Cuxhaven and the inter-ministerial Working Group on Maritime Security (AK Maritime Sicherheit) in Berlin.

New developments indicate that the topic of maritime security continues to be on the agenda in Germany and has been consolidated by various initiatives, even though the focus is no longer limited to non-state armed groups. Examples of these developments include the G7 meetings, the Round Table of the Federal Government on the Internationalization of Education and Research, the establishment of the German Maritime Centre, supported by the Ministry of Transport, and the Network Meetings on Maritime Security initiated by the Ministry of Defense.

Firstly, the theme put into focus by Germany at the 2015 G7 meeting in Berlin, which centered on the Indian Ocean, was taken up again at the G7 meeting in Japan in 2016 in the "Future of the Seas and Oceans" thematic complex. This also occurred at a meeting of science ministers in Italy in 2017, again within the framework of the G7, and it was announced that this would be pursued further. Germany's adherence to this is reflected in the initiatives described below.

Secondly, a team of experts on maritime security was set up in November 2018 as part of the German government's Round Table on the "Internationalization of Education, Science and Research, Seas and Oceans" ("Internationalisierung von Bildung, Wissenschaft und Forschung, Themenfeld Meere und Ozeane"). The expert teams are to develop recommendations for cooperation between the members of the Round Table and for new inter-ministerial measures. The results have yet to be published (source: interview).

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163 On Nigerian capacities, regional approaches (and their limits) and possible German support, see Kinzel 2019.

While the Federal Foreign Office (AA) and the Federal Ministry of Education and Research (BMBF) were driving forces behind the abovementioned activities, a third initiative received special (financial) support from the Federal Ministry of Transport and Digital Infrastructure (BMVI). The German Maritime Centre (Deutsches Maritimes Zentrum e.V.), based in Hamburg, was founded in 2017. In addition to the federal government (as the main financier), five federal states and the main maritime associations are members of the independent think tank. Its aim is to strengthen the competitiveness of maritime sectors and to further develop technologies such as emission-free propulsion systems, state-of-the-art safety and security systems and autonomous shipping, while also promoting young talent. The promotion of interdisciplinary exchange also includes the exchange on maritime security. A first meeting on this topic took place in October 2019 (Sources: Interview, www.dmz-maritim.de).

Fourthly, the Federal Ministry of Defense (BMVg) has launched "Network Meetings on Maritime Security" ("Netzwerktreffen Maritime Sicherheit"). So far, there have been two meetings. The first took place at the University of the Federal Armed Forces in Hamburg, in cooperation with the European Centre for Countering Hybrid Threats (Helsinki), in September 2018. Its thematic focus was vulnerabilities and resilience in the face of hybrid threats in the maritime domain of the North and Baltic Seas. This includes protection against cyber attacks and the protection of maritime infrastructure such as ports and submarine cables, as well as blockades of shipping routes. Effective deterrence strategies on the part of NATO and EU allies call for a common understanding of hybrid threats and joint deterrence measures, as Gary S. Schaal et al. have concluded (Schaal/Stulpe/Dumm/Friede 2019: 2-5).

The second network meeting took place in September 2019 and focused on the definition of Germany's maritime interests in times of upheaval. The limited potential available for global power projection still plays a considerable role in defining German interests and the resulting fields of action. As a country with a small to medium-sized navy with limited capacities and capabilities, the importance of multinational cooperation was once again emphasized, as was the need for operational capability: "The German Navy focuses on three geographical areas: the northern flank, including the Baltic Sea, the southern crisis arc and the wider Indian Ocean. … Germany and the German Navy are willing to take on more responsibility and to restore certain operational capabilities which had been neglected in the face of the strategic pause in recent decades" (Krause 2019b: 65, 67). (Many other European naval forces also modernize or enhance their forces, see Stöhs 2018).

The topics of the network meeting ranged from the use of green technologies, to dealing with violations of the rule-based maritime order (especially by China and Russia, as well as their military-technological cooperation),[164] to the protection of energy supplies, to problems related to the procurement of equipment and the possible range of naval missions. The broad participation of speakers and participants from various ministries (such as the Maritime Coordinator of the Federal Government from the Federal Ministry of Economics and Energy (BMWI), the Foreign Office (AA), the BMVg, and the Parliament/Bundestag), as well as contributors from the fields of business and science (including by the author), was remarkable.

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[164] On China and Russia's joint naval maneuvers, see Michael Paul (2019). On their Arctic policies and their approaches to protecting resources, sea routes and national security in the South China Sea, see Michael Paul (2017), as well as Sarah Kirchberger and Patrick O'Keeffe (2017).

At both network meetings, the focus was not private acts of maritime violence but rather the effects of increasing competition between states and authoritarian regimes on the one hand and nationalism on the other, all of which in part hinder the necessary cooperation. As Vice Admiral Andreas Krause observes, "[t]he security of the maritime domain is nowadays threatened equally by … confrontations of state actors as it is by non-state actors" (Krause 2019: 21). This observation is still in line with the German White Paper (as outlined in the introduction), which, among other things, underscores the importance of trade routes and secure supply chains.

As Gaciarz notes, "[t]here is a multitude of risk with varying levels of severity and not all of them can be completely addressed. It is at the political level that decisions to prioritize different risks and their level of importance are made" (Gaciarz 2019: 70). What are the most pressing maritime risks today? This depends heavily on one's perspective, of course, not only on knowledge but also on the backgrounds, interests and roles of persons and institutions. According to Baldwin's conception (1997), as outlined in Chapter IV. 1, "'New' dangers and the Selected Risk Model", it may be helpful to reflect on the term "security", including, inter alia, the question of whom security should be provided to and under what circumstances. This was outlined in this study in the abovementioned chapter on piracy and maritime terrorism. From a constructivist perspective, the answers are socially constructed by the interaction of the relevant actors and are therefore always different, depending on what the actor constellations look like and the significance that security has for them (Schneiker 2017: 41-42).

