

The Legal Frameworks Arising from Using Armed Guards Onboard Ships: Challenges and the Way Forward

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Abstract

This paper will look at the changing role of Privately Contracted Armed Security Professionals, particularly national authority over their operations in international treaties, and describe the plethora of legal frameworks and industry-led policies that have arisen in the marine security. This will begin by illustrating the emergence of corporate naval security alongside the framework of the contemporary maritime industry's development. It will next assess the primary conceptual model laws in international norms that serve as sources of law for corporate maritime security actions, specifically UNCLOS, SUA, SOLAS, UN Firearms Protocol, as well as the Principle of Self-Defense and the Doctrine of Necessity. It will go into the tests of establishing whether, as alleged by some coastal state-governments, the presence of uniformed soldiers on board a commercial ship constitutes an impediment to innocuous passage or requires prior information. The entirety of the paper will discuss how the industry reacted to the surge in the maritime security field, including the emergence of legal framework, industry-led rules, behavioural standards, and certificate programmes designed to bring management gaps left by hard-law structures and restore stability, supervision, and responsibility to the maritime industry. The "Montreux Document, the International Code of Ethics for Private Security Services, and International Maritime Organization Circulars" are a few examples of this kind of advice. The report will culminate with a review of results and predictions for the legislative developments in the industry going forward.

Keywords

Armed Guards, Marine Security, Legislative Developments

1. Introduction

There has been an unprecedented increase in the levels of piracy activity in the

21st century as pirate groups have become more capable of attacking vessels further away from the coastline due to better equipment and resources. The International Maritime Bureau Piracy Reporting Centre (IMBPRC) recently stated approximately two hundred and fifty attacks on shipping vessels, with twenty-six being successfully hijacked between January and June of 2021 alone (Jarašūnienė & Čižiūnienė, 2021). The perceived global community's incompetence or inability to reduce the level of piracy activity or adequately tackle the cause of the problem led to repeated calls for flag states to use security guards on shipping vessels to protect these ships and their crews from the threat of piracy.

The level of piracy has become so severe that the chairman of the International Chamber of Shipping recently stated that several shipping companies opted to arm their vessels with security officers instead of avoiding the murky waters completely, which could have detrimental effects on the trajectory of global trade. Consequently, using armed security onboard ships seems to have led to intense international pressure for guidance and reforms from the IMO. The organisation resultantly published Circular 1405 to help shipping companies in their efforts to provide private security for their merchandise and crews. While this guidance established a foundation for the ship owners to mitigate against the risks of piracy, it left many questions unanswered. This paper illustrates the legal justifications of using privately contracted security onboard ships, particularly concerning state jurisdictions and the wide scope of guidelines offered to shipowners by the IMO.

According to a UN Press release in 2022, armed robbery and piracy have steadily declined in the high seas, particularly in the Gulf of Guinea. This steady decline is largely due to concerted efforts by state governments, piracy convictions, regular deployment of naval assets by global partners, and reliable support from global and regional partners. Furthermore, the use of private security onboard ships has made the high seas seem relatively safer to use for international trade. Pirates are now unsure of the security state of the ships they plan to take hostage. Therefore, out of fear of apprehension, most pirates have shied away from attacking ships. However, there is a concern that this decline could be due to a shift to other crimes such as theft and oil bunkering. Nevertheless, piracy and criminal activities in the high seas appear to be relatively low at the moment.

2. International Laws on Using Private Security Onboard Ships and the Concept of Maritime Security

Past: State Roles in Repressing and Preventing Piracy

This section highlights the role of the United Nations Convention on the Law of the Sea (UNCLOS), envisioned to repress and prevent piracy, and various states' roles in executing UNCLOS's strategic solutions. Particular attention was paid to using state agents onboard shipping vessels to prevent and repress piracy. Every state has the power, authority, and obligation to protect its ships from piracy and fight any ships engaging in piracy activity (United Nations, 1982).

Under article 107 of UNCLOS, an apprehension concerning piracy should be undertaken only by military aircraft, warships, or any other aircraft or vessels identified and marked to be operating on government service or any other authority to that effect.

An analysis of the roles of different states in repressing and preventing piracy establishes two categories; “flag states” and “every other state”. With the “every other state” article 105 of the UNCLOS highlights all states’ rights, powers, and freedoms. These powers allow all other states to enforce jurisdiction on the seas as they repress and prevent piracy. Before illustrating these rights that states have to safeguard the seas, it is vital to define piracy in the context of jurisdictional protection. Article 101 defines piracy as all actions of voluntary involvement in operating vessels that facilitate piracy. It can also be defined as actions of depredation, detention, or violence committed for personal gain against property, persons, aircraft, or ships outside of the jurisdictions of any state (United Nations, 1982).

