Maritime Piracy in Southeast Asia and Bangladesh,

1992-2006:

A Prismatic Interpretation of Security

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This thesis is presented for the degree of

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Murdoch University

2007
In memory of my father, Helmut Liss
I declare that this dissertation is my own account of my research, and contains as its main content work which has not been previously submitted for a degree at any tertiary educational institution.

………………………………..

Carolin Liss
Abstract

Southeast Asia and Bangladesh are at present global hot-spots of pirate attacks on merchant vessels and fishing boats. This thesis explains why, and in what form, piracy still exists. It will argue that an examination of contemporary piracy is important because it can be understood as both a symptom and a reflection of a range of geopolitical and socio-economic problems and security concerns.

The thesis examines pirate attacks on small craft, including fishing boats, and merchant vessels in Southeast Asia and Bangladesh between 1992 and 2006. It describes the different types of contemporary pirate attacks, identifies piracy hot-spots, and looks at the various kinds of pirates active in Southeast Asia and Bangladesh. Furthermore, it discusses a number of factors which have contributed to the shaping of modern day piracy in Southeast Asia and Bangladesh. Issues examined in this regard include the impact of ecological degradation and over-fishing on the occurrence of piracy; loop-holes and shortcomings in maritime laws and regulations that are conducive to the operations of pirates; the involvement of transnational crime syndicates and radical politically motivated groups in piracy; and the problems with state and private responses to pirate attacks.

It will be argued that the examination of these factors reveals not only how they shape piracy, but that they also have an impact upon security well beyond pirate attacks. Examining piracy in this way is akin to looking through a prism, allowing a critical gaze to be cast over a range of political, social, and ecological developments, as well as security risks, and their impact on the lives and circumstances of people in Southeast Asia, Bangladesh, and the wider international community. It will be suggested that piracy and the various responses to it both reflect political and social developments within countries, and co-operation, tension and friction between states. Additionally, it will be demonstrated that the occurrence of pirate attacks in a region or a country indicates the existence of a wide range of traditional and non-traditional security risks, which can have far reaching repercussions for individuals, nations, or the international community. Through the examination of piracy in Southeast Asia and Bangladesh, and the responses it triggers, important new trends and practices in the security sector are also identified, including the increasing privatisation of security and protection services around the globe.
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<td>ARF</td>
<td>ASEAN Regional Forum</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>CSI</td>
<td>Container Security Initiative</td>
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<tr>
<td>CTI</td>
<td>Counter Terrorism International</td>
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<td>EEZ</td>
<td>Exclusive Economic Zone</td>
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<tr>
<td>EiS</td>
<td>Eyes in the Sky</td>
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<tr>
<td>ETA</td>
<td>Euskadi ta Askatasuna, Basque Homeland and Freedom</td>
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<tr>
<td>FAO</td>
<td>Food and Agricultural Organisation of the United Nations</td>
</tr>
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<td>FARC</td>
<td>Fuerzas Armadas Revolucionarias de Colombia</td>
</tr>
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<td>FBI</td>
<td>Federal Bureau of Investigation (USA)</td>
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<td>FERIT</td>
<td>Far East Regional Investigation Team</td>
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<td>FOC</td>
<td>Flag of Convenience</td>
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<td>FPDA</td>
<td>Five Power Defence Arrangements</td>
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<tr>
<td>GAM</td>
<td>Gerakan Aceh Merdeka, Free Aceh Movement</td>
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<tr>
<td>GRT</td>
<td>Gross Registered Tons/Tonnage</td>
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<td>hp</td>
<td>Horsepower</td>
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<tr>
<td>IACS</td>
<td>International Association of Classification Societies</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<tr>
<td>IMB</td>
<td>International Maritime Bureau</td>
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<td>IMO</td>
<td>International Maritime Organisation</td>
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<tr>
<td>IPOA</td>
<td>International Peace Operations Association</td>
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<td>IRI</td>
<td>International Registries Incorporated</td>
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<td>ISPS Code</td>
<td>International Ship and Port Facility Security Code</td>
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<tr>
<td>ITF</td>
<td>International Transport Workers’ Federation</td>
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<tr>
<td>IUU fishing</td>
<td>Illegal, Unreported, and Unregulated fishing</td>
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<tr>
<td>JI</td>
<td>Jemaah Islamiyah</td>
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<td>JWC</td>
<td>Joint War Committee</td>
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<tr>
<td>LISCR</td>
<td>Liberian International Ship and Corporate Register</td>
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<td>LTTE</td>
<td>Liberation Tigers of Tamil Eelam</td>
</tr>
<tr>
<td>MALSINDO</td>
<td>Malaysia, Singapore, Indonesia agreement to conduct coordinated patrols in the Malacca Straits</td>
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<tr>
<td>MECC</td>
<td>Maritime Enforcement Coordination Centre (Malaysia)</td>
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<tr>
<td>mgt</td>
<td>Million gross tons</td>
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<tr>
<td>MILF</td>
<td>Moro Islamic Liberation Front</td>
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<tr>
<td>MISC</td>
<td>Malaysian International Shipping Corporation</td>
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<tr>
<td>MMEA</td>
<td>Malaysian Maritime Enforcement Agency</td>
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<tr>
<td>MNLF</td>
<td>Moro National Liberation Front</td>
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<tr>
<td>New PULO</td>
<td>New Pattani United Liberation Organization</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<tr>
<td>PLO</td>
<td>Palestine Liberation Organisation</td>
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<tr>
<td>PMC</td>
<td>Private Military Company</td>
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<tr>
<td>PNG</td>
<td>Papua New Guinea</td>
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<td>PRC</td>
<td>Piracy Reporting Centre (IMB)</td>
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<tr>
<td>PSC</td>
<td>Private Security Company</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<td>PSI</td>
<td>Proliferation Security Initiative</td>
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<td>PULO</td>
<td>Pattani United Liberation Organization</td>
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<td>ReCAAP</td>
<td>Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia</td>
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<tr>
<td>RMN</td>
<td>Royal Malaysian Navy</td>
</tr>
<tr>
<td>RMSI</td>
<td>Regional Maritime Security Initiative</td>
</tr>
<tr>
<td>RUF</td>
<td>Revolutionary United Front (Liberia)</td>
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<td>SLOC</td>
<td>Sea Lanes of Communication</td>
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<tr>
<td>SOLAS</td>
<td>Safety of Life at Sea</td>
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<td>SSA</td>
<td>Singapore Shipping Association</td>
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<tr>
<td>SUA</td>
<td>Suppression of Unlawful Acts against the Safety of Marine Navigation Convention</td>
</tr>
<tr>
<td>TNI</td>
<td>Tentara Nasional Indonesia, Indonesian Military</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>WMD</td>
<td>Weapons of mass destruction</td>
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Introduction

**Young Elizabeth:** I think it'd be rather exciting to meet a pirate.

**Norrington:** Think again, Miss Swann. Vile and dissolute creatures, the lot of them.¹

**Contemporary maritime piracy – A chimera?**

On 17 April 1998, the Singapore owned tanker *Petro Ranger* was attacked by pirates on its three-day journey from Singapore to Ho Chi Minh City, Vietnam. The twelve Indonesian pirates climbed on board, took control of the vessel, and held the crew hostage. To conceal the identity of the hijacked ship, the pirates renamed the 12,000 ton tanker *Wilby* and replaced the Singapore flag under which the vessel was sailing with Honduran colours. A few days after the hijacking, the pirates rendezvoused at sea with two tankers and transferred half of the *Wilby’s* cargo of fuel to the other vessels, while the crew was held prisoner in the ship’s cabins. After nearly two weeks in the hands of the pirates, the hostages’ ordeal finally seemed to come to an end when a Chinese coastguard vessel intercepted the *Wilby* for a routine document inspection. During the inspection, the *Petro Ranger*’s commander, Captain Blyth, and some members of his crew were able to alert the Chinese officers to the real identity of the vessel and its alleged captain and crew. To investigate the incident, the vessel and crew were taken to Haikou Harbour (Map 1), where Blyth and his crew were held for a further month before they were allowed to leave China. The pirates were arrested by the Chinese authorities, but were subsequently released and repatriated within one year of the incident. The attack received substantial international media coverage at the time of the hijacking, highlighting the danger of piracy in the Asian region. After Captain Blyth and his crew left China, public interest in the case, and piracy in Asian waters, was re-ignited by the publishing of Captain Blyth’s first hand account of the attack, written in conjunction with popular Australian crime writer Peter Corris.² The Singaporean owner of the *Petro Ranger*, Mr Chan, also kept awareness of the danger of piracy alive by persistently advocating increased anti-piracy measures at regional conferences and in the media.

Accounts of individual pirate attacks and hijackings of vessels like the Petro Ranger are regularly published in the global media and are often supported by articles based on data from the International Maritime Bureau’s (IMB) Piracy Reporting Centre (PRC). The PRC, located in Kuala Lumpur, Malaysia, collects reports of pirate attacks on merchant vessels, fishing boats, and other craft at sea and in ports from all around the world, offering the most comprehensive database on contemporary piracy. According to the PRC, the number of actual and attempted pirate attacks reported from 1992 to 2006 range from 90 attacks in 1994 to as many as 469 reported incidents in 2000. However, not all regions and countries are equally affected by piracy, with most attacks reported in developing countries, in Africa and, even more so, Asia. Indeed, according to the IMB’s statistics, Asia, including Southeast Asia, the South China Seas, and China, has, since the early 1990s, been the most ‘pirate infested’ region in the world. Within the Asian region, the waters of Southeast Asian countries have in recent years accounted for the majority of attacks, with the highest number of incidents reported in Indonesian waters. In 2004, for instance, Indonesia accounted for 93 out of 325 attacks recorded worldwide. The second highest number of attacks, namely 37 incidents, was reported in the Malacca Straits – a strategic waterway bounded jointly by Indonesia and Malaysia.

Despite these seemingly high numbers of reported incidents, the question nonetheless arises as to whether or not piracy is today a serious security problem. A closer examination of the IMB data for instance reveals that many attacks included in the statistics are only ‘attempted’ attacks and most of the actual incidents are nothing but simple hit-and-run robberies conducted either at sea or in harbours, in which nothing

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3 The IMB, a non-profit making organisation, was established under the International Chamber of Commerce in 1981 “to act as a focal point in the fight against all types of maritime crime and malpractice.” See: Zou Keyuan, ‘Enforcing the Law of Piracy in the South China Sea’, EAI Background Brief, no. 19, Singapore: East Asian Institute, National University of Singapore, 24 August 1998.
4 As will be discussed in Chapter 1, definitions of piracy vary. The IMB includes in its analysis any “act of boarding any vessel with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act.” ICC, 'Piracy and Armed Robbery against Ships. A Special Report. Revised Edition - March 1998', International Chamber of Commerce, International Maritime Bureau, 1998, p. 2.
5 There are a number of other organisations and institutions which also collect data on piracy, such as the International Maritime Organisation (IMO), which will be discussed later in the thesis.
but a length of rope or a can of paint is stolen. The IMB statistics also appear insignificant when compared to the large number of vessels and seafarers involved in the global shipping industry. Today, maritime trade accounts for 90 per cent of world commerce, with 1995 figures showing 82,890 self propelled sea-going merchant ships over 100 gross tons (gt) plying the world’s oceans, manned by over a million seafarers.\(^8\)

The number of pirate attacks therefore remains low in comparison to the number of merchant ships trading internationally, particularly if fishing vessels and other small craft are also included in the calculation. Even in so-called piracy hot-spots, such as the Malacca Straits, the chance of a ship being attacked is small. In 2004, for example, when 37 attempted and actual attacks were reported in the Malacca Straits, the risk of a vessel being attacked in this waterway was less than 0.06 per cent.\(^9\)

Modern piracy in itself therefore hardly poses a serious threat to shipping or vital shipping lanes, nor does it cause a chronic financial burden for the shipping or insurance industry. Furthermore, while contemporary pirates are often armed with modern firearms and other weapons, which pose a significant threat to the victims of their attacks, the number of seafarers and fishers killed or injured by pirates remains low compared to the number of casualties and injuries due to accidents, environmental hazards, or illness at sea.

As shipping is not seriously threatened by piracy and pirate attacks generally occur at sea or in ports (having in most cases little or no alarming consequences for people living ashore), piracy does not rank among the most serious security threats for the international community and individual states. Indeed, even in countries such as Indonesia and Malaysia, where the number of reported pirate attacks is comparatively high, piracy is one of the least pressing of many security risks, which include natural disasters, the threat posed by separatist and terrorist groups, and the high incidence of crimes committed on land. In 2000, for instance, the Malaysian police recorded a total

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\(^9\) Data used for this calculation was taken from the Malaysian Marine Department website. According to the website, 63,636 vessels transitted the Malacca Straits in 2004. Vessels included in the department’s statistics include vessels weighing 300 gt and above or being 50 metres in length or above. (See the Marine Department’s website for more details on vessels included.) The percentage of vessels attacked would be even lower if fishing boats and other small craft were included. See: Marine Department Malaysia, 'Mandatory Ship Reporting System in the Straits of Malacca and Singapore', [http://www.marine.gov.my/service/index.html](http://www.marine.gov.my/service/index.html), accessed 22 June 2007.
of 167,173 attempted and committed crimes.\textsuperscript{10} The total of 21 actual and attempted pirate attacks reported to the IMB in the same year in Malaysian waters and ports seems insignificant in comparison. Even if the 75 attacks recorded in that year in the Malacca Straits are included, the statistical impression that the vast majority of crimes are committed on land remains uncontested.\textsuperscript{11} Similarly, the most pirate infested seas in the year 2000 were Indonesian waters, with a total of 119 recorded actual and attempted attacks, and a further 75 attacks reported in the Malacca Straits. This, however, has to be compared to 146,314 attempted and committed crimes listed in the United Nations survey of crime trends for Indonesia in the same year.\textsuperscript{12} In comparison to these other criminal activities, it does indeed seem difficult to consider maritime piracy as a major security concern. So what is it about piracy that makes it such an important issue and problem, and why does it warrant thorough investigation?

**On approaching the significance of piracy: The objectives of this study**

Contemporary maritime piracy, including robbery at sea and the hijacking of vessels, often receives attention because the activities of modern pirates seem out of the ordinary and are mostly associated with an era long gone. Indeed, the idea that in this day and age entire merchant vessels can still simply be stolen is astounding and such incidents therefore seem worthy of investigation. While this notion may appear somewhat simplistic, it is nonetheless based on a crucial question, namely: How can piracy still exist in our modern world?

This thesis has two objectives. First, it will attempt to answer the question of why, and in what form, piracy still exists. Second, it will argue that a close examination of piracy is important because it can be understood as both a symptom and a reflection of a number of geo-political and socio-economic problems and security concerns.


\textsuperscript{11} However, many of the attacks recorded in the Malacca Straits have most likely occurred in Indonesian waters. ICC, ‘Piracy and Armed Robbery against Ships. Annual Report 1 January - 31 December 2000’, Barking, Essex: International Chamber of Commerce, International Maritime Bureau, 2001, p.3.

\textsuperscript{12} United Nations Office on Drugs and Crime Division for Policy Analysis and Public Affairs, ‘Seventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, covering the period from 1998-2000’, p. 200. In the case of Indonesia, the UN report did not offer a total of all recorded crimes. The number given here is a total of the listed crimes, including intentional homicide, rape, and robberies.
The geographical focus of this thesis is the waters of insular Southeast Asia, namely Indonesia, Malaysia, Singapore, the Philippines, and Thailand, which are identified by the IMB as currently the most pirate infested waters of the world. Bangladesh is also included in this study because the country’s waters have in recent years become a piracy hot-spot in the wider Asian region. Piracy in Bangladesh is, in some respects, very different in nature to piratical activities in Southeast Asia. The inclusion of Bangladesh therefore provides a contrasting view of piracy and offers insights into aspects of the phenomenon not found in Southeast Asia. Thus, the choice of countries included in this study has been made to a large extent in accordance with the number of pirate attacks recorded by the IMB, rather than along cultural, ethnic, or political lines. This, in turn, has influenced the period of time chosen for investigation. The IMB began to publish comprehensive piracy statistics on a regular basis in 1992, and since then, Southeast Asian waters have ranked among the most piracy-prone in the world. As no comparable database of contemporary pirate attacks exists, this thesis focuses on piracy in Southeast Asia and Bangladesh from 1992 to 2006. Apart from the availability of macro-empirical data, an examination of this period is useful as it covers the post-Cold War era. Political, economic, and social changes associated with the end of the Cold War can therefore be taken into account when discussing the root causes of piracy. Furthermore, this period is of sufficient length to identify changes in patterns and locations of incidents and to draw conclusions regarding factors conducive to the occurrence of attacks. It is also a short enough period of time for a single researcher to examine comprehensively.

A choice also had to be made between a local or country based study as opposed to a regional study. As will be discussed later, despite the existence of the IMB reports, data on piracy often lacks detail and is rather fragmented. Empirical data and personal information about attacks on fishing vessels is particularly difficult to find because these incidents are rarely reported to local authorities or international organisations such as the IMB. A possible study of one country or a small number of villages within a country would enable a researcher to collect detailed information on pirate attacks in a few

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13 The term Southeast Asia is therefore used in this thesis to refer to the above mentioned countries only and does not include countries such as Vietnam or Burma, which are commonly covered by the term.  
14 Including earlier decades of the 20th century would have required extensive archival fieldwork in Southeast Asia, Bangladesh, Europe, and the United States of America (USA), which was beyond both the temporal and financial constraints of this PhD thesis.
select places, filling the gaps in information available in published sources. While such a detailed investigation would clearly be valuable, pirate attacks, particularly those targeting merchant vessels, are often transnational operations, making a study of the wider region a more suitable context for gaining an understanding of these attacks. Furthermore, the nature of pirate attacks is often shaped by the local political and social environments. A regional approach, which allows comparisons to be made between pirate attacks in a range of different locations, offers a more comprehensive understanding of piracy in the current geo-political and socio-political environment. Another reason for choosing the regional approach is that this study is concerned not only with piracy, but also with its wider security implications, and the regional approach allows insight into a wider range of factors shaping piracy.  

In accordance with the regional focus of this thesis, relevant information was gathered in a range of cities, towns, and fishing villages in Europe, Australia, and particularly Southeast Asia between 2002 and 2006. While it was easy to identify in which cities information would be gathered from representatives of the shipping industry and law enforcement agencies, the choice of Southeast Asian fishing villages in which to conduct interviews was more difficult. As discussed above, no comprehensive data covering attacks on fishing boats is currently available, which would indicate which villages (or towns) are particularly affected by piracy. Guided by newspaper articles and information gathered in interviews with law enforcement personnel in Southeast Asia, numerous villages were therefore visited in order to ascertain whether piracy was a concern for local fishers. Most of the villages identified as suitable for this study were located on the Malaysian side of the Malacca Straits and in Sabah. However, additional information was collected from individuals with extensive local knowledge about attacks on fishers in other places such as the Philippines and Bangladesh. Yet, despite assistance from fishers, representatives of the shipping industry, and other informants, collecting unpublished information about piracy was not

15 A possible constraint of this thesis therefore is the lack of particularly detailed information which could be gathered through extensive interviews conducted over a long period of time in a few select communities, in-depth ethnographic information of the type normally found in country or local level studies.
16 As mentioned above, some pirate attacks occur in ports. This thesis, however, does not include a detailed analysis of attacks in the numerous ports in the region, as more time and financial resources are needed to conduct this research.
an easy task, as will be discussed later in detail. Due to the difficult nature of the study and the fieldwork, the information gathered in interviews is somewhat fragmented. However, because the fieldwork findings are complemented by statistical data from the IMB and other published information, it nonetheless allows conclusions to be drawn about the nature and root causes of contemporary piracy in Southeast Asia and Bangladesh.

With the insights gained from the investigation of pirate attacks in Southeast Asia and Bangladesh between 1992 and 2006, the wider security implications of piracy can also be identified. In fact, it will be argued that a close examination of piracy is important precisely because it can be understood as both a symptom and a reflection of a number of geo-political and socio-economic problems and security concerns prevalent not only in Southeast Asia and Bangladesh, but also in countries and regions beyond those in which pirate attacks currently occur. In order to establish the link between piracy and other security concerns, a range of different factors and issues which influence the incidence and nature of pirate attacks in Southeast Asia and Bangladesh are discussed. Issues examined within the framework of this context include ecological problems such as over-fishing, maritime laws and regulations, organised crime, radical politically motivated groups, and state and private responses to security threats. It will then be demonstrated that the same factors and security shortcomings that facilitate pirate attacks have security implications well beyond piracy. Examining piracy in this way is therefore like looking through a prism, allowing a critical gaze to be cast over a range of political, social, and ecological developments, as well as security risks, and their impact on the lives of people in Southeast Asia, Bangladesh, and the wider international community.

This thesis describes and analyses a wide range of grey-area topics and different aspects of security. In order to conceptually integrate the diverse range of issues mentioned above into a single study, an empirical approach, rather than a theoretical one, has been employed. By utilising such an approach, the analysis of piracy and its wider security implications are not restricted by a single theoretical premise and a wider understanding of piracy is thus possible. Furthermore, in order to discuss piracy as a security concern, the understanding of security has to be broadened beyond the

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17 The number and location of fishing villages visited was restricted by the fact that the investigation was
constraints of its traditional understanding, focused on conflict between states, to also include human and non-traditional security issues. Given that human and non-traditional security has since the end of the Cold War increasingly become part of the international security agenda, the study of piracy is timely.

**Thesis structure**

This thesis commences with a historical preface that presents a brief overview of piratical activities in Southeast Asia, with particular reference to the 18th and 19th centuries. This introduction provides the historical background for contemporary piracy and demonstrates that while some similarities to modern piracy exist, piratical activities in the past were generally very different in nature.

The main body of the thesis is concerned with modern day piracy and is divided into four parts, each consisting of two chapters. Part 1 gives a general overview of contemporary maritime piracy in Southeast Asia and Bangladesh. It provides an insight into the nature, characteristics, and scale of piracy from 1980 to 2006, with particular emphasis on attacks occurring after 1992. Chapter 1 is predominantly based on data collected by the IMB and offers an overview of pirate attacks on merchant vessels, such as tankers, container ships, tugs, and barges in Southeast Asia and Bangladesh. It examines trends and developments in modern piracy and discusses the different types of pirate attacks occurring today, ranging from hijackings to hit-and-run sea robberies. The second chapter provides insights into the occurrence of attacks on fishing boats and other small craft in Southeast Asia and Bangladesh. It discusses the involvement of fishers in piracy, either as perpetrators or as victims. Examples from different parts of the region illustrate how attacks on and by fishermen are conducted and show how these attacks affect the life of fishers. The chapter reveals that attacks on fishing vessels are a regular occurrence in some fishing communities even though they are seldom brought to the attention of local or international authorities or organisations.

The remaining three Parts of the thesis examine the various factors which determine the nature of pirate attacks in Southeast Asia and Bangladesh. Each chapter looks at one particular issue shaping piracy and discusses the social and political developments, as well as the security threats, that this aspect of modern piracy reflects conducted by only one researcher, and constrained by limited time and resources.
upon. All chapters in Parts 2 to 4 have the same structure, composed of three sections, with the first section providing an overview and important background information about the issue examined in the chapter. The second section discusses how these issues affect piracy and shape the nature of pirate attacks in Southeast Asia and Bangladesh. The last section of each chapter shows how the security shortcomings exploited by pirates, and the social and political developments that are conducive to the occurrence of pirate attacks, have wider implications for human, national, and international security. In each of these Parts of the thesis, examples of attacks on merchant vessels and on small craft are used to illustrate the arguments brought forward.

The second Part of the thesis, consisting of Chapters 3 and 4, is concerned with the sea. The sea is discussed as a source of livelihood for fishers and as a place of business for merchant shipping. Chapter 3 starts with an overview of the fishing industry in Southeast Asia, Bangladesh, and beyond. It shows how the fishing industry has changed and expanded over the past decades and the adverse impact of this development on the marine environment. The second section argues that the depletion of fish stock and the environmental degradation of the seas in Southeast Asia and Bangladesh, as well as illegal fishing activities in the region, are conducive to the occurrence of a certain type of piracy. This particular kind of piracy, involving fishers either as victims or as perpetrators, therefore acts as a sign of these environmental problems and illegal activities. The last section of the chapter then suggests that resource decline, environmental degradation, illegal fishing, and other factors that impact upon the occurrence of pirate attacks, are significant regional – and even international – security concerns. Chapter 4 first provides an overview of international and national shipping laws and regulations. The following section then suggests that the incidence of major pirate attacks and hijackings of commercial vessels signifies the serious problem of lax controls and regulations, as well as a comparatively low standard of safety, in the maritime sector. The last section demonstrates that these shortcomings in regulatory frameworks are also being exploited by other extra-legal organisations such as terrorist groups and crime syndicates.

The third Part of the thesis, consisting of Chapters 5 and 6, is concerned with ‘the dark side’ of piracy, namely the involvement of crime syndicates and radical politically motivated groups in pirate attacks. Chapter 5 initially gives an overview of organised crime in the post-Cold War era. It then discusses the
involvement of such organisations in hijackings and the long-term seizures of vessels and suggests that these attacks are an indicator of the existence of organised crime syndicates operating in Southeast Asia and Bangladesh. The last section of the chapter demonstrates that criminal organisations are not only involved in piracy but also in other related illegal activities such as smuggling, and pose a major threat to national and international security. Chapter 6 first provides an overview of the radical politically motivated groups, including terrorists and guerrillas, active in Southeast Asia. It then discusses the involvement of members of such movements in piracy in the region, with particular focus on members of the Gerakan Aceh Merdeka (Free Aceh Movement, GAM) in Aceh, the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf in the southern Philippines, Jemaah Islamiyah (JI) in Indonesia, and the internationally operating al-Qaeda. The last section then demonstrates that these movements pose a threat to security well beyond piracy.

The fourth Part of the thesis, consisting of Chapters 7 and 8, is concerned with responses to piracy by states and private security companies. Chapter 7 discusses the economic development of Bangladesh and the Southeast Asian nations and the parallel growth of national militaries and law enforcement agencies responsible for combating piracy. Cooperation between countries in Southeast Asia and between Bangladesh and its neighbours is also considered, as piracy is often a transnational crime. The second section explores how the lack of government resources for local militaries and law enforcement agencies and limited cooperation between countries impact upon piracy. Piracy, it is suggested, is a symptom of a range of internal problems and security risks manifested within public authorities, as well as a sign of tensions in interstate relations. The last section of the chapter argues that these problems and interstate tensions have wider security implications, affecting, for example, stability of countries and regions. Chapter 8 looks at private responses to piracy, namely the involvement of Private Security Companies (PSCs) in the fight against piracy in Southeast Asia. The first section provides an overview of the increasing privatisation of security in Southeast Asia and beyond. The second section discusses the increasing involvement of PSCs in

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18 According to the author’s sources, there are no terrorist or guerrilla groups active in Bangladesh that are involved in piracy. As the author was not able to travel to Bangladesh to collect further information, piracy in Bangladesh will not be discussed in Chapter 6.

19 The author has so far not come across any PSCs conducting anti-piracy operations in Bangladesh. Bangladesh will, therefore, not be discussed in Chapter 8.
anti-piracy operations in Southeast Asia, reflecting the global trend of privatisation of security. The last section of the chapter discusses concerns about PSCs and the services they offer that result from their internal structure, information politics, and the nature of the operations they conduct. It examines some of the most crucial problems and shortcomings associated with the privatisation of security and highlights how these problems impact upon security in general.

**On sources and methodology of fieldwork**

The main investigation of piracy in this thesis employs a qualitative methodology which draws upon both published and unpublished research materials. Yet, quantitative data from institutions such as the IMB is also relied on, particularly for the overview of pirate attacks on merchant vessels since 1992.

*Published sources*

Contemporary maritime piracy in Southeast Asia and Bangladesh is at the centre of the research of this thesis. However, as discussed above, to comprehend contemporary piracy and place it in a wider context, it is necessary to have an understanding of other related issues, such as maritime regulations, the fishing industry, organised crime, and terrorism, to name but a few. All these issues are therefore discussed in the thesis, with information on these subjects gathered from books, journals, newspapers, and published maritime laws and regulations. However, further elaboration on the general nature of these sources is beyond the scope of this methodology section, which concentrates on sources available on contemporary piracy in Southeast Asia and Bangladesh.

In the 1980s, a small number of books on contemporary piracy were published by journalists, such as Barbara Conway,\(^{20}\) academics, and people involved in the maritime industry or maritime organisations. One such example is Captain Roger Villar’s *Piracy Today*\(^{21}\) (1985), which, due to the lack of a comprehensive data collection of pirate attacks in the 1980s, offers a fragmented overview of piracy. The legal aspect of piracy also received attention in the 1980s from academics, such as


Barry Hart Dubner and Alfred Rubin. Particularly valuable among the books published in the 1980s are, however, IMB publications, such as *Piracy at Sea* (1989) edited by Eric Ellen, the founder of the IMB, because the contributors were either academics concerned with different aspects of piracy or their professions intersected in various ways with issues of piracy.

In more recent years, interest in piracy has increased, with a rising number of books on piracy in different parts of the world, including Southeast Asia, being published. Some of these are popular works covering piracy from the ancient world to the 21st century. Others focus primarily on contemporary piracy, reflecting the increased academic and public interest in non-traditional and human security issues after the end of the Cold War and again after the September 11, 2001 terrorist attacks. Among the books published in the 1990s, the IMB publications are once again noteworthy for the same reasons mentioned above and included *Shipping at Risk* (1997) edited by Eric Ellen. Furthermore, a handful of academics have in the 1990s included piracy in their broader analysis of non-traditional security studies. An important example is Peter Chalk’s *Grey-area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political Terrorism* (1997). However, it is only in the last six years that a more substantial number of lengthy academic studies, including PhD theses, have been undertaken, which shed light on different aspects of contemporary piracy. One example is Eric Frécon’s book *Pavillon noir sur l’Asie du Sud-Est* (2002), which is in part based on fieldwork conducted for his PhD thesis in the Riau Archipelago, Indonesia.

The Institute of Southeast Asian Studies, Singapore, has also in the past few years published a series of edited and sole authored books on the subject, which provide valuable insights. A number of shorter academic studies have also been undertaken in

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recent years, examining the threat of modern day piracy in Southeast Asia and to a lesser extent Bangladesh. The outcomes of these studies were published in journals and as reports or policy papers, often focusing on piracy in the Malacca Straits. Institutions such as the S. Rajaratnam School of International Studies (until 1 January 2007 known as the Institute of Defence and Strategic Studies, IDSS) and the Maritime Institute of Malaysia (MIMA) have played a leading role in this regard.28

Additionally, a small number of people involved in the maritime industry and journalists, mostly based in Europe and the United States, have published books on the subject, reflecting an increased public awareness of, and interest in, modern piracy. While some of the books written by journalists read like travel diaries some, such as Burnett’s Dangerous Waters29 (2002) are well researched. From within the maritime industry Douglas Stewart’s Piraten. Das organisierte Verbrechen auf See30 (2002), deserves mention. It is based on interviews with Eric Ellen and other IMB staff, who gave the author unprecedented access to the IMB’s data collection. Also, a limited number of first hand accounts of contemporary pirate attacks are available. The only book length example is Captain Blyth’s description of the attack on the Petro Ranger discussed above. Other books, such as Klaus Hymphendahl’s Yacht-Piraterie. Die neue Gefahr31 and Joachim Schult’s Yacht-piraten. Kriminalfaelle auf See32 are largely based on first hand accounts collected by the authors.

Overall, there is only a limited number of books available on contemporary piracy, with most of the important books covering Southeast Asia being mentioned


31 Klaus Hymphendahl, Yacht-Piraterie. Die neue Gefahr, Bielefeld: Delius Klasing Verlag, 2002.

above. Furthermore, many of these books and articles\textsuperscript{33} are not based on extensive fieldwork or archival research and only offer fragmented information about piracy, with little consideration for the wider political, social, or security contexts.

In addition to these contributions, there are also other secondary sources available that are of significance. Most important is data compiled by a range of international, regional, and national organisations and institutions collecting and distributing information about piracy. Shipping associations, seafarers’ unions, and other maritime organisations concerned with safety at sea, for example, regularly publish general information about piracy for a wider readership on the Internet, in journals, or newspapers. Such organisations also issue guides for seafarers on how to prevent and react to pirate attacks.\textsuperscript{34} Yet, there are only a small number of organisations that systematically collect reports of attacks, among them the International Chamber of Shipping, the International Shipping Federation, and the Federation of American Scientists. The two most prominent organisations are, however, the International Maritime Organisation (IMO) and the IMB.\textsuperscript{35} As will be discussed in the first chapter, the IMB offers the most comprehensive collection of data on piracy.\textsuperscript{36} Set up in 1992, the centre collects reports of pirate attacks from around the world, issues warnings to seafarers, liaises with law enforcement authorities, and issues consolidated reports to interested bodies. It also offers weekly piracy reports on its website and publishes quarterly as well as annual reports on piracy and armed robbery at sea.\textsuperscript{37} These reports include brief details of all attacks recorded by the IMB in the time period covered in the


\textsuperscript{35} The role of the IMB’s PRC will be discussed in Chapter 1 of the thesis. A somewhat uncritical but nonetheless comprehensive overview of the role of the IMB can be found in: Peter Charles Unsgner, 'Meeting a Commercial Need for Intelligence: The International Maritime Bureau', International Journal of Intelligence and Counterintelligence, vol. 12, no. 1, March 1999, n.p. Many documents, journals, magazines, and newspapers were accessed via database, which do not provide page numbers.

\textsuperscript{36} In 2006, a piracy information sharing centre was set up in Singapore as part of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) initiative. The centre has begun publishing data on piracy in late 2006 and may in the future be a valuable source for piracy statistics. See: ReCAAP Information Sharing Centre, Homepage, http://www.recaap.org/publish/recaap/index.html, accessed 25 June 2007.
report, short narratives of selected individual attacks, and statistical analysis of attacks. There are, however, a number of shortcomings with the data published by the IMB. For instance, according to Noel Choong, the Regional Manager of the PRC, more than 50 per cent of all pirate attacks remain unreported for a variety of reasons. Furthermore, attacks on fishing boats and other small craft are rarely reported to the IMB. Another major problem is that the information published by the IMB is not very detailed, with most of the information collected by the IMB classified confidential and not accessible to outsiders. However, despite the shortcomings of the published IMB data, it remains the most comprehensive data collection available to the public and is therefore today used by most researchers and journalists as a basis for their analysis. In this thesis, I will also rely on the IMB statistics and information for the analysis of attacks on merchant vessels.

Unfortunately, no comprehensive data collection is available for attacks on fishing boats and small craft. From my own experiences of interviewing fishers, they seldom report attacks to local authorities or any other organisation. It is therefore not possible to provide a statistical overview of attacks on fishing vessels in Southeast Asia and Bangladesh. However, a number of examples of attacks on fishers are taken from IMB reports and articles published in regional and international newspapers. Indeed, newspapers and magazines from all around the world have been a valuable source of information of attacks on small craft and merchant vessels, as articles covering individual pirate attacks or discussing developments and trends in maritime piracy are published frequently. In addition, a wide range of Internet websites exist which are concerned with maritime piracy and provide plenty of useful information. These websites are often run by private companies or individuals, with a professional or personal interest in the subject. A particularly good example is the website *Isle of Tortuga* created by Mark Bruyneel, which offers extensive information on many aspect of sea-robbery, analysis of trends in maritime piracy, and a very substantial literature list.

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38 Author’s Interview with Noel Choong, Regional Manager, International Maritime Bureau, Piracy Reporting Centre, 23 October 2002, Kuala Lumpur, Malaysia.
In summary, despite the range of literature and data on piracy, serious anthropological and in-depth criminological studies of piracy in Southeast Asia and Bangladesh are still rare. Data and publications by institutions and authors from within the maritime industry often offer valuable insights, but in their contributions, piracy is usually not placed in the wider security, social, or political contexts. Also, until recently, academic publications have seldom been based on extensive fieldwork or archival research and therefore give only limited insights into modern day piracy. Hence, little is known about the organisation of pirate gangs and their financial and inter-institutional backings, the identity of pirates and from which socio-economic background and strata of society they come, or whether or not members of local law enforcement agencies and radical politically motivated groups, such as terrorists, are involved in piracy. Yet, without this kind of detailed information, any analysis of piracy in Southeast Asia and Bangladesh remains restricted. This thesis attempts, through a blend of fieldwork and social analysis, to fill some of these research gaps. Fieldwork and the collection of unpublished data was consequently of crucial importance for this research project.

On the conduct (and difficulty) of fieldwork

The unpublished source material was gathered from correspondence and interviews held in Malaysia, Singapore, Thailand, Indonesia, Great Britain, Germany, and Australia between 2002 and 2007. Interviews in these countries were conducted with representatives of the maritime industry (such as shipowners), government personnel (including marine police officers), fishermen, people from non-governmental organisations (NGOs), representatives of national and international maritime organisations (such as the IMB), and employees of PSCs. Interviewees included victims of pirate attacks, people involved in combating piracy and even some (retired) pirates. The fieldwork for this thesis was conducted both in major cities in Europe, Australia, and Southeast Asia, where government personnel and representatives of the shipping industry are located, and also in fishing villages in Southeast Asia, primarily along the Malaysian side of the Malacca Straits and in Sabah.

