

Research on Jurisdiction of Maritime Terrorism Crime

Aijiao Liu ^{1,a} and Jinshuai Qu ^{2,b*}

¹Institute of Problem Solving, Yunnan Police Officer Academy, Kunming, China.

² University Key Laboratory of Information and Communication on Security Backup and Recovery in Yunnan Province, Yunnan Minzu University, Kunming, China

^a email: 374296511@qq.com, ^b email: qujinshuai1989@163.com

*corresponding author

Keywords: Maritime Terrorism; Jurisdiction; International Law; Universal Jurisdiction

Abstract: After the September 11th Incident, terrorism has become the number one public enemy of all countries in the world. Terrorism is becoming more and more serious, which not only seriously threatens the land security of all countries, but also threatens the maritime security of all countries. However, for the jurisdiction of maritime terrorism crimes, countries give different interests, and advocate active jurisdiction or passive jurisdiction, resulting in jurisdiction conflicts. This paper introduces the definition of maritime terrorism and terrorism, the main problems existing in the jurisdiction of maritime terrorism at present, and puts forward the recognition of universal jurisdiction and the solutions to the conflicts of jurisdiction in various countries.

1. Definition of the Concept of Maritime Terrorism

1.1. Concept and Review of Terrorism

International organizations have defined terrorism as follows. In 1994, the United Nations repeatedly condemned terrorism in the following terms: "The acts of public panic caused by natural persons or other organizations are unacceptable, and no matter whether the purpose is politics, religion, race, etc., this extreme act cannot become a justification and excuse for legalization". Through the definition of international organizations, we can define terrorism as: terrorist organizations engage in terrorist activities that endanger human property, life, health and safety by means of violence and terror, so as to achieve their own political and religious purposes. Bruce Hoffman, a famous scholar, once said: "Not only scholars can't agree on the definition of terrorism, but even government departments can't agree on the definition of terrorism. After his paper was published, it still failed to achieve its intended purpose, and at the beginning of the revised paper, it indicated that it was still looking for an appropriate definition to define terrorism. "The definition of terrorism with hundreds of pages in his academic papers in order to achieve the purpose of being accepted by scholars and the government., After his paper was published, it still failed to achieve its intended purpose, and at the beginning of the revised paper, he indicated that he was still looking for an appropriate definition to define terrorism. In recent years, Chinese scholars have also made a more in-depth study on the concept of terrorism. Professor Zhang Mingkai believes: "Terrorist activities are generally aimed at achieving certain political intentions, without distinguishing between military and non-military goals, regardless of the indiscriminate attacks of women, old and young. By defining the current situation of terrorism, it can be summarized into the following characteristics: 1. Extremely violent; 2. Have religious or political purposes; 3. Make the public panic.

1.2. The Concept and Comment of Maritime Terrorism

Maritime terrorism is a newly emerging terrorism in recent 50 years. Although there is no clear definition of maritime terrorist activities in SUA, we can define maritime terrorist activities as terrorist organizations engaging in activities endangering maritime safety, transportation safety,

safety of personnel and property at sea and safety of facilities by means of violent terror, so as to achieve their own political and religious purposes. The Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA for short) on March 10, 1988 to combat the increasingly serious maritime terrorism. However, the definition of maritime terrorism has not been left blank, but only six definitions are used to define the force of maritime terrorism. Although there is no clear definition of maritime terrorist activities in SUA, we can define maritime terrorist activities as terrorist organizations engaging in activities endangering maritime safety, transportation safety, safety of personnel and property at sea and safety of facilities by means of violent terror, so as to achieve their own political and religious purposes.

Scholars have never stopped arguing about the definition of maritime terrorism. Wang Shumin, a Chinese scholar, believes that terrorists commit terrorist crimes that endanger maritime safety, ships, ports and their affiliated facilities by means of extreme violence. d in his exposition: "On the high seas or sea areas that do not belong to any country, the intentional harm to ordinary people or non-military personnel for the purpose of threatening a country's government or organization should belong to maritime terrorism." Wang Shumin, a Chinese scholar, believes that terrorists commit terrorist crimes that endanger maritime safety, ships, ports and their affiliated facilities by means of extreme violence. Zhang Lina, a scholar, believes that maritime terrorism is a kind of terrorist activity which endangers maritime safety, ships, property and life on board, and port facilities by means of violence by maritime terrorist organizations or terrorists with political purposes.

2. Problems in the Jurisdiction of Maritime Terrorism Crimes

Jurisdiction is an important part of regulating the criminal activities of maritime terrorism, which can be divided into international jurisdiction and domestic jurisdiction. However, because maritime terrorism mostly occurs on the sparsely populated high seas, the exercise of jurisdiction naturally involves many international jurisdiction issues. Of investigation, trial and execution according to a country's domestic legislation, so it is not analyzed and described in detail. However, because maritime terrorism mostly occurs on the sparsely populated high seas, the exercise of jurisdiction naturally involves many international jurisdiction issues.