3. Powers to Repress Piracy for Every State

Under Article 100 of the UNCLOS, every state is mandated under a collective responsibility to work together to repress piracy. The collective responsibility approach was implemented because of piracy’s danger and severity on humanity (Wróbel, Montewka, & Kujala, 2017). Under this article, all states can enforce maritime security because piracy affects all sea users. Furthermore, article 105 dictates that every state may repress and prevent piracy in all sea zones, including the territorial, contiguous, internal, and high seas. This enforcement is a legal authorisation against piracy given to all states. Article 110 1(a) of the UNCLOS further reaffirms the powers of all states in fighting piracy in all sea zones. It permits warships to visit ships not flying a similar flag under the doctrine of “engaging in piracy”. This right to visit is only permitted to a flag state as a form of respect to its jurisdiction over its ships. The visiting privilege is limited to the particular flag state because it can affect trade and navigation on the high seas (Williams, 2014). If warships were to stop all other ships with similar flag states, this would lead to unnecessary delays that could prevent the detection of actual threats.

4. Present: The Preference of Different States for Alternative Solutions

The past solutions envisioned by the UN convention have not been exclusively adhered to by every state when safeguarding their territorial waters. Instead, most states have opted to pursue alternative solutions. Many states employ armed security in their shipping vessels for various reasons, including financial costs, political reasons, and repressing piracy (Cusumano & Ruzza, 2015). For example, data from the International Maritime Organization in 2015 illustrates that over one hundred and forty shipping companies had employed at least three thousand

armed contractors' onboard ships, with plans to add approximately two thousand more European military personnel for vessel protection (Cusumano & Ruzza, 2015). This armed personnel was guards provided by Private Maritime Security Companies (PMSCs) or Vessel Protection Detachments (VPDs). VPDs and PMSCs ensure that civilian ships and shipping vessels are adequately protected against potential attacks from pirates.

Most states generally prefer using armed guards' onboard ships to safeguard their ships against piracy despite IMO's recommendation of deploying naval patrol vessels in the most affected areas. Often, deploying patrol vessels to enhance maritime security is costly (Purnawarnantha & Afriansyah, 2021). As a result, most states prefer the simpler, cost-effective approach of PMSC and VPD guards over warships. Stationing armed security officials' onboard ships serves the shipping company's security interests while simultaneously saving them costs as they split expenses with states. For instance, the Italian state prefers to pay the wages of VPDs despite not benefitting from their deployment to shipping because this is less of a financial burden to improving maritime security (Cusumano & Ruzza, 2017). Other forms of improving maritime security, such as patrol vessels, are costly and only used for the "common good". The states would have to bear most of the financial burdens of implementing these piracy prevention strategies despite the seas' users benefiting from the solutions.

A major advantage of using armed security onboard a ship is the immediate protection offered during an attack which seems not available when relying solely on naval patrol vessels for protection. Naval vessels must patrol vast sea areas, preventing them from protecting multiple ships during simultaneous attacks. The European Parliament recently commended the use of PMSC and VPD guards as well as the European Union NAVFOR ATALANTA, the EU's military operation, for successfully decreasing piracy activities in the Indian Ocean waters (Preetha, 2017). Armed guards onboard warships supplement the use of warships if a state can cover the costs associated with this joint approach. Naval patrols alone are insufficient in providing security for any ships at risk. The attack is usually over when a naval ship gets to a victim ship to offer support. Thus, alternative solutions, such as using armed security onboard ships, are more effective than solely relying on warships for maritime security. Finally, a joint approach is better because not using naval patrol vessels means that suspected pirates will not be captured. Armed security onboard ships do not possess a similar authority to state agents in warships (Cusumano & Ruzza, 2018). This explains why states' present solutions differ from those envisioned by the UNCLOS.