As with any serious investigation concerned with illegal activities, the collection of first hand information on piracy and related criminal activity was difficult. The perpetrators of maritime attacks are for a variety of reasons mostly not open to questions from researchers, and even victims are often reluctant to tell their side of the
'story'. There are, however, some exceptions to this pattern, such as the above-mentioned shipowner Mr Chang from Petroships, who has provided important information to many researchers. Over the years, a handful of journalists and academics have also succeeded in interviewing and taking photos of real pirates, either in prisons or in the pirates’ haven. Interviews with pirates require a certain level of local knowledge and more importantly, good local contacts and informants. My own experiences with pirates are very limited but without the help of local people, including fishers and politicians, none of the interviews would have taken place. Furthermore, interviews and discussions with pirates are not only difficult to arrange but also require the investigator to accept a certain level of personal risk. This author declined any interview opportunities that seemed unduly dangerous. The following excerpt from an e-mail from the photographer Mike Goldwater, who was able to photograph Filipino pirates over ten years ago, illustrates the ambition and danger necessarily involved in successfully meeting with a pirate gang. Mike Goldwater began his research by arranging a meeting with Eric Ellen, who was at the time the director of the IMB. Ellen handed him a video on piracy, recorded by an independent film company. Goldwater recounts:

He (Eric Ellen) gave me the contact number for the film company producer who then gave me the number of a bar owner in Manila. The bar owner turned out to be a European ex sailor who had married a local girl. Not a stranger to shady dealing this bar owner had some sort of a relationship with a man who ran a number of pirate boats from one of [the] Philippines smaller islands. For a fee he arranged for the man who ran the pirate boats to send one of his boats to a particular harbour on a particular day. Once I had confirmation that this really was going to happen, which involved numerous phone calls from me in London to the bar owner in Manila, I made a proposal to the Telegraph magazine in London with whom I had worked regularly and they gave me a an assignment to cover the story. […] I then flew to Manila, met the bar owner and went off to photograph anti-piracy activity while the bar owner made the final arrangements. About a week later I flew to the island in question, met the bar owner and drove across the island to a small harbour, and stayed the night in a little hotel. The following morning before dawn we went down to the harbour and were met by one of the pirates in a small outrigger boat who ferried us out [to] the large, unmarked outrigger boat anchored offshore. The men were rather nervous of us at first, but they warmed up during the course of the day. At some stage the bar owner has asked me if I wanted to be present during a pirate raid but I was firmly against this as I would then be party to an act of piracy. We spent the day with

40 The term ‘real’ is used here to distinguish such interviews from those conducted by interested people who have travelled to ‘pirate-infested’ places, such as the island of Batam, Indonesia, for a day or two and have paid an inordinate sum of money for an interview with a ‘pirate’. While some of the individuals interviewed may indeed have been involved in pirate attacks, the strong impression of this observer is that there is a regular business of selling ‘pirate stories’ to foreigners set up by people who, like almost everyone in these places, have a certain level of knowledge about piracy, but have never been actively involved in it.
them out in the boat sailing around some small islands. The two main guys had been butchers and said they were keen to quit piracy soon. One of their crew had been injured the year before during a raid. They wore crude masks to avoid identification, but Big Boy had such a recognisable tattoo on his arm, which he was quite proud of; that he would not be difficult to identify. They said their main targets were smugglers' boats who would not be complaining to the coast guards if they were robbed, as well as opportunistic raids when they could. Sometimes they dressed up as coastguards or other disguises or pretended to be in distress to get other boats to stop as ways to capture their prey. At sunset we went back to the harbour and parted company.

All together I spent 5 weeks in the region on the story. I did try hard to make contact with another pirate group so that I could have more than one set of pirates in my picture story, but the contacts I had for them never delivered. The complete picture story, including the captured pirates, the pirates in prison, the anti-piracy activities of the navies of the Philippines, Singapore and Indonesia, and the Phillipino pirates has been my best selling story, and continues to sell regularly despite being by now over ten years old. I think this is primarily due to the fact that getting access to pirates is remarkably difficult.41 Additionally, pirate prone areas, or places that are thought to be pirate bases, are often off limits and rather dangerous for any travel by foreigners. Examples of such hot-spots are Aceh and the southern Philippines.

Obtaining information from informants in more secure places can be equally difficult in other respects. As will be discussed in Chapter 4 of the thesis, the maritime environment is one of the least regulated and controlled sectors of the global-regional economy. Information about shipowners or managers is therefore not always easy to find, and if found, often not very reliable. During my fieldwork I often arrived at a building where a shipping company was supposed to have its office, only to find that it was not there. In some cases, I have searched for an office said to be located on the ninth level in a building with only eight levels. In other instances, I have found myself in front of empty and totally derelict ‘buildings’, with neighbours assuring me that the building had been empty for many years. Furthermore, militaries and law-enforcement agencies involved in combating piracy often do not share their data, statistics, and experiences freely, as this information is considered classified. The same applies to insurance companies and PSCs dealing with the impact or risk of piracy, both of which are reluctant to give outsiders access to data in their files or to provide detailed information about their activities. While it is understandable that a company would wish to protect its clients’ interests, this policy of lack of disclosure and confidentiality certainly poses a serious difficulty for the researcher.

41 E-mail from Mike Goldwater to the author. Received on 10 March 2004.
Another potentially valuable source of oral and written information about piracy in Southeast Asian and Bangladesh waters, located at the opposite end of the social spectrum, are fishing associations, as fishers are readily targeted by pirates. Unfortunately, many fishing associations in the region stretching from Bangladesh to the Philippines do not collect data about attacks at sea, except in cases in which fishermen have received loans from such organisations to replace equipment or a vessel stolen or damaged by pirates. In the rare cases where data on piracy is indeed collected, it has often not been an easy task to get access to this information. In some cases, representatives of local fishing associations have asked for comparatively high ‘fees’ (also referred to as ‘gifts’) in exchange for information. In other cases, it proved difficult to find and contact the person in charge of a fishing association. In one particularly difficult case, it took three visits to the village to identify the head of the local organisation and three further visits to arrange the interview. Furthermore, in some villages where fishers were interviewed, considerable time had to be spent to earn the trust of these individuals. Indeed, some fishers only agreed to talk when local leaders they trusted were present during the interview. In Semporna, on the east coast of Sabah, for example, fishers were at first reluctant to share their experiences but the presence of trusted local leaders ‘broke the silence’. In this town, a further problem complicated my research. As will be discussed in the thesis, local law enforcement personnel in Semporna are involved in illegal activities, including piracy and the collection of ‘protection fees’ from local fishers. A foreigner showing too much interest in piracy and the problems fishers face is therefore not welcome. As a result, I was followed by local authorities on some of my visits, making it difficult to conduct interviews. This situation was one of many demonstrating that the collection of information about piracy is a sensitive issue in certain places. It also made it clear to me that the names of the individuals who provided information in places such as Semporna could not be included in this thesis. However, highly sensitive information was not only provided by fishers but also by other informants. The same precaution has therefore been taken for interviews with some shipowners or managers who chose to remain anonymous, law

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42 In the case of Semporna, which I visited six times between 2003 and 2006, I will therefore not give names of interviewees who provided information about contemporary piracy or the day the interview has taken place. My core informants in this town consisted of a core of about 20 individuals whom I met repeatedly, plus around another 40 people I talked to only once and who provided some insights into piracy in the waters off Semporna.
enforcement personnel who provided sensitive information, as well as employees of PSCs. As will be discussed later, laws and regulations regarding PSCs are often not clearly defined and PSC personnel often operate in a somewhat grey legal area. However, despite all these difficulties, I have found people in many places in Southeast Asia, Australia, and Europe who were extremely generous with their time and the information they provided, allowing me to obtain crucial insights into many different aspects of modern piracy in Southeast Asia and Bangladesh.
Historic Preface

A Brief History of Piracy in Southeast Asia from the 18th Century to the 1960s

In my time, they called me a pirate – but we never called ourselves pirates, we thought of ourselves as rebels.1
From an interview with a ‘pirate’ who operated in the Sulu Seas in the 1940s.

Introduction

Everybody knows what a pirate is. We all have mental images of bearded men with earrings, a peg-leg, an eye-patch, and a parrot on the shoulder epitomised by Robert Louis Stevenson’s Long John Silver. The activities of pirates also do not seem very mysterious: they attack vessels and steal whatever they can lay their hands on. However, this popular, Western literary-historical notion of a pirate is far too simplistic. Indeed, the label ‘pirate’ has been associated with a variety of economic and political activities and has carried different connotations over space and time. Hence, definitions of piracy have varied historically and culturally and are highly contested by individuals, groups, and nations. The label ‘pirate’ is inevitably emotive, and linked to particular cultural-historical contexts and moments in global-regional time, especially in Southeast Asia, where the scourge of piracy and its eradication featured largely in the annals of colonial mercantile history. In the past, the categorisation of individuals or ethnic groups as ‘pirates’ was ascribed to local ‘marauders’ by colonial powers, signifying a powerful value judgement which was invariably connected to political and territorial ambitions, world commerce, and economic growth. For contemporary piracy, a more neutral, objective and judicially applicable definition, one less socially judgemental, is generally used. While pirates are still identified as criminals, piracy is today largely defined by the systemic inter-dependent and inter-connected nature of grey-area activities conducted by pirates worldwide, and is no longer principally associated with certain ethnic groups.

This preface provides a sketch of the history of piracy in Southeast Asia until the 1970s. Particular attention is paid to the late 18th and 19th centuries and the piratical

1 Author’s Interview with Sarail bin Hassan, 15 April 2005, Semporna, Malaysia.
activities of the Iranun and Balangingi – the Vikings of Asia – as it was these two ethnic
groups which conducted systematic long-distance sea borne attacks on a hitherto
unprecedented scale in the Southeast Asian region. A historic overview of piracy in
Southeast Asia is important because maritime raiding in Southeast Asia\(^2\) is not a new
phenomenon, with the first accounts of pirate attacks reported as early as the fifth
century C.E.\(^3\) Indeed, particular areas and places, such as the southern Philippines and
the Malacca Straits, that are considered regional piracy hot-spots at present, have been
associated with piratical activities in the past. The existence of piracy in the same
locations over the centuries raises the question of whether there has been continuity or
discontinuity regarding the nature and character of piracy in Southeast Asia.\(^4\) It will be
argued here that a closer look at piracy in the past demonstrates that despite some
similarities, the term ‘piracy’ has been used to describe rather different phenomena in
the past than at present, and that piracy performed a structurally different geo-political
role in global-local interactions in the past. This perception and approach to the past will
also help answer the question as to whether piracy in Southeast Asia is culturally and
environmentally determined and, hence, accepted by certain communities and ethnic
groups as a way of everyday life. It will help to shed some light on whether an age-old
‘culture of piracy’ does exist,\(^5\) or whether pirate attacks simply occur in areas where
people have a close relationship with the sea; a relationship which naturally makes it
more likely for maritime people from certain ethnic groups or communities to be
involved in sea robbery. Yet, while acknowledging the importance of the history of

\(^2\) Due to the regional scope of the thesis, piracy in the past in East Asian countries such as China and
Japan will not be discussed here.

\(^3\) Adam J. Young, 'Roots of Contemporary Maritime Piracy in Southeast Asia', in Derek Johnson and

\(^4\) Limited academic attention has so far been paid to this topic. Furthermore, some observers who have
attempted to compare piracy in the present and the past have not relied on fieldwork for the comparative
aspect on contemporary piracy, but rather on assumptions and speculation. There are, however, notable
exceptions, including: Ger Teitler, 'Piracy in Southeast Asia. A Historical Comparison', Mare Centre,
points to the reasons why there have been only a limited amount of comparative studies, including the
fact that the people writing about contemporary piracy are seldom historians but look at the subject from a
political or security angle. Most important, however, as he points out, is the lack of information and data
on contemporary piracy that would allow real insight into the organisational structure and the financial
support structure of piracy as well as information about pirates themselves, including their cultural

maritime raiding in Southeast Asia, only a historical sketch will be offered, as this thesis is mainly concerned with piracy since the 1990s.

**Historical overview**

Long before the arrival of the Europeans in the 16th century, insular Southeast Asia was inhabited by Muslim people of Malay origin, who were much involved in maritime raiding and trading. Opportunistic attacks conducted by maritime people, such as fishers and petty traders, were common throughout the region, but particularly in the adjacent waters of the kingdoms and entrepots of Kedah, Perak, Selangor, Malacca, and Johor. Furthermore, more sophisticated and well organised attacks and slave raids against coastal communities were conducted by certain maritime ethnic groups in the region, which intensified with the arrival of the European seaborne powers in Southeast Asia and the ensuing transformation of the global and regional economy. Indeed, the occurrence of ‘piracy’ and the intensity and nature of such attacks in Southeast Asia has often been inextricably linked to the presence and trade of European powers in the region. Even the label ‘pirate’ is “essentially a European one” that was used by the colonial powers to characterise and/or demonise as criminal and barbaric, activities

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8 In past kingdoms, states, and societies in Southeast Asia, slavery was mostly a property relation. There existed different kinds of slavery with different status and privileges of slaves, ranging from chattel slaves (most of whom were completely powerless) to those labouring under conditions of bondage or dependence. Many slaves were forcefully taken from their own communities and sold into other communities as slaves. They were used by local states and communities as well as by colonial regimes in the region. Warren, 'A Tale of Two Centuries', pp. 8, 10. For a more detailed discussion of the various types of slavery in Southeast Asia see the various articles in: Anthony Reid (ed.), *Slavery, Bondage & Dependency in Southeast Asia*, New York: St. Martin's Press, 1983. See also: James F. Warren, 'Southeast Asia', in Seymour Drescher and Stanley L. Engerman (eds), *A Historical Guide to World Slavery*, Oxford: Oxford University Press, 1998, pp. 80-7.
which thwarted European interests but were generally considered legitimate political or commercial endeavours by local inhabitants.\(^9\) In fact, as Tarling points out, in previous centuries in the Malay world there was “often a strong political element to robbery and violence at sea”,\(^11\) with slave raids and attacks usually sponsored by local rulers or communities.\(^12\) There are, however, different theories explaining the escalation of piracy in the second half of the 18\(^{th}\) century and the sponsorship of slave raids in Southeast Asia. Scholars such as Tarling have, for example, argued as early as the 1960s that local states were weakened by the presence of European powers in the region and accordingly resorted to piracy in the struggle to survive. Consequently, piracy increased as Malayo-Muslim states declined – an interpretation referred to as the ‘decline and decay’ theory.\(^13\) Other scholars, such as Warren, on the other hand, have demonstrated that certain local autonomous states, like the Sulu Sultanate, were able to adapt to the presence of Europeans and the changing economic conditions in the region. These Malayo-Muslim trade-based political entities flourished, using slave raids and piratical activities as instruments of statecraft to enhance their political power and economic prosperity.\(^14\) Yet, regardless of how the cause and effect role of the Europeans is understood, it is agreed that patronage of raids by local rulers and communities offered the maritime marauders a comparatively safe haven to launch their raids and sell their booty. These state-supported raids were therefore characterised by a

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\(^10\) Ibid. See also: Trocki, *Prince of Pirates. The Temenggongs and the Development of Johor and Singapore 1784-1885*, pp. 57-8. Sources on piracy in the 18\(^{th}\) and 19\(^{th}\) centuries are often based on observations by Europeans and are often heavily biased. There have, however, been attempts by some scholars, notably James Warren and Carl Trocki, to look at ‘piracy’ from a more local point of view.


\(^12\) The bond between raiders and their protectors was, however, not static and alliances could be shifted. Indeed, pirates were often part of geographically mobile communities. Over time they were attached to different protectors and adjusted their raiding area accordingly. See: Teitler, 'Piracy in Southeast Asia', p. 67. James Francis Warren, *The Sulu Zone, 1768-1898: The Dynamics of External Trade, Slavery, and Ethnicity in the Transformation of a Southeast Asian Maritime State*, Singapore: Singapore University Press, 1981, pp. 188-9. Also, the sponsorship of attacks and raids has prompted comparisons with privateers, who were commissioned by states to conduct raids on countries from rival nations.

\(^13\) Nicholas Tarling, *Piracy and Politics in the Malay World*, Melbourne: F.W. Cheshire Pty Ltd, 1963. Tarling now acknowledges, however, that other authors have pointed out that his interpretation relies too closely on colonial records and colonial interpretations of events. Tarling, 'Piracy', p. 1090.

relatively high level of organisation and involved large numbers of vessels and marauders. The raiding vessels originating from places such as Sulu and Riau-Lingga were usually well equipped with gunpowder, arms, and weaponry and the sea raiders were feared for their brutality and ruthlessness in coastal communities throughout the region.\textsuperscript{15} Given the high degree of state-sponsorship, the raiders were not considered outlaws by their own communities and the expeditions were mostly led by rulers, aristocrats, or respected warriors of various indigenous societies.\textsuperscript{16} State-sponsorship also determined the targets of these raiders, with booty sought that was of real advantage not only for the attackers themselves but also for their sponsors. The raiders targeted any kind of vessel, ranging from local fishing boats to large European merchant ships, as well as defenceless coastal communities. While goods such as opium, arms, textiles, rice, and marine products were seized, the principal and most favoured loot was captives. Slaves were in demand not only among the colonial powers but also in Southeast Asian societies in which the status and power of a ruler rested on the control of people and not necessarily the control of land.\textsuperscript{17}

In the late 18\textsuperscript{th} and 19\textsuperscript{th} centuries some vigorous predatory headhunting coastal tribal groups were notorious among both Europeans and locals for conducting pirate attacks and shoreline raids. Among the most feared were the Sea Dayaks from northwest Borneo, who regularly attacked commercial vessels along the coast of Sarawak, a district under the rule of the Sultan of Brunei. Furthermore, in the Riau-Lingga archipelago and south eastern Sumatra, along several busy trade routes, Orang Laut pirate communities existed in which sultans and the local elite of Johor actively sponsored and supported sizable raids.\textsuperscript{18} Indeed, as early as the mid 17\textsuperscript{th} century Orang Laut slave raiding expeditions from Jambi, Sumatra, targeting small coastal settlements and native vessels with a fleet of about 20 prahu\textsuperscript{s} (vessels) were able to capture and


\textsuperscript{16} Young, ‘Roots of Contemporary Maritime Piracy in Southeast Asia’, pp. 9-10. However, they were perceived differently when the raiders turned against their sponsors.


\textsuperscript{18} Teitler, ‘Piracy in Southeast Asia’, p. 69.
transport around 100 slaves. After 1699, the Orang Laut’s ties with the rulers of Johor were gradually disintegrating, with central control of Orang Laut groups further weakening in Riau after 1784 due to Verenigde Oostindische Compagnie (VOC) intervention and oppression. Yet, the Orang Laut were able to establish alliances with new supporters within the region, especially the Bugis, and to continue their raiding activities. In fact, in the latter half of the 18th century slave raiding by the Orang Laut actually increased in order to meet VOC and Dutch demands for labour. To capture slaves, the Orang Laut roamed the coasts of Java, south eastern Sumatra, the Malacca Straits, the east coast of the Malay Peninsula, and even ventured as far north as the coast of Cambodia. Furthermore, succession disputes in local societies led to the involvement of an increasing number of ‘pirating princes’ in maritime raiding activity, which was conducted outside the authority of local rulers. Consequently, piracy continued with impunity until the European powers, namely Spain, Britain, and the Netherlands, in conjunction with various local rulers, began to step up efforts to counter piracy in the first half of the 19th century. However, two other groups of exceptionally skilled and formidable seafarers, the Iranun and Balangingi, were still feared at this time for their ruthless systematic long-range attacks and raids across insular Southeast Asia.

**The Iranun and Balangingi**

In the eyes of Europeans, the Iranun and Balangingi were among the first real predators of global merchant vessels and posed a serious threat to trade routes and trade itself in Southeast Asia. Trade within the wider Asian region had intensified when the demand for Chinese products, such as tea, silk, and porcelain increased. Since 1700 the consumption of tea had become increasingly popular in Britain, and British tea merchants soon found themselves facing a substantial trade deficit with China. Despite

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20 In 1699, Sultan Ingalaga of Jambi died in exile and the political and economic situation of Jambi deteriorated further. See: Andaya, *To Live as Brothers. Southeast Sumatra in the Seventeenth and Eighteenth Centuries*, pp. 133-41.


22 Andaya and Andaya, *A History of Malaysia*, pp. 95, 113.

23 This will be discussed further in the forthcoming section ‘The end of an era’.

some success in selling Indian textiles to China, it was not until after 1768 that private British merchants associated with the East India Company, known as ‘country traders’, found a partial solution to their crisis by exploiting Chinese desire for marine and jungle products from the forests and seas of Southeast Asia. Particularly popular among the Chinese were tripang (sea cucumber) and bird nests, but there was also steady demand for wax, camphor, mother of pearl, tortoise shell, and other, similar products. These goods were available in large quantities from areas such as the Sulu Zone. In response to European demands for these commodities, the Sulu Sultanate successfully adapted its traditional economic system of trade and procurement and, as a result, rapidly rose to become a powerful economic centre in the region at the time. To satisfy European requirements for the China trade, the Sulu Sultanate and local Taosug aristocrats and merchants were forced to drastically increase the production of sea cucumber, bird’s nest, and other sought-after exotic commodities, which in turn required the constant supply of additional labour power to collect, harvest, and distribute these products. Consequently, long-distance slave raids were organised, outfitted and conducted under the patronage of the Sultan of Sulu or coastal Taosug aristocrats in order to meet the escalating demand for additional labour. Therefore, as commerce between China, the European powers, and local rulers intensified, maritime raiding and the regional trade in slaves became an integral, albeit independent, part of the commercial exchange of commodities.

The long-distance maritime raids were conducted by the Iranun and Balangingi Samal who lived in fortified villages on the southern coast of Mindanao and Basilan, as well as on the islands of Balangingi and Tunkil. Attacks by the Iranun and Balangingi were organised and supported by entire communities. For the sea-raiders, sponsors, and their communities, slave raiding and piracy were part of an honourable way of life and an important aspect of their societal system and statecraft. Furthermore, the raids were a powerful means of resisting encroachment by adversary powers, particularly non-

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26 Warren, ‘A Tale of Two Centuries’, pp. 12-5. Other Malay states including Brunei, Sambas and Pontianak, however, also relied on sponsoring raids as a means of seizing trading ships and slaves, but on a more moderate scale.
27 Ibid. p. 8.
28 Warren emphasises that the Balangingi should not be regarded as a homogenous ethnic, cultural and linguistic group prior to 1848. See: Warren, *Iranun and Balangingi*, p. 152.
Muslim states and forces.\textsuperscript{30} The raiding and slaving activities and resulting profits therefore strengthened the Iranun and Balangingi communities and the rulers and societies that sponsored the raids.\textsuperscript{31}

To satisfy the increasing demand for slaves, the raiding voyages conducted by the Iranun and Balangingi encompassed the entire Southeast Asian region by 1798,\textsuperscript{32} including the Philippines, the Malacca Straits, the Gulf of Siam, the islands beyond Sulawesi and the northern tip of Australia. To better manage and facilitate these long-distance raiding voyages, the marauders established bases in different parts of Southeast Asia\textsuperscript{33} with a certain level of cooperation from various indigenous rulers and colonial powers. The pattern of these raids was determined by the availability of suitable targets, the sea currents, and the monsoonal winds. The Sulu raiders were devastating and attacked with laser-like precision, targeting coastal settlements as well as vessels of any size, ranging from small fishing vessels in the Malacca Straits to large European ships engaged in the trade with China.\textsuperscript{34} The vessels used for the attacks were well equipped with state of the art weaponry, including firearms. While both the Iranun and the Balangingi cruised in squadrons or fleets, the vessels used, and the types of raids conducted, differed in scope and magnitude. The \textit{prahu}s used by the Iranun were large galleys which could exceed 90 feet in length, with the bigger ones carrying between 80 and 150 sailors and over 100 slaves for manning the oars.\textsuperscript{35} The vessels were equipped with cannons and firearms and the Iranun raiders attacked larger coastal settlements with fleets of 40 to 50 boats carrying between 2,500 and 3,000 men. The scale of the attacks was staggering, with an estimated 150 to 200 large raiding vessels operating from the

\textsuperscript{29} Warren, 'A Tale of Two Centuries', pp. 6, 20.
\textsuperscript{30} Teitler, 'Piracy in Southeast Asia'. p. 70.
\textsuperscript{31} Warren, \textit{The Sulu Zone, 1768-1898}, pp. 185-8.
\textsuperscript{32} Warren, 'A Tale of Two Centuries', pp. 13-4.
\textsuperscript{34} Warren, 'A Tale of Two Centuries', pp. 18-20. Warren, \textit{Iranun and Balangingi}, pp. 267-308.
Mindanao-Sulu area alone, between 1774 and 1798. The Balangingi vessels were smaller in comparison. They usually did not exceed 60 feet in length and carried between 30 and 50 warriors. Unlike the Iranun prahu, the Balangingi vessels seldom carried more than one large cannon. Each Balangingi vessel was accompanied by a small but fast canoe which was used for inshore raids on smaller coastal vessels and communities. While the Iranun expeditions lasted for up to three years, the Balangingi vessels mostly returned home within several months to one year. In 1848, the number of raiding prahu based on Balangingi reached 200, with 10,000 Samals actively engaged in raiding activities.

The economic, political and social impact of Iranun and Balangingi attacks was both widespread and devastating. The regularity and force of the slave raids and piratical attacks threatened traditional trade routes and cost traders and insurance companies up to several million pounds a year. In Singapore, for example, their constant raids in the Malacca Straits sent local prices for commodities soaring and led to an overall decline in the newly established town’s trade. Furthermore in coastal settlements, especially in the Philippines, the Iranun and Balangingi attacks, as well as the anxiety of ‘waiting’ for the next raid, instilled such fear in many communities that their inhabitants resettled in places that were either more readily defended or situated further inland, far away from the dreaded reach of these maritime marauders. As Warren states:

At the end of the eighteenth century, the Iranun maritime raids had a profound impact on Southeast Asia. The Iranun and Balangingi have been rightly blamed for demographic collapse, loss of agricultural productivity and economic decline, as well as the breakup of the Dutch stranglehold on the straits of Malacca and eastern Indonesia. But the driving force for this process was still global and economic: the Iranun profited from Spanish, Dutch and English internal colonial problems and expansion, but were not the cause of the problems.

European powers, especially Britain, occasionally attempted to use the Iranun as mercenary allies to further their own cause against imperial rivals. The raiders,

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38 Warren, Iranun and Balangingi, p. 152.
40 Ibid. p. 35.
41 Warren, Iranun and Balangingi, p. 6.
however, proved difficult to control\textsuperscript{42} and by the 1840s the increasing number and scale of fearsome attacks prompted anti-piracy countermeasures from all European powers present in the region.

The end of an era

The eradication of piracy had become politically important from the beginning of the 19\textsuperscript{th} century onwards, as the European presence in Southeast Asia begun to markedly change in character. The British and Dutch colonial empires started to encroach upon the territories and seas of the Malay archipelago. Indigenous states and societies, and their traditional economic interests, came increasingly into conflict with European imperial aspirations and expansions. Anti-piracy measures were therefore considered a strategic part of the colonial powers’ political re-organisation of the region, aimed at weakening the power of Asian, and particularly Southeast Asian, societies and protecting European commerce in the region.\textsuperscript{43} Furthermore, slave raiding and piracy also became ideologically incompatible with newly emerging European liberal principles\textsuperscript{44} such as free trade and the rejection of the institution of slavery.\textsuperscript{45}

The elimination of piracy, however, proved to be a difficult and protracted affair and required not only the curbing of attacks on vessels but also the abolition of the slave trade itself in the region, and, the cooperation of the various colonial powers. Indeed, large scale piracy and slave raids could still flourish in the 18\textsuperscript{th} and early 19\textsuperscript{th} centuries because the European powers were occupied with internal rivalry and disputes that prevented them from uniting their efforts to combat piracy. It was therefore only in the 1860s, after the macro-imperial conflicts and rivalries between European states were resolved – albeit temporarily – and their conflicting colonial territorial claims in Southeast Asia largely settled, that any real progress was made towards the elimination of piracy in Southeast Asia. However, once cooperation intensified, co-ordinated anti-

\textsuperscript{42} Ibid. pp. 6-7, 10-1.
\textsuperscript{43} Ibid. pp. 379-83.
\textsuperscript{45} Trocki, ‘Piracy in the Malay World’, p. 262. Tarling, ‘Piracy’, p. 1090. Tarling, however, points out that while the European powers “gave it new emphasis” in the 19th century, “checking piracy was not a European innovation” as China and other regional polities had before that time been involved in the suppression of piracy.
piracy efforts by Spanish, British, and Dutch forces supported by various local rulers who had previously supported and sponsored piracy began to make inroads on the activities of the Iranun and Balangingi and other piratical groups. Methods employed to counter piracy and slave raiding included increased anti-piracy patrols and the collection of information about pirates and their sponsors, followed by sweeping attacks of pirate strongholds. Also, the development of the steam gunboat gave a major boost to the anti-piracy campaigns and, along with advances in weapons technology and the build-up of large navies by nations such as Great Britain, effectively brought an end to slave raiding and organised pirate raids in Southeast Asia by 1880. However, while the anti-piracy efforts of the colonial powers proved successful in fighting sophisticated organised pirate attacks and slave raids, piracy never disappeared entirely from Southeast Asian waters. Indeed, attacks on small vessels still occurred, because the anti-piracy measures were mostly not directed towards sporadic and opportunistic local attacks on smaller craft and merchant vessels, as these attacks did not adversely affect the colonial powers’ political and economic interests in the region.

**Piracy in Southeast Asia from World War II to the 1960s**

Despite the anti-piracy efforts of the colonial powers, piracy never disappeared completely from Southeast Asian waters and only during World War II did attacks on merchant vessels cease. Yet, while no statistics are available, accounts from local informants indicate that pirate attacks on smaller craft and fishing vessels were still occurring during World War II. An example of a pirate of this era is Sarail bin Hassan,

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46 Warren notes that the Spanish referred to the various major ethnic groups in the southern Philippines collectively as ‘Moros’. The label was not only used as a religious label but came to be an ethnic one and was associated with certain cultural behaviour, such as an inclination towards piracy. The label ‘Moro’ was used during the Spanish occupation (but also later) to justify and explain retaliation and religious incursion against states and settlements in the southern Philippines. Warren, *Iranun and Balangingi*, pp. 23-4.

47 Even if the direct cooperation may not have been so strong at times, at least there were no direct conflicts between colonial powers which actively prevented the suppression of piracy.


49 In archives within Southeast Asia and other parts of the world, fragmentary reports of attacks on smaller vessels may be found. Given time and financial support, an investigator could conduct research in the various archives in Europe, Southeast Asia and the United States.
who was born in Jolo, Sulu, in 1904 and previously worked as a teacher of Islamic religion on the island. In 1941, Sarail and his uncle were attacked in their small boat by Muslim pirates. The attack had a profound impact on Sarail, who felt that it was better to be a perpetrator than a victim, and decided to become a ‘pirate’.\textsuperscript{50} Between 1941 and 1948 Sarail and his gang of 11 armed pirates attacked vessels in the Sulu Sea. In the attacks, the crew’s belongings were stolen and non-Muslim victims were shot. Muslims were only harmed when they did not obey the pirates’ orders. The money and valuables gained in the attacks were used for gambling and similar personal activities. Indeed, economic hardship did not play a role in Sarail’s decision to become a pirate, as his parents owned a coconut plantation and his family therefore did not suffer particular hardship. Motivating factors in Sarail’s involvement in piracy were instead pleasure, revenge and identity politics – namely the ongoing bitter rivalry between Christians and Muslims in the southern Philippines. However, in 1949, Sarail left the southern Philippines for the east coast of Sabah and was never involved in piracy again.\textsuperscript{51} While this is but one example, it nevertheless indicates that piracy, particularly targeting small craft did, in fact, exist during World War II, at least in the southern Philippines. However, no academic attention has yet been paid to ‘small boat piracy’ or attacks on small craft in the 20\textsuperscript{th} century, especially in the period from World War II to the mid 1970s.\textsuperscript{52}

Comparatively little is also known about pirate attacks on larger vessels between the end of World War II and the early 1980s. Yet, despite the lack of a comprehensive database of pirate attacks covering the first several decades of the post-war era, there are various signs that piracy re-emerged in the years after World War II in different parts of Southeast Asia.\textsuperscript{53} A range of socio-economic and political factors were conducive to the re-appearance of piracy, including the political turmoil and instability in the region following the end of World War II, ultimately resulting in the independence of the Southeast Asian countries. Firearms and other weapons had become more widely

\textsuperscript{50} Sarail did not refer to himself as a pirate and pointed out that he did not agree with the term in regard to his activities. He preferred the term ‘rebel’.

\textsuperscript{51} Author’s Interview with Sarail bin Hassan, 15 April 2005, Semporna, Malaysia.

\textsuperscript{52} Hardly any data is therefore available outside archives detailing attacks on fishing vessels or other small craft. Information about attacks for the period from 1900 to 1970 may have been collected by the colonial powers or later in time by the independent countries law enforcement agencies. However, given time constraints and the focus of my thesis, I was not able to search for this material.
available in Southeast Asia and inexpensive outboard motors and engines for sea travel
had also become available. Pirates were therefore able to increasingly use modern
firearms and motorised vessels for their predatory activities.\textsuperscript{54} Piracy consequently re-
emerged in various parts of Southeast Asia. In the Malacca Straits, for example, Chinese
secret societies were believed to be involved in organising pirate attacks after World
War II. One such group, known as Cell 12 of the Ang Bin Hoey society, operated from
the village of Batu Maung, Penang, and attacked vessels in the waters between Penang
and Sumatra and down the coast to Selangor. The group targeted Chinese and Indian
sailing junks, carrying goods such as copper, rubber, or Burmese tobacco. In an attempt
to combat piracy in this area, local authorities stepped up their efforts and, in 1946,
aid Batu Maung. However, it was not until 1947 that the pirate fleet was eliminated
by the authorities.\textsuperscript{55} Pirate attacks also occurred in other parts of Southeast Asia. The
Commonwealth naval forces, for instance, had to take pirate attacks into account during
the Malay Emergency (1948-60),\textsuperscript{56} and in late 1958, North Borneo’s Governor, Sir
Ronald Turnbull, employed the Royal Navy, the Royal Air Force, and his own launch,
the \textit{Elopura}, to protect and guard shipping against pirates in the waters of north
Borneo.\textsuperscript{57} Nonetheless, despite his efforts, piracy originating from the Sulu archipelago
continued to threaten shipping in the area, with the situation deteriorating in the late
1950s and early 1960s. Pirates operating from the southern Philippines at the time
targeted local traders, often from Indonesia.\textsuperscript{58} Attacks in these waters included eight
assaults on copra carrying vessels reported in the first three weeks of January 1961. The
attacks were extremely vicious in nature, with the crews of all vessels killed by the
perpetrators.\textsuperscript{59} Also, in 1961, at least 86 pirate attacks were reported in the Sulu Sea,

\textsuperscript{53} Jack A. Gottschalk, Flanagan, Brian P. with Lawrence J. Kahn and Dennis M. LaRochelle, \textit{Jolly Roger
\textsuperscript{54} Stefan Eklöf, 'The Return of Piracy: Decolonization and International Relations in a Maritime Border
Region (the Sulu Sea), 1959-63', Working Paper no. 15, Centre for East and South-East Asian Studies,
2007, p. 3.
\textsuperscript{56} Peter Chalk, \textit{Non-military Security and Global Order. The Impact of Extremism, Violence and Chaos
\textsuperscript{57} Samuel Pyeatt Menefee, 'Trends in Maritime Violence', Jane's Special Report, Coulsdon, Surrey: Jane's
Information Group, 1996, p. 77.
\textsuperscript{58} Eklöf, 'The Return of Piracy', pp. 4-5, 11.
\textsuperscript{59} Menefee, 'Trends in Maritime Violence', p. 77.
including the hijacking of an inter-island ferry.\textsuperscript{60} In addition to these attacks on vessels, pirates from the Philippines also targeted coastal settlements and villages, often in northeast Borneo. Such incidents include the infamous raids on Semporna in 1954 (followed by several attacks in the 1970s), and the attack on Kunak in 1962.\textsuperscript{61}

However, no coordinated methodical data collection of pirate attacks exists for the post-war period in Southeast Asia, making it difficult to assess the scope and magnitude of piracy in the region between 1945 and 1970. Information available often only focuses on individual attacks or a spate of attacks in various locations in the regions. Without further research in local and European archives, it remains difficult to draw conclusions about the nature and extent of piracy in the period between 1945 and 1970.\textsuperscript{62}

\textbf{Conclusion}

The label ‘piracy’ in the 18\textsuperscript{th} and 19\textsuperscript{th} centuries referred to maritime attacks that were mostly aimed at coastal settlements, and to a lesser extent at vessels, in search of slaves. The raids were considered a crucial traditional, social, and cultural activity and were supported and organised by entire maritime communities and states, and invariably strengthened the political and economic character of those states and societies. Piracy, however, changed in nature after World War II, with piratical activities no longer being state-sponsored. Additional research still needs to be conducted in order to gain a better understanding of piracy in the transitional period between 1945 and 1970.

Overall, there are some similarities between piracy in the past, particularly the 18\textsuperscript{th} and 19\textsuperscript{th} centuries and the present. Pirates in the past and the present took advantage of similar economic and geographic conditions. Pirates in both eras have targeted vessels\textsuperscript{63} engaged in regional or international trade and pirates at all times have operated in places geographically suitable for attacks. The Malacca Straits is one case in point, as vessels have to slow down to traverse the narrow waterway. Furthermore, small islands

\textsuperscript{60} Ibid. p. 83..
\textsuperscript{62} Given time and financial restraints, the author was not able to conduct research in these archives.
\textsuperscript{63} Also, in both eras some victims were taken hostage and were only released after a ransom was paid. Examples of such hostage taking since the 1990s will be discussed later in the thesis. For examples of such incidents in the past see: Warren, \textit{Iranun and Balangingi}, pp. 323-31.
in and around the straits offer numerous hideouts for pirates.\textsuperscript{64} However, the remainder of the thesis will demonstrate that contemporary piracy in Southeast Asia is different in scope, character, and nature from the long-distance maritime raids of the 18\textsuperscript{th} and 19\textsuperscript{th} centuries. Today, raids on villages or towns are the exception and the booty sought by the perpetrators is no longer slaves, but cash, valuables, the cargo, or the vessel itself. Most important, however, is that piracy is at present an act of either opportunistic pirates or organised criminal gangs, conducted for private ends.\textsuperscript{65} Piracy is no longer a political or diplomatic instrument to strengthen or support the structure of pre-capitalist traditional states.\textsuperscript{66} Given these important fundamental differences between piracy in the past and at present, the idea of a long-standing ‘culture of piracy’ is problematic, particularly because, as the following chapters of this thesis will demonstrate, pirates in Southeast Asia today rarely operate in homogenous ethnic groups.