Even for German actors, however, the emphasis on what could be the most pressing maritime risk today and in the future varies among different actors and interest groups.

As Stefan Rolle of the German Ministry of Economic Affairs and Energy notes, for example: "We see weaknesses not so much in technical disruptions to the infrastructure, but rather in political influence on energy supplies and the risk of cyber or terrorist attacks on the infrastructure pipeline and LNG infrastructure – by a wide variety of interest groups" (Rolle 2019: 40). Ship owners stress that "shipping is the lifeline of the European and global economy" (Hartonen 2019: 55). They highlight that satellite communication opens doors to cyberattacks (such as hacking) against autopilot steering mechanisms and the possibility of "malicious altering of the position or the heading of a vessel" (Hartonen 2019: 53). The Head of the Federal Maritime Safety and Security Centre (MSZ, Cuxhaven), Ingo Alvermann, feels that the German authorities tasked with cost guarding are unprepared for underwater attacks (such as mines) due to a lack of underwater sensors. He has called not only for better (air) surveillance and underwater sensor technologies but also for greater coordination with European partners in a "PESCO-like-approach" (Alvermann 2019). The navy has also identified the need for European countries on the North and Baltic Seas to take an improved governance approach: "The question is how to coordinate the already existing Maritime capabilities, how to unify efforts, authorities and key civilian actors to work together in order to build up credible Hybrid resilience" (Pennala 2019). In short: these network meetings on maritime security issues involve an even broader circle of participants than the ongoing annual "Maritime Conventions" that have been held in Berlin by the German Maritime Institute ("Deutsches Maritimes Institut e.V.") for years.

Another perspective was represented in the first Marine Regions Forum, a multi-stakeholder platform held in Berlin in October 2019. The Forum's focus was "the transformation of ocean

governance through regional actions and initiatives, in support of the ocean dimension of the 2030 Agenda for Sustainable Development (2030 Agenda), especially Sustainable Development Goal (SDG) 14 'Life Below Water'" (ISSD 2019: 1). This approach fits well with a conception of security that stems from critical security studies, which emphasizes that security can only be established by creating fair conditions for all. It also fits well with post-colonial approaches, which demand that non-Western concerns also be taken into account (Schneiker 2017: 47).

The initiatives described above show that the field of maritime security remains politically relevant and that it admits of different perspectives depending on the actors and interest groups involved. What is needed is not only comprehensive political action in the geostrategic context but also further research into maritime security issues in Germany. As Bruns notes, there is an "incredible amount of study necessary to prepare us for the maritime vulnerabilities of the 21st century" (Bruns 2019: 42). This is demonstrated, for instance, by the two newly founded research groups at the Hamburg University of the Armed Forces, the Interdisciplinary Research Network "Maritime Security" (iFMS) and the Center for Maritime Strategy and Security (CMSS) at the Institute for Security Policy at Kiel University (ISPK). The foundation of the Polar and Ocean Research thematic group ("Polar- und Meeresforschung") within the German Political Science Association (DVPW) and the first German Chair of Political Science with a focus on International Ocean Governance at the University of Kiel also underscore this field's established place within political science. The regular meetings of the recently established Maritime Security Discussion Group ("Maritimer Gesprächskreis") of the German Institute for International and Security Affairs (SWP) link science and politics. On the European level, the European International Studies Association (EISA) has included a section on "Maritime (In)security and Ocean Governance" in their Pan-European Conferences on International Relations for several years.

The relevance of maritime security and ocean governance to political science and their connection to other disciplines in the fields of security, peace and development are thus widely accepted. The author has established a strong network with the abovementioned actors and initiatives and would like to use this work to make a contribution to research in political science that can be built upon. As Schneiker observes, "[s]ecurity plays a central role in political science" (Schneiker 2017: 2). Maritime Security is concerned with transnational risks such as terrorism, organized crime and climate change, often in unregulated areas. This study investigates these risks through the lens of political science and governance, focusing on cooperation and conflict between different actors, structures and processes, on the basis of different norms and priorities. The following outline of a model of ocean governance seeks to unite various issues of concern in a comprehensive approach.

3   The Need for Future Research and the Ocean Governance Model

A key issue in this study is that "studies of maritime terrorism have been largely qualitative[, whereas] quantitative studies of maritime piracy, for their part, have largely ignored maritime terrorism" (Asal/Hastings 2015: 726). The literature thus far has been unable to answer key political and scientific questions about maritime violence. This habilitation thesis aims to make

a primary contribution to the field and to remedy this by offering a study that is empirical-analytical, theoretical and conceptual in nature and that extends the state of our knowledge (and can also be used politically). Its aim is to take stock of incidents of maritime violence: to analytically penetrate their causes and the nature of the governance measures put in place to prevent them in a way that both presents innovative concepts and makes them more inclusive. The study's deep analysis and problematization of the empirical data (including new data), its examination of further case studies (including the first application of social movement theory to maritime violence), and its discussion of their implications for ocean governance are intended to complement and move the literature forward, thus advancing the scientific debate. The background to this is the understanding that "a multi-perspective approach is the best option to do justice to the complexity of international politics" (Krell/Schlotter 2018: 407).