5. IMO Guidelines on Using Armed Security Onboard Ships

The increasing piracy threat off the wider Indian Ocean area made trade difficult within this region, leading to its popular identity, the "High-Risk Area". This increased PMSCs offering armed guards for shipping companies. Surprisingly, the IMO chose not to pick a side on this issue. The organisation neither condemns

nor endorses using armed guards for security purposes in shipping vessels (Petric, 2013). It largely leaves the decision to the shipowner, subject to the coastal state's laws. However, IMO recognises that it is difficult for shipowners to select professional and reliable Privately Contracted Armed Security Personnel (PCASP), especially because of the prevalence of security companies with varying experience, discipline, and competence levels. The absence of a security regulatory body in the maritime industry added to the complicated legal requirements for using firearms during legitimate transport and carriage, presents a wide array of problems if private security companies are not sufficiently vetted before seeking their services (Cusumano & Ruzza, 2020). In response, the IMO published Circular 1405 to help masters, operators, and shipowners select armed security.

The Circular has ten summary guidelines; Management of Firearms, Command and Control, PCASP team size, composition and equipment, Insurance, Training of PCASP, Selection and Vetting of PMSC, Risk Assessment, Laws, Regulations and Jurisdiction, Reporting and record-keeping, and lastly, Rules for using force onboard ships. For example, the guideline on Laws, Regulations, and Jurisdiction implies that the shipowners must obey the laws imposed by the flag state (International Maritime Organization, 2012). Before contracting armed security services, shipowners must consult their flag states to ensure all territorial laws are properly followed. They should assess the risks of working with PCASPs and perform due diligence when vetting and selecting PMSCs. They should also monitor the training of the PCASPs, their insurance coverage for their personnel, themselves, and any third parties, and the composition, equipment, and size of PCASPs depending on the ship type, and the latest threat assessment (International Maritime Organization, 2012). Additionally, the shipowners should ensure the PCASPs are accountable for their ammunition and weapons at all times while completely understanding the rules for using force. Lastly, Circular 1405 published by IMO, provides a list of what should be recorded and fully documented whenever firearms are discharged, as these written statements may be useful in the event of legal proceedings.

6. State Jurisdiction and Conflict of Jurisdiction over Private Maritime Security on Ships

Different states particularly coastal states have varying degrees of legislative and jurisdictional power in the five sea zones. Likewise, foreign sea vessels have a set limit of freedom for their activities in said zones. In the High Seas, Article 87 provides general freedoms to states, such as the rights to engage in marine scientific research, to fish, to construct installations such as artificial islands permitted under international law, to lay submarine pipelines and cables, and *inter alia*, the freedom of overflight and navigation (United Nations, 1982). While allowing different states to exercise these freedoms concerning the laws of other states, UNCLOS also insists that high seas should only be used for legally authorized functions. Article 89 states that no state should claim absolute sovereignty to any

part of the high seas. Furthermore, Article 90 allows all states, whether landlocked or coastal, the right to sail ships on foreign waters as long as they have their flags onboard (United Nations, 1982). Lastly, regarding the high seas, Articles 90 through 92 dictate that every vessel can only have one nationality and that nationality will be determined by every state independently.

Unlike the high seas' rules or regulations, the Exclusive Economic Zone (EEZ) rules follow neither the freedom concept characterised by the high seas nor the concept of sovereignty in territorial waters. Article 55 of the UN Convention dictates that the EEZ does not rely on abstract legal implications; rather, it is more similar to corresponding duties and allocations of different rights. Article 56(1) establishes powers and authorities for coastal states to manage, conserve, exploit, and explore natural resources. The article also permits coastal states to engage in the zone's exploration or economic exploitation activities, including energy production from winds, currents, and the waters (Cusumano & Ruzza, 2020). Furthermore, Article 56 gives jurisdiction to coastal states regarding preserving and protecting the marine environment, scientific research, and installing artificial islands.

The Contiguous Zone often seems obsolete. However, Article 33 of UNCLOS permits coastal states to exercise sufficient force to repress and prevent violations of its legislation regarding sanitation within its territorial sea, immigration, taxes, and customs. This legislation only applies to private vessels, as warships are immune to legislation in the contiguous zone (Jarašūnienė & Čižiūnienė, 2021). Lastly, UNCLOS allows coastal states to exercise full control within their territorial seas with slight concessions. Article 17 allows ships of all landlocked and coastal states to exercise the freedom of innocent passage via other states' territorial seas. Further, Articles 18 and 19 define what "innocent passage" is and what constitutes a violation of this innocent passage that may threaten the particular state's security (Barrett & Barnes, 2016). The last zone, internal waters, is treated as the terrestrial territory of the respective state. Any ships in any state's internal waters must adhere to the particular state's jurisdictional, judicial, administrative, and legislative powers. Article 32 states that any illicit activity or product within the foreign vessel will be subjected to the particular state's laws and regulations.