\textsuperscript{65} In fact, modern day piracy is more likely to have an adverse effect on state power, weakening state control and contributing to the loss of state sovereignty.
\textsuperscript{66} For a more exhaustive comparison see: Teitler, 'Piracy in Southeast Asia', pp. 78-81.
Part 1

Contemporary Piracy in Southeast Asia and Bangladesh

I heard something from outside the mess room, then I open the door. In front of me there were pirates. So I move my hands up.
Yoeli Janto, Master of the hijacked MT Selayang

Simply stated, some pirates may be sometimes fishermen, but not all fishermen are sometimes pirates.
Hon Richard D. Vine, Director, Bureau of Refugee Programs, US Department of State

Introduction

This Part of the thesis offers an overview of contemporary maritime piracy in Southeast Asia and Bangladesh. It provides an insight into the nature, characteristics, and scale of piracy from 1980 to 2006, with particular emphasis on attacks occurring after 1992. After highlighting the difficulty of finding a satisfactory definition of modern piracy, the different kinds of pirate attacks occurring in Southeast Asia and Bangladesh are discussed, ranging from simple hit-and-run attacks to hijackings of merchant vessels and fishing craft. Which areas of water are most affected by pirates in this region will also be shown. In order to give an overview of attacks, both quantitative and qualitative data is used, including statistics from the IMB, as well as information gathered from individual pirate victims. However, it is important to note that the objective of this Part is not to provide an analysis of the underlying problems and causes of contemporary piracy in Southeast Asia and Bangladesh, as this will be presented in the following Parts of the thesis.

As with the ensuing Parts of this thesis, this Part is divided into two chapters. The first chapter provides an overview of attacks on merchant vessels, while the second focuses on attacks on small craft, with particular emphasis placed on attacks on fishing boats and yachts.

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1 Statement of Yoeli Janto. Document provided by the ship’s manager, Chin Kuen Sen, Petrojaya Marine SDN BHD, 21 October 2003, Singapore.
Chapter 1

Pirate Attacks on Merchant Vessels in Southeast Asia and Bangladesh, 1980-2006

Introduction

On 23 February 2000 the Japanese owned tanker MT *Global Mars* was attacked in the Malacca Straits by a gang of 20 pirates, who approached the tanker in a fishing vessel and climbed onboard unnoticed. Once onboard, the pirates, masked and armed with guns and knives, overpowered the 18 man strong crew and took control of the vessel. The following day, the crew of the vessel was transferred to the fishing boat and held onboard for 13 days, while the pirates repainted the tanker, renamed it *Bulawan*, and replaced its Panamanian flag with the colours of Honduras. After the change of identity was completed, the pirates sailed the *Bulawan* to an unidentified port where the cargo was sold. Meanwhile, the crew was moved to a smaller fishing boat and set adrift. After days at sea, the crew reached the island of Surin, Thailand, and called for help. The search for the crew and vessel, had, however, already begun, as the IMB was notified of the attack shortly after the hijacking and a reward was offered. The vessel was eventually found in Chinese waters and the local authorities, acting on information from the IMB, seized the ship and arrested the ‘crew’ onboard on 30 May. The detained crew, 11 Filipinos and nine Burmese, denied they were pirates, claiming to be seamen hired to sail the *Bulawan* to South Korea. They were released a short time later.¹

Pirate attacks occurring in Southeast Asia and Bangladesh at present range from hijackings of vessels, such as the *Global Mars*, to simple hit-and-run robberies conducted by opportunistic ‘thieves’. This chapter offers an overview of pirate attacks on merchant vessels in Southeast Asia and Bangladesh from 1980 to 2006, with particular focus on attacks occurring after 1992. The first part of this chapter discusses piracy in the 1980s. At this time, international concern about piracy began to rise. The first methodical collection of information about pirate attacks on merchant vessels date from the early years of this decade. The second part of this chapter gives an overview of pirate attacks on merchant vessels in Southeast Asia from early 1990s onwards. It
discusses the difficulty of finding a satisfactory definition of modern piracy, and the establishment of the IMB’s PRC in answer to increasing numbers of pirate attacks around the world. Based largely on data published by the IMB, it then describes the different kinds of pirate attacks occurring in Southeast Asia and Bangladesh from the early 1990s to 2006. Finally, it establishes which areas in the region are the most ‘pirate infested’, discusses the various types of pirates active in Southeast Asia and Bangladesh today, and examines their *modus operandi*.

**Piracy in Southeast Asia in the 1980s**

The first methodically collected piracy statistics for the 20th century on a regional basis available are from 1981 to 1987. The systematic collection of reports was prompted by the increasing number of pirate attacks on merchant vessels in the late 1970s and early 1980s, particularly in West Africa. The scale of the attacks led to a growing concern amongst governments and representatives of the shipping industry about the safety of vessels and crews, and, in 1983, 1984, and 1985, incited the IMO to call on the IMB to provide an overview report of the state of pirate attacks worldwide.\(^3\) The data for the report was collected by the IMB relying on information from the IMO, shipowners, the media, insurance companies, and academic sources. However, despite these initial efforts by the IMB, the data gathered fails to give a complete picture of piracy in the 1980s due to substantial underreporting of attacks and deficiencies in the qualitative nature of the data. Indeed, in a newspaper interview in 1982, Eric Ellen from the IMB stated that: “Someone suggested that we do not hear about more than 1 percent of the incidents that take place. That’s probably true. It’s a tough business to crack.”\(^4\) While the percentage of attacks reported over the years certainly increased, the data available nonetheless presents only a sketchy picture of piracy worldwide and only highlights piratical activity in certain geographic areas, such as West Africa, the Malacca Straits, the Phillip Channel, and the Sulu Sea.

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\(^2\) There are no methodically collected piracy statistics available for attacks occurring in Bangladesh in the 1980s.  
\(^4\) Robin Wright, 'Grappling with Modern-day Buccaneers', *Christian Science Monitor*, 13 January 1982, p. XXX.
Singapore Area and Thai waters

Two regions received particular attention in the IMB reports throughout the 1980s, namely West Africa and the Singapore Area, encompassing the Phillip Channel and the Malacca Straits. In the early 1980s most pirate attacks were reported in West Africa, particularly in Lagos, Nigeria. However, Table 1 shows that the number of recorded pirate attacks in the Singapore Area increased sharply between 1981 and 1982 and remained high in 1983. Despite a drop in the number of attacks recorded in this area after 1983, the Singapore Area became nonetheless more significant in comparison to pirate activity in other parts of the world throughout the 1980s, with more than 50 per cent of worldwide reported attacks occurring in this area in 1987.5

Table 1 Pirate attacks in Southeast Asia, 1981 - 1987

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<tbody>
<tr>
<td>Singapore Area*</td>
<td>34</td>
<td>64</td>
<td>52</td>
<td>14</td>
<td>34</td>
<td>19</td>
<td>30</td>
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<tr>
<td>Other parts of Southeast Asia</td>
<td>7</td>
<td>8</td>
<td>12</td>
<td>4</td>
<td>5</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>41</td>
<td>72</td>
<td>64</td>
<td>18</td>
<td>39</td>
<td>29</td>
<td>36</td>
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<tr>
<td>Total attacks worldwide</td>
<td>157</td>
<td>138</td>
<td>137</td>
<td>58</td>
<td>104</td>
<td>83</td>
<td>56</td>
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*The Singapore Area includes the Phillip Channel and the Malacca Straits.

Yet, despite the comparatively high number of attacks, piracy in the Singapore Area remained rather unsophisticated in nature during the 1980s. Most attacks were simple hit-and-run robberies conducted by two to five men armed with parangs (machetes) or knives. The attacks invariably occurred at night, were usually brief affairs, and in many instances were only noticed once the culprits had left the target vessel. The level of violence of these attacks remained low, injuries were the exception, and no crew were reported killed by pirates in this area. One factor explaining the overall low level of violence is that the pirates active in this area were rarely armed with guns or other

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firearms. However, in cases in which the alarm was raised against the pirates, crewmembers were usually held hostage. A further characteristic of attacks occurring in this area was that, unlike in West Africa where attacks occurred primarily in ports, the majority of pirates in the Singapore Area targeted ships underway. The Singapore Area was particularly suitable for such attacks because of the large number of vessels transiting the area which had to slow down to pass through the Malacca Straits and Phillip Channel. The culprits operating in the Singapore Area mostly used small open boats with powerful outboard engines to close in on their slow moving targets and climbed onboard with grappling hooks.\(^6\) An example of this mode of operation is the attack on an Indonesian tanker on 5 August 1983 in the Phillip Channel, in which the pirates boarded the ship and escaped with booty worth US $15,000. Five members of the pirate gang responsible for the attack were later arrested by the Indonesian police on Batam Island in the Riau Archipelago, Indonesia (Map 6).\(^7\) Arrests of pirates, however, remained the exception rather than the rule in the 1980s. In fact, the comparatively high number of attacks in the Malacca Straits was in part attributable to the inadequate resources and old equipment of the Indonesian, and to a lesser extent Malaysian, law enforcement agencies. The Singapore authorities on the other hand were better equipped and operated more efficiently, with additional maritime patrols introduced in the 1980s. These additional patrols presumably account for the overall decline in the number of attacks in Singapore territorial waters in the second half of the 1980s,\(^8\) with the exception of 1987, as shown in Table 2 and 3.

**Table 2 Singapore Authorities: Pirate attacks inside and outside Singapore Waters, 1981 - 1984**

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<tbody>
<tr>
<td>Attacks inside Singapore territorial waters</td>
<td>7</td>
<td>13</td>
<td>8</td>
<td>7</td>
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<tr>
<td>Attacks outside Singapore territorial waters</td>
<td>28</td>
<td>32</td>
<td>23</td>
<td>25</td>
</tr>
<tr>
<td>Attacks without clear report of position</td>
<td>7</td>
<td>9</td>
<td>17</td>
<td>3</td>
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<tr>
<td>Total</td>
<td>42</td>
<td>54</td>
<td>48</td>
<td>35</td>
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Table 3  Singapore Police Coast Guard: attacks in Singapore Waters, 1985 - 1990

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<tr>
<td>Attacks in Singapore territorial waters</td>
<td>0</td>
<td>1</td>
<td>14</td>
<td>2</td>
<td>0</td>
<td>0</td>
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The Riau Archipelago was believed to be the main base for pirates operating in Singapore waters and the wider Singapore Area in the 1980s, but other hideouts along the Malacca Straits also existed. The major driving force behind the spate of attacks in the 1980s was poverty and economic hardship, particularly in coastal communities in the Riau Archipelago and along the west coast of Sumatra. Foreign vessels carrying cash and valuable cargoes therefore presented tempting targets, or were at least expected to pay a toll for safe passage. As one pirate explained: “These shipowners are very rich. While they’re passing through the straits we ask them for a donation. It’s like a toll. We don’t carry guns and we never injure anyone. We just accept whatever money they give us. If they have no money, we leave.”

However, piracy in Southeast Asia in the 1980s was not solely restricted to the Singapore Area. Indeed, occasional attacks were also reported from various places and ports across the region, including assaults on merchant vessels leaving Bangkok and raids on ships at anchor off Jakarta. Furthermore, attacks of a very different nature took place in two other regions in Southeast Asia, namely the southern Philippines and the Gulf of Thailand. The majority of attacks from the mid 1970s to the late 1980s in the Gulf of Thailand targeted the so-called Vietnamese Boat People, refugees fleeing communist Vietnam in search of a better life. As most of the refugee boats were small craft and the perpetrators mostly Thai fishers, the attacks on the Boat People will be discussed at greater length in Chapter 2. However, when the pirate attacks on the Vietnamese Boat People began to subside in 1984, different kinds of attacks began to

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occur in the Gulf of Thailand and continued until the end of the 1980s. The targets of these post 1984 attacks were no longer small vessels but larger merchant ships and passenger vessels. The perpetrators of these attacks operated in groups of between 15 to 20 men and used speed boats of about 20 metres in length, superficially resembling police boats. A characteristic of these attacks was that the pirates appeared to know in advance which containers to search for the goods they desired, suggesting that they frequently had insider information about the vessel attacked.

The Philippines and east Malaysia

The nature of pirate attacks occurring in the Philippines was fundamentally different from attacks in the Singapore Area, as they involved a substantially higher level of violence. This can be explained by the fact that weapons were more freely available, and more widely distributed, in the Philippines. Indeed, while the use of small arms and light weapons by pirates was exceptional in the Singapore Area, these weapons were used frequently by attackers operating in Philippine and east Malaysian waters. It is, however, difficult to judge the scale of the piracy problem in the Philippines in the 1980s as only limited published data is available. Captain Villar, the author of the book Piracy Today. Robbery and Violence at Sea since 1980, published in 1985, collected official and unofficial reports of pirate attacks in this region from local authorities, newspapers, and other sources (see Table 4). However, Villar points out that the incidents compiled in his data collection represent only a fraction of those which have actually occurred in the Philippines.

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12 The Gulf of Thailand consists of the waters between Thailand, Vietnam and the southern tip of Cambodia.
14 The bearing of arms and use of violence has a long history in parts of the Philippines, including areas that are today piracy hot-spots such as the southern Philippines. See, for example: Thomas M. Kiefer, The Tausug. Violence and Law in a Philippine Moslem Society, New York: Holt, Rinehart and Winston, 1972.
15 Small arms and light weapons are, generally speaking, firearms that can be carried by an individual, two or more people, or a pack animal. According to the UN panel of Governmental Experts on Small Arms, small arms include revolvers and self-loading pistols, rifles and carbines, assault rifles, sub machine guns, and light machine guns. Light Weapons include heavy machine guns, hand-held under barrel and mounted grenade launchers, portable anti-tank and anti-aircraft guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems, and mortars of less than 100mm calibre. Katherine Kramer, 'Legal Controls on Small Arms and Light Weapons in Southeast Asia', Geneva: Small Arms Survey, Occasional Paper no. 3, July 2001, p. 4.
16 Villar, Piracy Today, p. 139.
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Piracy hot-spots in and near the Philippines in the 1980s included the waters between the islands of Mindanao and Sulu in the southern Philippines, and the Sulu and Celebes Seas. In these waters mostly small craft, such as motor launches, inter-island ferries, fishing boats, and private vessels, were attacked.\(^{17}\) Some observers estimate that there may have been as many as 100 such attacks each year in these waters throughout the 1980s.\(^{18}\) In the 1970s and 1980s, a number of ‘pirate raids’, reminiscent of those of the 19th century, were made on islands and towns in this area, especially in east Malaysia. Among the most notorious attacks was the raid against the town of Lahad Datu (Map 5) on the east coast of Sabah on 24 September 1985. In this event, 20 pirates armed with automatic weapons and rocket launchers attacked the town and robbed the Standard Chartered Bank and the Malaysian Airlines office of RM60,000 to RM200,000 (US $24,195 to US $80,645), killing eight people in the process.\(^{19}\) The attackers escaped in a *kumpit*,\(^{20}\) equipped with powerful twin pump engines. The culprits, however, were eventually caught by the Malaysian marine police and the remains of their *kumpit* were brought back to Lahad Datu and left in the harbour on show for the public.\(^{21}\)

Another significant hot-spot in the Philippines was Manila Bay, with a number of attacks on merchant vessels reported there in the 1980s. Most of these attacks were simple robberies but the pirates were well armed, prompting the coast guard to break up

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\(^{17}\) These attacks will be discussed in Chapter 2.

\(^{18}\) Hyslop, ‘Contemporary Piracy’, p. 16.


\(^{20}\) Kumpits, traditional medium-sized wooden boats, were also used regularly by smugglers operating in this area. ‘Mindanao Culture. Introduction’, [http://www.seasite.niu.edu/Tagalog/Cynthia/Mindanao/mindanao_culture.htm](http://www.seasite.niu.edu/Tagalog/Cynthia/Mindanao/mindanao_culture.htm), accessed 9 June 2005.

\(^{21}\) Author’s Interviews with Tuan Hj. Abdillah, November 2004, Tawau and Semporna, Malaysia.
the gangs responsible for these attacks. However, the perpetrators were not arrested and shifted their focus to fishing vessels, passenger boats, and small cargo vessels in the environs of Manila Bay.\textsuperscript{22}

In the 1980s, Manila Bay and other Asian waters were also at the centre of concern regarding more serious maritime crime. During the 1970s, the increase in maritime fraud in the wider Asian region had become a genuine issue for the insurance industry. To examine the scope of the problem the Far East Regional Investigation Team (FERIT) was formed. The team consisted of three men from the insurance industry and an expert in maritime law.\textsuperscript{23} In only four months, the team examined over 60 cases in which insurance companies had to cover losses due to the disappearance of cargoes and vessels operating in the Asian region.\textsuperscript{24} The team came to the conclusion that 48 of the cases examined were highly suspicious and needed further investigation. The FERIT report itself was unfortunately never published in its entirety, as it contained too much sensitive information, particularly names of people suspected to be involved in the crimes investigated. A watered-down version was nonetheless made available to a select group of people in government and industry circles.\textsuperscript{25} Despite the limited readership, the FERIT report increased awareness of maritime fraud in Asia and raised suspicions that highly organised criminal syndicates were operating in the maritime sector. Furthermore, it drew attention to the theft of entire merchant vessels, known as hijackings. Pirate and criminal syndicates hijacked vessels either to deliver to a third party or because they were hired by the owner of the ship for insurance fraud. In other instances, the hijacked vessel was used by the criminal syndicate to transport illegal goods or for cargo fraud operations. In all cases, the vessel’s original cargo was disposed of and the original crew either killed, thrown overboard, or put into small craft and left to their own devices. The ship was then registered under a different name and turned into a ‘phantom ship’. The re-registration of hijacked vessels made it particularly

\textsuperscript{22} Villar, \textit{Piracy Today}, pp. 30-1.

\textsuperscript{23} The investigation was conducted by the Salvage Association but the costs were covered by the Lloyd’s Underwriters Association, the Institute of London Underwriters, and maritime insurance associations in Hong Kong, Singapore, Japan, Taiwan, Indonesia, and Malaysia.

\textsuperscript{24} Without the actual report it remains difficult to establish what types of maritime fraud were examined, and which countries were actually included in the FERIT investigation. However, the report included countries outside Southeast Asia, as indicated in the terminology used (Far East Regional Investigation Team) and therefore the term ‘Asia’ or ‘Asian region’ is used here.

difficult for authorities to trace them, and provided the new owner with protection during any legal proceedings in cases where the vessel was found by the authorities. Equipped with its new identity, the vessel was then offered to an anxious shipper to transport his cargo. The cargo, however, never arrived at its destined port, as the vessel was diverted and the cargo off-loaded in another port and sold to another consignee. The vessel was then once again re-registered under a different name and the ‘game’ began all over again.  

The Philippines, particularly Manila Bay, was in the 1980s the most prominent place for such shipjackings. According to the IMB, a specific vessel could be ‘ordered’ from criminal syndicates in the Philippines for about US $300,000. The ship was subsequently hijacked and delivered to the ‘customer’ within days. A case in point was the hijacking of the freighter *Isla Luzon* off Iligan Island on 25 June 1989. The missing vessel was later discovered trading between Taiwan, China, Korea, and Japan under its new name *Nigel*. A high level of organisation and access to inside information about ships, routes, and cargoes was necessary to organise such a successful shipjacking. The perpetrators also needed contacts and knowledge of the regional market in order to sell stolen cargo. Investigations by the IMB suggest that in the 1980s Singapore was used in a number of cases to launder such cargo. However, most of the stolen cargo in that period was sold to companies in China, and occasionally to buyers in the Philippines.

The different scale of pirate attacks on merchant vessels and other craft in Southeast Asia in the 1980s, ranging from simple hit-and-run maritime muggings to hijackings, set the tone for piracy and transnational crime in the 1990s. Indeed, throughout the 1980s, international organisations such as the IMB and the IMO, as well as governments around the world became increasingly concerned about the rising incidence of pirate attacks on merchant vessels. However, while countries such as Singapore increased naval and police patrols in their territorial waters during the 1980s to prevent a further escalation of such incidents, it was only in the 1990s that piracy prompted serious international and regional responses.

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Piracy in Southeast Asia and Bangladesh from the early 1990s to 2006

On defining contemporary piracy

The rising number of pirate attacks in the region in the 1980s prompted the establishment of the IMB’s Regional Piracy Reporting Centre in Kuala Lumpur in October 1992. In its early years, the Centre provided services only for the East Asian Region, including both Northeast and Southeast Asia. However, in 1998, the name of the agency was changed to IMB Piracy Reporting Centre (PRC) and the Centre began to collect reports on piracy and armed robbery at sea from all around the world. The PRC also issues warnings to seafarers, liaises with law enforcement authorities, issues consolidated reports to interested bodies, and regularly publishes reports on piracy and armed robbery at sea. In these reports, the IMB relies on its own definition of piracy, which varies from those of other institutions. Indeed, the definition of ‘piracy’ remains highly contested, with no standardised definition being agreed upon by institutions, academics, and governments around the world. Among the most controversial issues concerning a uniform definition of piracy remains the question of whether or not the motive behind a pirate attack should be a defining factor. Equally contested is the issue of whether only attacks committed on the high seas should be considered piracy or whether attacks on vessels in territorial waters, within Exclusive Economic Zones (EEZs) and in ports also qualify as piracy. Consequently governments, as well as public and private institutions, often employ their own definitions of piracy, suited to their particular objectives and interests. Coastal states, for instance, have their own domestic laws that determine which crime committed on the high seas or in their respective national waters is an act of piracy. Some countries, however, including China, do not cover maritime piracy under their laws but rely on definitions such as robbery at sea to act against ‘pirates’. Marine insurers, who deal with piracy on a professional basis,

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31 The English Law Commission has recently opted to retain the 1837 Piracy Act due to the high number of piracy attacks in recent years, despite the fact that some observers have argued it “serves no useful purpose”. 'England Opts to Keep 1837 Piracy Legislation', Lloyd's List, 30 June 2005.
32 In the Chinese legal system, ‘piracy’ is not defined as such, but can be punished under a variety of laws in China. See: Zou Keyuan, 'Piracy at Sea and China's Response', EAI Background Brief no. 55, 26 January 2000, pp. 7-9.
also have their own set of definitions, geared towards the profitability of their businesses. \(^{34}\) Two definitions of piracy, however, can be considered as the most prominent and commonly used at present. The first is the legal definition of piracy which was implemented in the 1958 Geneva Convention on the Law of the Sea and the 1982 UN Convention on the Law of the Sea (UNCLOS). \(^{35}\) Article 101 of UNCLOS defines piracy as:

**Article 101**

**Definition of Piracy**

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). \(^{36}\)

The UNCLOS definition is problematic and impractical in the eyes of many observers as it only includes attacks on the high seas “outside the jurisdiction of any state”. The vast majority of attacks on vessels reported at present in Southeast Asia are, however, conducted in territorial waters, EEZs, or ports and therefore clearly within the jurisdiction of coastal states. \(^{37}\)

The second commonly used definition of piracy is the more inclusive version of the IMB. The IMB includes in its analysis any “act of boarding any vessel with the intent to commit theft or any other crime and with the intent or capability to use force in

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\(^{34}\) Hyslop, 'Contemporary Piracy', pp. 6-7.


\(^{37}\) EEZs are within the jurisdiction of the coastal state. For a summary of the application of international law in regard to piracy in territorial waters, EEZs and the high seas see: Zou Keyuan, 'Piracy at Sea and China's Response', pp. 3-7.
the furtherance of that act.” The IMB’s reports therefore include information on attempted attacks, attacks on vessels at anchorage or at berth, simple hit-and-run robberies in territorial waters, as well as hijackings of vessels, and certain acts of maritime terrorism. For the purpose of this thesis the IMB’s definition of piracy will be adopted with the proviso that those acts have to be committed for private – as opposed to political – ends. A distinction is therefore made between attacks by pirates and politically motivated groups such as terrorists, based on the motivation for an assault. This distinction is important because by including terrorist attacks one would arguably increase the number of pirate attacks and even more so, the number of casualties, as terrorists often aim at killing or injuring a large number of people in their attacks. Nonetheless, because the IMB data is the most comprehensive, it is used as the basis for analysis in this chapter, which therefore also includes attacks which may be considered acts of maritime terrorism.

However, the IMB’s definition of piracy and data are not only controversial because they include terrorist attacks, but have also been criticised on other grounds. Daniel Tan, Executive Director of the Singapore Shipping Association, for example, believes that the IMB is using this definition, which includes attacks in territorial waters and in ports, to exaggerate the piracy problem in order to receive continued funding, on which the existence of the PRC depends. Furthermore, there remains the serious problem of underreporting and the actual number of pirate attacks worldwide may in fact be substantially higher than presented in the IMB’s reports. According to Noel Choong, the Regional Manager of the PRC, more than 50 per cent of all pirate attacks remain unreported, for a variety of reasons. Some ship owners, for instance, are reluctant to report attacks as they fear that an investigation will delay their vessel’s operation, resulting in additional costs. Many also do not want to be branded as unreliable carriers of freight or fear rising insurance costs. Governments and law enforcement agencies in the region are also often reluctant to disclose the number of

[40] Author’s Interview with Daniel Tan, Executive Director of the Singapore Shipping Association, 11 October 2002, Singapore.
attacks in their respective countries in order to preserve their reputations as safe places for trade and passage. Additionally, attacks on fishing boats and other smaller craft are rarely reported to the IMB. However, according to Mark Bruyneel, who has compared the IMB data with other collections (including data from the IMO) over several years, the IMB reports – despite flaws – are the most reliable and comprehensive source of information available on contemporary pirate attacks in Southeast Asia and the rest of the world.

_Pirate attacks in Southeast Asia, Bangladesh, and the wider Asian region 1992 - 2006_

According to data from the IMB the number of actual and attempted pirate attacks reported worldwide from 1992 to 2006 range from 90 attacks in 1994 to as many as 469 reported incidents in 2000, as shown in Table 5:

41 Author’s Interview with Noel Choong, Regional Manager, International Maritime Bureau, Piracy Reporting Centre, 23 October 2002, Kuala Lumpur, Malaysia.
43 Bruyneel states: “When I compare the sources it looks like the best sources are the reports of the IMB and IMO in that order. The IMB gets most information more quickly than the IMO but the IMO also sometimes has piracy reports which have not appeared earlier in weekly reports. The overlap between both reports is fairly high but not quite 100% since in some cases IMB warnings from weekly reports are still included in the IMO reports but have been excluded from the quarterly and annual reports of the IMB. The second most frequent cause for some of the differences has to do with interpretation: when is an incident a single incident and when are they two incidents (usually not far apart in time) reported as one or two incidents? The IMO sometimes list two piracy reports where the IMB list them under one incident/report. The annual reports of the IMO and IMB in recent years have more overlap than they used to have up to and including 2002.” E-mail from Mark Bruyneel to the author. Received on 13 July 2005. For a more comprehensive comparison of IMB and IMO data see: Mark Bruyneel, ‘Current Reports on Piracy by the IMO and the IMB - A Comparison.’ Paper prepared for the ‘People and the Sea 2’ Conference, 4-6 September 2003, Amsterdam, 2003, [http://home.wanadoo.nl/m.bruyneel/archive/modern/CurrentreportsopiracybytheIMOandtheIMB.pdf](http://home.wanadoo.nl/m.bruyneel/archive/modern/CurrentreportsopiracybytheIMOandtheIMB.pdf), accessed 15 July 2005. Furthermore, the Federation of American Scientists also collects piracy data in its ASAM (Anti-Shipping Activity Messages) database which is available online: Federation of American Scientists, ‘Pirates’, [http://www.fas.org/irp/world/para/pirates.htm](http://www.fas.org/irp/world/para/pirates.htm), accessed 15 July 2005. On this webpage links are available to piracy reports from 1985 to 1999. Also, as will be discussed later, a piracy information sharing centre was set up in 2006 as part of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). The centre has begun publishing data on piracy in late 2006 and may in the future be a valuable source for piracy statistics. See: ReCAAP Information Sharing Centre, Homepage, [http://www.recaap.org/publish/recaap/index.html](http://www.recaap.org/publish/recaap/index.html), accessed 25 June 2007.
Table 5  Attacks and attempted attacks worldwide, the Asian Region, Southeast Asia, and Bangladesh 1992 - 2006

<table>
<thead>
<tr>
<th></th>
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<tr>
<td>Actual + attempted*</td>
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<td>103</td>
<td>90</td>
<td>188</td>
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<td>Actual + attempted**</td>
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<td>Actual + attempted***</td>
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<td>185</td>
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<tr>
<td>Actual attacks</td>
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<td>NA</td>
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<td>161</td>
<td>123</td>
<td>98</td>
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</tr>
</tbody>
</table>


*Attempted attacks include: attempted attacks, attempted boardings and vessels fired upon.
** The Asian Region includes here: Indonesia, Malaysia, Malacca Straits, Myanmar, Philippines, Singapore Straits, Thailand, South China Sea, China, Cambodia, HLH Area, Bangladesh and Vietnam.
*** Southeast Asia includes here: Indonesia, Malaysia, Malacca Straits, Philippines, Singapore Straits, and Thailand.
¹ Includes missing vessels. The IMB reports include missing vessels in some years in attempted and in others in actual attacks.
² Area not defined clearly in IMB report.
³ There are some discrepancies between the annual reports and later versions. In 1999, for example, 185 actual and attempted attacks were recorded for Southeast Asia in the 2004 report, while only 180 were included in the 1999 report. For Southeast Asia, the number in brackets shows the number in the original annual report.

Table 5 also demonstrates that the number of actual attacks can be substantially lower than the number of actual and attempted attacks. Furthermore, it shows that from the early 1990s to 2006, high numbers of attacks were reported in Asia. Even though this thesis focuses on Southeast Asia, attacks in the wider Asian region are considered here in order to better understand the shifts in the distribution of attacks in Southeast Asia and Asia since the early 1990s. (See Table 6)

Between 1990 to 1992, the waters between the Malacca and Singapore Straits have been identified as the most pirate infested. The narrow Malacca Straits is one of the most congested waterways in the world, and particular care is required in navigation, as the strait is beset by numerous shallow points, forcing vessels to reduce

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In some tables based on IMB reports in this thesis from 1990 onwards, data is used that is not available in IMB tables but the author went through the list of attacks for each year to get the number of incidents required. The information included in the IMB pirate attack lists is, however, in some cases rather limited, and the author had to decide whether or not some attacks warranted inclusion. Furthermore, the data in the IMB report is not always consistent and varies between the different parts of the report, especially in the earlier years (1995, 1996). There seem, for example, to be discrepancies in their list of 'Narrations of
speed to ensure safe passage. These conditions are favourable for pirates, as they can approach the slow moving targets in their speed boats without too much difficulty. However, after the initiation of coordinated anti-piracy patrols in this area, the focus of piracy shifted to the South China Sea. Indeed, between 1993 and 1995 a high proportion of reported attacks took place in the South China Sea. Particularly affected were the territorial waters of Hong Kong and Macau and the so-called HLH ‘terror-triangle’, encompassing the waters between Hong Kong, Luzon in the Philippines, and the Chinese island of Hainan (Map 1). (See Table 6) Some observers believe that piracy could flourish in these waters because Chinese officials were responsible for some of the attacks.\(^{46}\) Indeed, Chinese authorities admitted that rogue elements of Chinese customs and other maritime law enforcement agencies were involved in the attacks and tightened its control over these rogue elements. As a result, pirate attacks in Chinese waters ceased by the mid 1990s even though China once again became the focus of international concern when in the late 1990s a rising number of hijacked vessels were found in Chinese ports. The international community became concerned when, in cases such as the hijacking of the tanker *Petro Ranger*, mentioned earlier, the alleged pirates were repatriated without being brought to justice in China. As international pressure increased and the pirate attacks became more serious in nature, the Chinese authorities eventually stepped up efforts to combat piracy. In fact, when in December 1998 the hijacked *Tenyu* was located in the Chinese port of Zhangjiagang, the authorities intervened. Zou states that: “The *Tenyu* case was the one that for the first time a Chinese judicial organ – the maritime court – had intervened by ordering the return of a foreign ship seized within Chinese territory to the relevant country.”\(^{47}\) When the hijackers of the

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\(^{46}\) Peter Chalk, *Non-military Security and Global Order: The Impact of Extremism, Violence and Chaos on National and International Security*, New York: St Martin's Press, LLC, 2000, pp. 68-71. The IMB reports include in their list of pirate attacks a number of cases in which vessels were boarded by Chinese officials and/or brought into Chinese harbours in the first half of the 1990s. In some cases, such as the hijacking of the *Cheung Son* (see Appendix 2) the officials clearly were pirates, in other cases, not much information about the incidents is available and it is therefore debatable whether or not these cases should be regarded as pirate attacks. However, it is known that in some cases the shipowners had to pay substantial amounts of money in order to ensure the return of their vessels.

\(^{47}\) Zou Keyuan, ‘Piracy at Sea and China's Response’, p. 13. However, Chinese courts have at least once before convicted and sentenced the perpetrators of a hijacking, sentencing the ringleader to death and other gang members to long terms of imprisonment. The attack took place in 1995 and involved the hijacking of the jetfoil *Guia* while on passage from a gambling resort in Macau to Hong Kong. The culprits diverted the vessel to Chinese waters and robbed the crew and passengers and stole US $1.6
bulk carrier *Cheung Son* were found in China a short time later, they were arrested and brought to court in December 1999 and received severe penalties under the law, including 13 death sentences. 48 (See Appendix 2 for a detailed account.) Other cases followed in which pirates arrested in China received severe punishment and, consequently, Chinese ports became less attractive for pirates and lost their appeal as a place of business involving hijacked vessels.

**Table 6  Location of actual and attempted attacks: China Area, Southeast Asia, and Bangladesh, 1993 - 2006**

<table>
<thead>
<tr>
<th>Location</th>
<th>'93</th>
<th>'94</th>
<th>'95</th>
<th>'96</th>
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<th>'98</th>
<th>'99</th>
<th>'00</th>
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<td>-</td>
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<td>-</td>
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<td>China/HK Macau</td>
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<td>12</td>
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<td>-</td>
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<td>75</td>
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<td>Singapore Straits</td>
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<td>2</td>
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<td>32</td>
<td>58</td>
<td>17</td>
<td>21</td>
<td>47</td>
</tr>
</tbody>
</table>


However, since the mid-1990s, as Soeharto’s New Order regime unravelled, Indonesian ports and territorial waters have been identified as the most pirate-infested in Southeast Asia, as demonstrated in Table 6. Combating piracy in Indonesia is not an easy task, because the archipelagic state is comprised of more than 17,000 islands and spans 1.9 million square kilometres. With fewer funds available for local law enforcement agencies in the aftermath of the economic recession that followed the 1997 Asian financial crisis, the task became even more daunting. Furthermore, as in other parts of

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48 There has been speculation that the Chinese government was waiting for a case such as the hijacking of the *Cheung Son* in order to set an example. The hijacked vessel was found in Chinese waters, the original crew was Chinese and the vessel had left a Chinese port. Furthermore, with the exception of one Indonesian pirate, the arrested pirates were all Chinese. This left little doubt about the jurisdiction of the Chinese courts in this case. Also, the Chinese government could act without losing face as it was not giving in to international pressure but was dealing with an ‘internal’ affair. See: Douglas Stewart, *Piraten. Das organisierte Verbrechen auf See*, Hamburg: Marebuchverlag, 2002, p. 419.
the region, pirates can readily slip across borders to escape pursuit by the authorities.49 Outside Indonesia, Bangladesh experienced a spate of attacks between 2000 and 2003, but the number of incidents declined significantly in 2004, due to increased anti-piracy patrols by the local authorities and increased security in harbours. However, the number of attacks in Bangladesh increased again in 2005 and 2006. Of considerable concern in the 21st century are also once again the high numbers of attacks in the busy Malacca Straits, and to a lesser extent the Singapore Straits. Both waterways are among the busiest places for merchant traffic in the world with more than 60,000 vessels over 300 gross tons currently transiting the area each year.50 Twenty thousand of the vessels navigating passage through the Malacca Straits each year are tankers carrying, among other products, oil from the Middle East to China, Japan, and other Asian countries relying on imported fuel. Furthermore, after Hong Kong, Singapore harbour has the largest container turnover rate in the world, followed by the Chinese ports of Shanghai and Shenzen. Vessels bound for these ports, or other major East and Southeast Asian harbours, pass through the Malacca Straits. Additionally, smaller vessels such as barges, fishing boats, and passenger vessels also sail through the straits (Map 2).51 While the large number of vessels passing through this area put the actual number of attacks in perspective,52 the attacks in the Malacca Straits are nonetheless a matter of major concern because several conducted in this area were of a serious nature, including the kidnapping of crew for ransom.