Both the empirical-analytical parts and the case studies and conceptual parts of the study aim to contribute to developing a rational discourse on the risks and threats (and their governance) in the maritime domain. As Bernhard Frevel observes: "There is no doubt that security is a basic human need – but it is also an insatiable basic need. There is no doubt that the provision of security is an original task of the state – but it is also an unfulfillable promise. (...) A rational discourse about the threats, risks and dangers in connection with a sober consideration of the possibilities and limits of security guarantees is indispensable, especially in times of changing crime and terrorism, but also in times of accelerated communication and short-winded 'excitement democracy'" (Frevel 2018: 169, author's translation).

Gert Krell and Peter Schlotter argue that political science "must provide interpretations of real existing conditions, (...) take a stand or even make practical suggestions. (…) [There is always the] danger of not only interpreting existing power relations, but also of legitimizing them" (Krell /Schlotter 2018: 403f., author's translation). The policy orientation of this work is aimed at strengthening an evidence-based approach to policymaking. At the same time, it is important to address the threat perceptions and needs of the various stakeholders in an inclusive manner. This is why this work incorporates the strengths of qualitative and quantitative methods and different theoretical frameworks (securitization, risk, governance, justice and social movement theories) to gain insights that are as numerous, valid, and relevant as possible so as to mitigate the dilemma between facts and perception.

As a standard instrument of political science, a model was developed at the beginning of the study to frame the risks of maritime violence and to facilitate the research process. It included quantitative and qualitative context-related parameters to achieve valuable results and made the underlying assumptions explicit, which framed the research questions and hypotheses. As an outcome of the study, a second model was developed – one that differs from the first and serves a different purpose. This second model is meant to enhance the quality of our understanding but also to serve as an assessment framework for ocean governance policies. The study outlines the underlying values and research dimensions in accordance with the factors of the risk model. The ocean governance model is an advancement and a consistent further development of the risk model insofar as it takes into account the results of the application of social movement theory and brings maritime security governance into a broader ocean governance framework. To test the validity of the new model, however, more individual and regional case studies must be carried out – case studies that should focus on the interdependence of patterns

and measures, the assessment of appropriateness, and the need for optimization for improved courses of action.

The empirical methods in this study use statistical descriptions to analyze terrorist and pirate attacks, which are put in relation to the risk model from Chapter 4 and the framework of maritime security and its governance. The study therefore aims to incorporate the strengths of different methodologies in order to gain as much insight, validity and relevance as possible. With the availability of more and more complex data and tools, further empirical studies will be possible, with the goal of including further phenomena related to maritime violence.

The use of empirical data for the conceptual parts was intended to expose challenges. While most of the case studies in this book are framed by risk and governance theory, the book also considered two theory-oriented interpretative case studies. The case study of the Somali Robin Hood Narrative used the lenses of justice theories and irregular just war theory. The second case study theorized maritime violence by applying social movement theory to terrorism and piracy in the cases of Nigeria and Somalia. Future case studies can be carried out using this theoretical framework, for example in the context of terrorism and piracy in the Philippines and Malaysia.

Topics of future analysis include efforts to transfer new governance mechanisms either to other regions (the entire Indian Ocean region, for example) or to regional/global organizations, including regimes that address those issues that are central to pirates' claims to legitimacy, such as illegal fishing and pollution/waste-dumping (see Chapter 16). As the relevance of Somali piracy has declined with the sharp decrease in attacks, piracy in regions other than the Gulf of Aden have gained more attention, most notably in the Gulf of Guinea (see Chapter 5)[165] because of its targeting of international shipping (other than in Indonesia), the level of violence, cargo robbery and certain incidents of hostage taking from crews aboard ships to Nigeria. Some elements of the Somali case serve as models for fighting Nigerian piracy, such as the establishment of best onboard management practices and the strengthening of local capabilities and common navy exercises. This has its limits, however, as there are no international mandates for navy operations in Nigerian waters, and private armed guards are not allowed in the area. Other lessons from the Indian Ocean that might be used under the very different circumstances of sovereign states in the Gulf of Guinea need further research.

Whereas the newly established state licensing procedures of private armed guards on ships (for the purposes of regaining some degree of control and satisfying the needs of the ship owners, crews and insurers) have been highly disputed, there is now consensus on this matter. The state practice of most European countries has shifted to an acceptance of private armed guards. With this said, the question of whether these mechanisms establish control successfully and whether these instruments can be implemented in a way that does not add to crime (for example by proliferating weapons and using excessive force) needs to be evaluated.

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165 For example, on basis of the works of Lisa Otto (2015), who conducted an empirical study on maritime criminal acitivity in Nigeria and who developed a typology of maritime crime in the Gulf of Guinea, as well as on the basis of the works of Dirk Siebels (2015), who examined maritime security governance measures in West Africa.

To conclude the implications of my work for future research related to both theory and policy, I wish to stress the following: The socioeconomic dynamics and political conflicts in regions and on sea routes remain volatile, and thus the relevance of piracy and terrorism as risk situations are also volatile. This makes the dynamic optimization of supply chains and the protection of the high seas as the common heritage of mankind a necessity. These goals require the analysis and further development of *theories* of the relevant escalation factors (e.g. pollution, illegal fishing, territorial conflicts, political unrest) and in-depth analysis of the relevant actors, their motives and group dynamics. Equally needed is analysis of how escalation factors and the dynamics and motives of the relevant actors relate to each other. Further *case studies* could also compare selected national and international models of regulation and monitor established mechanisms. These multi-disciplinary analyses (spanning political science, area studies, criminology, law, economics/logistics and psychology) would support *policies* that could entail:

- enhancing the (sustainable) development of and contextual factors in coastal states, including critical examination of the power relations executed in connection to maritime security concerns;
- increasing awareness of maritime security challenges and institutionalized dialogue;
- implementing necessary security standards;
- optimizing risk analysis processes used by cargo ships and cruisers;
- optimizing supply chain security;
- psychological preparation and measures to reduce the stress of crewmembers and
- examining the options available to state actors, local and (international) stakeholders.