7. Justifications for Use of Private Armed Security Personnel (PCASP) on Ship

The use of private armed security personnel (PCASP) on ships has become an increasingly common practice in response to the threat of piracy and other maritime security concerns. There are several justifications for the use of PCASP, including the protection of crew, cargo, and vessels, as well as the deterrence of potential attackers.

One of the main justifications for the use of PCASP is the protection of crew and passengers. Piracy and armed robbery at sea pose a significant threat to the

safety and security of those onboard a ship, particularly in high-risk areas such as the Gulf of Guinea, the Indian Ocean, and the Straits of Malacca (Klein, 2011). The presence of armed guards can provide a deterrent to potential attackers and increase the level of protection for those onboard. In addition, the use of armed guards can help to ensure that crew and passengers are able to carry out their duties without fear of attack, thereby enhancing the safety and efficiency of shipping operations.

Another justification for the use of PCASP is the protection of cargo and vessels. Maritime piracy and armed robbery at sea pose a significant threat to the security of valuable cargo, including oil, gas, and other high-value goods. The use of armed guards can help to deter attacks and provide an additional layer of protection for these valuable assets (Klein, 2011). In addition, the use of PCASP can help to protect the vessels themselves from damage or destruction, which can be costly and disruptive to shipping operations.

A further justification for the use of PCASP is the need to respond to the evolving threat to the marine environment. Maritime piracy and armed robbery at sea have become increasingly sophisticated in recent years, with attackers using a range of tactics and weapons to carry out attacks. The use of armed guards can help to ensure that ships are able to respond to these threats effectively and adapt to changing circumstances as they arise.

There are also legal justifications for the use of PCASP. Under international law, ships have the right to use force in self-defense against piracy and armed robbery at sea (Klein, 2011). This right is enshrined in the United Nations Convention on the Law of the Sea (UNCLOS), which allows ships to take measures necessary to protect themselves and their crews, including the use of force. In addition, the International Maritime Organization (IMO) has issued guidance on the use of PCASP, which provides a framework for the use of armed guards onboard ships.

In addition, there are industry-led initiatives aimed at enhancing the accountability and oversight of PCASP. These initiatives include codes of conduct, certification schemes, and best practices for the use of armed guard's onboard ships. These initiatives are designed to ensure that PCASP acts within the law, respect human rights, and operates in a transparent and accountable manner (International Maritime Organization, 2011). The use of Privately Contracted Armed Security Personnel (PCASP) on ships is a complex issue with various legal and practical implications. While there are justifications for their use in certain situations, such as protecting against piracy and terrorism, the deployment of armed guards must be carefully evaluated to ensure compliance with international law and avoid potential negative consequences.

The regulatory landscape surrounding the use of PCASP on ships is evolving, with a combination of hard law and soft law instruments aimed at providing oversight and accountability. The "UNCLOS, SUA, SOLAS, UN Firearms Protocol, Principle of Self Defense, and Doctrine of Necessity" serve as the primary

legal sources governing private maritime security activities, while industry-led initiatives like the “Montreux Document, the International Code of Conduct for Private Security Providers (ICoC), and ISO/PAS 28007” provide guidance on best practices and certification schemes.

Arguably, it is possible to deploy the United Nations Peacekeeping Force to cope with the marine security problems instead of using PCASP on ships. However, given that the seas are vast and pirates can attack ships at any location, it is generally preferable to use PCASPs onboard ships. The UN Peacekeeping Force will operate from a single base allowing piracy to occur in other areas of the sea (Huebert, 2013). PCASPs, however, offer private security for every ship and are more reliable in the long run. Nevertheless, a combination of the two maritime security bodies would work better as PCASPs often lack the legal authority to apprehend pirate ships. With the current state of maritime security, PCASPs are preferred by both shipowners and states over the UN Peacekeeping Force.

8. Legal Framework for the Use of Private Armed Security on Board Ships

The use of Privately Contracted Armed Security Personnel (PCASP) on ships has become increasingly common in recent years, particularly in areas where piracy and maritime terrorism are a threat (Treves, 2008). However, the deployment of armed guards on ships raises important legal questions, including questions related to jurisdiction, liability, and compliance with international law.

At the international level, the United Nations Convention on the Law of the Sea (UNCLOS) serves as the primary legal framework governing the use of PCASP on ships. UNCLOS sets out the rights and responsibilities of states in relation to the use of the seas and oceans, including the principle of innocent passage, which allows ships to pass through the territorial waters of other states without interference.