Types of vessels attacked

Pirates operating in Southeast Asia and Bangladesh target vessels of any nationality, type, and size, with the exception of very large vessels. In fact, medium sized or smaller

50 On its website, the Malaysian Marine Department publishes the numbers of vessels transiting the Malacca Straits from 1999 to 2004. In this period, the number increased from 43,964 in 1999 to 63,636 in 2004. The statistics are compiled since 1999, when the Mandatory Ship Reporting System in the Straits of Malacca and Singapore came into force. With the new system, vessels fulfilling certain criteria, including weighing 300 gross tons and above or being 50 metres in length or above, have to report their passage through the straits. See: Marine Department Malaysia, 'Mandatory Ship Reporting System in the Straits of Malacca and Singapore', http://www.marine.gov.my/service/index.html, accessed 22 June 2007.
52 The Malaysian Transport minister Chan Kong Choy recently stated that less than 0,01% of vessels passing through the Malacca Straits are attacked. Marcus Hand, 'Malaysian Backlash at Malacca Risk Call', Lloyds List, 13 July 2005, n. p.
cargo vessels are preferred targets.\textsuperscript{53} Table 7 gives an overview of the types of vessels mainly targeted in pirate attacks in Southeast Asia and Bangladesh\textsuperscript{54}:

Table 7 Actual and attempted attacks in Southeast Asia and Bangladesh: Types of Vessel by Year, 1995 - 2006

<table>
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<th>'98</th>
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<th>'00</th>
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</tr>
<tr>
<td>Tanker LNG</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tanker LPG</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>9</td>
<td>6</td>
<td>8</td>
<td>8</td>
<td>5</td>
<td>2</td>
<td>1</td>
<td>58</td>
</tr>
<tr>
<td>Tanker</td>
<td>10</td>
<td>13</td>
<td>13</td>
<td>18</td>
<td>35</td>
<td>51</td>
<td>34</td>
<td>27</td>
<td>22</td>
<td>8</td>
<td>10</td>
<td>5</td>
<td>246</td>
</tr>
<tr>
<td>Tug</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td>8</td>
<td>13</td>
<td>22</td>
<td>11</td>
<td>6</td>
<td>73</td>
</tr>
<tr>
<td>Yacht/Speed Boat</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>14</td>
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<tr>
<td>Not stated</td>
<td>12</td>
<td>6</td>
<td>10</td>
<td>6</td>
<td>5</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td>55</td>
</tr>
</tbody>
</table>

Southeast Asia includes here: Indonesia, Malaysia, Malacca Straits, Philippines, Thailand, Singapore Straits, and Bangladesh. In cases where Tugs were attacked pulling a barge or lighter, only the tug has been included here. I have listed only vessel types for which more than ten attacks have been recorded worldwide in any year between 1995 and 2006. The attacks on fishing vessels have been recorded here as they appear in the IMB records, in some cases counting attacks on more than one fishing boat (or a fishing fleet) at the same time and location as one attack. There are discrepancies between the number of vessels included here and the overall number of attacks reported in Southeast Asia because the IMB data is not always consistent.

Table 7 shows that bulk carriers have been targeted most, followed by general cargo vessels, tankers, container ships, and chemical/product tankers. With a total of 98 attacks, fishing vessels and trawlers rank sixth, despite the fact that only a small percentage of attacks on fishing vessels are reported to the IMB. However, the numbers of different types of vessels targeted have to be viewed in relation to the actual numbers

\textsuperscript{54} Stopford points out that it is difficult to divide the world fleet into clearly defined categories. There are many different kinds of specialised merchant vessels, often designed to meet a shipowner’s needs and the
of vessel types plying the world’s oceans. Discussing the growth of the world merchant fleet, Stopford states:

In December 1995 the world fleet of self propelled sea-going merchant ships over 100 gross tons stood at 82,890 vessels with a capacity of 491 mgt [million gross tons]. Within this total cargo-carrying vessels account for 95 per cent of the gross tonnage (465 mgt) but only 53 per cent of the numbers (43,802 vessels). The remaining 39,088 non-cargo-carrying vessels included 23,929 fishing boats, 2,845 offshore support vessels, 7,721 tugs, 818 research vessels, 1,125 dredgers and 2,650 other non-cargo vessels.55

Among the cargo carrying vessels, bulk carriers account at present for around three quarters of the world shipping fleet.56 Bulk commodities transported by vessels can be divided into four distinct types: first, liquid bulk such as crude or vegetable oil, which requires tanker transportation; second, the five major bulks (iron ore, grain, coal, phosphates, and bauxite); third, minor bulks such as steel products and; fourth, specialist bulk including motor vehicles or refrigerated cargo.57 The large number of bulk carriers plying the world’s oceans may therefore explain the high number of attacks on such vessels in Southeast Asia and Bangladesh, and indicate that pirates may, generally speaking, attack any ship that passes by. Indeed, the vast majority of attacks are simple hit-and-run attacks in which the pirates only steal money from the ship’s safe, valuables, or items such as ropes and buckets of paint. For these pirates, the type of vessel they attack is not important as long as the vessel is accessible and can be boarded without too much difficulty.58 Similarly, the high number of attacks on tankers in Southeast Asia may be explained by the large number of such vessels passing through Southeast Asian waters. Indeed, around 1,400 tankers visit the port of Singapore alone each month,59 while others transit Southeast Asian waters en route from the Middle East to East Asia. Also, Table 7 shows that ferry and passenger vessels are only rarely attacked by pirates,60 especially if one takes into account that some of these attacks listed in Table 7 were conducted by separatist or terrorist movements and could

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56 Stopford, Maritime Economics, p. 15.
58 Some vessels with high hull plating are obviously more difficult for pirates to attack, as they cannot easily climb on board.
60 As discussed in the Historic Preface, pirates have in the past also attacked passenger vessels, particularly in the waters of the Philippines.
therefore be classified as terrorist attacks. This indicates that pirates, unlike terrorists, are not aiming at injuring a large number of people but rather are seeking financial gain in the form of money, valuables, cargo, or the vessel itself.

Type and nature of attacks

The motivations and intentions of pirates are relevant, as they determine the type and nature of a pirate attack. The IMB reports include attacks ranging from simple hit-and-run robberies in ports or at berth to hijackings of vessels. Tables 8a and 8b show the number of actual boardings and hijackings of vessels in Southeast Asia and Bangladesh by location:

**Table 8a Actual attacks Southeast Asia and Bangladesh: boardings by location, 1995 - 2006**

<table>
<thead>
<tr>
<th></th>
<th>'95</th>
<th>'96</th>
<th>'97</th>
<th>'98</th>
<th>'99</th>
<th>'00</th>
<th>'01</th>
<th>'02</th>
<th>'03</th>
<th>'04</th>
<th>'05</th>
<th>'06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indonesia</td>
<td>29</td>
<td>44</td>
<td>41</td>
<td>42</td>
<td>87</td>
<td>86</td>
<td>62</td>
<td>74</td>
<td>76</td>
<td>68</td>
<td>62</td>
<td>37</td>
</tr>
<tr>
<td>Malaysia</td>
<td>4</td>
<td>5</td>
<td>1</td>
<td>7</td>
<td>13</td>
<td>17</td>
<td>11</td>
<td>9</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Malacca Straits</td>
<td></td>
<td></td>
<td>36</td>
<td>6</td>
<td>4</td>
<td>6</td>
<td>15</td>
<td>5</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philippines</td>
<td>1</td>
<td>5</td>
<td>9</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>7</td>
<td>2</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Singapore (Straits)</td>
<td>2</td>
<td>5</td>
<td>1</td>
<td>9</td>
<td>3</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Thailand</td>
<td>3</td>
<td>9</td>
<td>14</td>
<td>2</td>
<td>3</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1</td>
<td>4</td>
<td>6</td>
<td>7</td>
<td>23</td>
<td>43</td>
<td>22</td>
<td>28</td>
<td>50</td>
<td>15</td>
<td>17</td>
<td>35</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>67</td>
<td>76</td>
<td>63</td>
<td>139</td>
<td>194</td>
<td>116</td>
<td>123</td>
<td>145</td>
<td>114</td>
<td>90</td>
<td>91</td>
</tr>
</tbody>
</table>

**Table 8b Actual attacks Southeast Asia and Bangladesh: hijackings by location, 1995 - 2006**

<table>
<thead>
<tr>
<th></th>
<th>'95</th>
<th>'96</th>
<th>'97</th>
<th>'98</th>
<th>'99</th>
<th>'00</th>
<th>'01</th>
<th>'02</th>
<th>'03</th>
<th>'04</th>
<th>'05</th>
<th>'06</th>
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<tr>
<td>Indonesia</td>
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<td>2</td>
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<td>8</td>
<td>9</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malaysia</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malacca Straits</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>9</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philippines</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Singapore (Straits)</td>
<td>2</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thailand</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>1</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>8</td>
<td>7</td>
<td>3</td>
<td>13</td>
<td>22</td>
<td>15</td>
<td>9</td>
<td>8</td>
<td>5</td>
</tr>
</tbody>
</table>


These attacks will be discussed in detail in Chapter 6. There is, however, at least one noticeable exception. In 1995 the PRC reports that a jetfoil with 129 passengers and eight crew members on board was attacked by pirates between Macau and Hong Kong. ICC, *Piracy. Annual Report (1st January - 31st December 1995)*, p. 13.
While these tables provide a broad view of the basic nature of attacks in Southeast Asia and Bangladesh, both categories (hijackings and boardings) presented in the tables include a wide range of diverse incident types. The hijackings listed in Table 8b, for example, include the shipjacking of fishing vessels and tugs as well as merchant vessels. The two hijackings in Malaysian waters in 1995 demonstrate the significant difference between two such attacks. The first hijacking was the seizing of the bulk carrier *Anna Sierra*, carrying a cargo of sugar worth approximately US $4 million. The vessel was hijacked by 30 armed pirates, who forced the original crew into make-shift rafts, renamed the vessel, and sailed it to Beihai, China (Map 1). In the second hijacking, a Malaysian fishing trawler was targeted off Tanjung Sauh, Kuala Selangor (Map 4). In this event, four Indonesian pirates took charge of the fishing boat and its crew of three Malaysians and demanded a ransom of RM30,000 (US $12,450). The owner of the trawler notified the authorities and a patrol vessel was able to locate the pirates’ vessel and the hijacked fishing boat. As the patrol vessel approached, the pirates opened fire and escaped in their own boat, leaving the hijacked trawler behind. Eventually, the patrol boat caught up with the fleeing pirates, fired warning shots, and rammed the pirates’ vessel, which consequently sank. While both of these hijackings were dangerous for the crews concerned, they were very different in nature and scale. Not only were vessels of different size and type targeted, but the level of organisation and sophistication required for these attacks varied greatly.

To better understand the nature and scale of such attacks, Table 9 provides an overview of the types of vessels targeted by pirates in hijackings in Southeast Asia and Bangladesh between 1995 and 2006. 

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62 A historical currency exchange rate calculator has been used to determine exchange rates since 1990, using the ‘typical cash exchange rate’.
64 See Appendix 1 for a table detailing the hijacking of vessel types by year and country.
Table 9: Types of vessel hijacked in Southeast Asian and Bangladesh, 1995 - 2006

<table>
<thead>
<tr>
<th>Type of Vessels</th>
<th>Number Hijacked '95-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishing Boat</td>
<td>34</td>
</tr>
<tr>
<td>Tug + Barge</td>
<td>20</td>
</tr>
<tr>
<td>Tug</td>
<td>8</td>
</tr>
<tr>
<td>Barge</td>
<td>5</td>
</tr>
<tr>
<td>Tanker</td>
<td>14</td>
</tr>
<tr>
<td>Cargo Vessel</td>
<td>13</td>
</tr>
<tr>
<td>Bulk Carrier</td>
<td>2</td>
</tr>
<tr>
<td>Speed Boat</td>
<td>2</td>
</tr>
<tr>
<td>Yacht</td>
<td>2</td>
</tr>
<tr>
<td>Ferry</td>
<td>1</td>
</tr>
<tr>
<td>Supply Vessel</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>102</strong></td>
</tr>
</tbody>
</table>

Source: Data from ICC, *Piracy and Armed Robbery against Ships. Annual Reports 1995-2004.* (Hijacked includes missing vessels)

Table 9 indicates that one third of the vessels attacked are fishing boats.\(^{65}\) The second largest group of vessel types hijacked are tugs and barges, with the number of such attacks increasing after 2002, particularly in Indonesian waters. (See Appendix 1) These vessels are often slow moving and easily accessible for pirates. Additionally, the IMB voiced suspicion that a crime syndicate may be targeting tugs and barges which carry valuable cargo such as palm oil.\(^{66}\) Most attention, however, is usually paid to the hijacking of merchant vessels, including tankers, cargo vessels, and bulk carriers. According to the IMB statistics, tankers are among the larger vessels favoured by hijackers. While the tanker itself can be used as a phantom vessel, the cargo, which often consists of crude oil, can easily be sold in the region where the demand for engine fuel is high. Hijackings of smaller vessels such as speed boats and yachts also occur in Southeast Asia and Bangladesh, but seldom find their way into the IMB’s statistics. The two attacks on a ferry and a supply vessel listed in Table 9 may be classified as maritime terrorism, as the perpetrators were members of politically motivated groups. In fact, the ferry was attacked by Muslim rebels in the southern Philippines in 1997.\(^{67}\)

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\(^{65}\) The nature of these attacks will be discussed in Chapter 2.

\(^{66}\) ICC, ‘Piracy and Armed Robbery against Ships. Annual Report 1 January - 31 December 2002’, Barking, Essex: International Chamber of Commerce, International Maritime Bureau, 2003, p. 23. The Private Security Company *AEGIS Defence Service Limited* has, according to *Times Online*, stated that the hijacked tugs may be used to tow a floating bomb into an international port. However, there have been no indications or evidence for this scenario so far. Richard Lloyd Parry, 'World's Ports Fear Attack by Floating Bomb', *Times Online*, 26 April 2004, [http://www.timesonline.co.uk/article/0,,3-1087947,00.html](http://www.timesonline.co.uk/article/0,,3-1087947,00.html), accessed 9 January 2006.

while the supply vessel, which was servicing the Exxon Mobile offshore gas field off northern Aceh, Indonesia, is believed to have been attacked by the GAM.68

The category ‘boarding’ of vessels also includes a wide range of very different kinds of attacks. The majority of those attacks can best be described as hit-and-run robberies at sea. In some of these attacks, the pirates left the targeted vessel with as little as a length of rope or a few cans of paint, while others ransacked the crew’s quarters as well as stealing money held in the ship’s safe. In some cases, the pirates even boarded and left the vessel without being noticed by the crew, as in the attack on the Australian tanker Nivosa in 1998. The pirates boarded the tanker while at anchor in Santan, Indonesia (Map 1), stole ship’s stores and escaped unnoticed.69 In the case of the tanker Columbus in 2000, the anti-piracy watch spotted pirates onboard their vessel and chased them away when at anchor in Indonesian waters. Nothing was stolen.70

More dangerous for the crew and the safety of the vessel are attacks in which crew members are held hostage and threatened by armed pirates. The attack on the Singaporean container ship Pancaran Sinar which was boarded in 2003 while passing through the Selat Leplia, Indonesia (Map 1), is one example. According to the IMB, five pirates armed with knives and guns boarded the ship while underway. They took the crew on the bridge hostage and forced one seafarer to take them to the other officers’ cabins, where the pirates stole the ship’s cash and the personal belongings of the crew. After ransacking the cabins, the perpetrators escaped in a waiting boat. During the attack, the bridge was unmanned,71 which increased the danger of this attack and its possible implications because it raised the risk of an accident, such as a collision with another vessel. Such accidents can have devastating consequences for the crew as well as for the environment and people living ashore, particularly if a tanker is involved.

Another type of attack, referred to as ‘long-term seizure’, is also included in the section ‘boardings’ in Table 8a. Long-term seizures are attacks in which a vessel and its crew are held hostage for a stipulated period of time. In these cases, a vessel is attacked whilst under way, the crew overpowered, and the ship diverted from its course. In some

long-term seizures, the ship is repainted and the name changed by the pirates in order to avoid detection. In all incidents, the crew is held hostage, while the ship is brought to a safe location to unload the cargo, after which the crew and the vessel are released. An example is the attack on the Indonesian tanker Atlanta 95 in Indonesian waters on 18 November 1997. The IMB report states:

[The] ship was boarded by armed pirates whilst transiting the Selat Riau [Map 6]. The crew were forced to sail the ship to the Gulf of Thailand. The pirates transferred [the] cargo of fuel from the ship to another tanker and ripped off ships equipment and documents. The pirates abandoned the ship on 7.12.97. The ships crew managed to sail the ship to Singapore.

However, only in vulnerable places such as the Malacca Straits, Singapore Straits, and the South China Sea are vessels predominantly targeted while underway. Indeed, Table 10 indicates that the majority of attacks listed in the IMB statistics occur while ships are at anchor or at berth.

Table 10  Actual attacks by status of vessel, location, and year, 1997 - 2006

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Indonesia</td>
<td>26/</td>
<td>11/</td>
<td>11/</td>
<td>5/</td>
<td>33/</td>
<td>22/</td>
<td>10/</td>
<td>12/</td>
<td>15/</td>
<td>9/</td>
</tr>
<tr>
<td>Malaysia</td>
<td>2/</td>
<td>1/</td>
<td>4/</td>
<td>2/</td>
<td>3/</td>
<td>4/</td>
<td>2/</td>
<td>1/</td>
<td>1/</td>
<td>0/</td>
</tr>
<tr>
<td>Malacca Straits</td>
<td>NA/</td>
<td>NA/</td>
<td>1/</td>
<td>NA/</td>
<td>NA/</td>
<td>37/</td>
<td>0/</td>
<td>7/</td>
<td>13/</td>
<td>9/</td>
</tr>
<tr>
<td>Philippines</td>
<td>2/</td>
<td>5/</td>
<td>4/</td>
<td>0/</td>
<td>1/</td>
<td>0/</td>
<td>1/</td>
<td>2/</td>
<td>0/</td>
<td>0/</td>
</tr>
<tr>
<td>Singapore Straits</td>
<td>0/</td>
<td>1/</td>
<td>4/</td>
<td>1/</td>
<td>0/</td>
<td>8/</td>
<td>0/</td>
<td>2/</td>
<td>1/</td>
<td>0/</td>
</tr>
<tr>
<td>Thailand</td>
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<td>1/</td>
<td>1/</td>
<td>0/</td>
<td>1/</td>
<td>3/</td>
<td>2/</td>
<td>0/</td>
<td>2/</td>
<td>0/</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>0/</td>
<td>0/</td>
<td>0/</td>
<td>0/</td>
<td>23/</td>
<td>4/37</td>
<td>2/</td>
<td>4/</td>
<td>3/</td>
<td>0/</td>
</tr>
</tbody>
</table>


Table 10 indicates that in Indonesia, where over the years most pirate attacks have been reported, 86 attacks occurred while vessels were at berth, 408 vessels were targeted while at anchor, and 176 were attacked while underway between 1997 and 2006. Among the most pirate prone ports and anchorages in Indonesia in recent years have been Tanjung Priok (Jakarta) and Balikpapan (Map 1). Overall, attacks at anchor or at

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berth are mostly simple hit-and-run robberies, with the pirates often thought to be working together with, or bribing, port officials.

Responses to these different kinds of pirate attacks have been manifold and diverse. Local as well as regional authorities have addressed the problem in a number of ways, which will be discussed in later chapters. However, it is important to both recognise and understand that the different kinds of attacks in Southeast Asia and Bangladesh are committed by different types of pirates.

Modern day pirates

The various pirate attacks occurring in Southeast Asia and Bangladesh discussed above are conducted by two different types of pirates – opportunistic sea-robbers and sophisticated, organised pirate gangs.

Common sea robbers

As discussed earlier, the vast majority of pirate attacks today are simple hit-and-run robberies, committed by what can best be described as common sea-robbers. The perpetrators of these attacks operate in small groups of men\(^4\) who have most likely known each other for some time. In some cases, a group of friends or associates may agree to attack a ship and each of them ‘brings along’ one or two friends or relatives to participate in the attack.\(^5\) These sea-robbers attack ships at sea, at anchorage, or in ports and usually do not share their booty with anyone outside the pirate gang, with the exception of bribes paid to outsiders to ensure their silence or cooperation. The attacks are often brief affairs, lasting no longer than 15 to 30 minutes, and require little organisation or planning. Two different kinds of hit-and-run attacks can be identified in

\(^4\) In this research, the author has not come across any female pirates operating between 1992 and 2006.

\(^5\) Author’s Interview with a fisher and a professional diver, 14 March 2004, Batam, Indonesia. Furthermore, there are pirate gangs known to operate in certain areas for a long period of time. Members of such a gang inevitably will know their ‘colleagues’ rather well. Most importantly, this kind of attack does only seem to require a minimum of planning and organization and often appears rather opportunistic. It is therefore unlikely that the pirates are organised by an outsider or a gang-leader hiring strangers to commit such acts. The pirate gangs operating from Batam will be discussed later in the thesis in more detail. However, unlike in the past, where specific ethnic groups have been involved in piracy, such as the Balangingi, pirate gangs operating from the Riau Archipelago are not necessarily ethnically homogenous but may consist of people from different parts of Indonesia.
Southeast Asia, distinguished primarily by the level of violence involved in the attacks and the type of vessel attacked.\textsuperscript{76}

The first type of hit-and-run attack is predominantly violent in nature. The pirates in these cases attack small vessels, including fishing boats, yachts, and other small pleasure craft. As these pirates invariably confront their victims directly they need to be prepared to use violence and intimidation.\textsuperscript{77} The second type of hit-and-run attack is often referred to as ‘Asian piracy’ and, with few exceptions, takes place in territorial waters. In these attacks, the sea-robbers skilfully slip aboard a merchant vessel, usually under cover of darkness, and take anything of value before leaving the vessel. Violence in these cases is mostly limited to occasions on which the perpetrators’ route of escape is blocked or when they are confronted or threatened in any other way.\textsuperscript{78} Mostly, however, the pirates attempt to avoid detection and try to escape unnoticed with small items they can easily carry. Merchant vessels can be a tempting target for those pirates, as they carry ship stores, technical equipment, the personal belongings of the crew, and, in some cases, substantial amounts of cash. A vessel mainly carries cash to pay for services in ports and in some instances to pay the crew. Crew members also occasionally have their wages in cash hidden in their cabins, mostly because they are worried that they will not receive their money if paid into a bank account by the ship owner or manager. Some shipping companies, such as the \textit{Malaysian International Shipping Corporation Berhad} (MISC), have introduced a no-money-onboard policy. MISC vessels therefore no longer carry large amounts of cash onboard, which reduces the incentive for pirates or any other criminals to attack the company’s vessels.\textsuperscript{79}

\textbf{Organised pirate gangs}

The second group of pirates are characterised by a much higher level of organisation and sophistication, compared with the hit-and-run sea-robbers. These organised pirate
gangs – or syndicates – predominantly attack medium sized vessels, including cargo ships, bulk carriers, and tankers. Favoured cargoes are those that cannot be traced or identified easily and can be shifted and sold without undue difficulty, including goods such as diesel fuel, steel ingots, and electronic goods. Organised pirate gangs adapt their particular strategic and logistical methods to a rapidly changing world, becoming increasingly more sophisticated in the process. Today, the systematic gathering of shipping intelligence and the use of electronic surveillance with modern technical equipment are common practices employed by organised gangs to target selected ships and cargoes.\(^8^0\)

Organised pirate gangs are predominantly responsible for ‘long-term’ and ‘permanent seizures’ (or hijackings/shipjackings), as both require prior organisation and capital outlay. For hijackings or long-term seizures which take place too far from the shore for speed boats to be used, pirate gangs employ a mother-ship. The mother-ship serves as a forward base for the pirates at sea and carries technical equipment to locate targeted vessels, fuel stores, and other logistical equipment and weapons necessary for attacks.\(^8^1\) According to Noel Choong, four major pirate syndicates involved in shipjackings are operating in Southeast Asia at present.\(^8^2\) These pirate syndicates are thought to have links to government agencies and officials, particularly in south China and Indonesia. Moreover, these kinds of pirate attacks suggest close links between piracy and other illegal activities such as smuggling and other forms of illegal traffic.\(^8^3\)

There is little doubt that the pirates responsible for a hijacking or a long-term seizure need technical, nautical, and other maritime related skills, as they usually have to repaint and operate the vessel in order to bring it to its new destination. However, in some cases, pirates have threatened crew members to show them how the vessel, or parts of its equipment, operates. A case in point involved the well planned seizure of the MT *Petchem* which was attacked in the early hours of 25 September 2000 and released the following day. The vessel, loaded with 2,546 metric tonnes of gasoil and 834 metric tonnes of Jet A1 fuel, was attacked on its way from Port Dickson, peninsular Malaysia.

\(^8^0\) However, much in-depth research is still needed to understand the structure and modus operandi of organised pirate gangs and syndicates.

\(^8^1\) Stewart, *Piraten*, p. 158.

\(^8^2\) Author’s Interview with Noel Choong, Regional Manager, International Maritime Bureau, Piracy Reporting Centre, 23 October 2002, Kuala Lumpur, Malaysia.

\(^8^3\) This will be discussed in Chapter 5.
(Map 4), to Kuching (Map 1) in the western part of Sarawak. All 13 crew members except the second officer, an AB (able seaman) and the third engineer, who were on duty, were asleep when the pirates crawled onboard the vessel. The 21 pirates wore masks and two carried guns, while the others were armed with knives and parangs. Once onboard, the pirates overpowered the officers on duty and gathered up the remaining crew. While rounding up the crew, the pirates punched one crewmember in the nose and another received a slight cut above the knee, while other officers were threatened and kicked by the pirates. Being slow to follow the pirates’ orders, one crewmember was hit repeatedly in the back with the butt-end of a parang. The crew recognised from the pirates’ conversation that they were Bugis, Medanese, and Javanese. They were told by the alleged leader of the gang not to attempt to untie themselves or offer any resistance if they valued their lives. The tied up crew was then escorted to the mess room while the pirates used masking tape to secure curtains in place and covered up all port holes. They then repainted the funnel of the vessel and changed its name to ETC. The cook was ordered to prepare food for the pirates and the bound crewmembers, who were fed individually. Urged to eat as much as they could, the crew was told that they would either be set adrift in a small boat or taken to Thailand. Following the meal, the crew was locked into the officer’s cabin, but were later moved to the chief engineer’s cabin, where the pirates changed the tying of the crews’ hands from the back to the front. Throughout the attack, the pirates inquired about the cargo of the vessel and asked crew members to assist in the handling of the ship. Threatened with a knife at his throat not to look anywhere but straight ahead, the Boatswain, for example, was asked to show the pirates how to drop the port anchor, to point out the cargo pipe system, and to explain the operation of the cargo pump controls. Other crewmembers were forced to reveal how to stop and restart the main engine, how the cargo valves were operated, and had to answer repeated questions about the main cargo pump. In the early hours of September 26, the crewmembers, incarcerated in the cabin, felt the tremor of a second vessel coming alongside the Petchem and heard the pumps start siphoning off the cargo. The pirates then left the hijacked vessel onboard the second ship and the crew were able to free themselves and alert the owner of the vessel and the Singaporean and Malaysian authorities.84 While no

84 Based on documents provided by the ship’s manager, Chin Kuen Sen, Petrojaya Marine SDN BHD, 21
one was seriously injured in the attack, this example of a hijacking nevertheless shows that pirates need to be willing to hold a crew hostage onboard and to use violence to further their aims. In fact, IMB data suggests that, overall, pirate attacks in Southeast Asia and Bangladesh have become more violent in nature in recent years.

![Photo 1 The renamed Petchem](image)

*Photo 1 The renamed *Petchem*

(Both courtesy of Chin Kuen Sen, Ship Manager)

*Violence and arms*

The IMB reports indicate that the number of pirates armed with modern automatic weapons is on the rise. In Southeast Asia and Bangladesh, only four attacks - three in Indonesia and one in Bangladesh - were reported between 1997 and 2006 in which the pirates were not armed. Table 11 lists the type of weapons carried by pirates in different locations in Southeast Asia and Bangladesh:

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October 2003, Singapore.
Table 11  Types of arms by location and year, 1997 - 2006

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<th>Year</th>
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</table>


The high number of incidents in which the type of weapon carried by pirates is not stated is remarkable and gives an indication about just how little detail is reported to the IMB and listed in its reports. However, while the overall number of guns used by pirates has
pirates increased between 1997 and 2006, the use of these weapons did not increase substantially in every country listed in Table 11. In Bangladesh, for example, pirates are still only rarely armed with guns. Indeed, it is mostly pirates operating in Indonesia and the Malacca Straits who are responsible for the rise in the number of guns used. However, Table 11 also shows that pirates solely armed with knives, including traditional *parangs*, are still a common occurrence in Southeast Asian and Bangladesh waters. This indicates that there are still opportunistic pirates operating in the region, as organised pirate gangs are more likely to be equipped with firearms.

However, whatever kind of weapon a pirate is carrying, all can be used to terrorise, injure, or even kill the crew of a targeted vessel. Indeed, an increasing number of pirates appear to be willing to use extreme violence, and assaults, killings, and hostage taking of crew now occur regularly in pirate attacks in Southeast Asia and Bangladesh. Hence, an attack poses a direct threat to the welfare and lives of seafarers and can be a particularly traumatic experience for the victims. Mariners live onboard a vessel for prolonged periods of time and an attack is therefore perceived not only as a raid upon an office or work place, but also may feel to the victims like an invasion of their ‘homes’. Additionally, out at sea, the victims usually have to face the attackers alone and are forced to defend themselves by whatever means possible. Making matters worse, modern technology has drastically reduced the number of crew onboard merchant vessels, leaving such vessels with small crews more vulnerable to pirate attacks. Table 12 gives an overview of the type of violence inflicted on crewmembers by year and location:

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85 The spread of firearms in Southeast Asia and the fact that pirates have easier access to these weapons will be discussed in Chapter 5.
87 However, new technology has also offered a new range of anti-piracy technology which can be employed on vessels, including electric fences and shootable glue.
<table>
<thead>
<tr>
<th>Year</th>
<th>Indonesia</th>
<th>Malaysia</th>
<th>Malacca Straits</th>
<th>Philippines</th>
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</tr>
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Table 12 demonstrates that hostage taking of crew onboard attacked vessels is occurring frequently in pirate attacks in Bangladesh and Southeast Asia, especially in the Malacca Straits and Indonesian waters. The statistics also indicate that in 1998 and 2000 extraordinarily high numbers of people were killed by pirates. In 1998 the IMB reports 66 deaths; twenty-five of these were fishermen, most of them killed in the waters of the southern Philippines. A further 15 crew were suspected murdered in the hijacking of the general cargo vessel Tenyu, which was eventually located in China with a new crew onboard.88 More is known about the fate of the crew onboard the hijacked bulk carrier Cheung Son, which was targeted in the same year. After being held hostage for ten days all 23 Chinese crewmembers were bludgeoned to death by the pirates and their weighted bodies were thrown overboard.89 In 2000, 50 people were reported killed by pirates, with 40 of them dying in a bomb explosion on the Filipino Ferry Our Lady of Mediatrix. The MILF was thought to be responsible for this attack, which could therefore be classified as a politically motivated assault, rather than a pirate attack.90 Hence, it can be argued that a number of people listed as killed in the IMB statistics have been killed in maritime terrorist attacks. Nonetheless, the risk of the crew of any type of vessel being killed or injured by pirates is real.

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89 See Appendix 2 for a comprehensive account of the hijacking of the Cheung Son and the trial of the pirates.
Conclusion

Different types of pirate attacks on merchant vessels have taken place over the past few decades in Southeast Asia and Bangladesh. While attacks on merchant ships already occurred in the Asian region in the 1970s and 80s, they were often still small in scale and rarely involved physical violence. This changed in the 1990s, when pirates began operating on a larger scale. Attacks conducted by pirates since the 1990s range from simple hit-and-run robberies to permanent seizures of ships, with the perpetrators either opportunistic pirates or members of more organised pirate gangs. These modern pirates are increasingly armed with sophisticated weapons, and the violence against the captured crew has become a concern. However, while the number of attacks reported by the IMB for Southeast Asia and Bangladesh were substantial between the early 1990s and 2006, many of these attacks were minor incidents, often occurring in ports. The IMB data also demonstrates that piracy hot-spots can shift to different locations over time. The occurrence of piracy and the relocation of these hot-spots are affected by social, technological, economic and political changes. Indeed, a number of major developments in the global and regional context, such as the rise in commercial maritime traffic in the 1990s were conducive to the rise of modern day piracy, which will be discussed in more detail later in the thesis. Furthermore, the hijacking of merchant vessels also demonstrates that advanced technology has had an immense impact on modern day piracy, with pirates today using modern information technology, weaponry, and high powered speedboats for their operations. These same technological developments have also had an influence on the rise of a different kind of pirate attack which is not sufficiently represented in the IMB statistics: attacks on fishing vessels and other small craft in Southeast Asia and Bangladesh.

Chapter 2

Piracy and Fishers: Attacks on Small Craft in Southeast Asia and Bangladesh (From the Late 1970s to 2006)

Introduction

Noni Gopal was born in 1964 in Chittagong district and from early childhood went out to sea on his family’s fishing vessel. He learned the essential fishing skills from his father but was unable to go to school to learn how to read and write. In 1989, Noni Gopal married a local girl and his family expanded, with his wife giving birth in rapid succession to two sons and a daughter. To support his family, Noni Gopal worked as a fisherman. He had received two Hilsha (Jewfish) nets from his father and initially hired a boat to fish, but shortly was able to buy additional nets and a boat with money he borrowed from a fishing association. In April 2003, while fishing, Noni Gopal was attacked by pirates who stole his valuable nets and seriously injured him. To cover the costs of his medical treatment, and to support his family while he recovered from injury, Noni Gopal was forced to sell his fishing boat. Left without nets and boat, he now works as a day labourer, pulling rickshaws for a minimum wage. Noni Gopal still dreams about returning to the sea in his own boat with four fishing nets – once piracy is eradicated.¹

Noni Gopal’s experiences show that pirate attacks on fishers can have very different consequences for a victim’s life than comparable attacks on the crew of merchant vessels. In both cases, the attack itself can be extremely frightening and traumatic for the victims, but in attacks on fishing vessels, the victims often lose not only their catch, equipment, and/or boat, but also their source of livelihood.² Furthermore, the victims of attacks on small craft are invariably confronted by the perpetrators directly. Injuries and the killings of victims are therefore more common in these types of attacks.

¹ ‘Fisherman Becomes Rickshaw-puller’ in: Mamun Or Rashid, 'Piracy and Affected Fisher-Folk Community', Community Development Centre (CODEC), n.p. The NGO CODEC generously gave the author access to some of the data collected on piracy in Bangladesh, including transcripts of interviews conducted with fishermen. Some of the papers are in English, but most are in Bengali. However, the author will refer to the translated versions of particular papers.

² For a discussion of the communal impact see the forthcoming Bangladesh section.
The objective of this chapter is to provide an analytical overview of attacks on small craft, primarily involving fishermen, either as victims or as assailants, from the 1990s onwards. However, an initial discussion of attacks on fishing boats and yachts in the late 1970s and 1980s is included in the first part of this chapter to provide a basis for comparative insight into the occurrence, characteristics, and changes in attacks on such vessels in previous decades. Here, particular attention is paid to the attacks on Vietnamese Boat People in the Gulf of Thailand in the 1970s and 1980s. These attacks are important because their exceptionally high number, and the excessive use of violence, brings to light the darkest side of piracy. They demonstrate the variable scale on which piracy can occur and what degree of damage and personal injury pirates can inflict. Also, a brief analysis of the social, political, and economic forces behind attacks on smaller vessels occurring before the 1980s, particularly the spate of attacks on the refugees from south Vietnam, is presented. The second part of the chapter examines attacks on small craft from the early 1990s up to the present. First, attacks on yachts in Southeast Asian waters will be investigated, demonstrating that such attacks only take place occasionally in this region. Based on case studies from different parts of Southeast Asia and Bangladesh, the following section examines the nature, characteristics, and local character of pirate attacks on fishing vessels. Particular attention is paid to such attacks in Bangladesh, the Malacca Straits, and in the waters between Sabah and the southern Philippines.

Attacks on and by fishers from the late 1970s to the late 1980s

While fishing boats, including traditional sailing vessels as well as modern mechanised trawlers, are arguably most affected by contemporary piracy, the majority of these attacks are not reported to local authorities or the IMB. Consequently, no

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3 While fishers are also involved in attacks and hijackings of merchant vessels, this chapter mainly focuses on attacks on smaller vessels.
4 The chapter, however, does not aim to provide a detailed analysis of the social, political, and economic factors that are conducive for the occurrence of attacks on fishing vessels and yachts from the 1990s onwards, as these issues will be discussed in later chapters.
5 These explanations are included in this chapter as these incidents will not be discussed later in the thesis.
6 There are undoubtedly also attacks on barter traders taking place in Southeast Asian and Bangladesh waters. Despite the fact that these traders also use small vessels, such attacks will not be discussed here, as the author was not able to conduct interviews with such traders. Furthermore, the IMB reports, newspapers, and other printed sources hardly ever include information about such attacks.
7 The reason for underreporting of attacks will be discussed later in this chapter and in following chapters of the thesis.
comprehensive or systematic data collection exists, covering attacks on fishing vessels in Southeast Asia or Bangladesh, with the exception of the statistics compiled for attacks in the Gulf of Thailand on refugee vessels leaving Vietnam in the 1970s and 1980s. In order to gain insight into the scope, magnitude, and impact of attacks on fishing vessels from the early 1970s to 2006 in Southeast Asia and Bangladesh, examples from a range of fishing villages in the region are presented and discussed, based on accounts of individual attacks. The information about these attacks is gathered from newspaper articles and interviews with fishers, representatives of fishing associations, and local law enforcement personnel. Similarly, because no comprehensive data set is available for attacks on yachts, information concerning piracy of this type has been gathered from books, newspapers, sailing websites, and yachtsmen. The personal experiences and recollections of individual fishers, fishing communities, and pleasure craft sailors are important, as they not only provide a singular appreciation of the meaning of piracy for such individuals, but also allow a reasonable assessment of both the scale and character of attacks on smaller vessels throughout Southeast Asia and Bangladesh.

The Gulf of Thailand – Attacks on the Vietnamese Boat People

The attacks on the Vietnamese Boat People in the Gulf of Thailand represent the darkest side of piracy and the scope and horror of these attacks has not been repeated in Southeast Asian or Bangladesh waters. The attacks began in the mid-1970s, when rising numbers of Vietnamese fled their home country after the victory of the Vietnam People’s Army in 1975. In total, an estimated 1.6 to 2 million refugees attempted to flee Vietnam, many of them leaving the country in small wooden boats. While these refugees leaving in vessels were referred to as Vietnamese Boat People, by 1978, after

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8 In most discussions throughout the thesis the author does not give the names of fishermen interviewed. Many of those who have provided information asked to remain anonymous. Some were concerned about their personal safety and the wellbeing of their businesses when giving information about the involvement of local law enforcement agencies, while others feared the possibility of revenge from pirates. Furthermore, many fishermen today fish in waters where they are not legally allowed to fish and therefore also prefer to remain anonymous.