There is conceptual proximity between "*maritime security governance*" (or "*ocean governance*", as it is often called)[166] and *global governance*. "The concept of global governance denotes a system of rule on the global scale, composed of formal global governmental institutions as well as informal non-governmental mechanisms" (Diez/Bode/Fernandes da Costa 2011: 73). In ocean governance, too, there is a "strong multi-level policy with an interplay of local, national and global governance structures and the participation of a large number of state and non-state actors" (Mondré/ Kuhn 2017: 9, author's translation). This study aims to build on Thomas G. Weiss and Rorden Wilkinson's observation to the effect that we should "move the concept of global governance beyond a simple association with international organization and law, multilateralism, and what states have done in concert over the last three decades. (…) [W]e need to pay attention to a host of other formal and informal actors, principles, norms, networks, and mechanisms, while taking seriously the requirements of time, space, and place" (Weiss/Wilkinson 2019: 111). It is hoped that the inclusion of non-state actors in security governance will increase effectiveness (Schneiker 2017: 54), just as private military security companies and the maritime industry have increased the effectiveness of anti-piracy efforts. Globalization and climate change are strong drivers of ocean governance initiatives by various actors (Stephen/Knecht/Bartsch 2018: 1). These governance structures are characterized by a

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166 Aletta Mondré and Annegret Kuhn define ocean governance as "all the rules, laws, institutions and policies that affect the oceans. The extraordinarily high complexity of ocean governance results from the tensions between diverse claims to use and efforts to protect the oceans and their inhabitants, the different ranges of regulatory provisions and the plurality of the authors of such regulations" (Mondré/Kuhn 2017: 4, author's translation).

high degree of fragmentation and potentially conflicting objectives, which are to be resolved by improved coordination, often concentrating on a specific sea area (for example under the term "integrated maritime policy" by the EU). As the European Environment Agency stipulates (EEA 2018), "[i]nternational ocean governance is about managing and using the world's oceans and their resources in ways that keep them healthy, productive, safe, secure and resilient."

Moreover, ocean governance is a *field of research* that is especially interesting and quickly evolving due to its spatial implications (maritime targets are often more difficult to protect) and overall limited regulations (the field is less regulated, or, where it is regulated, requires greater cooperation between different actors, such as littoral states, coastal populations, flag states, private security firms, seafarers, the maritime industry, merchant fleets, etc.), especially if vital interests are touched upon and common norms are challenged by (trans-)national actors. This is not only the case in areas of piracy and terrorism. Other phenomena that fall under the category of illegal activity at sea (be it the trafficking of drugs, arms, or people) can also be viewed in terms of a breakdown of maritime law and order. In addition, the field of ocean governance, which represents global interconnectivity and necessary regional and local approaches alike, fits well with the emerging field of *world regional studies* (a sub-field of international relations theory). The aim of world regional studies is "to attest and compare social theories applicable to coexisting modernities but linking them simultaneously to appropriate methodologies and research practices within the converging glocal reality" (Voskressenski 2017: 255).

A number of issues beyond piracy and terrorism have emerged as subjects in ocean governance, such as protecting critical infrastructure (e.g. sea cables) and enhancing port security, maritime boundary disputes, seabed exploitation, sustainable shipping, and sustainable use of the ocean (e.g. illegal fishing, waste dumping, water pollution, food security). It can be expected that "maritime resources – whether it be minerals or fish – and the access to the sea and its resources will become more and more disputed, as they become at the same time limited" (Krause 2019: 22). The case study of Nigeria also provides a clear demonstration of the extent to which "[e]conomic globalization is directly linked to its environmental consequences" (Diez/Bode/Fernandes da Costa 2011:82). In times where combating the consequences of climate change and environmental pollution are paramount, this fits well into Gandhi's concept of peace, for instance, which attributes the wasting of resources to passive violence. Such waste leads to economic imbalance, which affects everything else (Gandhi 2019:105-121; Galtung/Næss 2019). This is especially true if we include alongside waste (e.g. pollution) the exploitation of common global resources and the resources of foreign territories (e.g. illegal fishing). At the same time, the maritime industry has had to deal with a recession for years and has thus reduced security measures, a trend that is likely to continue until the market has recovered. It also remains threatened by the possibility of cyber attacks.

As *maritime security governance strives for good order at sea*, more needs to be accomplished in this area, not only to improve data collection, information sharing and cooperation, but also to enhance our understanding of actors and the appropriateness of actions. This study aims to contribute to this discussion in the field of piracy and terrorism by providing valuable input into an area of analysis that can be both deepened (based on the results outlined above)

and extended to other fields of ocean governance. A growing number of scholars are now prompting the emergence and implementation of ocean governance.