At present, the jurisdiction over maritime terrorism mainly includes territorial jurisdiction, nationality jurisdiction and protective jurisdiction. Different jurisdictional mechanisms have different legal meanings for maritime terrorism. At present, the disputes over the jurisdiction of maritime terrorism mainly focus on the following two points: eans that a country has the right to have jurisdiction over all people, things and events in its territory. Although territorial jurisdiction is the most basic and priority jurisdiction in international law, it requires terrorists to claim jurisdiction within the territory of an injured country. Because of the transnational mobility of terrorists, it is often unrealistic to claim territorial jurisdiction in maritime counter-terrorism. Nationality jurisdiction refers to the state's jurisdiction over its own people, which requires terrorists to have the same nationality as the injured country in order to claim jurisdiction. However, in practice, many terrorist activities are carried out by foreigners, so nationality jurisdiction can only be used as a supplementary mechanism for maritime counter-terrorism; Protective jurisdiction means that a country has the right to exercise jurisdiction over crimes committed by foreigners against its country or citizens outside its territory. Although protective jurisdiction has certain extraterritorial effects, it must be recognized and cooperated by other countries, and it is subject to a series of restrictions when extraditing criminals. Comparatively speaking, universal jurisdiction is the most effective jurisdiction mechanism. At present, the disputes over the jurisdiction of maritime terrorism mainly focus on the following two points:

2.1. The Identification of Universal Jurisdiction for Maritime Terrorism Crimes by Various Countries

Whether the crime of maritime terrorism should be added to the universal jurisdiction is also one of the focuses of maritime terrorism jurisdiction disputes. The principle of universal jurisdiction was proved by Grotius from the viewpoint of natural law, and the principle of "prosecute or

extradite" was recognized by most countries, which was used to punish serious international crimes. The principle of universal jurisdiction is one of the "principles" of international law.

In the conflict between universal jurisdiction and national sovereignty, all countries in the world claim that sovereignty is a complete concept, which can not be infringed or transferred. It is worth noting that although it is stipulated in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the establishment of extradition or prosecution does not mean the establishment of universal jurisdiction over maritime terrorist activities. t right, which is not interfered by any country. However, the principle of universal jurisdiction claims that no matter which country's interests are specifically infringed by this act, it can exercise jurisdiction within the jurisdiction of its own country, which will definitely violate the territorial jurisdiction and personal jurisdiction that other countries regard as a symbol of sovereignty, which is also unwilling by countries advocating the complete concept of sovereignty today, which is directlyIt is worth noting that although it is stipulated in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the establishment of extradition or prosecution does not mean the establishment of universal jurisdiction over maritime terrorist activities.

2.2. Jurisdiction Conflict of Maritime Terrorism Crime

The essence of jurisdiction conflict is the case jurisdiction dispute between countries in order to safeguard national sovereignty and judicial authority. At present, most countries advocate the exclusiveness of sovereignty, and in view of the differences in national interests, domestic laws and understanding of jurisdiction, they hold different opinions on whether or not they have jurisdiction after the case occurs, so they advocate that they have jurisdiction. Specifically, the conflict between maritime terrorism jurisdictions can be subdivided into positive conflict and negative conflict. Jurisdiction and national sovereignty are inseparable, and jurisdiction is established on the basis of national sovereignty. Therefore, many countries have different jurisdictions according to different angles. Many countries often insist on their own opinions on jurisdiction, and it is difficult to reach an agreement, which leads to the long time and high cost of judicial investigation of crimes of maritime terrorism. ng the principle of territorial jurisdiction, the victim country advocates applying the principle of universal jurisdiction, and the country where the criminal suspect belongs advocates applying the principle of personal jurisdiction. es will actively strive for case jurisdiction to safeguard their judicial authority and international dignity. gative conflict means that countries are unwilling to exercise jurisdiction. Jurisdiction and national sovereignty are inseparable, and jurisdiction is established on the basis of national sovereignty. Therefore, from the perspective of safeguarding national sovereignty, countries will actively strive for case jurisdiction to safeguard their judicial authority and international dignity. Therefore, many countries have different jurisdictions according to different angles. The country where the case occurred advocates applying the principle of territorial jurisdiction, the victim country advocates applying the principle of universal jurisdiction, and the country where the criminal suspect belongs advocates applying the principle of personal jurisdiction. Many countries often insist on their own opinions on jurisdiction, and it is difficult to reach an agreement, which leads to the long time and high cost of judicial investigation of crimes of maritime terrorism.