9 There were also a large number of refugees leaving Cambodia and Laos at that time, and refugees fleeing Vietnam overland. The plight of these people cannot be discussed here, given the constraints of the thesis.
tensions between Vietnam and China intensified, the majority of them were ethnic Chinese.\textsuperscript{10}

Most boats initially headed for Thailand, as it seemed the easiest haven to reach, but because of the increasing number of attacks on refugee vessels, the Boat People began, by mid 1977, to set sail for Malaysia and other destinations, including northern Australia.\textsuperscript{11} The voyage across the South China Sea was dangerous on many counts, particularly during the later years of this exodus, when it became difficult to find seaworthy vessels in Vietnam. Consequently, unsafe small boats and fishing vessels – some no longer than 30 feet – were used for the harrowing passage. Furthermore, most boats were poorly provisioned and the crew often lacked appropriate navigational experience and equipment.\textsuperscript{12} Despite these dangers and the news of exceptionally cruel pirate attacks on refugee vessels involving killings and the rape and abduction of women and children, hundreds of thousands of Vietnamese decided to leave their country. The arrival of refugee boats in neighbouring countries peaked in 1978, but the exodus continued until the late 1980s.\textsuperscript{13} Tables 13 and 14 show the number of refugees and refugee boats arriving in Thailand and Malaysia from 1981 to 1988, as well as the percentage of boats attacked.


\textsuperscript{12} Many Boat People left in small boats pretending that they were going out to sea to fish as this was their only hope of escaping the attention and frequent patrols of the authorities. They could therefore not carry sufficient provisions and equipment for the intended voyage. Joseph Cerquone, 'Vietnamese Boat People. Pirates' Vulnerable Prey', New York: U.S. Committee for Refugees, February 1984, p. 7.

\textsuperscript{13} Henkel, 'Refugees on the High Seas', pp. 107-8.
Table 13  Attacks on Vietnamese Boat People: Thailand, 1981 – 1988

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<td>5813</td>
<td>3384</td>
<td>3077</td>
<td>3343</td>
<td>4392</td>
<td>12842</td>
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<td>Boats arrived</td>
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<td>220</td>
<td>155</td>
<td>186</td>
<td>269</td>
<td>448</td>
<td>1112</td>
<td>307</td>
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<tr>
<td>% of boats attacked</td>
<td>77%</td>
<td>64%</td>
<td>53%</td>
<td>35%</td>
<td>23%</td>
<td>13%</td>
<td>8%</td>
<td>11%</td>
</tr>
<tr>
<td>Attacks per attacked boat</td>
<td>3.2</td>
<td>2.6</td>
<td>2.2</td>
<td>1.8</td>
<td>1.6</td>
<td>1.5</td>
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<tr>
<td>Deaths due to piracy</td>
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<td>155</td>
<td>42</td>
<td>59</td>
<td>45</td>
<td>18</td>
<td>0</td>
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<td>Women raped</td>
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<td>176</td>
<td>95</td>
<td>68</td>
<td>67</td>
<td>58</td>
<td>67</td>
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<tr>
<td>Abducted (recovered)</td>
<td>228 (85)</td>
<td>157 (92)</td>
<td>93 (39)</td>
<td>72 (35)</td>
<td>72 (39)</td>
<td>33 (11)</td>
<td>4 (1)</td>
<td>26 (10)</td>
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Table 14  Attacks on Vietnamese Boat People: Malaysia, 1985 - 1988

<table>
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<td>7400</td>
<td>8013</td>
<td>10710</td>
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<tr>
<td>Boats arrived</td>
<td>194</td>
<td>215</td>
<td>215</td>
<td>266</td>
</tr>
<tr>
<td>% of boats attacked</td>
<td>27%</td>
<td>19%</td>
<td>13%</td>
<td>18%</td>
</tr>
<tr>
<td>Deaths</td>
<td>28</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Rapes</td>
<td>46</td>
<td>84</td>
<td>13</td>
<td>19</td>
</tr>
<tr>
<td>Abductions (recovered)</td>
<td>39 (9)</td>
<td>31 (6)</td>
<td>11 (5)</td>
<td>58 (27)</td>
</tr>
</tbody>
</table>


These tables give an indication of the scope of the refugee exodus and the proportion of pirate attacks in the Gulf of Thailand at the time.\(^\text{14}\) However, these statistics are certainly incomplete, as an unknown number of boats were attacked, the crew killed, and never heard from. Additionally, some of those who arrived in Thailand or Malaysia were reluctant to speak about rape and other crimes they had experienced. Nonetheless,

\(^{14}\)While many refugees also arrived in the Philippines, Indonesia, and other regional countries, the refugees landing in Thailand and Malaysia are the most relevant for the thesis, as they were the ones which suffered most from pirate attacks.
the numbers of people killed, abducted, and raped included in these statistics give some insight into the scope and horrific nature of the attacks on the Vietnamese Boat People. Table 13 also indicates that many boats were attacked more than once, with the refugees usually stripped of their valuables and belongings in the first attack. Left with nothing to offer, the refugees often had to pay with their bodies and lives in all succeeding attacks. The following case of two Vietnamese sisters, An and Linh, should convey a sense of the horror of the atrocities suffered by the victims:

On 26 August 1983 a ten metre long boat left the Mekong Delta under sail, carrying 45 passengers and steered by a schoolteacher who had not the slightest experience of the sea. [...] After two days they had exhausted their supplies of food and drinking water. [...] On the morning of the third day they were surrounded by seven trawlers and attacked by seamen with hammers, knives and steel bars. The seamen ripped open their luggage in the hope of finding gold and savagely beat anyone who tried to resist them. Finally they left the boat adrift after abducting Linh, her sister and three other girls. They were beaten until they submitted to rape. [...] During ten days of continuous rape and humiliation they resisted the temptation of committing suicide because, according to Vietnamese tradition, a child must not die before his or her parents. After ten days another group of boats appeared and An and Linh were offered to them. For three days they were raped night and day. Then they were returned to the original boat and the torment continued for a further week. One night, after 20 days of captivity, the pirates threw them into the sea with a plastic drum as their only means of support. [...] In the middle of the afternoon, after being thrown about for fifteen hours by waves which constantly threatened to engulf them, they were rescued by a kindly fisherman who looked after them and fed them. A week later the boat came into sight of the Thai Coast and the fisherman landed the two girls on Songkhla beach on 26 April 1983, one month after their departure from Vietnam.

The high number of attacks and their cruelty seem to defy any rational explanation. The perpetrators of the attacks were mostly Thai – and occasionally Malaysian – fishers and the offences were believed to be crimes of opportunity rather than planned assaults. However, even if professional pirates were not involved at the beginning, many

15 There exist a large number of detailed accounts of attacks, which can readily be found in books or on the internet. The stories are terrifying to read, as the level of cruelty often surpasses the imagination. It is important here to mention the island of Koh Kra, a small islet near Ko Rang Yai’s northern tip, off the coast of south eastern Thailand, where thousands of refugees were forcefully taken by the pirates. On the island, women were hunted down and raped, while men were tortured and killed. The reports of cannibalism also come mainly from this island. For an account of the horrors see for example: Thanh Truong, ‘Terror on Koh Kra Island’, *Vietnamese Boatpeople Connection*, http://www.boatpeople.com/stories/terror.html, accessed 7 March 2002. See also: Mary Terrell Cargill, Jade Quang Huynh and Jade Ngoc Quang Huynh, *Voices of Vietnamese Boat People: Nineteen Narratives of Escape and Survival*, Jefferson: McFarland & Company, 2001. Linda Hitchcox, *Vietnamese Refugees in Southeast Asian Camps*, New York: Palgrave Macmillan, 1990.

perpetrators may have turned into full-time pirates simply because of the availability of easy prey.\textsuperscript{17} The obvious explanation for the attacks is financial gain as Thai fishers at the time were forced to cover rising expenses while experiencing an overall decline in catch.\textsuperscript{18} The refugees were tempting targets because they often carried small but valuable belongings, such as gold and jewellery, which could be sold easily in local markets. Additionally, the perpetrators were also able to profit financially from selling abducted women and girls into prostitution.\textsuperscript{19} This, however, still does not explain the sheer viciousness of the pirates. Some observers have addressed this issue, suggesting that the fact that the fishers could operate out of sight of the authorities and their communities played a role, as the chances of being associated with the attacks remained slim. Indeed, at the time, a large number of Thai fishing vessels operated in the gulf region which allowed the attackers anonymity. The coast of Thailand, with its many islands, provided sufficient hideouts for the perpetrators to conduct attacks out of sight of the authorities. In the rare cases in which a boat was spotted by naval authorities, the fishing boats could not easily be identified because Thailand, unlike other countries such as Malaysia, had no effective system of regulating its fishermen, with only a fraction of fishing boats being registered.\textsuperscript{20} Also, Thai fishermen were known to be well armed, with some fishing vessels better equipped with weapons than the Thai naval authorities.\textsuperscript{21} It has been argued that these unusual conditions may have provided the perpetrators with a certain sense of invincibility and left them free to conduct their attacks with impunity and consequently increased the level of violence used.

Another contributing factor may have been the ongoing conflict between ethnic Thai Buddhists and Muslims in southern Thailand, which created a general atmosphere

\footnote{Burma and Malaysia had recently extended their EEZs to the now internationally standardised 200 nautical miles, restricting the fishing grounds of Thai fishers. Also, fuel costs and the price of nets were on the increase.}
\footnote{Boulanger, 'The Gulf of Thailand', p. 87.}
\footnote{Captain Villar points out that there were about 55,000 fishing vessels in the Gulf of Thailand at the time. In Thailand, fishing boats were registered in provinces and no state-wide central record existed. The distinction between a registered and an unregistered craft was that registered vessels had a number on the bow of the vessel consisting of a provincial indicator in Thai script and a number in Arabic script. Even in cases in which a victim could remember the number, it is unlikely that he/she would remember the Thai script. Roger Villar, \textit{Piracy Today. Robbery and Violence at Sea since 1980}, London: Conway Maritime Press, 1985, p. 36. See also: HE Bhirabongse Kasemsri, 'The Situation of the Refugees in the Territorial Waters of Thailand', in Eric Ellen (ed.), \textit{Piracy at Sea}, Paris: ICC Publishing SA, 1989, p. 114.}
\footnote{Cerquone, 'Vietnamese Boat People', p. 4.}
of lawlessness in the area. With little government control, illegal activities such as smuggling became endemic, and piracy can be understood as one symptom of this general decline of law and order in southern Thailand.\textsuperscript{22} However, it has been suggested that the attacks and the brutality of the pirates can best be explained by the long standing rivalry between Thais and Vietnamese, especially among fishers. Indeed, the vicious nature of the attacks become easier to comprehend once they are placed in the context of “small-scale poaching wars among and between Thai and other nationals”\textsuperscript{23} which were characteristic of the Gulf of Thailand even before the attacks on the Boat People began in the mid-1970s. According to the French journalist Dupon:

> Because they have scoured their own waters and the fish have not had time to reproduce, Thai fishermen have ventured elsewhere to cast their nets, including into Vietnamese waters. Some have been captured and rot in Vietnamese jails. This does not go to improve relations between the two countries. Further, the Vietnamese army occupies part of the territory of two close neighbours of Thailand – Cambodia and Laos – and launches from time to time raids against Thai border villages. The refugees are considered by Thai public opinion to be part of a mass invasion plan – the fact that in these conditions some people become pirates may be perceived as not such a bad thing. Pirates therefore possibly form a first line of defence for the Thais against Vietnam.\textsuperscript{24}

Here, Dupon also provides another explanation as to why Thai pirates were able to operate virtually unhindered, namely that Thai authorities turned a blind eye to the fate of the Vietnamese refugees because of economic imperatives, political rivalry, and racial animosity. While Thai authorities have vehemently denied these accusations, it seems that there never existed sufficient political will in Thailand to end this tragedy.\textsuperscript{25}

Yet, the sheer number of Vietnamese refugees\textsuperscript{26} arriving in neighbouring Southeast Asian countries, as well as reports of the brutal attacks, forced local and international governments and organisations to address the problem.\textsuperscript{27} As a result, a

\textsuperscript{22} Ibid.
\textsuperscript{23} Ibid.
\textsuperscript{24} As cited in: Boulanger, 'The Gulf of Thailand', p. 87.
\textsuperscript{26} More than three quarters of a million Boat People settled in new countries, while others returned to Vietnam as part of repatriation programs. However, some of the refugees only found new home-countries after many years in camps in countries such as Thailand, Hong Kong, or Indonesia. 'Vietnamese Boatpeople Connection', \url{http://www.boatpeople.com}, accessed 7 March 2002. The website also offers information about the number of refugees accepted by countries in the region, how many refugees were repatriated, and how many refugees have found a new home in the USA and European countries.
\textsuperscript{27} The arrival of the Boat People posed a difficult problem for the countries in the region which were not prepared, and in some cases not able, to provide a new home for such a large number of refugees. Furthermore, the Boat People created problems of security and stability in the region, with some local leaders accusing Vietnam of destabilising the region by flooding it with refugees. The fact that most
number of assistance programs to combat attacks against the Boat People were introduced, including a US-Thai effort which provided advanced equipment for the Thai Navy in 1981. The UNHCR also initiated an internationally funded anti-piracy program under the Thai government. Additionally, a number of (international) committees and organisations collected funds to help the refugees, with some using the collected money to charter vessels to rescue and assist Boat People at sea. The Thai authorities further addressed the problem by attempting to educate fishers based in ports in southern Thailand, distributing stickers and leaflets, emphasising that crimes at sea would be penalised. Folk plays were also performed in these port areas, conveying the message that piracy contradicts Thai ethics and character. Yet most programs, particularly those administered directly through the Thai government, fell short of expectations and, consequently, not all refugees received assistance and only a limited number of pirates were arrested and put on trial in Thailand.

Vietnamese Boat People were ethnic Chinese was complicating the matter further, as some governments in the region were concerned that their internal racial balance would be challenged if all the refugees arriving on their shores were to settle in their countries. Grant, The Boat People. An 'Age' Investigation, p. 5.

28 A large number of merchant vessels also crossed the Gulf of Thailand at the time of the attacks. While some offered assistance to the refugees, there are also many stories told by Boat People about merchant vessels ignoring their calls for help. See for example: Oanh Nguyen, 'Mr. Oanh Nguyen's Story', Vietnamese Boatpeople Connection, 2000, http://www.boatpeople.com/stories/Oanh-Nguyen.html, accessed 7 March 2002. The question of whether or not merchant vessels should assist refugees at sea, especially those in distress, is still of considerable concern today. The so-called 2001 'Tampa crisis' is but one example of the difficulties captains may have to face when they rescue refugees and allow them onboard their vessels. In the event, the Norwegian freighter Tampa altered its course to rescue 438 refugees from their distressed vessel. The Tampa then made its way into Australian waters despite the fact that the Australian government under John Howard refused the vessel permission to enter its waters. An Australian frigate eventually took the refugees onboard and after a long search for a country willing to accept the refugees, unloaded them in the newly established refugee processing camp in Nauru. Encouragingly, Arne Rinnan, the captain of the Tampa, his crew and the owner of the vessel received a number of prizes for their courageous efforts to help the refugees in need. Among the prizes was the prestigious Nansen Refugee Award from the UNHCR. Robert Manne, 'Reflections on the Tampa Crisis', Postcolonial Studies, vol. 5, no. 1, 2002, pp. 29-36. "Nansen Award for Captain, Crew and Owner of "Tampa"", Europaworld, 2002, http://www.europaworld.org?Issue74/nansenaward22302.htm, accessed 16 June 2005. 'Another Prize for Tampa's Captain', Norway Post, 2001, http://www.norwaypost.no/content.asp?cluster_id=18254&folder_id=7, accessed 16 June 2005.


30 Cerquone, 'Vietnamese Boat People', pp. 8-12. The author points out that it was difficult to charge pirates as there were seldom witnesses as the attacks took place at sea. The victims themselves only seldom pressed charges because they did not trust the Thai authorities and feared revenge from the pirates. A list of arrested pirates and some details about their trials can be found in: Eric Ellen (ed.), Piracy at Sea, Paris: ICC Publishing SA, 1989, pp. 286-9, Appendix 5.
Attacks on small craft in the 1980s

Pirate attacks on small vessels occurred throughout Southeast Asia and Bangladesh in the 1980s. While the majority of attacks can best be described as ‘normal’ pirate attacks, some incidents involved law enforcement personnel – often from a neighbouring country – and the lines between an ‘attack’ and a legitimate seizure of a vessel fishing illegally become blurred. Thai trawlers, for instance, were regularly arrested or robbed by law enforcement personnel from neighbouring countries such as Vietnam. One case in point is the attack on a Thai fishing vessel in 1981, which reportedly took place in Thai waters about 20 kilometres off the Pattani coast (Map 4). The perpetrators in this case wore Vietnamese uniforms and were armed with M-16 rifles. They approached the fishing boat, fired shots, boarded the boat, and stole valuable items, before leaving the vessel. However, most other reported attacks on fishing boats and yachts can more clearly be identified as piracy.

Thailand, Malaysia, and Bangladesh

Vietnamese Boat People were by no means the only victims of pirates in the Gulf of Thailand, with yachts and fishing trawlers also being attacked in the dangerous area in the 1980s. Similar attacks to those on the Boat People also occurred in the waters off the west coast of Thailand, in Malaysian waters, in the northern part of the Malacca Straits, and in the waters off Bangladesh, as demonstrated by the following examples. Interestingly, Thai fishing trawlers were involved in many cases, either as perpetrators or as victims. Thai fishers were, for example, thought to be the perpetrators of attacks in Bangladesh waters. The attacks there involved a high level of ruthless violence by the pirates, who in many cases forced the original crew to jump overboard. Many Bangladeshi fishers vanished in these attacks and their fate remains unknown. To counter and prevent these pirate attacks, the Bangladesh authorities increased maritime patrols throughout the 1980s. Pirates operating in Thai waters also used excessive violence. In one chilling case, a fishing trawler was attacked off Kra, Thailand, by six assailants who boarded the vessel and transferred the catch to their own boat. They then forced the crew to lay face down on deck and shot each of them in the head. One

31 Even though comprehensive data on such attacks is currently not available, some of the regional piracy hot-spots for attacks on small craft will be discussed here.
crewmember miraculously survived the cold blooded killing by feigning death.33 Further similarly harrowing attacks were reported from Thai waters and forced the naval authorities to act against the perpetrators, which resulted in the successful arrest of a number of alleged pirates. In 1981, for example, a joint Thai and Malaysian anti-piracy campaign led to the seizure of 54 suspected pirate boats by the Malaysian police. Thai-Malaysian cooperation was crucial at the time, as the perpetrators were operating across national borders. It was indeed suspected that:

[A] Thai syndicate, possibly with co-operation from Malaysians [was] robbing Malaysian fishermen of their boats and detaining them for ransom. This syndicate usually collected protection money from fishermen and their boats were taken away if they failed to pay.34

To prevent the worst of the attacks, Malay fishers carried money and cigarettes in order to ‘buy’ their safe passage from the pirates.

The same perpetrators involved in attacks on fishing boats also conducted attacks on yachts in Thai waters. In June 1979, for example, the crew of the yacht Kim was advised by local police near Nakorn Si Thammarat, Thailand (Map 4), to sail for safer waters, as there were pirates operating in the area. Following the advice, the yacht headed south towards Songkla (Map 4) but was attacked the same night by pirates. The perpetrators approached their target in a large grey vessel and focused two spotlights on the yacht. The crew of the Kim opened fire with an AK-47 rifle when they saw two armed men ready to board their yacht and about six others waiting on the foredeck onboard the grey ship. Two of the assailants were killed by the gunfire and the perpetrators fled. One wounded pirate, however, had fallen into the sea and was rescued by the crew of the Kim. He confessed that the pirates were part of a protection racket organised by a rich local landowner, with the grey vessel used to collect protection money from fishers in the region. In another case in September 1981, the yacht Edna Maree was attacked by pirates on a Thai fishing vessel off Pulau Langkawi. The pirates boarded the yacht despite resistance from the Australian skipper James Montgomery, who threw one pirate into the sea, pushed a second pirate back into the fishing vessel, but was injured severely by a third pirate with a knife. Once Montgomery was

34 Ibid. p. 135.
overpowered, all three pirates raped a Danish friend of the skipper, while a second woman and a child were able to hide below deck.\textsuperscript{35} These attacks demonstrate that the mostly Thai perpetrators targeting fishing vessels also attacked yachts and that rape and other atrocities were not restricted to attacks on the Vietnamese Boat People. This may indicate that these were general characteristics of attacks by Thai pirates on small vessels in this area in the 1980s. However, attacks on small vessels in that period were not restricted to Thai, Bangladesh, or Malaysian waters, but such incidents were also reported from Indonesia and the Philippines.

Indonesian waters

Pirate activities in Indonesian waters in the early 1980s were so severe that they prompted the Malaysian police to issue a warning stating that Indonesian waters were a hunting ground for pirates. Pirate forays in the seas across the archipelago included attacks on merchant vessels, as well as attacks on small craft. Occasional reports from sailors provide information about attacks on yachts. One reported incident took place in 1984 off Borneo. In this case, the marauders stripped the yacht completely, taking with them not only the vessel’s engine, the sails, and all valuables, but also the crew’s clothes. Fortunately, no one was injured in the attack.\textsuperscript{36} The majority of attacks on small vessels reported in Indonesian waters, however, targeted foreign or local fishing vessels. In 1982, for example, the Malaysian fishing boat \textit{Ikan Mas} was approached by an “official looking” vessel off the Natunas Islands (Map 1).\textsuperscript{37} Unfortunately for the crew, the boat was not a naval ship but a pirate vessel, carrying eight pirates armed with sub-machine guns. The perpetrators boarded the fishing boat and stole the belongings of the crew and the catch, reportedly worth US $40,000.\textsuperscript{38} Indonesian fishers also suffered from brutal pirate attacks and extortion in the 1980s. According to Hyslop, who worked for the IMB at the time, the danger for Indonesian fishers reached such proportions that the Indonesian government provided them with “high powered guns” for protection.\textsuperscript{39}

\textsuperscript{36} Menefee, 'Trends in Maritime Violence', p. 77.
\textsuperscript{37} Ibid.
\textsuperscript{38} Ibid.
\textsuperscript{39} Hyslop, 'Contemporary Piracy', p. 16.
The southern Philippines, the Sulu Sea, and Sabah waters

While some attacks on yachts were reported from Manila Bay in the 1980s, the vast majority of pirate attacks in the Philippines occurred in the waters between the islands of the southern Philippines and in the Sulu Sea. In these waters, mostly small craft, such as motor launches, small vessels transporting passengers between islands, fishing boats, and private vessels, were attacked, with some observers estimating that as many as 100 such attacks took place each year throughout the 1980s.\(^40\) The level of violence used in the attacks was high, as pirates operating in this area carried firearms and were prepared to use them. Injuries and even death of crew and passengers were therefore common occurrences. Examples include the widely discussed fatal shooting of Lydia Tangvald in 1979, who was killed in an attack on her family’s yacht six days out of Cebu (Map 1) en route to Brunei. In an attempt to deter approaching pirates, Mrs Tangvald had fired a warning shot over the pirates’ heads and was killed by return fire. The pirates then boarded the yacht and took the families’ cash and gun but left Mr Tangvald and his two year old son unharmed.\(^41\) Another example is the vicious attack on a small passenger vessel on its way from Sabah to the southern Philippines on 11 August 1984, near the island of Tawi-Tawi (Map 5). Thirty-three people lost their lives and three teenage girls were abducted in this incident, but 15 survivors were rescued off the Sabah coast.\(^42\) The driving force behind such attacks was in some cases poverty and high unemployment in this region, but separatist movements such as the Moro National Liberation Front (MNLF) were also thought to be involved in piracy.\(^43\) Some attacks may therefore be classified as maritime terrorism, as the attacks were politically motivated.\(^44\)

There are also accounts of attacks on fishing vessels in the waters between Sabah and the southern Philippines. Unfortunately, such accounts are often vague and do not include much detail. One example is the attack on a fishing vessel in October 1983, 44 kilometres off Sandakan, Sabah, in which five fishers were reported missing after their vessel was fired upon from two speed boats. In another incident near Sabah in

\(^40\) Ibid.
\(^41\) Brunei police later told Mr Tangvald that “‘there were several hundred such attacks every year’ and that many pirates ‘would kill everybody onboard and sink the boat to get rid of all traces of the attack’”. Meneefee, ‘Trends in Maritime Violence’, p. 83. Schult, *Yachtpiraten*, pp. 21-6.
\(^42\) Hyslop, ‘Contemporary Piracy’, p. 16.
\(^43\) Ibid. pp. 16-7.
\(^44\) However, a number of these attacks by separatist movements may have been mere fundraising ventures. These incidents will be discussed in Chapter 6.
February 1984, a fisherman was killed and two others wounded when their boat came under fire.\textsuperscript{45} However, fishers in this area have also been the perpetrators of attacks, with some of these assaults reported by the victims. Wilfried Erdmann, for example, recounts that in 1978 his yacht, crewed by his wife and his five year old son, was fired upon and chased by a large fishing vessel between the islands of Silingaan and Billean, off east Sabah (Map 5). The fishing vessel eventually caught up with the yacht and the pirates signalled to Erdmann with hand gestures that he should come onboard the pirate vessel, where he was beaten by the perpetrators. Two pirates in turn boarded the yacht, which was then towed towards the Philippines. After an hour, however, the pirates became visibly nervous, handed around a pair of binoculars, and pointed towards a vessel, presumably a patrol craft, on the horizon. Suddenly, the pirates onboard the yacht were picked-up by the pirates’ vessel, the rope attaching the fishing vessel to the yacht was cut, and the culprits fled. Erdmann was allowed to jump into the sea and was able to swim back to his yacht. The Erdmanns did not wait for the patrol vessel to approach but sailed back towards Malaysia.\textsuperscript{46}

In conclusion, pirate attacks on small vessels in Southeast Asian waters and Bangladesh in the 1980s were often characterised by extreme use of violence by the perpetrators and included the rape and killing of victims. The vast majority of attacks targeted the Boat People fleeing Vietnam. However, yachts, fishing vessels, and other small craft also fell prey to pirates. With the attacks on the Boat People coming to an end in the late 1980s, the number of attacks on small vessels and the level of violence utilised dropped considerably; and while attacks still continued, the modus operandi of pirates and the character of their assaults against small craft changed in the 1990s.

**Attacks on yachts and fishing vessels from 1990 to 2006**

Attacks on small craft, including yachts and fishing vessels, still occur regularly in Southeast Asian and Bangladesh waters, with the vast majority of these attacks targeting fishing vessels. Indeed, fishing boats and their crew are arguably most affected by contemporary piracy, even though most of these attacks are not reported, either out of fear of revenge by the pirates, a lack of education, or because the fishers concerned believe that reporting an attack would be of no real advantage to them. Further,

\textsuperscript{45} Villar, *Piracy Today*, p. 149.
fishermen may be reluctant to report an attack that occurred in waters where they were not permitted to fish, such as national marine parks or those of a foreign country. The perpetrators of attacks on small vessels are in most cases heavily armed, carrying knives, small arms, or light weapons, although the level of violence and armaments of the pirates varies between regions, depending on local circumstances. Despite the proliferation of heavy weaponry, attacks on small craft in Southeast Asian and Bangladesh waters have, since the 1990s, generally speaking not been as violent as similar attacks in the 1980s. However, while the overall level of violence seems to have declined, other worrisome trends have emerged. Fishers, for example, have increasingly been forced to make up-front payments to pirate gangs in order to fish safely in certain areas, and the hijacking of fishing boats and kidnapping of crew for ransom have become regular occurrences in some parts of Southeast Asia and Bangladesh.

**Attacks on yachts from 1990 to 2004**

The waters of Southeast Asia still have the reputation of being pirate infested and therefore dangerous for yachts and other small pleasure craft. Yet, only a few serious attacks on yachts have been reported in the region since the early 1990s. However, as in most harbours and anchorages around the world, theft occurs regularly. These robberies often have a local character, like attacks on the Malaysian island of Langkawi, where Burmese refugees living in small fishing communities are thought to be responsible for occasional thefts from yachts at anchor. While the vast majority of attacks on yachts at anchorage are simple hit-and-run robberies while boats are left unattended, some involve violence when the crew is confronted by the pirates directly. An example is the attack on the German yacht *Schleswig* in 1997 at an anchorage near Jakarta. The perpetrators in this attack boarded the yacht around midnight and hit the

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47 The exceptions are attacks on small vessels in the southern Philippines and off the east-coast of Sabah, Malaysia. In this area, pirates are exceptionally well armed and willing to use their weapons.
48 The author has not come across any attacks on yachts in Bangladesh since the early 1990s.
50 Author’s Interview with sailors, October, November 2004 and April 2005, Langkawi, Malaysia.
owner on the head with a heavy object when he offered resistance. The pirates stole all valuables onboard, including the navigation equipment, and quietly left the vessel. The yacht owner was later discovered unconscious onboard his ship and brought to hospital where he recovered from his injuries. As no witnesses had noticed the pirates, local law enforcement agencies were not able to identify the culprits.\textsuperscript{51}

While violent attacks on yachts, such as the attack on the \textit{Schleswig}, are generally rare, some parts of Southeast Asia are certainly more dangerous for sailors than others. The waters of the southern Philippines, where attacks on different types of small vessels occur regularly, are an example of an area that has long been perilous for yachtsmen. The ongoing violent political conflict between the Philippine government, Muslim separatist movements, and terrorists increases the risk for sailors voyaging in these waters, especially since foreigners are preferred targets for kidnappers. Many sailors on yachts therefore avoid the southern Philippines or other known trouble spots in the region.\textsuperscript{52} Also, some places can be dangerous for yachts at certain points in time, when, for example, a pirate gang is known to operate in a particular area. In 1998, for instance, the waters between the Riau Archipelago and Bangka Island (Map 1) were considered the cruising ground of pirates, and sailors were readily warned of the danger. Peter Robson, a yacht delivery skipper, discovered first hand that these warnings were fully justified. While delivering the \textit{Airbus}, a 26 foot yacht, from Singapore to Perth for a client that year, Robson encountered pirates near the island of Bangka. The ex-soldier had left Singapore at the end of March, sailed to Bangka without any disturbances, and anchored near the island just before it was getting dark. Being an experienced skipper and aware of the danger of a possible pirate attack, Robson prefers to drop anchor just before dusk, never switches on his mast-light, and leaves just before sunrise, in order to attract as little attention as possible. That night near Bangka Island, Robson noticed other boats without lights cruising nearby. He had been warned that pirates operated in

\textsuperscript{51} Schult, \textit{Yachtpiraten}, pp. 118-9.

\textsuperscript{52} Hympendahl recounts in his book a different kind of pirate attack in the southern Philippines, based on a report published in: Shirley Billing, \textit{Red Sea Peril}, London: Cruising Association, 1998. The ‘victim’ of the attack was Paul, an Australian, who had built himself a small yacht in the Philippines. He had loaded his boat with valuable wood to sell in Australia and was approached by pirates in the Sulu Sea. The pirates boarded his yacht and asked for a radio, GPS system and a compass, and finally, after the sailor explained that he had none of these items onboard, asked for cash. Paul showed the pirates a few coins that he had in his pocket and told the pirates that was all he had. The perpetrators asked Paul to wait and left his boat. Shortly after, they were back on Paul’s yacht, handing him a compass, a GPS system, a
this area and sensing danger, Robson decided to sail on, despite the darkness. As a precaution, he put his weapons – a knife and an anchor chain – in a place that was easily accessible. At 4 am his ‘sense of danger’ proved to be well-founded, when four pirates in a long boat equipped with an outboard motor attacked the *Airbus*. The pirates wore combat gear but no masks and were carrying knives and *parangs*. Two of the attackers boarded the yacht but Robson was prepared and was able to fight them off, injuring his assailants in the process. The ex-soldier then attacked the remaining two perpetrators in their own boat, forcing them to jump overboard.\(^{53}\) Despite some damage to the yacht, Robson was able to reach Christmas Island safely where he reported the attack.\(^{54}\) While on Christmas Island, Robson met an Australian yachtsman and his English wife sailing from Australia into Asian waters. The wife was quite distressed as, on their way from Australia, the couple had encountered a group of refugees drifting in the water. Most of them were dead, but they were able to rescue several survivors. Continuing their journey from Christmas Island towards Indonesia, the couple was subsequently attacked by pirates in the exact same area in which Robson had been assaulted a few days earlier. While the husband remained passive, his wife went below deck to retrieve their gun. With the weapon in her hand, she appeared on deck, intending to scare the pirates off. However, the woman was not prepared to actually use the gun. The pirates on the contrary had no such scruples and opened fire as soon as they saw her weapon. The woman was hit in the leg and the pirates fled the scene. Fortunately, the woman was brought to hospital in time and survived the attack.\(^{55}\)

These two examples highlight the fact that at certain moments in time, certain areas can suddenly be dangerous for small craft. The location of these ‘short-term hot-
spots’, however, changes as law enforcement agents increase patrols or arrest gangs, or pirates simply move on to more lucrative waters, or stop their activities altogether. The two attacks near Bangka Island also raise the issue of whether or not sailors should offer resistance to pirates and carry weapons, as these decisions can have an unpredictable impact on the outcome and nature of a pirate attack. It is debatable whether or not yachts should carry weapons, especially firearms. Carrying firearms can be dangerous for two reasons. First, as seen in the last example and the case involving Mrs Tangvald, the presence of weapons on board can increase the level of violence used by pirates, particularly so if the person handling the weapon is not adequately trained and willing to use it. Second, laws and regulations controlling the import and bearing of arms vary between countries, and punishment for illegal possession of arms can be harsh. Nonetheless, some sailors believe that suitable weapons in the hand of a trained person can prevent attacks. For example, in 1992, the Australian master mariner and yacht delivery skipper John was transferring the yacht Galaxy II from Manila to Singapore, when 25 to 30 pirates approached in three fast fishing boats and started to fire at the yacht in Philippine waters. The yacht was carrying two M-16 rifles and John, who had experience with automatic weapons, returned fire, causing the pirates to flee. While in this case firearms were used successfully to prevent an attack, the decision to carry a gun is a personal one. The home-country of the yachtsmen concerned, however, seems to play a role in that decision, with US and South African citizens being more likely to carry firearms than skippers from Europe. Nevertheless, resistance is clearly not always a wise choice. According to Hympendahl’s research on contemporary pirate attacks on yachts around the globe, the greatest financial loss suffered in such an

55 Author’s Interview with Peter Robson, Yacht Delivery Skipper, 26 March 2002, Fremantle, Australia. 56 Hympendahl, *Yacht-Piraterie*, pp. 322-30. Hympendahl suggests that sailors should contact the embassy to get a printed version of the laws regulating the bearing of arms prior to sailing into a country’s waters. 57 Information provided to the author by John H., Master Mariner and Yacht Delivery Skipper, 23 November 2004, Langkawi, Malaysia. 58 More prudent sailors can take advantage of the services offered by PSCs, which offer training for sailors and escort services for yachts. Also, in some harbours locals offer to keep watch over a yacht while the owners are on land. Additionally, non-lethal weapons and other security equipment can be employed to discourage pirates and thieves at sea and at anchor. One company that specializes in yacht security and offers, among other services, training courses for sailors is the London based company Yacht-Secure Limited: Yacht-Secure Limited, Homepage, http://www.yacht-secure.co.uk/home.html, accessed 13 August 2005. For a more detailed discussion see: Hympendahl, *Yacht-Piraterie*, pp. 322-34. 59 E-mail from Andy Parsons to the author. Received on 12 September 2005. 60 Most of the attacks recounted in Hympendahl’s book occurred in the 1990s and early 21st century.
attack amounted to about US $15,000, with stolen items including cash and navigational equipment. Cooperation with the pirates may therefore be the best choice for sailors, as this financial loss pales in comparison with the loss of life.61

**Attacks on fishing vessels since 1990**

Since the End of World War II, fishing fleets have expanded in Southeast Asia and Bangladesh, with technological improvements enabling the development of increasingly advanced and effective long distance fishing trawlers.62 Today, most countries in Southeast Asia and Bangladesh are home to sizable fleets of large, modern fishing vessels, as well as a variety of traditional and modern smaller fishing craft.63 The operation of large trawlers is capital intensive and the vessels are mostly owned by entrepreneurs (private, public, and military) who only rarely go to sea. The vessels are often crewed by mixed batches of foreign labourers from countries such as the Philippines or Myanmar. On the other hand, smaller fishing craft are mostly used by subsistence or artisanal fishers and are often operated by the vessel owner’s family, who rely on the boat for their livelihood.

Regardless of the size and type of fishing vessel used, fishing is a perilous occupation. A document in preparation by the Food and Agricultural Organisation of the United Nations (FAO) even suggests that:

> Fishing at sea is probably the most dangerous occupation in the world. Data from those countries that collect accurate accounts show that occupational fatalities in their fishing industries far exceed their national average. […] It is in the contexts of small scale and artisanal fisheries that sea safety regimes are weakest. These fishing fleets tend to be inadequately registered and consist mainly of small and simple vessels, largely unpowered or powered by outboard engines. The vessels are often poorly equipped for

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61 Hympendahl, *Yacht-Piraterie*, p. 342. There are exceptions to that rule, as in some cases pirates have been known to kill everyone onboard a targeted vessel in order to leave no evidence. These cases are, however, comparatively rare in Southeast Asia. In cases in which entire yachts have been taken, the loss can also be higher. Again, however, hijackings of yachts are rare in Southeast Asia. Such attacks on yachts nonetheless occurred (and still occur) in other parts of the world, particularly in South America in the 1970s and 1980s, where stolen yachts have been used to smuggle drugs. See: Jack A. Gottschalk, Flanagan, Brian P. with Lawrence J. Kahn and Dennis M. LaRochele, *Jolly Roger with an Uzi. The Rise and Threat of Modern Piracy*, Annapolis: Naval Institute Press, 2000, pp. 44-52. Villar, *Piracy Today*, pp. 43-7. Peter Chalk, *Non-military Security and Global Order. The Impact of Extremism, Violence and Chaos on National and International Security*, New York: St Martin's Press, LLC, 2000, pp. 59, 72-3.