There is a growing perception that maritime security governance and ocean governance are politically relevant. This is reflected in the (maritime) security strategies, statements and policies set out by Germany, the EU, the G7, the maritime industry, and the UN, etc., as outlined in various chapters. Recently, the EU Commission and the High Representative for Foreign Affairs and Security Policy, Federica Mogherini, adopted a Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "International Ocean Governance: An Agenda for the Future of our Oceans" (10 November 2016), stating that "[o]ur oceans are under threat from over-exploitation, climate change, acidification, pollution and declining biodiversity. Marine and coastal economies are developing across the globe, but their success depends on improved sustainability. Access to maritime routes is sometimes impaired by illegal behavior, increasing levels of piracy, armed robbery and other forms of maritime crime at sea. Attempts to assert territorial or maritime claims outside the frame established by the United Nations Convention on the Law of the Sea (UNCLOS), through intimidation, coercion or force may affect not only regional stability, but also the global economy. Awareness of illegal activities within the maritime domain is a crucial enabling factor for sustainable, rules-based governance. (...) A global consensus is emerging that the marine environment and maritime human activities, including land-based activities with an impact on the oceans, must be managed more effectively to address the increasing pressures on the oceans. (...) The EU should build on existing arrangements to improve ocean governance and strengthen coordination with international and regional fora" (ibid). Fourteen priority areas were outlined to improve ocean governance and to contribute to "safe, clean and sustainably managed oceans" (ibid). "On the basis of its Maritime Security Strategy, the European Union will work with partner countries to reduce maritime security threats and risks, such as piracy, trafficking in human beings, arms and narcotics, while taking full advantage of the capacity of the new European Border and Coastguard Agency, the EU Maritime Safety Agency (EMSA) and Fisheries Control Agency (EFCA). Moreover, the EU is strongly engaged with its Common Security and Defence Policy missions and operations in the Mediterranean Sea and the Indian Ocean. EUNAVFOR Atalanta is active in countering piracy off the coast of Somalia, while EUNAVFOR Med Operation Sophia is working towards disrupting smugglers and trafficking networks and has saved more than 28,000 lives to date in the Southern Central Mediterranean" (ibid).[167] The Ocean Business Community has also formed a new active body, the World Ocean Council, to better address these challenges via corporate Ocean Responsibility (http://oceancouncil.org/).

The ocean connects different political communities in a number of ways. Fishermen set out further and further in the search for satisfactory yields, the energy industry has moved offshore, and visionaries dream of artificial cities at sea. This increase in human activity in ocean spaces poses the question of whether these different activities require coordination and regulation, and

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[167]   To learn more about the new agenda for the oceans and related actions, see https://ec.europa.eu/maritimeaffairs/policy/ocean-governance_en, accessed 10 December 2016.

what forms these should take. Furthermore, the oceans are a perfect illustration of global inter-dependence (as biotopes, habitats, but also in terms of ocean routes for the transportation of people and goods, communication, and exploitation). More and more is known about the harmful effects suffered by the marine environment, yet who can effectively be held accountable for marine pollution and for dealing with the effects of climate change? We encounter various crimes at sea (such as illegal fishing and waste dumping, but also piracy, terrorism, drug and people trafficking/human smuggling), with different regimes addressing these phenomena in different ways, often in the face of disputes over maritime boundaries and the use of resources. Nevertheless, the ocean space remains largely ungoverned compared to the situation on land. These different regimes (formal or informal) are characterized by different sets of constraints and power dynamics. How can the effects of globalization, such as pollution, security issues and needed mechanisms of conflict resolution, be addressed by complex global governance without impeding political and economic development? As Sybille Reinke de Buitrago and the author observe, "[t]he shared norms as well as the expected effectiveness in coping with trans-national risks in a world order without central steering capacities ideally gives legitimacy to cooperation and encourages compliance regarding the responses" (Reinke de Buitrago/Schneider 2020).

One could argue that ensuring the quality of this governance requires proactive leadership. As the previous section pointed out, Germany – within EU and UN frameworks – is an active supporter of ocean governance on various levels and in relation to various actors. As has been shown, Germany is only a leader in certain areas – if at all – but it has various aspirations. From the above it is clear that Germany no longer struggles with "*sea blindness*" and has instead entered a stage of looking out to sea. Yet even if Germany has become what we might call an "*outward looking nation*," it has not yet reached a stage of "*sea readiness*," as it were. Germany is arguably a believer in multilateralism and in the notion that international strategic challenges require working in common – even when multilateralism is under stress.

At the same time, it is clear that creating local ownership and civilian resilience requires the inclusion of a variety of stakeholders – a point which was also demonstrated by the case studies of Nigeria and Somalia. Furthermore, "capacity building and technology transfer is best done at regional level, while global standards are needed … [T]he regional level is an important intermediary between international processes and national decision making (…) [whereby] lo-cal-level engagement and participation is [a] priority (…) [and] narratives around a 'common enemy', such as pollution, [can] facilitate action" (IISD 2019: 4-6). The issue of capacity build-ing is illustrated, for example, by the problems evolving around the prosecution and sentencing of pirates. An example of reliance on global standards and regional implementation is the sanc-tioning of terrorists through UN blacklisting and the problem of implementation by the EU and nation states, which also highlights the need for checks and balances (on the lack of institution-alized checks and balances in global governance, see von Staden 2018). Other more positive examples related to the discussion on global standards are provided in the discussion on the use of private security companies and the Best Management Practices in the fight against piracy (Chapter 15). Christian Bueger (2018: 632) confirms that the standards defined by the BMP "led to a remarkable cooperation between governmental authorities and the shipping industry." He regards governance arrangements resulting from the fight against Somali piracy as a "zone of exception in which different forms of regulations are at play and actors cooperate differently than they do in other spaces" (ibid). Another example of such international standards are the

security governance measures that have been instituted on the EU and the global level (Chapter 12).

While many natural scientists have called for better ocean governance, political scientists have been slow to turn to the sea with comprehensive concepts. This is about to change, as suggested in the last section on the evolving research groups. Policy making is already in full swing, however, as illustrated by the EU's International ocean governance agenda for the future of our oceans from 2016 and the 2017 and 2020 UN Ocean Conference.

There is a need for future research to determine how maritime violence and other maritime crimes might be brought into this ocean governance framework conceptually and how this could enhance the effectiveness of its containment. Such research could help us to further understand "how possible future systems of global governance can be adjusted and recrafted to produce fairer outcomes" (Weiss/Wilkinson 2019:117).