However, some coastal states have argued that the use of PCASP on ships violates the principle of innocent passage, as it implies that the ship is not engaged in peaceful activities. To address this concern, the International Maritime Organization (IMO) has issued circulars encouraging ships to provide advance notification to coastal states when armed guards are onboard (Klein, 2011). The IMO has also developed the International Ship and Port Facility Security (ISPS) Code, which requires ships to have security plans and procedures in place to prevent and respond to security threats.

In addition to UNCLOS and the ISPS Code, other international legal instruments govern the use of PCASP on ships. For example, the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (UN Firearms Protocol) set out rules for the transfer and possession of firearms, which may be relevant to the use of PCASP on ships (Huebert, 2013).

At the national level, the legal framework governing the use of PCASP on ships varies depending on the jurisdiction. Some states, such as the United Kingdom, have specific regulations in place governing the use of PCASP on ships, while other states may have laws that prohibit or restrict the use of armed guards.

One important legal question related to the use of PCASP on ships is liability. If an incident occurs involving the use of force by PCASP, who is responsible for any damages or injuries that result? The answer to this question will depend on the circumstances of the incident and the applicable legal framework (Treves, 2008). Under UNCLOS, a state has jurisdiction over its own ships, including those that are registered under its flag. Therefore, if a ship with PCASP onboard is involved in an incident, the flag state may be responsible for any damages or injuries that result. However, if the incident occurs in the territorial waters of another state, that state may also have jurisdiction over the incident.

To address liability concerns, some industry-led initiatives have been developed to provide oversight and accountability for the use of PCASP on ships. For example, the Montreux Document is a non-binding set of guidelines that sets out best practices for the use of PCASP by private security companies (Treves, 2008). The International Code of Conduct for Private Security Providers (ICoC) is another voluntary initiative that sets out ethical principles and standards for private security companies operating in conflict zones or other high-risk environments. Certification schemes such as ISO/PAS 28007 provide a means for companies to demonstrate compliance with these guidelines.

9. The Limitation on the Use Force by Private Non-State Actors on Ship (PCASP) in the Twenty-First Century

In the twenty-first century, the use of private armed security personnel (PCASP) on ships has become an increasingly common practice. However, the use of force by these private non-state actors is not unlimited, and there are various limitations imposed by international law. One of the main limitations on the use of force by PCASP is the principle of proportionality. This principle requires that the use of force must be proportional to the threat faced (Chapsos & Kokkinoplitis, 2019). In other words, PCASP must not use more force than is necessary to defend the ship and its crew. The use of excessive force may result in legal liability for the PCASP, the shipowner, or both.

Another limitation is the principle of distinction. This principle requires that PCASP must distinguish between military targets and civilian targets. PCASP must only use force against military targets, such as pirates or other armed attackers, and must avoid targeting civilians or non-combatants (Chalk, 2012). The use of force by PCASP is also limited by the principle of humanity. This principle requires that force must be used in a manner that is humane and avoids unnecessary suffering. PCASP must not engage in torture, cruel, inhuman or degrading treatment, or other forms of violence that would violate the principle of humanity.

In addition to these general principles, there are also specific legal limitations on the use of force by PCASP. For example, PCASP must comply with the use of force policies and rules established by the shipowner or flag state (Chalk, 2012). These policies and rules may include restrictions on the use of lethal force, guidelines for the use of non-lethal force, and reporting requirements in the event of the use of force.

Globalization has changed maritime security and the use of private armed security professionals (PCASP) on ships. PCASP is now common for ship and crew protection due to piracy and global business. PCASP has been criticized for excessive force, human rights violations, and coastal state sovereignty violations.

The International Code of Ethics for Private Security Services and ISO/PAS 28007 have increased maritime security sector structure, monitoring, and accountability to address these challenges. These guidelines govern PCASP usage and cover administrative gaps created by stricter legal regimes (Huebert, 2013). PCASP on ships emphasizes the need for coordination among maritime safety stakeholders to safeguard ships and their crews while adhering to relevant legal regulations and humanitarian principles.

10. Preliminary Findings and Analyses

There are several global legal limitations regarding the application of force by PCASP against ships. However, this study looked at the problems, possible fixes, and legal ramifications of arming vessels with security.

One of the main conclusions is that national and international legislation surrounding the use of PCASP on ships is neither clear nor consistent (Van, 2015). Despite the International Maritime Organization's (IMO) development of rules for the choice, instruction, and deployment of PCASP on ships, other nations have more stringent guidelines or outright forbid the use of PCASP. For shipowners and PCASP, this lack of coherence can lead to misunderstanding and legal ambiguity. It can also make counter-piracy measures less successful.