63 The term used to describe the bigger fishing vessels in Southeast Asia and Bangladesh used here is ‘large’ vessels. However, it has to be understood that most of these large vessels based in Southeast Asia and Bangladesh are not large in comparison to fishing vessels based in countries such as Taiwan.
purposes of navigation, communication and safety and their crew tend to have little or no training in maritime safety. Moreover, national fisheries and maritime authorities are rarely able to maintain effective search and rescue services.\textsuperscript{64}

The report also emphasises that only a very few countries, particularly in the third world, are able to collect and analyse statistical data on casualties of fishermen. Consequently, reliable information on the number of fishermen killed in Southeast Asia and Bangladesh is not available. However, Jeremy Turner, Chief of the FAO’s Fishing Technology Service, estimates:

Most info from developing countries on fatalities is anecdotal. If you assume that fatality rates are the same across the world (unlikely), then the rate is 100 deaths per 100,000 fishers (as per US and UK where good data exists). So if 75\% (?) of the world’s 30 million fishers are in Asia, that would be over 22,000 deaths per year. I would guess probably higher.\textsuperscript{65}

While this estimate includes all Asian countries, this annual death rate nonetheless offers some indication of the danger fishers face in their daily lives. Environmental and weather hazards such as driving rain, storms, high wind, rogue waves, and fog, are in part responsible for the high fatality rate of fishers. Indeed, the marine environment can be unpredictably hostile, as evidenced in Bangladesh in September 2005, when 200 trawlers with 3,500 crewmembers went missing in the Bay of Bengal. The sea at that time was unusually rough and turbulent due to a deep depression over the coast of Orissa, India. While some of the vessels returned home safely, a large number capsized, with considerable loss of life.\textsuperscript{66} Other hazards responsible for high fatality rates include fire on board vessels, collisions with other vessels or rocks, and accidents on board vessels, such as fishers being crushed by heavy equipment on trawlers, or smaller vessels sinking when pulling in a large catch.\textsuperscript{67} Piracy is therefore only one of several, often more serious, safety concerns for fishers in Southeast Asia and Bangladesh, who are accustomed to an occupational existence fraught with hardship and hazard. It is

\textsuperscript{64} Food and Agricultural Organisation of the United Nations, ‘Reducing Dangers and Saving Lives: Safety-at-sea For Small Scale Fisheries in Developing Countries (Unfinished Manuscript)’. E-mail from Simon Funge-Smith and Jeremy Turner to the author. Received on 13 October 2005.

\textsuperscript{65} E-mail from Simon Funge-Smith and Jeremy Turner to the author. Received on 13 October 2005. The text in brackets is included in the original text.


\textsuperscript{67} For more information on the safety and health risks fishers have to face see: International Labour Organisation, ‘Safety and Health in the Fishing Industry. Report for Discussion at the Tripartite Meeting on Safety and Health in the Fishing Industry, Geneva, 13-17 December 1999.’ 2000,
therefore important to bear in mind that the following accounts of pirate attacks have to be understood in relation to other hazards – natural and manmade – which often result in more injury and greater loss of life than pirate attacks.

All types of fishing vessels are targeted by contemporary pirates, with the booty stolen including valuables, cash, the catch, fishing nets, or even the entire vessel. In recent years, the hijacking of fishing boats and kidnapping of fishers for ransom have received heightened attention from the local media and have increasingly found their way into the IMB’s statistics. Most attacks on fishing vessels in Southeast Asia and Bangladesh included in the IMB reports are serious attacks, often involving the kidnapping, killing, or wounding of crew. Also, out of 102 hijackings recorded by the IMB between 1995 and 2006, 34 attacks targeted fishing vessels. (See Table 9)

The IMB reports include a total of 95 attacks on fishing boats between 1995 and 2006. Table 15 shows that attacks on fishing vessels were mostly reported from the Malacca Straits (26), Bangladesh (20), the Philippines (14), Sabah (14), and Peninsular Malaysia (9). The fact that these incidents were reported over a period of ten years helps to put these figures into perspective. Nonetheless, Table 15 indicates that the overall number of reported attacks on fishing vessels has been comparatively high since 2001 (with the exception of 2005), prompting the IMB to note its concern about these, often violent, attacks.68


68 Despite this increased attention to piratical attacks on fishers, fishing is most commonly linked to the term piracy in expressions such as ‘fish piracy’ or ‘fishing piracy’, referring to illegal, unreported, or unregulated fishing activities, rather than actual pirate attacks. While illegal and unreported fishing can be a factor in actual piracy against fishers, as attacks on trawlers occasionally occur while fishing illegally, this chapter focuses on actual pirate attacks involving fishers. Issues such as illegal fishing, over-fishing, and contested maritime borders will be discussed later in the thesis. See for example: Organisation for Economic Co-operation and Development, Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing, Paris: 2004.

Table 15 Actual attacks on fishing vessels in Southeast Asia and Bangladesh: IMB Reports, 1995-2006

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As in previous decades, Southeast Asian and Bangladeshi fishers have, since 1990, been involved in piracy both as victims and as perpetrators. Attacks on fishing vessels vary in nature and character according to local conditions and often appear to occur in areas where attacks on merchant vessels also take place. In order to provide an overview of attacks on local fishers in the Southeast Asian region and Bangladesh, the following section will discuss attacks on fishing boats in different geographic locations where they occur on a regular basis, starting in the waters of Bangladesh, moving eastwards towards Thailand, through the Malacca Straits, and finally to east Malaysia and the southern Philippines.

**Bangladesh**

The fishing industry in Bangladesh is critically important in regard to employment, livelihood, and as a source of nutrition. Along the coast an estimated 350,000 households depend on fishing as their main source of income, with as many as 350,000 fishers operating 96,000 boats in this area. If one includes fishers living in

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70 For China, only one attack was recorded in that period, occurring in 1996, and a further attack was registered in Hong Kong in 2000.
71 There are also fishing villages in Southeast Asia in which piracy is not a problem and local fishers are not attacked. The following Chapters of this thesis will give the reader a better understanding of why piracy occurs in some places and not in others.
72 These numbers are estimates for the end of the 20th century and do not include newly established fishing villages and fishing communities located inland along rivers. Ulrich Kleih, Khurid Alam,
communities along the country’s many rivers, a total of 570,000 full time fisher folk and a further 1,196,000 part time fishermen live in Bangladesh. Different types of pirate attacks targeting small, medium sized, and large fishing vessels occur at sea and in rivers in Bangladesh. The 20 attacks conducted in the waters of Bangladesh which are included in the IMB reports between 1995 and 2006 (see Table 15) are attacks on fishing trawlers, mostly conducted on rivers or river mouths. Seven of these attacks occurred on the Meghna River, and incidents were also reported from the Sundarbans and the waters along the southeast coast of Bangladesh. The attacks reported by the IMB include simple robberies as well as the killing or kidnapping of crew. In one gruesome case in 2000, the police discovered nine bodies in the cold storage room of a fishing vessel drifting at Bauria near the offshore island of Sandwip. The victims were thought to be killed by pirates before being dumped in the cold storage room. Attacks on trawlers are often conducted by Bangladeshi pirates armed with firearms, operating in large gangs of up to 50 people. In the southwest of the country, notorious organised

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Ranajit Dasitidar, Utpal Dutta, Nicoliene Oudawter and Ansen Ward, 'Livelihoods in Coastal Fishing Communities, and the Marine Fish Marketing System of Bangladesh', NRI Report no. 2712, January 2003, http://www.nri.org/projects/fishtrade/issues-marketeredit.pdf, accessed 1 September 2005, p. 21. The report also states that: “Traditionally, it was the low caste Hindus who engaged in the fishing profession [...] The last few decades have increasingly seen the entry of Muslims into the sector. On the one hand these are members of poor Muslim communities in search of new income opportunities, on the other hand wealthy individuals have invested in the marine fisheries sector once it became a profitable business.” Ibid.


76 There are only very few reports mentioning the amount of ransom demanded by pirates. However, in one incident in 2005 in which pirates abducted 98 fishers and their trawlers from the Sundarban Canal where the fishers had sought shelter during a storm, the perpetrators demanded Taka 5 lakh (100,000) (US $8230) for the release of the fisherman. 'Pirates Kidnap 98 Fishermen in Barguna', The Independent (Internet Edition), 9 August 2005, http://www.independent-bangladesh.com/news/aug/10/10082005cr.htm, accessed 2 September 2005. Another example is an attack in which 22 fishers were taken hostage by 30 pirates in the Sundarbans on the 13 June 2002. Two fishermen were released to communicate the ransom demand of US $40,000. Mark Bruyneel, 'Reports in 2002: April - June', 10 July 2002, http://home.wanadoo.nl/m.bruyneel/archive/modern/2k2repb.htm, accessed 25 August 2005.

gangs are responsible for the attacks. They also collect up-front protection money from fishermen, who are then allowed to fish undisturbed.78

Piracy in Bangladesh is also a problem for subsistence fishers, as shown in the report ‘Livelihoods in Coastal Fishing Communities, and the Marine Fish Marketing System of Bangladesh’79 published by the Natural Resource Institute.80 The report is based on fieldwork conducted in six fishing communities in Chittagong, Cox’s Bazaar, Bagerhat, Patuakhali, and Satkhira Districts. The survey identified the problems and difficulties that fishers living in these villages face in their daily lives. In all villages, fishermen stated that piracy at sea and in rivers is one of their main concerns,81 and the report concluded that piracy is one major cause of poverty among fishers and their families in the areas under investigation.82

While piracy is not a new phenomenon in this region, the number of attacks has increased dramatically in the past ten years.83 The vessels targeted include mechanised and non-mechanised boats, ranging from small un-powered dinghies used on the rivers with two or three crewmembers onboard, to substantial wooden trawlers, carrying crews of 20 and powered by 40 to 70 horsepower (hp) engines. The value of these vessels varies considerably, starting from Tk2,500 to Tk5,000 (US $43 to US $86) for a dinghy, to between Tk600,000 and Tk700,000 (US $10,450 and US $12,200) for a trawler, which additionally carries nets worth around Tk400,000 (US $7,000).84 Even though the number of pirate attacks on trawlers has increased in recent years,85 smaller fishing vessels are most often targeted in this area, with piracy today seriously affecting the livelihoods of poor fishers. Typical targets favoured by pirates are vessels of ten to 12 feet in length, equipped with engines of between 15 to 45 hp, crewed by one to four

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78 Author’s Interview with Ranajit Dastidar, Former Deputy Director, Community Development Centre (CODEC), 3 and 4 November 2003, Singapore. This will be discussed in more detail in Chapter 5.
79 Kleih, Alam, Dasitidar, Dutta, Oudawter and Ward, ‘Livelihoods in Coastal Fishing Communities’.
81 The report, however, is only concerned with piracy as a threat to the wellbeing of fishers, and does therefore not give insights into the nature of attacks or who the perpetrators are. Neither does it attempt to answer such questions as why the pirates can operate on such a scale in Bangladesh.
83 Ibid. p. 42. Author’s Interview with Ranajit Dastidar, Former Deputy Director, Community Development Centre (CODEC), 3 and 4 November 2003, Singapore.
84 Ibid. p. 37.
85 Ibid. p. 61.
fishers, who usually either own the boat or are related to the owner. They fish close to the coast and return to the shore after no more than three hours.  

The perpetrators of attacks on smaller fishing vessels are often themselves Bangladeshi fishers, working on large, commercial vessels owned by local non-participant entrepreneurs. The pirates are less well organised than those committing attacks on large trawlers. The actual owners of the vessels utilized by the pirates are thought to be fully aware of the extra-legal activities of their employees, as the involvement of their vessels in piracy is said to be widely known in the area. Furthermore, the owners of such vessels are believed to deliberately pay a low salary to their crew, as they are aware that they will earn additional income by conducting pirate attacks.

The pirates responsible for attacks on small fishing vessels in Bangladesh are armed with long knives, swords, or firearms. Kidnappings, which characterise the activity of pirates in other parts of Bangladesh, do not occur in attacks on traditional fishers, as they are usually too poor to pay ransom money. However, extreme violence is used in some incidents and traditional fishermen have been stabbed or shot to death by pirates. Also, in some incidents, pirates have capsized their victims’ vessel and left the fishermen to their own devices. The perpetrators are after the nets, catch, and engine of the victim’s vessel, which are later sold by the pirates in the same local markets where traditional fishers buy their equipment.

Subsistence fishers are particularly vulnerable to pirate attacks. Many of them have to borrow money (often from money lenders but today also from NGOs) to buy their boats and equipment. If a fisher loses his net or engine in an attack it can easily become difficult for him to repay his loans. Often a second or third loan is taken out to replace the stolen goods, but, as piracy is such a common occurrence at present, many are targeted again and have to find employment elsewhere to clear their debts. The experiences of Dulal Das, a former fisher from South Solimpur, provide a case in point. In 1998 his boat, which he had bought with a loan from relatives, was attacked by

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86 Author’s Interview with Ranajit Dastidar, Former Deputy Director, Community Development Centre (CODEC), 3 and 4 November 2003, Singapore.
87 Ibid.
88 Ibid.
89 NGOs offer better terms for the fishers who borrow money because they, unlike many money lenders, do not charge high interest rates.
pirates in a fishing trawler. The perpetrators cut off the fishing nets and injured the crew of four, forcing Dulal Das and one crewmember to jump overboard. The crew survived the attack and after he recovered from his injuries, Dulal Das borrowed money from a money lender to replace his fishing gear but was again attacked by pirates after using the new equipment for only one month. He once again borrowed money, this time from a traditional money lender, a Mohajan, at a high interest rate. Then, in 2001, his vessel was again targeted by pirates who assaulted him and stole his catch and fishing nets. Dulal Das realised after the third incident that he would not be able to earn a living by fishing due to the constant threat of pirate attacks and started work as an ice seller to settle his debts.90

Bangladeshi fishermen like Dulal Das have responded in various ways to the upsurge of piracy and have implemented different strategies to protect themselves and their fellow fishers from constant robberies and assault. Some fishers, for example, carry knives to protect themselves but are helpless when confronted by pirates with firearms, which the fishers cannot afford to buy. Also, some fishermen from the Laximpur (Lakkhipur) region who fish in the Meghna River use a white flag as a warning system. If a fisher has been attacked or has seen a suspicious craft, he raises a white flag to warn other fishermen. Furthermore, as the piracy problem has become more serious over the past decade, fishermen have attempted to raise awareness of their plight. For example, from the early 1990s fishers began to hold anti-piracy rallies which have over the years become better organised and more effective. One major anti-piracy campaign was, in recent years, supported by the independent NGO CODEC (Community Development Centre)91 and included activities such as demonstrations, press conferences, the blocking of a highway, and a rally of about 1,000 fishing boats. The aims of this campaign were to raise awareness of the piracy problem, to promote improvement of laws to better protect fishermen, and to request frequent patrols of pirate infested waters.92

91 CODEC was established in 1985 and aims to improve the socio-economic conditions of fishers and their families in poor coastal and riverine communities in Bangladesh. It offers among other things credits for investments, education, and training for fishers. For more information see: NIRAPAD, 'Community Development Centre (CODEC)', Network for Information, Response and Preparedness Activities on Disaster, http://nirapad.org/care_nirapad/Home/Mem_org/CODEC.html, accessed 8 September 2005.
92 As a result of these campaigns more people in Bangladesh became aware of the piracy problem. However, some alleged pirates who have been arrested after one of the major campaigns were released
The frustration and anger of victims of attacks on smaller vessels as well as trawlers, however, has also manifested itself in other ways. In one case, for example, the victims without being brought to trial, as it is difficult to find proof to convict suspects since the pirates are mostly not caught during an attack. Author’s Interview with Ranajit Dastidar, Former Deputy Director, Community Development Centre (CODEC), 3 and 4 November 2003, Singapore.
of an attack on a fishing trawler followed the robbers and with help from local people caught them while the perpetrators were selling the stolen fish near the river Khakdon. The pirates were handed over to the police and admitted their involvement in the attack. Another group of alleged pirates responsible for attacks on shipping and fishermen were less lucky when agitated villagers joined a police raid on suspected pirate hideouts near the main port of Chittagong. The angry residents lynched 28 of the alleged pirates, handed another six to the police, and vowed to continue their man hunt.

In summary, piracy in Bangladesh waters is a serious problem for fishers on all types of vessels. The perpetrators are armed with modern weapons and violence against the crew is a common occurrence. The rising number of attacks in recent years has prompted fishers to raise awareness of their plight in various ways. This, at times militant, communal response by the victims stands in sharp contrast to the behaviour of fishers living along the Malacca Straits, who have for the most part kept quiet about pirate attacks on their vessels.

Through the Malacca Straits

In Thai waters north of the Malacca Straits, attacks on fishing vessels are rare, or at least rarely reported. The IMB reports for the past 12 years include only one incident, occurring on 20 January 2001. In that particular case, pirates boarded a fishing boat from Myanmar, stole the catch, and set the trawler on fire. The pirates then seized another fishing trawler and fled, but were later arrested by Thai marine police near Ranong (Map 1). Two Thai trawler operators from a busy fishing village in southwest Thailand confirm that even though attacks on fishing vessels in Thai waters were common ten years ago, they rarely occur at present. However, fishers operating from the south-western coast of Thailand are nonetheless targeted by pirates – though predominantly while fishing in Burmese or Indonesian waters. According to operators

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of Thai trawlers who regularly fish in Burmese waters, their boats are attacked as frequently as ten times per year. The attacks are, however, not usually serious in nature and only cash and small items are stolen.

Moving further south into the Malacca Straits, the coasts bordering this waterway are home to a large number of fishing communities and fishing vessels, ranging from traditional boats to modern mechanised trawlers. The overall number of boats operating in the area has increased over the past several decades. Today, more than 50 per cent of all Malaysian fishers and licensed fishing vessels operating in the Malacca Straits. As Indonesian and Thai boats are also operating in the straits, the area is a busy fishing ground. The density of fishing boats, particularly modern trawlers capable of travelling long distances and outfitted with modern fishing equipment, make the straits attractive for pirates. Furthermore, the competition and ethnic rivalry between fishers from different countries working in the same waters provokes conflict, and fishers have on many occasions attacked and robbed their competitors.

Attacks on fishing vessels in this area occur frequently, particularly in the northern part of the straits near the northern tip of Sumatra and Pulau Perak (Map 4), or more generally speaking, close to the sea borders of Malaysia, Indonesia, and Thailand. These attacks on fishers are often serious and hijackings of vessels, kidnappings of the crew for ransom, and the killing of crewmembers have occurred frequently in recent years. Pirates operating in this area target fishing vessels from all three countries. An Indonesian fishing vessel was, for example, attacked in the northern part of the Malacca Straits on 12 October 2002. The pirates in this incident opened fire as they approached their victims and boarded the Indonesian vessel while underway. They forced the nine crewmembers to jump overboard and disappeared with the fishing trawler. Two days

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96 As will be discussed in Chapter 3, fishing in other countries’ waters is for the most part illegal. The author has therefore agreed not to disclose from where the boats in question operate, except for the very general information that they are based in southwest Thailand. Author’s Interview with two trawler owners, November 2002, Bangkok, Thailand.
97 Many boat owners, however, own more than one fishing trawler, which means that not every vessel is attacked 10 times a year.
98 Author’s Interview with two trawler owners, November 2002, Bangkok, Thailand.
100 Not only the valuable fishing equipment and the catch make these vessels targets for pirates; they also carry cash to pay for fuel or for emergency repairs.
later, the crew was rescued and brought to the Malaysian island of Langkawi.\textsuperscript{101} Despite occasional attacks on Indonesian and Thai fishers, however, most attacks on fishing boats in the northern Malacca Straits appear to target Malaysian fishers – presumably for two reasons. First, unlike their Thai (and occasionally Indonesian) counterparts, Malaysian fishers usually do not carry firearms. Second, the owners of Malaysian vessels are considered to have more financial resources than their Indonesian counterparts, and can therefore ‘afford’ to pay substantial ransoms for the recovery of their vessels and crew. Malaysian fishing communities along the coast of the Malacca Straits, such as Kuala Perlis and Hutan Melintang, as well as communities on Malaysian islands in the Malacca Straits, like Teluk Bahang on the island of Penang, are therefore no strangers to piracy. The following section gives some insight into pirate attacks experienced by fishers in Malaysian communities, moving from Kuala Perlis, on the north-eastern coast of the Malacca Straits, southward to Teluk Bahang, Hutan Perlis and finally to the waters south of Kuala Lumpur (Map 4).

\textbf{Kuala Perlis}

Kuala Perlis is a small fishing community on the west coast of Malaysia. It is probably best known to foreigners as the departing point of the ferry to the popular holiday destination of Langkawi Island. The village is home to medium sized and large fishing vessels with wooden hulls, valued between RM450,000 and RM1 Million (US $123,200 and US $274,000).\textsuperscript{102} The vessels carry crews of up to 45 men, predominantly from Thailand. The vessels from Kuala Perlis are targeted by different types of pirates who either simply steal valuables from the vessel or, in more severe cases, hijack the entire boat. These robberies at sea are conducted by two different kinds of pirates. The first kind wears Indonesian or Thai uniforms and approaches fishing vessels to steal cash, valuables, and the belongings of the crew. The second type is pirates masquerading as ‘fishermen’. The vessels used by these well-armed ‘fishermen’ are equipped with less powerful engines than the vessels targeted, but the small boats are able to approach their victims without raising suspicion employing a common ruse. Exploiting the fact that it is not unusual for fishers on larger boats to buy fish from the crew of smaller vessels,


\textsuperscript{102}
the pirates pretend to be fishers and lift up a particularly valuable fish to attract the attention of the fishers on the larger vessel. Once the small vessel is alongside the bigger boat, the perpetrators rob the fishing vessel of valuables and cash.\textsuperscript{103}

\textbf{Photo 5} Kuala Perlis

\textbf{Photo 6} Kuala Perlis fishing boat

\textsuperscript{102} There is also a range of other small craft based in the area, including fast wooden vessels with powerful outboard engines.
More serious are attacks in which entire vessels are hijacked or crew kidnapped for ransom. The perpetrators in these incidents are mostly Indonesian, with some based in the province of Aceh. The hijacking of a vessel can result in substantial financial loss for the owner, not only in regard to the actual ransom paid but also because the negotiation process with the pirates can take several months. However, pirates willingly accept payment of monthly instalments from boat owners or family members of the victims who are not able to pay the full ransom up-front. The following accounts of two boat-owners demonstrate that pirate attacks targeting boats from Kuala Perlis are a common occurrence and that the assaults pose a serious threat to crew on board vessels. The first boat owner recounted that his vessel, worth RM850,000 (US $232,000), had suffered two serious attacks between 2000 and 2004. The initial incident took place at 6 am on 14 July 2002, when eight Indonesian pirates attacked his vessel with 35 Thai crewmembers on board. Some of the pirates wore uniforms while others were dressed in plain clothes and were armed with M-16 rifles and a hand grenade. The perpetrators stole the catch, cash, and diesel oil from the vessel, but tragically, a Thai child onboard the fishing boat was shot dead by the pirates during the attack. Two years later, the same vessel was hijacked with two crew on board and the negotiations between the owner and the pirates were still ongoing at the time of the author’s research. The owner stated that the pirates had contacted him on his mobile phone, demanding a ransom of RM100,000 (US $27,400), with the owner offering RM40,000 (US $11,000). A second boat owner believed that piracy had increased dramatically in the past ten years, stating that his boat had been attacked by pirates 14 times between 2001 and 2004. These 14 incidents included simple robberies, as well as abductions of crew, and the hijacking of his vessel, valued at around RM800,000 (US $219,200). Those kidnapped reported that they were treated well by the pirates, considering their

103 Author’s Interview with local fishers and Shamsul bin Chin, Pengurus Besar, Persatuan Nelayan Kawasan Kuala Perlis, 29 October 2004 and 10 November 2004, Kuala Perlis, Malaysia.

104 Abdullah Jaafar from the Malaysian Fisheries Department has stated in a newspaper interview that his organisation has received reports from fishers in Kuala Perlis and Kedah revealing that they had been approached by pirates demanding between RM300 and RM400 from fishers for ‘safe fishing certificates’. Local fishermen from Kuala Perlis, however, have denied having received any demands from pirates for protection money. ‘Malaysian Fishermen Are Paying Protection Money for ‘Safe Fishing Certificates’’, Star, May 2004, n.p.

105 Author’s Interview with local fishers and Shamsul bin Chin, Pengurus Besar, Persatuan Nelayan Kawasan Kuala Perlis, 29 October 2004 and 10 November 2004, Kuala Perlis, Malaysia.

106 The case was still not resolved by the time the author left Malaysia.
vulnerable circumstances. The culprits of all 14 attacks were Indonesian, some of them from the province of Aceh, and were heavily armed with AK-47 and M-16 rifles. 107

Teluk Bahang, Penang

The fishing community of Teluk Bahang is located on the northwest coast of the island of Penang, Malaysia. The local fishing association, Persatuan Nelayan Kawasan Teluk Bahang, is offering assistance to fishers based on the north eastern side of the island between Georgetown on the east coast and Pantai Aceh on the north western tip of the island. This stretch of coast is home to subsistence fishers and the owners and crew of two types of wooden-hulled, medium sized fishing trawlers, with the first type carrying a crew of four, and the second, larger kind, carrying a crew of 13 to 14 people. The fishers in this area go to sea for comparatively short periods of time, returning home on the same day or within a week. 108 Most of the trawlers are owned by Chinese Malaysians, while the subsistence fishers are predominantly Malay. All vessels based around Teluk Bahang fish northwest of Penang near the Thai border, an area where Thai and Indonesian fishing boats are also operating. According to the head of the local fishing association, fishers have to cope with three different types of pirate attacks, conducted by perpetrators wearing plain clothes or, occasionally, Indonesian or Thai uniforms. In the first type of attack, fishers are approached by Indonesian or Thai fishing vessels whose crew are often armed with firearms. The perpetrators in these incidents are mostly interested in the catch of the targeted boat, but occasionally also board the vessel and steal cash, the crew’s belongings, or parts of the fishing equipment. The second type of attack is conducted by Indonesian and Thai pirates in speedboats. A fishing vessel carries a certain amount of cash for fuel or emergency repairs and the pirates conduct hit-and-run attacks to steal this money as well as any valuables belonging to the crew. Generally speaking, attacks carried out by Thai pirates are more serious in nature, as they are also interested in the fishing gear, particularly the valuable nets. Unlike the more traditional Indonesian fishers, Thai fishers use modern equipment that is similar to the technically advanced gear employed by Malaysian fishers. Fishing equipment stolen from Malaysian vessels can therefore easily be sold locally in

107 Ibid. Additional information was received from boat owners in Kuala Perlis who filled out questionnaires.
Thailand by the perpetrators. Furthermore, occasionally a fishing vessel is taken by Thai pirates and is repainted and structurally changed before being sold or used by the culprits. The third type of attack involves the kidnapping of crew, often the captain of the vessel, for ransom. The negotiations between the predominantly Indonesian pirates and a vessel’s owner or the victim’s family can take between three to four months and can therefore result in a substantial loss of income for the victim’s family for a prolonged period of time. Currently, at least five such kidnapping attacks involving fishermen from communities in northern Penang occur every year.109

Further south,110 fishers from Hutan Melintang, a small town on the coast of Malaysia’s Perak state, have also repeatedly been targeted by pirates. The town is home to about 200 fishing trawlers, with another 250 based in the surrounding area. The boats have

108 Occasionally fishers stay at sea for longer periods of up to one month, but these long journeys are the exception.
109 Author’s Interview with Abd. Ghany Yahaya, Head of Persatuan Nelayan Kawasan Teluk Bahang, 4 and 5 November 2004, Teluk Bahang, Malaysia.
110 There are also occasional attacks listed in the IMB reports occurring near Pulau Pangkor, Perak, Malaysia.
wooden hulls and are equipped with modern fishing gear. They are owned, with few exceptions, by Malaysian Chinese entrepreneurs and have a value of between RM1 million and RM1.3 million (US $274,000 and US $356,200), including the fishing equipment. The vessels are usually crewed by four or five men from Thailand and Myanmar. According to the representative of the local fishing association Koperasi Nelayan Hilir Perak Berhad, attacks by pirates are not a new phenomenon. Until 2002 though, attacks on fishing vessels were minor, small scale robberies conducted by Indonesian pirates in small boats armed with knives or parangs. Since then, however, the attacks have changed in character and scale, with one or two attacks occurring each month. Vessels from Hutan Melintang are targeted in two ways, each accounting for around 50 per cent of incidents. The first type of attack is conducted by the Indonesian naval authorities, predominantly navy personnel, who collect ‘fines’ for illegal fishing from the Malaysian fishers. The lines between a pirate ‘attack’ and the legitimate collection of fees are blurred in these cases, with the characterisation of such attacks depending on the viewpoint of the person interviewed. The second type of attack is conducted by Indonesian pirates. The perpetrators of these attacks use Indonesian fishing vessels as decoys to approach their victims and are heavily armed with firearms, rocket launchers, and M-16 rifles. The victim vessels are targeted at night, often fired upon, and then boarded by the pirates. The Malaysian boats are then either simply robbed or the vessel and/or crew abducted. The Malaysian fishing vessels are tempting targets for sea robbers as they carry a minimum of RM1,000 to RM5,000 (US $250 to US $1,370), in order to bribe Indonesian officials and for emergency repairs. The victims believe that the GAM is responsible for some of the attacks in which the vessel and/or crew were taken hostage. Such kidnappings can generally be resolved within four days if no complications arise. If complications arise the negotiation process takes longer, as occurred in an incident in 2002 where no agreement with the pirates could be

111 The head of the cooperative is ethnic Chinese and is the owner of a fishing trawler. The fishing cooperative has about 1,300 members, including fishers from Hutan Melintang and the surrounding area.
113 Attacks of this type will be discussed at greater length in Chapter 3.
114 A discussion about whether or not GAM is involved in these and other pirate attacks follows in Chapter 6.
reached for 22 days. It is the family of the victim or the owner of the vessel who invariably negotiates with the pirates, using mobile phones. In the past, money was either paid in cash in Indonesia or in some cases transferred into Indonesian bank accounts. At present, most ransom payments are made from vessel to vessel in the Malacca Straits. During the transaction, the victim is held on a different boat, but once the payment has been made and the perpetrators have returned to safety, the victim is released and handed over to a passing fishing vessel. So far, the kidnappers have released all their victims unharmed. However, to prevent the constant threat of pirate attacks on their vessels, some ship owners in Hutan Melintang pay protection money on a monthly basis. The representative of the fishing association stated that after one vessel owner had paid protection money his boat had indeed been immune from pirate attacks. Consequently, an unknown number of boat operators in Hutan Melintang followed suit and now pay around RM450 (US $125) per month to pirates operating in the area. The protection money racket is thought to be effective because, despite the fact that there are different ‘foot-soldiers’ conducting attacks, it is essentially only one gang, with one ringleader, that is responsible for most of the attacks.

Photo 8  Hutan Melintang fishing boat

115 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia. A newspaper article states that a typical ransom for a boat and crew is about
However, in 2005, a new type of attack targeting Malaysian fishing vessels from Hutan Melintang was reported, in which local fishing vessels were used in attacks on larger ships. The attack on the Japanese tugboat *Idaten* on 14 March 2005, 70 miles southwest of Penang, is one example.\(^{116}\) The tug was towing a construction barge when it was attacked by pirates in three fishing boats, one of them a Malaysian fishing vessel from Hutan Melintang. The Malaysian fishing vessel had been attacked by the perpetrators a day earlier and instead of taking the crew hostage or robbing and leaving the attacked vessel, the pirates had stayed onboard. The following day, the pirates forced the fishers at gunpoint to participate in the attack on the Japanese ship and used the vessel to ram the tug when it attempted to flee from the perpetrators. Two Japanese and one Filipino crewmember from the tug were taken hostage by the pirates and were transferred to one of the fishing vessels, while the rest of the crew was left unharmed. After the attack, the crew of the Malaysian fishing vessel and their boat were released, although diesel fuel was taken and the crew robbed of their cash. When the vessel returned to Hutan Melintang after the attack, the police were already waiting, as a member of the tug’s crew had been able to take a photo of the boats used by the pirates in the attack, showing the registration number of the fishing vessel from Hutan Melintang. Upon arrival, the crew of the fishing vessel – one Malaysian and four Thai nationals – was detained and remained in custody for a few days for questioning.\(^{117}\)

Southern Malacca Straits

In the southern part of the Malacca Straits, pirate attacks on fishing vessels appear to occur less frequently and kidnappings of vessels and crew are rare. In the area around Port Klang, Kuala Lumpur, attacks by culprits wearing Indonesian uniforms demanding money occurred regularly before 1995, but have now subsided. At present, mostly smaller fishing vessels are targeted by pirates in the area. The perpetrators of these

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\(^{117}\) Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang. 'Crew Say Vessel Used in Tugboat Attack Hijacked by Pirates', *Kyodo News International*, 18 March 2005, [http://www.findarticles.com/p/articles/mi_m0WDQ/is_2005_March_21/ai_n13458317](http://www.findarticles.com/p/articles/mi_m0WDQ/is_2005_March_21/ai_n13458317), accessed 24 August 2005. According to Zee Hai, a similar attack occurred later that year, with the pirates once again hijacking a local fishing boat for an attack on a Singaporean tug. Once again, the fishermen onboard the Malaysian fishing vessel were forced to participate in the attack and were released unharmed after the incident. The fishermen continued to fish after the event.
incidents are Indonesian and operate from fishing vessels equipped with powerful engines. Mostly cash and other valuables are stolen in these attacks.\textsuperscript{118}

For the waters south of Port Klang, the IMB reports list a small number of attacks on fishing vessels between 1994 and 2004.\textsuperscript{119} These incidents include robberies as well as hijackings of vessels, such as the attack on a Malaysian fishing boat off Muar in May 1998, in which the vessel and its three crew were kidnapped. The perpetrators demanded a ransom of RM20,000 (US $5,500) but eventually accepted RM14,000 (US $3,850) and released their victims.\textsuperscript{120} In 2002, four fishers from Parit Jawa, Muar, reported that they were kidnapped at gunpoint and released only after a ransom of RM30,000 (US $8,190) was paid.\textsuperscript{121} Furthermore, the Malaysian police recorded a similar incident occurring on 28 November 2002, when a Malaysian fishing boat was approached by a \textit{pancung} boat\textsuperscript{122} in Indonesian waters off Tanjung Tuan, Port Dickson. The four pirates were armed with a Heckler & Koch MP-5 submachine gun and asked for a ransom of RM15,000 (US $4,110). The victims were unable to pay such a large amount and the pirates eventually left, taking 60kg of fish, the GPS system, an echo sounder, and other fishing equipment with an estimated value of RM10,000 (US $2,740) from the fishing vessel.\textsuperscript{123}

In conclusion, attacks in the Malacca Straits, particularly the northern part, have increased over the past ten years and have become more serious in nature. The payment of protection money, the kidnapping and killing of crew, as well as the hijacking of fishing vessels are frequent occurrences. These incidents pose a serious threat to the crew onboard the vessels and a financial burden for operators of targeted vessels and the families of kidnap victims.

Leaving the Malacca Straits and moving east, the waters between the southern Philippines and Sabah are also a recognised hot-spot of attacks on fishing vessels.

\textsuperscript{118} Author’s Interview with a fisher, 21 October 2002, Port Klang, Malaysia.
\textsuperscript{119} There may be as few as four attacks on fishing vessels included for this area. However, in some cases, the IMB reports do not list the exact location of attacks. It is therefore not possible to determine exactly how many attacks occurred in the Malacca Straits south of Port Klang.
\textsuperscript{122} \textit{Pancung} means beheaded and is used to refer to boats resembling speed boats.
Sabah and the southern Philippines

A large number of small vessels, including fishing boats of all sizes, ply the waters between Sabah, Kalimantan, and the southern Philippines and attacks on these vessels are a common occurrence. Many of these attacks in this area are conducted by perpetrators originally from the southern Philippines, and predominantly appear to take place in the waters of Sabah and the southern Philippines. The attacks can involve a high level of violence and, because automatic weapons are easy to obtain in the area, the perpetrators are mostly armed with modern firearms. Fishing boats are arguably most affected by piracy in these waters but boats used for inter-island trade or smuggling, and other small transport vessels are also targeted. The actual number of attacks occurring in this area is difficult to estimate, as they are seldom reported to local authorities or the IMB. However, newspaper articles occasionally give insight into the scale of piracy in these waters. One report from the southern Philippines recounts, for example, that in Patalon, a small village of 200 subsistence fishermen and their families in Zamboanga Province, Mindanao, about 50 fishers have lost their boats or engines to pirates. The IMB reports, covering the years between 1995 and 2006, however, list less than ten attacks on fishing vessels in the southern Philippines. Yet, even though the number of attacks included in the IMB reports is small, all of the attacks listed are violent in nature and often involved the killing of fishermen. While in some of these cases hostages were taken or vessels hijacked, extreme violence has also been used in attacks in which the pirates showed no interest in either the fishing boat or the crew itself, as demonstrated by the following example. In this incident, three fishermen were shot dead in the strait between Basilan and Zamboanga when armed pirates in a motor boat approached their vessel and opened fire. The pirates then stole the fishing boat’s engine and fishing gear and fled. Other fishers working nearby heard the shots, but were too afraid to approach the scene of the crime and the victims’ bodies were only later discovered by policemen.

124 The ongoing conflict in the southern Philippines between the Philippine government and various separatist and terrorist groups are one reason for the availability of firearms in this area. See: Chapter 6.
The Malaysian waters off Sabah are also renowned for piratical activities. However, according to the Malaysian Enforcement Coordination Centre (MECC), which publishes statistics of piracy attacks in Malaysian waters, the number of incidents in Sabah waters has decreased considerably since 1997, as shown in Table 16:

**Table 16 Attacks in Sabah - different sources, 1991 - 2006**

<table>
<thead>
<tr>
<th></th>
<th>91</th>
<th>92</th>
<th>93</th>
<th>94</th>
<th>95</th>
<th>96</th>
<th>97</th>
<th>98</th>
<th>99</th>
<th>00</th>
<th>01</th>
<th>02</th>
<th>03</th>
<th>04</th>
<th>05</th>
<th>06</th>
</tr>
</thead>
<tbody>
<tr>
<td>MECC</td>
<td>37</td>
<td>34</td>
<td>57</td>
<td>42</td>
<td>20</td>
<td>17</td>
<td>5</td>
<td>18</td>
<td>9</td>
<td>9</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MP Sabah</td>
<td>25</td>
<td>11</td>
<td>37</td>
<td>38</td>
<td>61</td>
<td>41*</td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>9</td>
<td>14</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>IMB</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>9</td>
<td>14</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: IMB, MECC, Marine Police Sabah
* Until 26 November 1996.