The following will sketch a possible **model for the integration of different maritime crimes into an optimized, comprehensive ocean governance framework** (see **chart 41**) which can be further developed in the future. As outlined in Chapter 2.5, a model serves as a "simplified representation of reality" (Varian 2016: 82). This simplification helps to make reality accessible for scientific analysis (Martin 2009: 40). To enhance understanding, gain deeper insight and improve the ability to explain the phenomena, the examination of four different dimensions can help us to derive maritime crime patterns and trends. For this, we must look at the spatial dimension (where?) with an emphasis on the spatial and geopolitical context, as well as regional and global interdependencies. The societal dimension (who?) focuses on stakeholders, group dynamics, local contexts and conflicts, the legitimacy of action and narratives. This idea has been developed by the application of social movement theory and justice theories (see Chapters 5 and 16). The functional dimension (what for?) tells us about the desired effect, outcome and/or message of the action. The material dimension (how? with what?) focuses on tactics, techniques/means, procedures, financial and personal resources, forms and levels of action. (It is no coincidence that some of these dimensions are similar to the factors in the risk assessment formula (see Chapter 4), as they are also needed for this purpose. Here, however, the goal is not simply to examine maritime violence but to broaden our view.)

The classification and assessment of governance measures requires an appropriately abstract criteria model in order to assess the relevant practices from an economic (e.g. cost-benefit, limited resources), political (e.g. purpose, interests/agendas, cohesion, reliability, connectivity/inter-dependence, diplomacy) and ethical-legal (e.g. legitimacy, norms, credibility) perspective. From the German perspective, with respect to governance measures, the constitutional principle of proportionality appears to be both practical and flexible enough to analyze the abovementioned perspectives and to make them comparable. Framed by the legitimacy of the means and the purpose, and thus derived from an existing norm, the measures can be analyzed in terms of suitability, necessity, and adequacy. To enhance the appropriateness of governance measures, we can therefore use a common rule of law legal concept that is used to assess decisions, for example the German proportionality principle (*Verhältnismäßigkeitsgrundsatz*), which can then be amended in a way that includes all of the abovementioned economic, political and ethical-legal perspectives. According to Wienbracke (2013: 154), the (legitimate) means must be suitable, necessary and adequate for the (legitimate) purpose. Therefore the appropriateness of ocean governance measures can be judged along four

dimensions: legitimacy of purpose (*legitimer Zweck*), suitability (*Geeignetheit*), necessity (*Erforderlichkeit*) and adequacy (*Angemessenheit*).

If maritime crime patterns and trends can be extracted from the examined case studies which would have to be undertaken, these could then be compared with the ocean governance measures to analyze the categorization of the levels of actor and action, the interdependence of patterns and measures, the assessment of appropriateness and the need for optimization (all of which will be explained below).
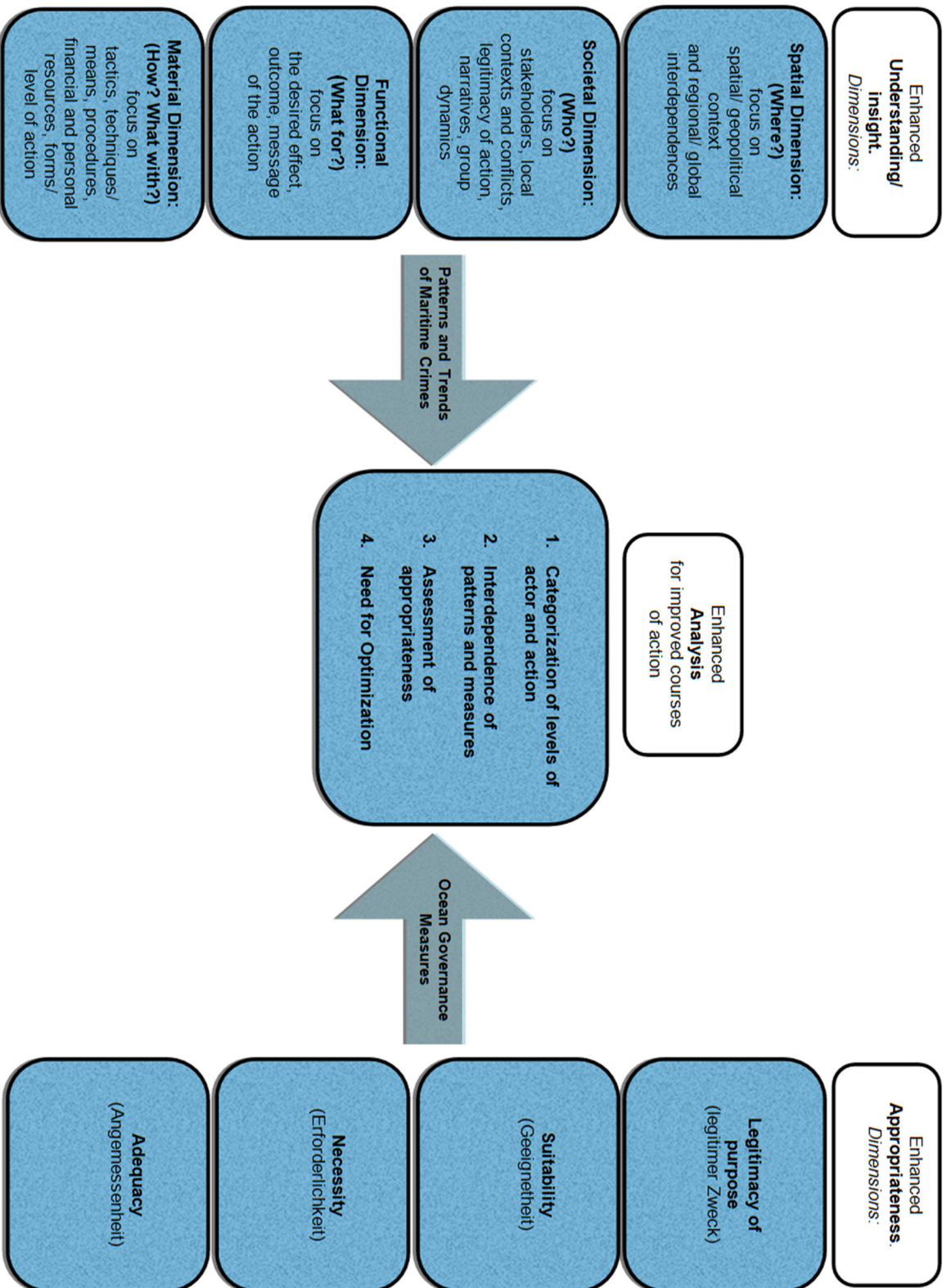
Chart 41. Draft of a model for the integration of different maritime crimes into an optimized comprehensive ocean governance framework