Another conclusion is that using PCASP aboard ships can lead to concerns about excessive use of force and violations of human rights. PCASP's use of force must be proportionate, required, respect human rights, and be following international laws (Preetha, 2017). Legal liability and reputational harm could follow from not doing so.

The study also discovered that the jurisdictional problems associated with the deployment of PCASP on ships might be complicated and may give rise to disputes between states. There may be conflicts of jurisdiction between the states that the ship is registered under, the state where the attack took place, and the state where the PCASP is headquartered.

There are a number of drawbacks or possible consequences that should be considered before using PCASP aboard ships. One significant worry is the potential for undue force to be used, endangering the lives of service personnel, passengers, or onlookers. The difficulty in ensuring that PCASP have received

enough training and screening is exacerbated by the fact that they work in a highly uncontrolled environment (Treves, 2008). Possible conflicts with the authority of coastal states are another source of worry. There have been concerns voiced by certain coastal nations about the presence of military troops and equipments on board ships operating inside their national seas and respective financial zones might constitute security spy problem.

As an added downside, PCASP is rather expensive and may be beyond of reach for certain shipowners, especially those that sail in areas with a reduced danger of piracy. Moreover, hijackers or other criminals may resort to more hostile methods if they believe that the ship is protected by armed guards.

11. Recommendations

Based on the above discussion of limitations on the use of force by PCASP on ships in the 21st century, the following recommendations are suggested:

1) Enhance Soft Law Frameworks: In order to further regulate the activities of PCASP on ships, it is recommended that the international community continue to develop and enhance soft law frameworks, such as the Montreux Document and the International Code of Conduct for Private Security Providers (ICoC) (Brounéus & Österdahl, 2014). These frameworks provide guidance and standards for the conduct of PCASP and can help ensure accountability and oversight in the absence of hard law instruments.

2) Develop Best Practices: In addition to soft law frameworks, it is recommended that industry-led best practices be developed and implemented. These can include certification schemes and codes of conduct, as well as training and accreditation programmes for PCASP. Such best practices should be regularly reviewed and updated to reflect evolving threats and operational realities.

3) Strengthen Oversight and Accountability: To ensure the effective implementation of soft law frameworks and best practices, it is recommended that mechanisms for oversight and accountability be strengthened (Bueger & Edmunds, 2017). This can include the establishment of independent auditing bodies, as well as increased transparency and reporting requirements for PCASP and their clients.

4) Foster Dialogue and Cooperation: Given the complexity of the legal and operational challenges facing PCASP on ships, it is recommended that stakeholders from industry, government, and civil society engage in ongoing dialogue and cooperation. Such engagement can help build trust and consensus around issues of common concern and can foster the development of more effective legal and operational frameworks for the use of force at sea.

5) Clarify the Legal Framework: Finally, it is recommended that efforts be made to clarify the legal framework governing the use of force by PCASP on ships, particularly in relation to the rights and obligations of coastal states (Brounéus & Österdahl, 2014). This can involve further analysis of relevant international legal instruments, as well as an ongoing dialogue with coastal states

to ensure a shared understanding of legal norms and practices.

12. Conclusion

In conclusion, the use of private armed security personnel (PCASP) on ships presents a range of legal, operational, and governance challenges. While the legal framework for the use of force at sea is complex and multifaceted, there are significant limitations and constraints on the use of force by PCASP, including the requirements of innocent passage and prior notification, and the need to ensure proportionality and necessity. Moreover, the legal status of PCASP is complex, and their actions may implicate both international human rights law and domestic criminal law.

Despite these challenges, the demand for PCASP services in the shipping industry remains high, reflecting the perceived threat of piracy and armed robbery at sea, as well as the need for greater security in shipping. The emergence of soft law frameworks and industry-led best practices has helped to mitigate some of the governance gaps in the legal framework, but challenges remain in ensuring effective oversight and accountability.

Given the importance of maritime security to the global economy and the international community, it is crucial that efforts continue to develop more effective legal and regulatory frameworks to govern the use of PCASP on ships. This will require close collaboration between states, the shipping industry, and other stakeholders, as well as a commitment to ensuring that any such frameworks are based on principles of transparency, accountability, and the rule of law. By working together in this way, it should be possible to enhance the safety and security of ships at sea, while respecting the rights and interests of all parties involved.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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