While these statistics include attacks on all types of vessels, nearly all attacks in these waters between 2001 and 2003 targeted fishing vessels, as demonstrated in Table 17:

**Table 17 Attacks in Sabah waters by vessel type, 2001 - 2003**

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishing Boat</td>
<td>9</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>Merchant Ship</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>9</td>
<td>12</td>
</tr>
</tbody>
</table>

Source: Malaysian Marine Police

Further, a report by the Malaysian Marine Police Sabah Division compiled in November 1996, which analysed the main targets of pirates since the early 1990s, lists five items of preferred booty: outboard engines, fishing vessels (for ransom), valuables (cash, watches, gold, jewellery), communication radio sets and “other equipment on board i.e. fishing gears, fuel, fishes and others.” This list suggests that fishing vessels have also been preferred targets of pirates operating in Sabah in the first half of the 1990s. Yet, according to local fishers on the east coast of Sabah, such attacks are only rarely reported to the authorities. Interviews with local fishers and politicians from the district and town of Semporna on the south eastern coast of Sabah give fresh insight into the type and nature of pirate attacks occurring in this area in recent years.

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128 Sabah was until the 1990s also subject to raids of towns, islands and villages by gunmen in fast vessels. One of the most recent attacks of this kind occurred in Semporna in early 1996.
The waters near Semporna are busy, with a large number of small and medium-sized vessels plying Malaysian waters and voyaging between the southern Philippines, Semporna and eastern Indonesia. The vessels include traditional fishing vessels, barter traders, and passenger vessels transporting locals as well as holidaymakers, who visit Semporna to dive near the world-famous island of Sipadan. At present, nearly 2000 people in the district of Semporna are working as full-time fishermen on traditional fishing vessels and mechanised trawlers, hauling in a catch of about 12,000 metric tons of fish per year. In 2002, of the 1,992 full-time fishers active in the district, only 119 worked on fishing trawlers. Most fishers operating in the area, therefore, still use traditional fishing methods and equipment, with 1,004 fishers using regular nets, and the remaining 869 fishers using gear such as fishing rods. These more traditional fishers work mainly in the shallow waters close to the coast or offshore near islands. There are around 70 wooden hulled mechanised trawlers based in Semporna at present, but new, even larger boats are under construction in the area. The smaller trawlers carry a crew of ten to 12 people, medium sized trawlers a crew of 17 to 21, and the largest around 30 men. The crew are predominantly from Sabah and the southern Philippines. The vessels vary in value, with a medium sized boat worth around RM400,000 (US $109,600) and the larger trawlers valued at between RM800,000 and RM1 million (US $219,200) and US $274,000. Many of the vessels go out to fish for up to 24 hours before returning to Semporna, where they unload their fresh catch. According to local fishers, fish stock in Malaysian waters off Semporna is declining, due to the large number of trawlers based in the area and the destruction of reefs as a result of dynamite fishing. The fishers therefore occasionally fish in Indonesian waters, where more fish can still readily be caught. The waters of the Philippines are

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131 Semporna and other parts of Sabah are home to a large number of legal and illegal immigrants from the Philippines, particularly from the southern part of the country.

132 Dynamite fishing was introduced from the Philippines. As will be discussed in Chapter 3, dynamite fishing is illegal in Malaysia. However, fishers from the Philippines and Indonesia (as well as locals) still occasionally practice dynamite fishing in Malaysian waters.
generally avoided by Malaysian trawlers because these waters are known to be the haunts of pirates as well as terrorists. While Indonesian waters are generally safer, boats fishing in or near Indonesian waters are occasionally approached by Indonesian naval authorities, who threaten to confiscate the vessels and tow them to Indonesia, if the crew does not pay a ‘fee’. While mostly smaller boats are threatened, Semporna based trawlers nonetheless carry cash when fishing in Indonesian waters in case they have to pay an upfront ‘fee’ to the authorities.

Photo 9  Traditional fishing boats Semporna

Photo 10  Fishing net Semporna
However, most of the more conventional pirate attacks in this area target smaller ships such as small fishing vessels, transport, or smuggling boats. There are three different types of pirates operating in the waters off Semporna at present. The first type of pirate, referred to as the ‘borrower’, operates from a small fishing boat, with usually two to three pirates onboard. The local fishers, often Bajau, usually allow such pirate vessels to approach as they believe they are fishers who need water or other assistance. The pirates are armed with guns or rifles and target the vessels to steal outboard engines and other small valuables onboard. They are generally friendly and only harm their victims when they are met with resistance. Resistance, however, is rare as Bajau and Malay fishers are not armed with firearms. Nonetheless, in some cases the victims were forced to jump overboard and their vessel was taken over by the pirates and left at some distance from the swimming fishers. The identity of these perpetrators is contested. A 1996 Marine Police Sabah Division report concluded that the sea robbers who pose as local fishers operate from a base in the southern Philippines. On the other hand, fishers from Semporna believe that the pirates are based in Sabah because they often speak Malay. The booty, however, is mostly sold in the southern Philippines, on islands such as Sitangkai, which is notorious for its market in stolen goods. The local fishers also believe that some of these attacks are conducted by off duty members of the Malaysian marine police. They use fishing boats and wear masks during the attacks, but as they live and work locally, the fishers know who they are and in some cases even exchange pleasantries with the culprits.

The second type of pirate operating in the waters off Semporna attacks boats which they believe – or know – to be carrying either large amounts of cash or other valuable goods. Therefore, boats used for smuggling between the Philippines, Indonesia, and Sabah are often targeted. However, fishing vessels are also occasionally attacked. The perpetrators in these cases steal the engine or the vessel. They are more likely to use violence than the ‘borrowers’ and have occasionally killed fishers or other victims. The culprits are believed to be mostly Muslim Filipinos with good knowledge of the coastal geography of Sabah and the legal and illegal commodity trade conducted

133 Author’s Interview with fishers, trawler owners, and local politicians, November 2004, April, October, November 2005, March, April, November 2006, Semporna, Malaysia.  
135 Author’s Interview with fishers, trawler owners, and local politicians, November 2004, April, October, November 2005, March, April, November 2006, Semporna, Malaysia.
between Malaysia, Indonesia, and the Philippines. It is believed that they have access to this information either from informers or because they have lived in east Malaysia for a sufficient period of time.

The third type of pirate attacks all kinds of small vessels and takes crew hostage. The perpetrators are mostly Muslim Filipinos and rely on information from informants in Malaysia. These attacks can be violent and are, like all other attacks discussed above, seldom reported to the authorities. The victims are often Muslim Filipinos living in Sabah without valid documents or Malaysian identity cards. Some of the kidnap victims are believed to be targeted because they are wanted in the Philippines, with some, for example, being alleged terrorists or criminals who can be ‘sold’ to interested parties in the Philippines.136

While all these different types of attacks still occur in the waters between the Philippines and Sabah, the overall number of pirate attacks in Malaysian waters off Semporna has decreased drastically since the large scale abduction of foreign tourists and resort workers from the island of Sipadan in 2000 by the Abu Sayyaf. Following the kidnapping, the number of marine police officers and vessels patrolling the area was substantially increased, adversely affecting the occurrence of piracy.137 Nonetheless, pirate attacks still occasionally take place in Malaysian waters, and continue in the waters of the southern Philippines and along the border area between the Philippines, Malaysia, and Indonesia.138 As discussed above, a large number of the perpetrators are Filipinos and the unresolved conflict in the southern Philippines, coupled with poverty and the ready availability of weapons, provide ideal conditions for piracy in these waters.

Conclusion

In the 1970s and 1980s a spate of vicious pirate attacks occurred in the Gulf of Thailand. The targets of these attacks were the Vietnamese Boat People fleeing their home country. The attacks were extremely violent and included the rape and abduction

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136 Ibid.
137 As will be discussed in Chapter 7, this increase of marine police officers and vessels in the area created a different set of problems for local fishers.
138 The borders between the Philippines, Indonesia and Malaysia are still contested, making effective patrols more difficult. This, as well as the limited resources of the Indonesian, Malaysian and Filipino navy and marine police will be discussed in Chapter 7.
of women and children. Other attacks targeting small craft in the 1980s, taking place in Thai waters, Bangladesh, the Malacca Straits, and the waters between East Malaysia and the southern Philippines, were also often violent in nature. Even though the level of violence in attacks on small vessels declined in the 1990s, fishers are arguably still more affected by piracy than other mariners. Indeed, while attacks on yachts are rare in Southeast Asia and Bangladesh, attacks of a serious nature on fishing boats are regular occurrences in some coastal and riverine areas in these countries. Nonetheless, for fishers operating in these waters, piracy is just one of many hazards that are associated with their line of work.

The examples of attacks on fishing vessels discussed in this chapter demonstrate that attacks on fishing vessels occur in various contested thoroughfares and frontier places in Southeast Asia and Bangladesh and often display local characteristics. However, despite regional distinctions, there are certain similarities between attacks in different locations in Southeast Asia and Bangladesh. The pirates in the Malacca Straits, as well as in the southern Philippines and Bangladesh, for example, use fishing vessels for attacks. Another important common characteristic is that crew are in some cases kidnapped or boats hijacked and a ransom demanded. Also, while not all of these attacks result in the death of a crewmember, the level of violence can be high in all affected areas, as the pirates have to confront the crew directly. Furthermore, as the attacks on traditional fishers in Bangladesh illustrate, attacks on fishers can generally have very different consequences and impact than attacks on merchant vessels, as sea-robbers can destroy a fisherman’s livelihood by taking his vessel, equipment, or catch. Yet, fishers are not solely the victims of pirate attacks. In many places in Southeast Asia and Bangladesh, fishermen themselves are the perpetrators, attacking their counterparts or participating in attacks on merchant vessels.

This chapter concludes the first Part of this thesis. Pirate attacks on merchant shipping in Southeast Asia and Bangladesh in the 1980s but especially from 1990 to 2006 were discussed in the first chapter. The second chapter was concerned with attacks on small craft such as yachts and fishing vessels and the involvement of fishers in piracy since the 1970s. The questions that now arise include why piracy exists in these different forms at present and whether or not piracy is linked to, or an indicator of, other security risks and shortcomings. Why, for instance, are fishers in Southeast Asia and Bangladesh involved in piracy, either as victims or as perpetrators, to such an extent?
Part of the answer lies in the increasing competition and conflict arising from depleted marine resources in the region, as will be discussed in the following chapter.
Part II
The Sea

We are now suffering the consequences of overfishing […] It should be understood that the livelihood of our families is at stake. When the stomach is empty, anything can happen.¹
Member of Consumer Association of Penang

We don’t know or care who owns the ship or whether they’re doing ‘white’ or ‘black’ business […] it is not our concern.²
Ahmad Yahya, Cambodian Ministry of Public Works and Transport

Introduction

The first two chapters of the thesis have shown that different types of pirate attacks occur in Southeast Asia and Bangladesh, targeting merchant ships as well as smaller vessels, including fishing boats. The remaining Parts of the thesis will explain why these different types of attacks occur in this region. This will give the reader further insights into the nature of individual attacks and the working practices of pirates, as well as information about the perpetrators themselves and the driving forces behind such attacks. This investigation is tied to the central argument of this thesis, namely that piracy can be understood as both a sign and a reflection of security threats and bureaucratic loopholes, as well as of other political, social, and economic developments impacting on security. These security deficiencies can, for example, be exploited by other criminals such as smugglers, or radical, politically motivated groups such as terrorist organisations, and can contribute to instability or conflict in countries or regions both within and beyond Southeast Asia and Bangladesh.

This Part of the thesis is concerned with the sea. It discusses the sea in two successive chapters, firstly as a source of livelihood for fishers, and secondly as a place of business for merchant mariners. It explores how the nature of the fishing industry and the merchant marine trade are affecting pirate attacks on fishing boats and merchant

ships in Southeast Asia and Bangladesh. It suggests that the nature of the maritime and fishing industries is conducive to the occurrence of pirate attacks in these areas and explains how pirates exploit loopholes and shortcomings in the current maritime environment to conduct their operations. While there are certainly differences between the fishing and merchant maritime industries, there are significant international rules and regulations that impact on both industries and shape the nature of pirate attacks. Most important in this regard is the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which stipulates international guidelines on fundamental issues such as the ownership of the sea, the registration of vessels, and fisheries conservation matters. UNCLOS and other conventions impacting both industries, as well as specific issues regarding the fisheries sector and merchant trade, are discussed in this Part and their impact on piracy is explored. Both chapters conclude by suggesting that the factors which are conducive for pirate attacks to occur, including loopholes in international and national maritime regulations, can also be root causes for other threats to security and the stability of states and regions.
Chapter 3

The Fishing Industry and Piracy

Introduction

On 2 February 2005, a fleet of trawlers fishing near Pulau Jerajak in the Malacca Straits (Map 4) was attacked by 12 pirates who approached their victims under the classic pretext of wanting to trade fish with the trawlers. The perpetrators, armed with M-16 rifles, boarded three of the fishing vessels and stole the catch, documents, and equipment from the trawlers. They also kidnapped ten fishers and brought them to Aceh, Indonesia. Negotiations with the owner of the trawlers ensued and the hostages were eventually released after a ransom of RM150,000 (US $41,100) was paid.¹ Such attacks are not unusual and, as mentioned above, occurred because the pirates were able to approach their victims by pretending to be interested in trading with the fishers directly at sea. Fish trade at sea occurs in some ocean areas where catches have become sparse and fishers buy or barter valuable fish from their, often foreign, counterparts to supplement their own catches and secure sufficient income and livelihood.

This chapter is concerned with the sea as a source of livelihood for fishers in Southeast Asia and Bangladesh. It discusses how the expansion of the fishing industry and the working practices of fishers impacts upon and shapes piracy in the region. Furthermore, the chapter demonstrates that piracy both reflects and reveals a number of security threats and environmental problems in Southeast Asia and Bangladesh. The first section of this chapter provides an insight into the fishing industry in Southeast Asia and Bangladesh and discusses some of the problems fishers encounter in their line of work, including the overexploitation of the seas. It also examines international, regional, and national regulations in regard to the fishing sector and how they affect the daily lives and operations of fishers. The second section then explores how recent developments in the fishing sector and the over-exploitation of the ocean impacts upon piracy. It will be demonstrated that diminishing fish stocks and over-fishing in some

ocean areas in Southeast Asia and Bangladesh contribute to the occurrence, and shape the nature of, pirate attacks. The last section of the chapter suggests that the same factors that are conducive to the occurrence of pirate attacks also pose security threats beyond piracy.

Fishing in Southeast Asia and Bangladesh

All Southeast Asian countries and Bangladesh are home to large numbers of fishers working on diverse types of fishing vessels. The vessels range from small boats, predominantly used by subsistence and artisan fishers, to large mechanised fishing vessels such as trawlers. While these boats and vessels are a common sight in the region today, and fishing has always been a vital source of livelihood for local populations in Southeast Asia and Bangladesh, the overall nature of the fishing industry in the region has changed profoundly in the past century. A number of factors are responsible for the transformation of the fishing sector. Most significant has been the development of new sophisticated technology since the 1950s, resulting in the construction of more effective distant-water fishing vessels and equipment. Indeed, advances in navigation, sonar and echo equipment, improvements in the preservation of the catch, as well as increased mechanisation of large vessels and fishing gear have all made a substantial difference. However, not only large fishing vessels were affected by these technological changes. Subsistence and artisan fishers also benefited from these developments, with a large number of small scale fishermen now using engine powered boats, some equipped with modern aids to navigation and fishing gear. With the development of new technology, fishers were able to effectively capture stocks that previously were beyond their capability or reach. This, in turn, increased the potential for financial profits to be made from investments in the fishing industry. Hence, more and more people invested in the fishing industry and the overall number of fishing vessels operating in Southeast Asia and Bangladesh increased. As a result, catches began to rise dramatically between the

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1950s and 1970s. Trawlers were mostly responsible for the dramatic increase in fish caught and they continually moved to new fishing grounds to maintain the high levels of landings and profits.\(^4\) The boom in the offshore fishing industry was fuelled by rising demand for fish and fish products as the population of Southeast Asia grew – reaching 480 million in 1995. Furthermore, parts of the population became more affluent and were able to afford fish on a more regular basis.\(^5\)

With this local, as well as international, increase in demand for fish, and the recognised profitability of the fishing sector, the number of full-time and part-time fishers in Asia rose more rapidly than in any other part of the world. By 1990, 84 percent of the world’s fishers and aquaculturists were working in Asian waters. While most of these fishers are based in China,\(^6\) Southeast Asian countries and Bangladesh are also home to large numbers of fishers. Indeed, in 2000, 4.5 million people worked as fishermen in Indonesia alone, many of them being poor subsistence or artisan fishers.\(^7\) Fishing is consequently a crucial sector of local-regional economies and an important source of employment in countries in Southeast Asia and Bangladesh. It also provides food for families of small scale fishers all across the region, who rely on their catch for daily survival. Furthermore, it generates income for owners and crew of large vessels and people working in the fish processing industries.

With the increased demand for marine products and the use of more effective fishing equipment, the strain on ocean stocks began to show in many fishing grounds in Southeast Asia and Bangladesh from the 1960s onwards. In order to sustain catches and profits, fishers began to move further outwards in search of less exploited fishing grounds. However, as Butcher so succinctly points out “there were limits to how far this

\(^4\) Butcher, *The Closing of the Frontier*, pp. 232-3. The development of the fishery sector between 1950 and 1980 was, however, not as straightforward as described in this brief summary. For more details see: Ibid., pp. 168-233.


process could go”, and by the late 1970s Burma was “one of the few countries in Southeast Asia (if not actually the only one) in which potential yields [did] exist, i.e., in which fleet expansions appear[ed] possible”. Overall, fish in Southeast Asian waters became less and less abundant over the years. Summarising this trend, Butcher states:

Until the early 1900s most of the sea had been barely touched by fishing. When the demand for fish and other marine animals rose or the supply fell, there was always a new fishing ground to exploit and there were very few impediments to moving on to new fishing grounds. By extending the frontier of fisheries, moving on to new fishing grounds and, as part of this movement, exploiting more and more of the diverse ecosystems that make up the seas of Southeast Asia, fishers brought about spectacular increases in the harvest of fish, shrimps, and other marine animals, particularly in the decades right after World War II. By the 1990s, however, nearly all of the three-dimensional sea was being exploited, catches had fallen sharply in many areas, and the freedom to move from one fishing ground to another had been severely curtailed.

Furthermore, with increased fishing activity, catches, particularly of those species which are commercially valuable, have become sparse. Consequently, to secure their income fishers in the region began to sell and utilise those species that were earlier regarded as not desirable, clearing the ocean of ever more types of fish and other marine life. Today, the catches of trawlers operating out of Sabah, for example, are estimated to consist of only 25 to 30 per cent of good quality fish, with the remaining 70 to 75 per cent being different species of lower value. However, particularly since the widespread introduction of aquaculture projects in the region from the 1970s onwards, even so-called ‘trash fish’ have value, being used either as food for some species bred at fish farms or for the production of fishmeal. Due to the current use of low value fish, the volume of fish caught has remained stable – or even increased – over the years while the actual value of the catch has fallen. This trend indicates that fishers continue to fish despite the decline in value and the change in catch. Yet, once a region is completely

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9 FAO report quoted in: Ibid.
10 Ibid. p. 1.
13 In particular traditional fishers relying on the catch to feed their families are under pressure to continue fishing, or fish even harder, when fish stocks decline. See: Vieira and Tull, ‘Potential Impacts of Management Measures on Artisanal Fishers in Indonesian Shark and Ray Fisheries’, pp. 4-5. Furthermore, with heightened competition among fishers, voluntary conservation is regarded as foolish, as less scrupulous fishers are likely to exploit the fishing grounds. Hardin coined the phrase the ‘tragedy of the commons’ to describe the fact that people (or communities) over-exploit shared environmental
over-fished, traditional and scale time fishermen who are not able to travel great distances in their vessels are forced to seek alternative sources of income.14

Over-fishing is, however, not the only factor responsible for the decline in stock caught and the reduction of species in Southeast Asian and Bangladesh waters. The destruction of estuaries, wetlands, and reefs has also played an important role over the past decades. Part of the destruction has been caused by the use of illegal fishing methods such as dynamite and cyanide fishing, which damage and destroy corals that are the habitat and breeding grounds of many species. While these fishing methods are illegal, dynamite and cyanide fishing are still practiced in some waters in countries such as the Philippines, Bangladesh, Indonesia, and Malaysia.15 Furthermore, the pollution of the ocean and coastal areas also had an impact. The large number of merchant vessels plying the oceans are responsible for about 30 per cent of marine pollution, through accidents such as collisions or groundings, and, even more so, through every-day operations, including the discharge of ballast water and waste disposal.16 However, it is land based pollution that is responsible for the vast majority of marine pollution. Discharged sewage and petroleum, discarded rubbish, and the drainage of farms, containing high concentrations of nitrate and phosphate, as well as the emissions of petrol and diesel engines, all contribute to the pollution of the oceans. The Gulf of Thailand, Manila and Jakarta Bays, the South China Sea, and many populated coastal

resources such as fish, even if they are aware that it is against their long-term interests. Garrett Hardin, 'The Tragedy of the Commons', Science, vol. 162, 13 December 1968, pp. 1243-8.


15 Both methods are also used to catch live fish for aquariums and restaurants. Bomb fishing is especially dangerous for fishermen and fishers without limbs are not an unusual sight in some areas. Despite the danger, the method is still used as it is very effective. In 1997, one report stated that a traditional fisher in the Philippines earned around US $1 per day, while a fisher using explosives could earn up to US $15-40 from a single blast. 'On the Edge', Economist, vol. 347, no. 8069, 23 May 1998, p. 6. See also: Zahaitun Mahani binti Zakariah, 'Destructive Fishing in Malaysia: The Need for Local Participation in Fisheries Management', Maritime Institute of Malaysia, http://www.mima.gov.my/mima/htmls/papers/pdf/zmz_busan.pdf, accessed 5 May 2006. Fisheries Enforcement and Management Division of Fisheries Malaysia, 'Intrusion of Thai Fishing Vessels into Malaysian Territorial Waters', Kuala Lumpur: Ministry of Agriculture, 1979, p. 5.

16 Sam Bateman, 'Impacts on the Marine Environment from Shipping Operations', in Sam Bateman and Stephen Bates (eds), Shipping and Regional Security, Canberra: Strategic and Defence Studies Centre, Australian National University, 1998, pp. 102-5,111. Bateman suggests that there are three types of environmental pollution associated with shipping: first, operational pollution (leakages, discharges), second, accidental pollution and third, physical damage of habitats.
areas in Southeast Asia and Bangladesh all show signs of serious pollution and degradation.\textsuperscript{17}

\textbf{Photo 11  Polluted coast of Semporna}

However, ecological problems such as pollution of the marine environment and over-fishing are complex issues. For instance, the number of some species actually increased in Bangladesh and Southeast Asian waters, despite, or even because of, these changes to the marine environment. Examples include anchovies, which feed off the plankton thriving on the discharge of extra nutrients into the ocean, and short-lived species such as shrimp and jellyfish which benefited from the removal of predators and competitors for food by fishers. These fish have in past years helped to sustain catches and have provided income for fishers.\textsuperscript{18} Furthermore, in some areas, the number and variety of stock has remained depleted for prolonged periods of time, while in other regions overexploited fish stock recovered within a few years. While some of these developments can be explained, others remain unclear, highlighting the lack of research and understanding, and consequently effective management, of fisheries.\textsuperscript{19}


\textsuperscript{18} Butcher, \textit{The Closing of the Frontier}, pp. 289-90.

\textsuperscript{19} Ibid. p. 291.
Management of fisheries

As resources have become sparse and competition among fishers has become fierce, management and protection of fisheries has become an absolute necessity. Yet, regulating access to the ocean’s wealth is not an easy task, as in order to preserve marine resources, fishers from around the world have to be constrained from overexploiting fisheries and (protected) ocean areas. To facilitate fisheries and ocean management, international conventions and guidelines have been established to regulate ownership and jurisdiction over ocean space. Of particular importance in that respect are the three United Nations Law of the Sea conventions of 1958, 1960, and 1973. The first of these UN conferences was organised to discuss issues concerning the ownership of the sea and the sea bed, the right of innocent passage of vessels,20 as well as fisheries conservation issues. The two follow-up conferences were called for further discussion and the establishment of a comprehensive Convention on the Law of the Sea (UNCLOS).21 The decision on the final version of the convention was complicated by the fact that representatives from 150 states attended the final meeting and agreement on even the basic terms of the proposed convention was difficult to reach. However, despite these obstacles, UNCLOS22 was adopted in 198223 and came into force on 16 November 1994.24 Important for this thesis is Article 101 of the convention, which includes the definition of piracy discussed earlier, as well as guidelines regarding the registration of vessels.25 The convention also requires states to work together to protect the living resources of the seas and offers the basic foundation regarding international

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20 For a discussion about the shortcomings of the agreement and the scope for regional agreement in Asia-Pacific see: Erik Jaap Molenaar, 'Navigational Rights and Freedoms: Grey Areas and Scope for Regional Agreement', in Sam Bateman (ed.), Maritime Cooperation in the Asia Pacific Region. Current Situation and Prospects, Canberra: Strategic and Defence Studies Centre, Australian National University, 1999, pp. 97-119.
23 The agreement was to come into force one year after sixty states ratified it.
25 The registration of merchant vessels will be discussed in the following chapter.
law on fishing.\textsuperscript{26} Crucial in this regard is that UNCLOS recognized, and loosely defined, four maritime zones, namely the territorial sea, the contiguous zone, the EEZ, and the high seas, herewith regulating the ownership and jurisdiction over ocean areas. According to UNCLOS, the territorial sea (or territorial waters) lies closest to the shore, with the convention recognising a maximum width of 12 nautical miles (nm) for this zone.\textsuperscript{27} Within this area, the coastal state has limited rights to enforce national laws on specific issues such as navigation or pollution. In the adjoining area, the contiguous zone, stretching out a maximum of 24 miles from the shore, national governments have selected powers to enforce fiscal, immigration, sanitary, and customs laws. Extending even further into the ocean, the EEZ is a strip of water reaching up to 200 miles from the legally defined shoreline into the sea. To allow states to protect and preserve the marine environment in this zone, coastal states can enforce rules regarding pollution issues in these waters. While all these zones are governed by national laws, ships enjoy the right of innocent passage in all zones. However, coastal states have the exclusive right to exploit natural resources, including fish stocks, in all three zones.\textsuperscript{28} All waters beyond the EEZs form the high seas, an area outside the jurisdiction of individual states.\textsuperscript{29} With UNCLOS, the status of the different maritime zones became internationally certified, bringing legitimacy and some uniformity to the division of ownership of the oceans, which, in Southeast Asia, had already begun in the late 1950s and early 1960s, with countries such as Indonesia and the Philippines declaring territorial waters stretching out 12 nm into the sea and their countries to be archipelagic states.\textsuperscript{30}

\textsuperscript{27} In practice, the limits of the territorial seas range from three to 200 miles, depending on the country. Stopford, \textit{Maritime Economics}, p. 430. Furthermore, countries such as the Philippines and Indonesia can claim archipelagic status, allowing these countries to draw the boundary of the territorial sea of twelve nm from the outermost points of their outermost islands. All waters within this area are considered archipelagic waters under their jurisdiction. Tamara Renee Shie, 'Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation', in Graham Gerard Ong-Webb (ed.), \textit{Piracy, Maritime Terrorism and Securing the Malacca Straits}, Singapore: ISEAS Publishing, 2006, p. 172.
\textsuperscript{28} The continental shelf also plays a role, as states have sovereignty rights over the shelf in regard to the exploitation of resources. In areas where the continental shelf reaches out further than 200 miles into the sea, claims can be made up to at least 350 nautical miles. Wayne S. Ball, 'The Old Grey Mare, National Enclosure of the Oceans', \textit{Ocean Development & International Law}, vol. 27, 1996, p. 102.
\textsuperscript{29} Stopford, \textit{Maritime Economics}, pp. 429-31. In cases where states are within 400 miles of each other, arrangements had to be made between countries to agree on the border, as the UNCLOS convention does not provide any regulations for such cases. Ball, 'The Old Grey Mare', p. 110.
\textsuperscript{30} Butcher, \textit{The Closing of the Frontier}, p. 231.
From the outset, the division of ownership of the sea had an enormous impact on the activities and movement of fishers from Southeast Asia and Bangladesh. With the declaration of territorial waters and later the implementation of UNCLOS, the ocean, which had been referred to as the ultimate commons, was no longer a common resource, as fishermen were no longer allowed to fish in waters now considered to be under the jurisdiction of a foreign country, unless they acquired special fishing licenses. As Butcher writes:

The upshot of all these claims was that by the 1970s all the waters within the island world and along the coasts of the mainland had come under the jurisdiction of the various states of the region. Put differently, a very high proportion of the richest fishing grounds, including virtually all of the inshore waters where shrimps and many species of fish were most abundant, was, at least according to the claims made by these states, potentially off limits to foreign fishing vessels.

With the introduction of EEZs stretching out for 200 miles, fishers became, at least legally, further restricted in their movements. This was particularly problematic because, as in earlier divisions of ocean areas, the new boundaries did not take into account the traditional fishing grounds of local fishers in the region, who had to adapt to the new rules or face the consequences of being seized by authorities of the country in whose waters they were now illegally fishing. Complicating the issue even further was the fact that many countries within Southeast Asia, and Bangladesh and its neighbours, have not been able to agree on the actual sea boundaries between their respective nations, as claims over ownership of ocean areas overlap. The waters between the Philippines, east Malaysia, and Indonesia is a recent example of such conflicting claims of ownership.

In addition to the regulations embedded in international conventions such as UNCLOS, fisheries conservation is also managed through bilateral or multilateral

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33 For a list of unresolved boundary areas see: J. R. V. Prescott, 'Maritime Jurisdictional Issues', in George Kent and Mark J. Valencia (eds), *Maritime Policy in Southeast Asia*, Berkeley: University of California Press, 1985, pp. 64-5. The impact of boundary disputes on (military) cooperation between Southeast Asian countries will be discussed in Chapter 7.
regional agreements. Each country also has its own, more or less sophisticated, national fisheries laws and regulations. However, national management of fisheries is made difficult by the fact that successful cooperation between the national government, local authorities and administrations, and fishers is often hard to achieve as the interests of these different parties often appear to be in conflict. Enforcement of existing national, regional, or other regulations is also a major problem, as many countries in Southeast Asia, as well as Bangladesh, do not have the necessary funds and equipment to police their respective waters effectively. The level of regulation and conservation of marine resources varies among Southeast Asian countries. In Malaysia, for example, regulations regarding the use of trawlers in coastal waters were established in 1963 and licenses for fishing boats based on a quota system introduced in 1981. Malaysian waters have also been divided into different fishing management zones, preventing boats, such as trawlers and purse seine vessels, from fishing close to the coast. However, enforcement still remains a difficult issue and illegal fishing activities, such as trawling and the illegal use of push nets near the coast, are rampant in West Malaysia and Sarawak, while blast and cyanide fishing continues to be a problem in Sabah. The Indonesian government, as another case in point, imposed a ban on trawling in the waters off Java and Sumatra in 1980, which was extended to almost all Indonesian waters in the following three years in order to protect the livelihood of impoverished traditional fishers. As a result, the number of small scale fishers increased in Indonesia, as did the number, size, and capability of other effective fishing vessels such as purse seiners. After an initial period of success in reducing trawler fishing in Indonesian waters, the anti-trawling laws became difficult to enforce and special licenses were introduced which allowed trawling in certain areas. Overall, however, Indonesian authorities were either unable or unwilling to stop trawling and the ban ceased to have

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34 Indeed, fisheries conservation is mostly regulated and managed by regional agreements. Ball, 'The Old Grey Mare', p. 99.
36 Ball, 'The Old Grey Mare', p. 99.
any effect by the mid 1990s. Additionally, the Indonesian government also attempted to restrict the operation of foreign vessels in its national waters. Following Indonesia’s declaration of its EEZ, the government closed its waters to foreign fishing vessels in 1984. This regulation was replaced only two years later with a license (and later on a charter) system for foreign vessels. Further regulations restricting the operation of foreign vessels in Indonesian waters followed, but it has remained comparatively easy for foreign vessels to either circumvent the new rules by acquiring unofficial ‘licenses’ from local authorities, or by simply ignoring the regulations, as enforcement remains weak.

These two examples show that fishing regulations and enforcement policies vary between countries within Southeast Asia. Bangladesh also has its own set of national rules and regulation, but enforcement remains a problem in Bangladesh due to the limited resources of the local military and law enforcement agencies. Overall, the level of protection of marine life, the enforcement of these rules and regulations, as well as the number of fishing vessels based in a country, and the size of a country’s EEZ, all have an impact on the degree of over-fishing in a country’s waters. The extent of overexploitation of marine resources therefore varies between countries (and between marine areas within countries) in Southeast Asia and Bangladesh.

Illegal, Unreported, and Unregulated Fishing (IUU) by highly effective vessels

An additional problem contributing to the difficulty of protecting fish stock in Southeast Asia and Bangladesh (and other parts of the world) are very large and highly effective fishing vessels from outside the region involved in IUU fishing. IUU fishing includes activities such as fishing illegally in protected waters, fishing without a valid license,
underreporting of catch, the catching of fish stocks over the allocated quota, and the use of banned fishing gear. While some of the fishing vessels based in Southeast Asia and Bangladesh are also engaged in such activities, the effectiveness and size of local vessels are mostly dwarfed by large IUU vessels which operate from countries outside Southeast Asia and Bangladesh. These large IUU vessels operate on the high seas, in protected ocean areas and, because 90 per cent of commercially valuable fish stock is found within 200 miles of the coast, also within EEZs. These vessels, ranging from trawlers and long liners to purse seine boats, are able to catch large quantities of fish, including straddling and migratory fish stocks.

A major factor that contributes favourably to the occurrence of IUU fishing is the current system of ship registration. The UNCLOS convention endorsed the right of any state, including landlocked nations such as Mongolia, to register ships, given that a “genuine link” between the state and the vessel exists, as stated in Article 91:

Article 91

Nationality of ships

1. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

Yet, the nature of the genuine link between the ship and the flag state is not clearly defined, leaving the individual flag states to establish their own rules. However, the convention further states that: “Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.” Flag states consequently link a vessel to a recognised set of laws, including labour and commercial laws, in regard to the registered vessel, its crew, and its owner. Fishing

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*Fishing*, Paris: 2004. Organisations such as Greenpeace, UN FAO, ITF, the Environmental Justice Foundation and many others also offer reports on IUU fishing and its consequences.  
43 There are many other factors contributing to the occurrence of IUU fishing, including the lack of controls over fishing vessels and their catch in ports such as Tanjung Priok, Indonesia, Tenjog Pepelas, Malaysia and Singapore. Unfortunately, it is beyond the scope of this thesis to discuss these issues as they do not impact directly on piracy in Southeast Asia. Ibid. p. 29.  
45 UNCLOS Article 94. Ibid.
vessels registered under a country’s flag are therefore operating under the country’s laws, and the flag state has the obligation to secure compliance of its fleet with domestic, regional, and international laws and regulations. Today, a fishing vessel owner has the choice between registering his ship in a national register, which only accepts vessels of its own nationals, or in an open register. Open registers, also referred to as Flags of Convenience (FOCs), are those that are open to vessels from any nation. At present, at least 1,500 large scale fishing vessels are registered under FOCs. Even though this number of fishing vessels under FOC flags is estimated to account for only around ten per cent of the world fishing fleet, these ships are thought to have a disproportionately negative impact on the conservation and management of fish stocks around the world. Not all FOC countries are, for instance, able or willing to monitor the activities of, and enforce fisheries rules against, their vessels. Enforcement of regulations is made particularly difficult in those FOC countries where the beneficial ownership of the vessel does not have to be revealed.


Swan states that: “There does not seem to be a correlation between vessel size and use of an open register by fishing vessel owners.” There are fishing vessels registered under FOCs ranging from 100 to 4,000 Gross Registered Tons. Swan, 'Fishing Vessels Operating Under Open Registers', p. 23.

48 Swan estimates that fewer than ten per cent of fishing vessels are registered under FOCs, while other sources indicate that 12.5 per cent were registered under FOCs in 2001, up from about ten per cent in 1998. Ibid. p. 3. International Confederation of Free Trade Unions, Trade Union Advisory Committee to the OECD, International Transport Workers' Federation and International, 'More Troubled Waters', p. 16. It has to be stressed, however, that not only FOC registered fishing vessels are involved in IUU fishing.

49 According to Stopford, the beneficial owner is: “The ultimate controlling owner who benefits from any profits the ship makes. He may be located in his home country or an international centre such as Geneva or Monaco.” Stopford, Maritime Economics, p. 438.

The FOC countries with the largest fishing fleets have in recent years been Belize, Honduras, Panama, St. Vincent and the Grenadines. The revenue earned by FOC countries from registering fishing vessels is estimated to be less than five per cent of the total revenue earned by open registers. The financial profit made by registering fishing vessels is therefore comparatively small for the country (or company) operating the register. The major profiteers of the FOC system are the beneficial owners of FOC registered fishing vessels. The beneficial owners of these vessels are often companies or individuals based in the EU and Taiwan, even though real ownership of vessels is often hidden behind shell companies registered in FOC countries. The ability to hide the beneficial ownership of a vessel is, however, not the only factor that makes open registers attractive for owners of fishing vessels. Indeed, Swan argues that the decision to register a fishing vessel under an FOC is influenced by a number of factors, including the avoidance of fisheries conservation and management measures and regulations, and the reduction of operating costs and tax payments when compared to national registers. Additional factors may also include the circumvention of international standards concerning issues such as workplace safety and crewing and the use of open registers to cover up illegal fishing activities.