The reasons of jurisdiction conflict of maritime terrorism crime: First, the indirect jurisdiction of international law needs close cooperation with domestic law and international law. International law can't be directly implemented in a country, but it is an indirect implementation mode of trial and execution through a country's domestic legislation. The different provisions of domestic legislation and international law on maritime terrorism will lead to the impossibility of implementing international law, so the connection between international law and domestic law directly leads to the conflict of jurisdiction of maritime terrorism. Second, parallel jurisdiction. According to international law, while a country has jurisdiction in a certain case, other countries still have jurisdiction. However, most cases of maritime terrorism are extremely complex, and there are often many connection points in the cases, so many countries can claim jurisdiction according to the principle of jurisdiction. Third, the principle of jurisdiction itself. Nowadays, the jurisdiction scope

of the four jurisdictional principles is constantly expanding. In order to prevent the emergence of jurisdictional loopholes, international law puts forward the principle of protecting jurisdiction, which makes the possibility of jurisdictional conflicts in complex maritime terrorism cases constantly expand. d ships are regarded as extensions of sovereignty, and aircraft and ships are constantly moving, which makes the territorial jurisdiction principle compete with the territorial jurisdiction principles of different countries. At the same time, other countries still have jurisdiction.

3. Solutions to the Jurisdiction of Maritime Terrorism Crimes

3.1. Jurisdiction Conflict of Maritime Terrorism Crime

Combating maritime terrorism crimes must be punished in order to play a deterrent role. Without suppression and punishment, the "rule of law" is always on the wall and will not go down by itself. Therefore, one of the main methods to solve maritime terrorism is to solve the jurisdiction problem of maritime terrorism crime. Jurisdictional disputes. Therefore, one of the main methods to solve maritime terrorism is to solve the jurisdiction problem of maritime terrorism crime.

It is necessary to bring maritime terrorism into universal jurisdiction, which means that "according to the provisions of international law, all countries have the right to exercise jurisdiction over certain specific international criminal acts that generally endanger international peace and security and the common interests of all mankind, regardless of the place where these criminal acts occurred and the nationality of the criminals". The reasons are as follows: First, the crime of maritime terrorism is similar to the crime of piracy, both of which are "public enemies of mankind". At present, the extreme, violent, indiscriminate and transnational nature of maritime terrorism is very similar to piracy crime. To sum up, it is feasible to include the crime of maritime terrorism in the universal jurisdiction. provisions, the rule of law and the moral bottom line of mankind; Second, the International Maritime Organization, the United Nations, the United States, Britain, China, etc. all issued statements strongly condemning terrorist acts, which shows that terrorist acts have become violent crimes that seriously endanger mankind, which are generally recognized by the international community; Third, pirates do great harm to human society, seriously affecting the stability of world shipping and the life, health and property of crew members and passengers. Their criminal acts mostly occur on the high seas and cannot be the object of national jurisdiction. Therefore, piracy crimes are included in the principle of universal jurisdiction. At present, the extreme, violent, indiscriminate and transnational nature of maritime terrorism is very similar to piracy crime. To sum up, it is feasible to include the crime of maritime terrorism in the universal jurisdiction.

3.2. Combine the Principle of "Priority Jurisdiction" with the Principle of "the Closest Connection between Crimes"

At present, there is a great controversy over the conflict of jurisdiction in academic circles, but the principle of priority jurisdiction advocated by internationally renowned jurist M.Charif Bassiouni in the Draft International Code points out: "The jurisdiction of an international crime should be determined in the following order: First, all or part of the elements of the crime occur in its territory. Two, the offender is its citizen. 3. The victim is a citizen. Four, found or captured criminals in their own country. However, some scholars hold different views. Scholars in China have also put forward a similar priority order of jurisdiction: first, the country where the crime occurred; Second, the country of the offender; Third, the victim country; Fourth, the country where the criminal suspect was found. l judgment, other countries should respect it and not exercise jurisdiction over the case. The theory of priority of jurisdiction has certain rationality, but if the principle of "having the closest connection with the place where the crime occurred" is added before this theory, and the criminal subject, place of crime and place of crime in maritime terrorism cases are taken into consideration, it will make the judgment of maritime terrorism jurisdiction more scientific and practical. If the big country loses in the political game, the "weak country" will no longer have jurisdiction over this case, and its sovereignty will be violated. The theory of priority of

jurisdiction has certain rationality, but if the principle of "having the closest connection with the place where the crime occurred" is added before this theory, and the criminal subject, place of crime and place of crime in maritime terrorism cases are taken into consideration, it will make the judgment of maritime terrorism jurisdiction more scientific and practical.