One challenge of our times is how to do this in the light of renewed geopolitical rivalries which also have repercussions on maritime security cooperation, for instance in the South China Sea, the Strait of Hormuz and the Arctic. Basil Germond, for instance, has called for scholars to integrate the geopolitical dimension of maritime security within their research.[168] The proposed ocean model could also be used to analyze this dimension in further detail in future studies. He concludes that "[w]hen states and regional organisations stress their need, will or duty to 'secure the freedom of the seas', to 'police the global commons', to 'promote good governance at sea' or to 'assure the stewardship of the ocean', there are geopolitical forces and factors at play and not only 'benign' intentions" (Germond 2015:142).

Whether the implementation of the ocean governance model will be successful may also be related to finding ways to deal with norm breakers. In a recent study, Sybille Reinke de Buitrago and the author of this study introduce the concept of hybridity into ocean governance, looking at the dynamics at work in the cases of the Arctic, the Indian Ocean, and the Mediterranean Sea. Actors may see less need to abide by rules that contradict their interests, which can destabilize order. On the other hand, this can stimulate informal but innovative and flexible mechanisms. The authors concluded that "[s]tates may then take a hybrid approach by taking into account inter-national law in more regulated areas but seeking alternatives in less regulated ones. To dis-courage norm breaking and to promote cooperative approaches towards shared challenges in maritime space, stronger ocean governance that considers hybridity seems important. (…) The rather unpredictable dynamics suggest that a system to deal with norm collisions is required. However, usually no enforcement mechanisms exist (e.g. the Arctic). The concept of hybridity may help to explain the obstacles to improved ocean governance and to identifying more effective means for it, such as the use of flexible, inclusive mechanisms that are compatible with different concepts of order and with diverging traditions and approaches. Agreement on shared norms/goals and their priority, easily affected by conflicts in other areas, seems to be a precondition, though. The overall political climate in international relations, as the crisis of strategic arms control shows, currently indicates more confrontational than cooperative state behavior, more threat perceptions and feelings of insecurity than understanding of diversity. In cases of an existing climate favorable to agreement, political actors should seize every opportunity to foster cooperation for the common good and learn from positive examples of (ocean) governance" (Reinke de Buitrago/Schneider 2020).

A comprehensive ocean governance framework – including all relevant stakeholders – should contribute to the effective use of capacities, the conservation of natural resources in the interest of all, and better protection against state and non-state violence. It should contribute to building a world in which fewer and fewer people feel forced to resort to maritime violence in protest or for lack of other opportunities – a world in which piracy has been banished, to a large extent, to the realm of harmless fairy tales.

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[168] William Mallinson and Zoran Ristic urge precisely the opposite approach and dedicate their book "to the victims of geopolitics" (Mallinson/Ristic 2016: ii). They recommend the perspective of geohistory instead (ibid: 113). Nevertheless, the operationalization of their concept seems difficult, if not unwanted: "may Heaven forbid any attempt to destroy our embryonic geohistory, by trying to place it into a 'conceptual framework' and imprisoning it in more theory and models" (ibid: 120).

APPENDIX

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Declaration on the Use of Previous Publications by the Author in this Book

Chapters 1, 3-4, 6-9, and *11-12* are based on translated and extended versions of:

- Schneider, Patricia: Maritimer Terrorismus: Tätergruppen und Anschlagstypen 1968-2010. PiraT Working Paper 13 (2011, updated February 2013) Hamburg.

A summary of this paper was published in the following article:

- Schneider, Patricia: Maritime Terrorism: Governance and Non-State Actors. In: Jakobi, Anja P.; Wolf, Klaus Dieter: The Transnational Governance of Violence and Crime, Palgrave Macmillan / Springer Nature, November (2013), 172-192 (peer-reviewed).

A summary was also published in various chapters written for:

- Ehrhart, Hans-Georg; Petretto, Kerstin; Schneider, Patricia; Blecker, Thorsten; Engerer, Hella; König, Doris (eds.): Piraterie und maritimer Terrorismus als Herausforderungen für die Seehandelssicherheit Deutschlands: Politik, Recht, Wirtschaft, Technologie (Demokratie, Sicherheit, Frieden − Volume 2010). Nomos Verlag 2013.

From these chapters, I have used only those parts that I authored myself. In all other cases, I quote directly from the respective chapters.