3.3. Transfer Cases of Jurisdictional Conflicts to the Jurisdiction of the International Criminal Court by Agreement

The most prominent way to transform universal jurisdiction into practice is the International Criminal Court established in The Hague in the early 21st century. The establishment of the court was put on the agenda at the United Nations General Assembly in the late 1980s. Four years later, in 2002, the acceptance of the Statute reached 60 countries (the entry into force of the Statute and the establishment of the International Criminal Court required 60 countries to accept it), but up to now, the two permanent members of the United States and China have not accepted it. Some countries are reluctant to join because they believe that international law is only a supplement to domestic law, and the International Court of Justice cannot replace domestic courts. However, I think that justice representing national sovereignty and the jurisdiction of the International Criminal Court can integrate and assist each other. It is not an expedient measure to transfer the crime of maritime terrorism to the jurisdiction of the International Criminal Court by agreement. After the universal jurisdiction includes maritime terrorism, the agreement can be abolished again. ntary for maritime terrorism crimes to be handed over to the jurisdiction of the International Criminal Court, and it should not be mandatory. If maritime terrorism cases are forced to be handed over to the International Criminal Court, its essence is a substantial violation of national sovereignty. For domestic courts. However, I think that justice representing national sovereignty and the jurisdiction of the International Criminal Court can integrate and assist each other. We should pay attention to the fact that it should be voluntary for maritime terrorism crimes to be handed over to the jurisdiction of the International Criminal Court, and it should not be mandatory. If maritime terrorism cases are forced to be handed over to the International Criminal Court, its essence is a substantial violation of national sovereignty. It is not an expedient measure to transfer the crime of maritime terrorism to the jurisdiction of the International Criminal Court by agreement. After the universal jurisdiction includes maritime terrorism, the agreement can be abolished again.

3.4. Strengthen Cooperation and Communication between Jurisdictions among Countries

3.4.1. Jurisdiction Mode of Regional Cooperation

The conflict of jurisdiction is mainly due to the fact that the conflicting countries have not established an effective jurisdiction exchange and cooperation organization. At present, the increasingly serious maritime terrorist attacks can only be jointly dealt with according to the conventions and agreements between countries or international organizations. If a permanent common jurisdiction institution is formed, the interests of all parties will be shared. The formation of this cooperation mode should not only emphasize the establishment of an effective communication and resolution mechanism for maritime terrorism jurisdiction among international subjects, and form treaties and conventions on maritime terrorism jurisdiction under the existing international framework on the principle of voluntariness, but also emphasize the information exchange and cooperation among international subjects in politics, economy, intelligence, military affairs and counter-terrorism.

In the regional cooperation mode, the cooperation mode of Malacca is worth learning. However, Malacca Strait is very narrow, which causes special geographical location, and it is easy to be the target of terrorist attack. In essence, the three neighboring countries in the Straits of Malacca are just a loose mode of jurisdictional cooperation, and they hold several routine joint cruises every year, but usually they still go their own way. However, if these three countries can form a unified maritime security jurisdictional guarantee department to guarantee the Straits of Malacca, with each country taking turns as the command of the cooperative security department, combining their respective anti-terrorism information and intelligence networks with the cooperative security

department, and forming a normalized common patrol jurisdiction system, the security defense in the Straits of Malacca can be effectively improved. It is easy to be attacked by terrorists. If the attack is successful, it will have a serious impact on international maritime trade. In essence, the three neighboring countries in the Straits of Malacca are just a loose mode of jurisdictional cooperation, and they hold several routine joint cruises every year, but usually they still go their own way. However, if these three countries can form a unified maritime security jurisdictional guarantee department to guarantee the Straits of Malacca, with each country taking turns as the command of the cooperative security department, combining their respective anti-terrorism information and intelligence networks with the cooperative security department, and forming a normalized common patrol jurisdiction system, the security defense in the Straits of Malacca can be effectively improved.

3.4.2. Model of Joint Jurisdiction Mechanism

In view of the fact that a maritime terrorism crime case may involve multi-national jurisdiction and it is difficult for a country to establish an effective maritime terrorism jurisdiction and prevention system, the author thinks that a joint jurisdiction and patrol system of maritime terrorism can be established. Specifically, it is necessary to strengthen the joint action against terrorism in key maritime areas, such as the Persian Gulf, Arabian Sea, Somali Sea and Malacca Sea, where many countries form a conventional and militarized joint maritime cruise. However, terrorist attacks at sea are mostly similar to pirate attacks, especially the busy maritime trade routes. However, it is worth noting that in the joint jurisdiction of maritime anti-terrorist attacks, attention should be paid to the principle of voluntary participation of all countries. If a country is not burdened by terrorist attacks, it will not only make it a new target of terrorist attacks, but also make it spend unnecessary financial expenses.

Acknowledgements

The project is funded by the National Social Science Fund (No.19BGJ081), Yunnan Provincial Foundation (No. SYSX201904) and the MOE (Ministry of Education in China) Project of Humanities and Social Sciences (No.20YJCZH129)

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