- Maritime Gewalt: Risiko und Risikomanagement, pp. 38-46.
- Indikatoren zur Erfassung der Risikolage im maritimen Raum − Beitrag des IFSH (with Hans-Georg Ehrhart, Kerstin Petretto), pp. 47-63.
- Kontext und Angriffszahlen: Maritimer Terrorismus, pp. 115-140.
- Staatliche Strukturen Deutschlands zur Abwehr von maritimem Terrorismus, pp. 227-247.
- Security Governance – Handlungsoptionen gegen maritime Gewalt (with Hans-Georg Ehrhart, Kerstin Petretto, Thorsten Blecker, Hella Engerer, Doris König), pp. 303-328,
- Einleitung (with Hans-Georg Ehrhart, Kerstin Petretto, Thorsten Blecker, Hella Engerer, Doris König), pp. 17-25.

These chapters and the abovementioned working paper are partly identical, and elements thereof also feature in other parts of the book, e.g. the final chapter.

Chapter 5 was *published as a double-blind peer-reviewed article* for an international journal:

- Patricia Schneider: "When Protest Goes to Sea: Theorizing Maritime Violence by Applying Social Movement Theory to Terrorism and Piracy in the Cases of Nigeria and Somalia". In: Ocean Development & International Law (ODIL) 51 (2020) 3, p. 283-306 (*ISI listed*).

Parts of this article (excluding all theoretical sections) were used in a German article called "Seepiraterie und maritimer Terrorismus", to be published in: Bürger & Staat, Jg. 69, 4/2019, edited by the Landeszentrale für politische Bildung Baden-Württemberg, Themenheft "Ozeane und Meere", S. 254-261.

Chapter 10 was published as a peer-reviewed book chapter:

- Schneider, Patricia: Recent Trends in Global Maritime Terrorism, in: Lucas, Edward R., Thomas Crosbie, Samuel Rivera-Paez, and Felix Jensen (eds.), Maritime Security: Counter-Terrorism Lessons from Maritime Piracy and Narcotics Interdiction (Amsterdam: IOS Press - NATO Science for Peace and Security Series, 2020), pp. 187-206.

Chapter 13 is based on:

- Schneider, Patricia: Sanctioned Until Proven Innocent: Reviewing the UN and EU Smart Sanctions Regime for Blacklisted Terror Suspects. In: Brzoska, Michael (ed.), Transnational Risks of Violence as a Challenge to European Peace and Security Policy. Nomos Verlag 2014, 261-280.

This article is an updated and edited version of the previously published peer-reviewed book chapter: Terror Blacklists on Trial: Smart Sanctions Challenged by Human Rights. In: Goodhart, Michael; Mihr, Anja (eds.): Human Rights in the 21st Century: Continuity and Change since 9/11. Palgrave Macmillan 2011, 150-166 (peer-reviewed). This article was largely based on an earlier German paper co-authored with Kathrin Peiffer, a final version of which was published under the following title: Die Terrorlistenkontroverse vor Gericht. Gezielte VN-Sanktionen im Spannungsfeld zwischen Menschenrechten und Terrorismusbekämpfung. In: Jahrbuch Öffentliche Sicherheit (JBÖS) (2010/11), 369-379.

Chapter 14 is based on:

- Schneider, Patricia: German Maritime Security Governance: A Perspective on the Indian Ocean Region. In: Journal of the Indian Ocean Region 8 (2012) 2, 142-165 (double blind peer-reviewed).

Chapter 15 is based on:

- Schneider, Patricia: Private Sicherheitsdienstleister zur See. Das neue Zulassungsverfahren. In: Marineforum 4 (2014), 25-27. (This article was an updated and extended version of an online statement, which was published on 19 December 2013 at http://www.ifsh.de/index.php/stellungnahmen.html.)

This chapter was also used as the basis for a paper intended for a conference organized by the International Studies Association (ISA) in Toronto in 2014. Extracts of it appeared in a co-edited special issue in the *Journal Ocean Development & International Law* (Volume 46, Number 2, 2015) with Carolin Liss:

- Regulation of Private Maritime Security Companies in Germany and Spain: A Comparative Study. In: Ocean Development & International Law 46 (2015) 2, 123-137 (peer-reviewed) (ISI listed). I co-authored a peer-reviewed comparative study of the German Regulation on Private Military Security Companies and equivalent Spanish regulations with Annina Bürgin. For this book I only used the parts I authored myself, concentrating on the German example.

Chapter 16 is based on:

- Schneider, Patricia; Winkler, Matthias: The Robin Hood Narrative: A Discussion of Empirical and Ethical Legitimizations of Somali Pirates. In: Ocean Development & International Law (ODIL) 44 (2013) 2, 185-201 (Co-Author) (double blind peer-reviewed) (ISI listed).
- Schneider, Patricia: Piraterie und Recht. Zum Urteil im Hamburger Piratenprozess. In: if − Zeitschrift für Innere Führung 1 (2013), 20-25. (This article was an updated and extended version of an online statement, which was published on 31 October 2012 at http://www.ifsh.de/index.php/stellungnahmen.html.)

A part of the section "Outlook", which was authored by Patricia Schneider, was also in the following *double-blind peer-reviewed article* for an international journal:

- Sybille Reinke de Buitrago and Patricia Schneider: Ocean Governance and Hybridity: Dynamics in the Arctic, the Indian Ocean, and the Mediterranean Sea. In: Global Governance: A Review of Multilateralism and International Organizations 26 (2020) 1, p. 154-175 (*ISI listed*).

Please note that two subsections were co-authored in a collaborative manner, meaning the authorship cannot be separated: (a) XVI.5 "Claims from a Theoretical Perspective: Justice and the Use of Force?" and (b) XVI.6 "Conclusion". Mr. Winkler has kindly agreed to allow the use of the text in this book. His co-authorship of that section is also referenced in a footnote at the beginning of the chapter.