To prevent IUU fishing, a range of international agreements have been reached over the past decade that require flag states to take their responsibilities seriously. These agreements include the 1995 UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks which came into force in December 2001. The agreement sets

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51 As mentioned above, the number of fishing vessels on FOC registers varies constantly. The Belize register, for example, deleted a large number of fishing vessels from its register in recent years in an attempt to improve the quality and reputation of the registry. 'Hiding Behind the Flag', Frontline World, 2004, http://www.pbs.org/frontlineworld/stories/spain/flags1.html#intro, accessed 5 December 2004.
53 According to an FAO report, the annual revenue from fishing vessels received by 21 FOC states totaled just over US $3 million. Swan, 'Fishing Vessels Operating Under Open Registers', p. 20.
55 For more details see: Swan, 'Fishing Vessels Operating Under Open Registers', pp. 20-5.
58 A 2005 UN report states: “Although the United Nations Fish Stocks Agreement addresses only straddling and highly migratory fish stocks, some of its provisions, including those on application of the precautionary and ecosystem approaches to fishing activities, may be applied to the conservation and
more specific regulations for the management and conservation of international marine resources\textsuperscript{60} such as allowing regional fisheries organisations to enforce their rules in regard to sustainable fishing practices and protection of marine life in waters covered by regional agreements.\textsuperscript{61} In accordance with this and other agreements, active measures have been taken by national law enforcement agencies, flag states, and international bodies to control IUU fishing. These measures have included the seizing of IUU vessels, the deregistration of IUU fishing boats, and economic sanctions such as import bans for certain types of fish caught by vessels registered in countries with a record of involvement in IUU fishing.\textsuperscript{62} One example is the detention of the Belize flagged vessel \textit{Grand Prince} by French authorities for fishing illegally in French territorial waters in 2000. The vessel had been involved in IUU fishing before and was carrying 18 tons of toothfish when detained, valued at around US \$144,000. After the capture, French authorities set the bond for the release of the vessel at US \$1.9 million. Belize contested


\textsuperscript{60} Balton, 'Strengthening the Law of the Sea', p. 126.


the decision in an international court, which upheld the decision by the French authorities.\textsuperscript{63}

Unfortunately, despite the punishment of individual offenders, such as the vessel from Belize, and the existence of international and regional agreements to protect fish stock, enforcement of fishery rules and regulations remains difficult. Overall, governance of fisheries is still comparatively weak in most parts of the world and many of the existing international regulations are either voluntary or lack an efficient enforcement mechanism which ensures compliance by both member countries and FOC/IUU nations and vessels.\textsuperscript{64} These shortcomings leave the door open for large fishing vessels to continue operating illegally in waters around the world.

As a result of all the factors discussed above – including IUU fishing and an increase in the number of technologically advanced vessels – some ocean areas in Southeast Asia and Bangladesh are overexploited. In order to find profitable fishing grounds, fishers living in these overexploited areas often sail into waters under the jurisdiction of foreign countries, where decent catches can still be found. Over the past decades, this practice of expansion and transgression has resulted in increased rivalry and outright conflict between fishers from different countries. These illegal fishing ventures have also resulted in conflict between fishing boats and local law enforcement authorities throughout Southeast Asia and Bangladesh.\textsuperscript{65} Furthermore, overexploitation and pollution of the ocean has contributed to the impoverishment of individual fishers and entire coastal communities in Southeast Asia and Bangladesh. As will be discussed, the poverty of fishers and their families, the problem of over-fishing, and the relentless movement of fishing vessels into ocean areas where they are not legally allowed to fish, all have an impact upon piracy in the region today.

\textsuperscript{63} ‘Hiding Behind the Flag’.


\textsuperscript{65} One example is an incident involving the Taiwanese fishing vessel \textit{Man Chun Yi} in January 2006. The Taiwanese boat was spotted fishing illegally in Philippine waters. Two Philippine police officers and four fishermen were dispatched and chased the Taiwanese vessel and killed its captain and injured one crewmember when firing at the ship. Further examples will be discussed later in this chapter. Chang Yun-ping, ‘Philippine Police Attacked Fishermen’, \textit{Taipei Times}, 18 January 2006, http://www.taipeitimes.com/News/front/archives/2006/01/18/2003289525, accessed 14 May 2006.
Fishers and/as Pirates

Over-fishing, pollution and the ensuing poverty of fishers and their families, as well as the division of the ocean into different national zones and jurisdictions, impacts directly upon the occurrence of piracy in Southeast Asia and Bangladesh in two different ways. Firstly, the impoverishment of fishers due to declining catches and rivalry among fishers can be a factor in pushing fishermen towards supplementing their meagre incomes and catches by conducting pirate attacks. Secondly, due to increased competition for fish stocks and the division of the sea into maritime zones under national jurisdiction, fishers – especially those fishing illegally in foreign waters – have in some areas become easy prey for pirates.

Fishers as pirates

The poverty of fishermen is pervasive along the coasts of many Southeast Asian countries and Bangladesh. For subsistence and artisan fishers over-fishing is of particular concern, as they rely directly on their catch to feed their families and on the sale of additional fish caught for their livelihood. They also generally do not own boats that would allow them to sail to more promising fishing grounds. Furthermore, for those who have worked as fishers all their lives it is difficult to find alternative employment, particularly for those living in villages where other employment opportunities are generally rare. In fact, especially in the aftermath of the Asian economic crisis of 1997, employment has become more difficult to find in certain places in the region. With the lack of legal employment opportunities and widespread poverty in some communities escalating, illegal activities are an alternative way to earn an income. As a result, some of the more desperate fishers turn to piracy as a source of income in a time of need, while more opportunistic fishers may use it to earn extra cash or to supplement low catches. Piracy appears almost the ‘logical choice’ for such fishers as they have the necessary maritime skills, local knowledge of the area, and the required equipment, including boats and long knives or parangs. In certain dangerous areas, such as the southern Philippines, some may even have small arms or light weapons at hand.

There are several types of pirate attacks carried out by these fishers, with some conducted in conjunction with other impoverished men with maritime skills from their communities. The vast majority of attacks conducted by desperate or opportunistic fishers are small-scale attacks on other fishing vessels, yachts, or any other small to
medium sized ships, including merchant vessels, passing through waters near their communities. Most of these attacks are opportunistic hit-and-run affairs in which the pirates take whatever they find onboard. These types of attacks can be conducted by a small group of men or by a ring of people attacking ships on behalf of entire villages, as is occasionally reported from Indonesia. In these latter cases ‘whole villages’, located predominantly on remote islands, occasionally attack vessels for food, cigarettes, and other small goods. Rising poverty, especially in the aftermath of the 1997 Asian meltdow, and the depletion of fish stock in the region are mainly blamed for these activities. For inhabitants of such impoverished places passing vessels are tempting targets as “some of these ships can feed a whole Indonesian village.”66 Indeed, while the attack itself is conducted by a small number of able-bodied men from the community, the whole village may share the booty, benefit from the attack, and admire and support the perpetrators.67 The pirates in this example therefore share certain characteristics with the social bandits described by Hobsbawn.68 His analysis of social bandits69 focuses on peasant outlaws

whom the lord and state regard as criminals, but who remain within peasant society, and are considered by their people as heroes, as champions, avengers, fighters for justice, perhaps even leaders of liberation, and in any case as men to be admired, helped and supported.70

Social bandits always rob or attack people outside their own community, with the Robin- Hood-type (at least in theory) robbing the rich to give to the poor. In the Riau Archipelago (Map 6), Frécon has found more evidence of such Robin-Hood-type pirates. Rozy, the chief of the most influential pirate gang operating from Belakang

67 Ibid. There are other types of pirates who give a proportion of their booty to their local community in order to ensure the villagers’ silence. See: Robert Stuart, In Search of Pirates. A Modern Day Odyssey in the South China Sea, Edinburgh: Mainstream Publishing (Edinburgh) LTD, 2002, pp. 218-20.
69 Hobsbawm distinguishes between three different types of social bandit, the noble robber (Robin Hood type), the terror bringing avenger, and the haiduk, the primitive resistance fighter. For the purpose of this thesis, the noble robber is of primary interest. Eric Hobsbawm, Bandits, London: Abacus, 2000, p. 23.
70 Ibid. p. 20. The author also points out that it is these characteristics that distinguish the social bandit from common robbers, from gangs drawn from the professional underworld, and from communities for whom raiding is a part of their established way of life.
Padang in the early nineties, is one example. Rozy and his gang plundered merchant vessels, distributed the booty in an impoverished coastal fishing village, and donated money to build the village mosque and a footbridge. However, despite his popularity Rozy was murdered by a rival gang.\textsuperscript{71}

However, in most other cases the booty is only shared among the perpetrators and their families. An example of this pattern is the attacks on merchant vessels conducted by opportunistic pirate-fishermen from Kampung Hitam, on Pulau Babi in the Riau Archipelago. The waters around the island are polluted and over-fished and the catch of local fishers is often not adequate to sustain the fishers and their families. As alternative sources of bona-fide income are rare, piracy is one way for these fishers to gain additional income. Finding targets is not difficult for these fishers because the island is located near the Phillip Channel, one of the world’s busiest waterways. The attacks on passing merchant vessels conducted by fishers are simple hit-and-run operations taking place at night, with the pirates stealing cash and valuables from passing vessels and their crews.\textsuperscript{72}

Furthermore, to compensate for insufficient catches, some fishers attack their counterparts and steal their catch. Fishers, however, seldom attack members from their own communities. Indeed, such attacks mostly take place when one or both of the following two premises are met. Firstly, attacks on fishers by fishers occur when the victims and perpetrators are not from the same country. These attacks therefore occur in border areas with heavy fishing activity, such as the Malacca Straits or the waters between east Malaysia, the Philippines, and Indonesia. Secondly, such attacks often occur if the victims and the perpetrators do not operate the same type of fishing vessel. The perpetrators usually operate from a vessel more technologically sophisticated than their victim’s boat. Examples of such attacks include those on traditional fishers in south eastern Bangladesh, or more precisely Chittagong, Cox’s Bazaar, Bagerhat, Patuakhali, and Satkhira Districts. There are two major problems faced by Bangladeshi traditional fishers living in this area. The first problem is illegal fishing conducted by


foreign trawlers, mostly from India and Thailand, but also from other countries. Locals usually refer to these boats as Thai Trawlers, as initially most of the vessels came from Thailand. As the trawlers are technically more sophisticated and larger in size than traditional fishing boats used in the area, they are able to catch larger amounts of fish. These vessels therefore contribute to the more general problem of over-fishing in the region and the shortage of fish left for Bangladeshi fishers. The second problem for these traditional fishers is piracy. The perpetrators are mostly Bangladeshi fishermen, working on large, commercial vessels with crews of 16 to 20 people. The pirates are armed with long knives, swords or firearms. When a fishing boat is attacked, the pirates mostly steal the catch but in some cases also take nets and engines. According to a representative from a local fishing association, the pirates attack either in their leisure time or during the course of their fishing trips if their own catch has been poor. The stolen fish are therefore used to supplement meagre catches. As over-fishing of valuable species has become an increasing problem in this area in recent years, catches continue to decline and pirate attacks occur more frequently.

Furthermore, unemployed and desperate fishers are also, in some cases, recruited by organised crime gangs to attack or hijack merchant vessels or tugs. While fishers may not have the important nautical skills necessary to drive a merchant vessel or conduct the work of trained seafarers, they nonetheless have skills such as knowledge of the ocean and experience in manoeuvring smaller vessels, which are important for conducting such attacks. An example is the attack on a buoy tender in June 2001 near Karimun Island, Indonesia (Map 6), southeast of Singapore, in which eight out of 13 pirates involved were fishers from the island of Karimun. The buoy tender, operated by the Indonesian transport authorities, was boarded by the pirates, who had mistaken the vessel for a Chinese freighter. During the attack, one member of the tender’s crew suffered serious injuries but other crewmembers were able to capture a pirate before he could escape with his gang. It was later established that the ringleaders of the pirates were based on Batam, Indonesia, and that they recruited struggling fishers to carry out attacks. Karimun Island, the home of the fishers hired for the attack, is part of Riau

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73 Author’s Interview with Ranajit Dastidar, Former Deputy Director, Community Development Centre (CODEC), 3 and 4 November 2003, Singapore.
Province. The seas surrounding the island are overexploited and the marine habitats have been destroyed by bomb and cyanide fishing. Other sources of income are difficult to find on the island and prostitution is rife.\footnote{Some industry, however, does exist on the island, with granite and to a lesser degree sand being main export articles.} For jobless and impoverished fishers, ‘employment’ as a pirate by an organised gang may therefore be one of the few options left to earn an income.\footnote{Manon Osseweijer, ‘Surviving in the Margin: Coastal Livelihoods in the Riau Islands, Indonesia’, \url{http://www.giee.ntnu.edu.tw/island/2004 ISLANDS8 proceedings/ISISA8pps/2-4-A-4%20Manon%20Osseweijer-%20Surviving%20in%20the%20Margin.pps}, accessed 18 May 2006.}

\textit{(Illegal) Fishers as victims}

Southeast Asian and Bangladeshi fishers who live in heavily over-fished areas occasionally voyage into neighbouring countries’ EEZs to fish. These fishing ventures are not only illegal but also make these boats and their crew far more susceptible to pirate attacks for a number of reasons. For example, boats fishing illegally cannot rely on any assistance from local authorities and are therefore not able to call for help when attacked or chased by pirates. The perpetrators of such attacks may also not only be aware of these circumstances, but the fact that their victims are fishing illegally in their territory can trigger anger and antipathy against such vessels and serve as a justification for the attack. Additionally, as mentioned in the previous chapter, the perpetrators of attacks are in some cases members of the military, navy, or marine police. For rogue security personnel, such attacks are easier to conduct if a boat happens to be caught fishing illegally in waters under their jurisdiction. The distinction between outright pirate attacks by members of local authorities and the legitimate collection of ‘fees’ for illegal fishing are somewhat blurred in these incidents. Yet, whatever the driving force behind these ‘attacks’, fishing vessels sailing into foreign EEZs often carry money to pay off authorities. The extra cash on board these fishing vessels in turn makes them tempting targets for all types of local pirates.

A number of attacks in Burmese\footnote{Even though Burma is not part of the group of countries discussed in this thesis, the targets of these attacks are Thai fishers, operating abroad because Thai waters are over-fished.} waters and in the Malacca Straits offer examples of how over-fishing and the demarcation of sea borders influences the nature, occurrence, and characteristics of pirate attacks. The victims of the attacks in Burmese waters are Thai fishers who venture into Burmese waters because Thai waters are...
overexploited. The incidents occurring in Burmese waters are mainly simple hit-and-run attacks, occurring at night. The pirates of these attacks are mostly armed with knives or swords, but only use their weapons if their victims offer resistance. A typical incident is the attack on the Thai fishing vessel Tapak which, in 2000, was assaulted during the night by about 30 pirates. The culprits had switched off the engine of their boat in order to approach their target silently and were able to climb on board the vessel unnoticed. Armed with knives and axes, the perpetrators stole small items from the trawler, including the belongings of the crew and some food. The fishers onboard believed that this and similar attacks were conducted by pirates from embattled ethnic minorities, particularly Karen and Mon living in southeast Myanmar. Overall, their booty is often of minor value, as Thai fishers are aware of the likelihood of such attacks and consequently carry only small amounts of money. However, there have been occasional attacks in Burmese waters in which fishing vessels, including the crew, have ‘disappeared’, with their fate remaining unknown.78

Attacks on vessels fishing illegally in foreign waters also occur in the Malacca Straits. As discussed in the previous chapter, the Malacca Straits are situated between Peninsular Malaysia and the Indonesian island of Sumatra. The 500 nm long waterway is more than 200 nm wide at the northern end and narrows down to 8 nm where it joins the Singapore Straits.79 Given its width, the waters of the Malacca Straits are divided into a Malaysian and an Indonesian governed part, bordering Singaporean waters in the south and Thai waters in the north. Yet, ownership of waters in the northern part of the straits is contested, leaving stretches of ocean area, and with it access to fishing grounds, disputed.80 Numerous fishing villages line the coast of the Indonesian and Malaysian sides of the straits. In this area, the overall number, type, and sophistication of fishing boats has increased over the past decades, as discussed earlier.81 Indeed,

78 Author’s Interview with two trawler owners, November 2002, Bangkok, Thailand.
80 Ship navigation and transit, however, is not directly affected by the dispute, as the straits are subject to special maritime regulations specified in the ‘Straits used for international navigation’ articles of the UNCLOS convention, which define the right and obligations of coastal states and users. See: Raj Sativale, 'Transit Passage in the Straits of Malacca', Maritime Institute of Malaysia, 2003, http://www.mima.gov.my/mima/htmls/papers/bulletin/articles/transit-passage.pdf, accessed 14 May 2006.
81 The number of fishers, boats, and licenses on the Malaysian side were already increasing rapidly from the mid-1960s onwards, with the number of fishers in west coast states rising from 32,271 in 1966 to 48,840 in 1976. The number of licensed trawlers in Penang and Perak also increased rapidly in the same
many of the Malaysian vessels in the area are medium sized or large fishing vessels. While these vessels have wooden hulls, many are technically sophisticated and equipped with mechanical fishing gear.\textsuperscript{82} The vessels are therefore effective and profitable, which is necessary as the operational costs are substantial, as the following example demonstrates. A typical mechanized fishing vessel from Hutan Melintang, Perak, needs 1,000 litres of fuel per day and the cost of petrol for a 10 day fishing trip is estimated to be RM12,500 (US $3,410). The trawlers carry a crew of four earning about RM70 (US $20) a day. Including the salaries for the crew, the minimum cost for a ten day fishing trip is around RM15,000 (US $4,095). In order to make the fishing trip viable for the boat owner, the daily catch therefore needs to have a value of at least RM3,000 (US $820).\textsuperscript{83}
Around 200 of these vessels are based in the village of Hutan Melintang alone, all fishing in the Malacca Straits. As Indonesian, Thai, and vessels from other (Southeast) Asian countries are also operating in the straits, the fishery is intensely exploited, with both total stock and diversity of fish species in decline in this vital area. In fact, Tai Shzee Yew, University Putra Malaysia, estimated that between 1970 and 2000 fisheries resources depreciated by over 40 per cent in the straits, with the northern part particularly affected. As the decline corresponds with the increase in fishing activity and the more technical sophistication of fishing boats, the decrease in fish stock in this area is seen as a result of overexploitation. Yet, despite the decline in fish stock, the number of fishing boats has not yet decreased. In Hutan Melintang, for example, the catch of large and valuable fish has declined in recent years, but the fishing industry is nonetheless expanding. In the late 1990s, around 300 trawlers were based in the vicinity of the village and by 2004, the number of boats had risen to approximately 450. The head of a local fishing association believed that this industry increase will continue because there will always be some fish to catch. In fact, even though profits from valuable fish are declining, smaller, less valuable, species can still be caught in abundance and the market and demand for fish changes and adapts. To maintain the high level of catches, Malaysian fishing boats based along the northern stretches of the Malacca Straits are also known to fish illegally in Indonesian waters, which are believed to be better fishing grounds. The ban on trawlers in Indonesian waters discussed earlier, and the fact that Indonesian fishing boats are often not as technically advanced as Malaysian and Thai vessels are some reasons why more fish are still found in Indonesian waters. While fishers based in this region seldom talk about their illegal

83 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
85 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
87 For information on over-fishing of Malaysian waters see, for example: Jomo, Fishing for Trouble, pp. 13-5, 45-9.
fishing activities, their encroachment into foreign waters is a real concern for Malaysian politicians, who also acknowledge that those vessels are easy victims for Indonesian pirates. Deputy Home Minister Datuk Chor Chee Heung, for example, stated in 2002: “We are asking our fishermen not to encroach into Indonesian waters as they will not only face pirates but also cause misunderstandings with the Indonesian navy.”

These ‘misunderstandings’ with the Indonesian navy or other Indonesian naval authorities include what Malaysian fishers refer to as pirate attacks. In these incidents, Malaysian vessels are approached by Indonesian navy, customs, or marine police officials and threatened with arrest for illegal fishing. In the case of such an arrest the Malaysian boat is brought to Indonesia and detained until the owner pays a substantial sum for the release of the vessel and crew, often after a months-long negotiation process. The following example provides some insight into the costs and hardships involved once a fishing boat is detained by Indonesian authorities:

A close family member of the head of the fishing association in Hutan Melintang was arrested and his fishing boat detained for fishing illegally in Indonesian waters. The relative was put on trial, received a jail sentence, and was sent to prison, where he initially shared a cell with 42 other inmates. However, the head of the fishing association was able to make his relative’s time in prison more comfortable by paying bribes to ‘everyone’, or as the Indonesian officials saw it, he paid for ‘accommodation’ costs, food, and any other amenities. After six months, the relative was released from prison and a deal was negotiated with the Indonesian authorities to secure the return of the detained fishing vessel to Malaysia. Overall, a total of about RM300,000 (US $81,900) was paid for the release of the imprisoned fisher and the confiscated vessel. However, Malaysian fishers are often able to avoid detention by paying a ‘fine’ directly to the officers at sea. Once the fee is paid, the vessel is allowed to continue to fish.

However, Indonesian pirates also cross into Malaysian waters to conduct attacks and Indonesian fishers certainly also enter Malaysian waters on occasion. Quoted in: 'Keep Out of Indonesian Waters', Sun, 24 October 2002, p. 4.

90 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.

91 In the Soeharto era, the payment asked from Malaysian fishers at sea ranged from RM1,000 to RM10,000 (US $415 to US $4,150 – 1996 rates) if requested by the Indonesian navy. If the Malaysian vessel was approached by Indonesian customs officials, the sum demanded was less, ranging from RM1,000 to RM2,000 (US $415 to US $830). Payments are far more substantial at present, with the Indonesian authorities demanding between RM20,000 and RM100,000 (US $5,475 and US $27,380) per vessel. The sum paid is, however, open to negotiation. Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
Furthermore, Malaysian fishing vessels operating in Indonesian waters also fall victim to attacks by ‘ordinary’ pirates. Malaysian fishing vessels based in Hutan Melintang which operate in Indonesian waters carry at least between RM1,000 and RM5,000 (US $273 and US $1,365) in cash to pay off corrupt Indonesian officials or for emergency repairs. This money is an additional incentive for local pirates to attack these vessels. If attacked in Indonesian waters, the Malaysian vessels cannot expect assistance from Indonesian or Malaysian authorities. In fact, if caught by Indonesian authorities, the fishers will be either arrested or have to pay the above mentioned ‘fee’. The victims also generally do not report these cross-boundary pirate attacks to the Malaysian police. In the rare circumstances in which a report is filed with the authorities, the location of the attack will probably be given as having occurred within Malaysian waters.92

Yet, piracy is not always linked to illegal fishing activities. The decline in fish stock in certain ocean areas is also furthering barter trade between fishers from different countries at sea, and pirates operating in certain places, including the Malacca Straits, have learned to exploit this trading situation. Attacks on smaller fishing vessels near Port Klang in the southern part of the Malacca Straits, provides a case in point. Fishing in and around Port Klang has become more difficult over the past decade as fish stocks in adjoining waters have diminished due to over-fishing and pollution. Young people are therefore no longer willing to work as fishers and instead look for more lucrative and less demanding employment in the city. With Malaysian waters in the area largely depleted of fish stock, west coast Malaysian fishers either voyage into Indonesian waters to fish or buy fish directly at sea from their Indonesian counterparts. The Indonesian fishers are interested in selling their catch at sea, as they often do not own the fishing boat they crew and only receive either a fixed wage or a percentage of the value of the catch brought ashore. Selling or bartering fish at sea, out of sight of the vessel’s owner, is therefore more profitable for them as they can pocket the full amount given in exchange for the catch. Pirates take advantage of this barter trade at sea by posing as fishers willing to sell fish. The perpetrators conducting such attacks near Port Klang are from Indonesia and operate in groups of four to five people. They are armed with parangs, knives, and small arms or light weapons, such as AK-47 rifles.

92 Ibid. The funding problems of the Indonesian and other regional militaries will be discussed in detail in
Pretending to be interested in selling their catch, the pirates approach Malaysian vessels in fishing boats which are equipped with very powerful engines. Once the two vessels are close to each other, the pirates reveal their true intentions. The perpetrators in these attacks are prone to use violence if their victims resist the assault and are mostly interested in money or other valuables stowed on board. Malaysian fishers who are involved in the fish trade at sea also often carry cash (around RM2,000 – US $546) to buy fish and are consequently worthy targets for sea-robbers.

In summary, impoverishment of fishers, over-fishing and the division of ocean space into maritime zones under national jurisdiction, have an impact upon the occurrence of piracy in Southeast Asia and Bangladesh. Piracy therefore is both a sign and signifier of local, regional, and international problems, namely poor governance, corruption, the destruction of the maritime environment, illegal fishing activities, and the overexploitation of marine resources. The following section will demonstrate that these issues and problems also have the potential to adversely affect security in, and beyond, Southeast Asia and Bangladesh.

**Beyond piracy - Security implications**

As explained in the introduction to the thesis, piracy can be understood as both a symptom and a reflection of a number of geo-political and socio-economic problems and security concerns which affect not only pirate prone regions such as Southeast Asia, but also countries and regions outside areas in which pirate attacks typically occur. Piracy, and the various responses to it, indeed reflect and highlight on the one hand political and social developments within states, as well as tension and friction between countries. On the other hand, the occurrence of piracy attacks in a region, or a country, is a signifier for the existence of a wide range of traditional and non-traditional security risks in the area, which can have repercussions for all parts of the world. The last parts of this and all following chapters, establish and explain the link between aspects of piracy, including factors conducive to the occurrence of pirate attacks, and other, mostly non-traditional, security concerns.

The destruction of the marine environment, IUU fishing, and other problems intrinsically linked to the off-shore fishing industry that have been brought to our
attention through the examination of pirate attacks, highlight crucial ecological issues and problems, such as the overexploitation of the oceans that are of worldwide concern and impact upon security. For example, the lack of efficient resource management and IUU fishing contributes to the demise of global fish stocks and biodiversity which cause irreversible damage to life in the oceans. The impact of over-fishing and pollution on marine life is already devastating, with 75 per cent of commercially important fish stocks today overexploited, fully exploited or depleted. Furthermore, IUU vessels do not only catch desired species such as tuna or Patagonian toothfish, but also kill other species of fish as well as dolphins, birds, and turtles in the process. As discussed above, some of the vessels involved in IUU fishing are operating under FOCs. Not only do these vessels have a disproportionately negative impact on the conservation and management of fish stock, they are also known to exploit the hired crew, many of whom originate from low-income countries where few alternative lucrative jobs are available. Human rights abuses and mistreatment of crew on IUU fishing vessels that have been reported include the use of forced labour and the use of chains on Asian crewmembers while at sea or in port. Overall, these issues demonstrate that, despite commendable efforts, international, regional, and national management and protection of fisheries is still inadequate as serious loopholes and shortcomings in maritime laws and regulations remain, which can be exploited by unscrupulous fishers and businessmen. The overexploitation of the oceans is also an emerging threat to national and regional security. As Elliot points out: “There is […] a growing acceptance that environmental decline, resource depletion and unsustainable development are relevant to the [Southeast Asian] regional security agenda”. The overexploitation of the oceans and the depletion of fish stocks are without doubt an important part of the environmental decline occurring in Southeast Asia and Bangladesh. However, Elliot also acknowledges that:

93 Author’s Interview with a fisher, 21 October 2002, Port Klang, Malaysia.
95 Greenpeace, ‘Wake Up! Our Fish Is Being Stolen’.
Characterisation of the environment as a security issue requires that 'security' be understood not only in terms of the potential for or absence of inter- and intra-state tension and conflict but also, and perhaps more effectively, in human and common terms. This new perception of security is part of the shift in focus from traditional security concerns – mostly centred on inter-state conflict – to so-called non-traditional and human security issues. The shift in focus resulted from radical changes in the security environment following the end of the Cold War in 1989. Since then, non-traditional security issues that in the past were not perceived as being part of the international security agenda have become increasingly important. Non-traditional security issues include the threat posed by terrorist or separatist movements, criminal organisations or pirates, the spread of disease, as well as environmental security issues. Human security, which emerged as a field of study in the 1990s, concentrates on issues such as internal conflict within states, quality of life, social welfare, human dignity and threats posed by natural disasters and disease. In contrast to traditional perceptions of security, the main focus here lies on the security of individuals or communities rather than the state. While these newly defined security threats may not be determining or underlying factors triggering or causing major conflict or inter-state wars, they can nonetheless contribute to the destabilisation of countries or regions. As Elliot argues:

Regional security rests on more than the absence of conflict or war between states. It requires good political relationships, limiting internal instabilities and maintaining dialogue and reciprocal confidence. It also rests on the welfare of peoples and communities. Political stability, economic development and social welfare (human security) are therefore crucial to regional conceptions of security and central to preventing violent conflict.

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98 Ibid.
100 There are many different interpretations of the meaning of human security. For an overview of the different schools of thought and their application to Asian countries see: Paul M. Evans, 'Human Security and East Asia: In the Beginning', *Journal of East Asian Studies*, vol. 4, 2004, pp. 263-84.
101 The term ‘human security’ became widely used after it was included in the 1994 UNDP Human Development Report. Ibid. p. 264.
103 Elliot, 'Regional Environmental Security', p. 443.
Using this framework, the depletion of fish stock due to over-fishing, pollution, and illegal fishing activity can be described as a security threat, as it can undermine political and diplomatic relationships between nations, increase conflict within countries, and adversely affect the income and welfare of people along the coasts of Southeast Asia and Bangladesh.104

The most obvious impact of over- and illegal fishing is the decline in catch of fishermen, including subsistence fishers, who rely on their daily catch to feed their families. This has resulted in an increase in poverty and desperation among individual fishers, as well as entire communities, along the coasts of Southeast Asia and Bangladesh. Poverty among subsistence fishers in Bangladesh, which has been discussed earlier, is one example.105 Furthermore, fishers in those places often turn to piracy because of a lack of legal employment opportunities. Piracy is therefore a signifier of the existence of overall poverty, of un- and underemployment, and of the failure of governments to provide their citizens with basic needs. Generally, economic growth, prosperity, and the eradication of poverty and inequality are believed to be intrinsically linked to national as well as international security. The basic assumption behind this argument is that people with an adequate income, who feel that sufficient economic opportunities exist for themselves and their children to survive (and prosper), are less likely to cause unrest.106 Increased economic and political desperation, on the other hand, can in extreme cases foster the emergence of, and strengthen already

104 These issues are therefore part of the debate on environmental security, which emerged as a widely discussed research agenda after 1989. One main focus of the debate about environmental security is the link between environmental degradation and conflict. Perception and interpretation of the link (or its non-existence) vary widely and cannot be discussed here given the scope of this thesis. For an insight into the debate see: Guenther Baechler, 'Environmental Degradation and Violent Conflict: Hypotheses, Research Agendas and Theory-building', in Mohamed Suliman (ed.), Ecology, Politics & Violent Conflict, London: Zed Books, 1999, pp. 76-112. Other issues discussed in the context of environmental security are conflicts over resources such as fresh water. See for example: Miriam R. Lowi and Brian R. Shaw (eds), Environment and Security, London: Macmillan Press Ltd, 2000. Chalk, Non-military Security and Global Order, pp. 77-94. Conflicts over resources, however, are also discussed without mentioning the term environmental security but may be discussed as resource conflicts or resource wars. See for example: Michael T. Klare, Resource Wars. The New Landscape of Global Conflict, New York: Henry Holt and Company, 2001.


existing, criminal organisations, as well as terrorist and separatist groups. Furthermore, poverty also has an impact upon human security. For example, malnutrition and a lack of basic resources such as clean drinking water, affect the health – and therefore security – of people living in poverty.

Ecological degradation, IUU fishing and the decline of fish stock can also increase competition among fishers and therefore contribute to instability within a country. Competition among fishers over resources often occurs between subsistence fishers and those operating on large mechanised fishing vessels such as trawlers. The rivalry between Malaysian subsistence and trawler fishers on the north-western coast of Peninsular Malaysia, particularly in Perak and Penang, is an important case in point. The competition for fish among Malaysian fishers started in the early 1960s when trawl fishing was successfully introduced from Thailand. Conflict ensued after trawl fishers exploited their own traditional fishing grounds and then began to encroach on the fishing grounds of neighbouring subsistence fishers. A total of 113 incidents involving 987 inshore vessels and 447 trawlers were recorded in west Malaysia between 1964 and 1976 alone. These incidents included the destruction of 45 vessels, the sinking of 62 ships, and the death of 34 fishermen. Conflict further increased when the inshore waters off the west coast of Peninsular Malaysia showed more and more signs of overexploitation. Indeed, the conflict between trawler crews and traditional fishers is still ongoing in places such as Penang, where the so-called ‘Apollo’ boats – fishing vessels that move in pairs, pulling a huge net stretched between them – encroach on the fishing grounds of local fishers. In 2002, Saidin Hussain, chairman of the Penang Inshore Fishermen Welfare Association explained:

They [the ‘Apollo’ boats] scoop up everything, destroying the seabed, leaving the sea barren and severely affecting our catch. There isn’t much we can do to stop them; our

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107 These circumstances are favourable for terrorist groups, because where there is poverty, terrorist campaigns always find recruits. The theory that relative deprivation can serve as a powerful motivating influence for aggression was developed by Gurr. See: Ted Robert Gurr, *Why Men Rebel*, Princeton: Princeton University Press for the Center of International Studies, 1970. See also: Walter Laqueur, *Terrorism*, London: Weidenfeld & Nicolson, 1977, p. 80. However, criminal or radical political behaviour is not confined to poverty stricken individuals. The impact of terrorism, separatism, and crime will be discussed in Part 3 of the thesis.


small sampan can be easily bumped off by these giants which have no right to fish in
inshore waters. […] Penang has banned trawling for a long time, yet we have to put up
with this menace from neighbouring states. Sometimes the intruders would even destroy
our nets placed out there. We’re getting fed-up. There’s no guarantee that the irate
fishermen would not take the law into their own hands.110

At present, the traditional fishers in the area only patrol the waters to document the
presence of ‘Apollo’ trawlers in their waters, but if a viable solution is not found more
drastic measures, including violence, may follow. In answer to constant local
complaints, the Malaysian Marine Department and Marine Police have decided to
increase the number of patrols in the area and have bought new, faster patrol boats to
catch the offending ‘Apollo’ trawlers, which, with a speed of up to 20 knots, can outrun
the older patrol vessels.111

Violence erupting between fishers is already a reality in other parts of Southeast
Asia, such as Cirebon and Serang on the north-western coast of Java, Indonesia. In May
2002, for example, four boats from Cirebon were set on fire by fishers from Serang as
they believed their counterparts were responsible for the overexploitation of their
fishing grounds.112 These examples demonstrate not only that competition over scarce
resources within countries can lead to tension and conflict, but also that traditional
fishers seem compelled to take measures into their own hands as authorities are not
responding adequately on their behalf. Such self-administered justice and lack of trust in
law enforcement authorities is a concern, as it undermines state authority as well as the
state’s monopoly on violence.

Perhaps even more significant from a security standpoint are conflicts between
fishers – or fishers and naval authorities – from neighbouring countries, which can
adversely affect diplomatic and political relations and cooperation between states. Thai
trawlers operating in Malaysian and Indonesian waters are one prominent example.113

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111 The fishers also pointed out that the pollution of their fishing grounds and the use of illegal fishing
113 Thai trawlers also fish and ‘get into trouble’ in other neighbouring countries such as Myanmar,
Trawlers Get into so Much Trouble?’ Paper presented at the ‘Indian Ocean Fisheries. Past, Present and
Fishing and Illegal Migration in Thailand's Bilateral Relations with Malaysia and Myanmar', in Andrew
T.H. Tan and J.D.Kenneth Boutin (eds), Non-traditional Security Issues in Southeast Asia, Singapore:
Thailand had, with German assistance, in the early 1960s begun to develop a large fleet of advanced fishing trawlers. As a result, Thai waters fast became overexploited or ‘fished-out’, while neighbouring countries at the time did not have the necessary technology to fully exploit their waters. To sustain their catches, Thai trawlers began to operate in the waters of neighbouring countries and the first signs of tension between Thai fishers and fishermen from other countries emerged in the second half of the 1960s, with incidents of intrusion recorded in Malaysia as early as 1966. Yet, real problems only began in the late 1970s, when neighbouring countries increased their own fishing capacities and developed their own trawler fleets. Further problems arose when Malaysia and Indonesia began to enforce their EEZs. While some Thai offshore fishers adapted to the new situation by arranging permission from authorities to fish in Malayan and Indonesian waters, many Thai trawlers simply continued to fish illegally in foreign EEZs. What made the situation even more volatile was that Thai fishers did not only ‘steal fish’ from their counterparts by fishing illegally in their waters, but also harassed Malayan and Indonesian fishers, destroyed their fishing gear, and in some cases even took fish out of Malayan fishing traps. There was usually little Malayan or Indonesian fishers could do to stop the harassment and theft as Thai vessels were often carrying firearms. When the conflict became more serious, the governments of Malaysia and Indonesia attempted to solve the problem and to protect their fishing grounds by using a two pronged approach, namely diplomatic negotiations as well as increased policing. As a result of the latter initiative, Malaysian and Indonesian authorities confiscated Thai fishing vessels and arrested, fined, and jailed Thai fishers. Yet, despite these efforts, the fishing dispute between Malaysia and Thailand became so prominent that in the mid 1980s, it became the “most public

114 Butcher points out that the overexploitation of fish stocks in Thai waters is not the only reason why Thai vessels fish in other countries waters - the lack of control over their activities by the Thai government and other factors also play a role. See: Butcher, ‘Why Do Thai Trawlers Get into so Much Trouble?’ pp. 1, 11-6.
116 Fisheries Enforcement and Management Division of Fisheries Malaysia, 'Intrusion of Thai Fishing Vessels into Malaysian Territorial Waters', p. 2.
117 Butcher, 'Why Do Thai Trawlers Get into so Much Trouble?' pp. 4-6.
bilateral issue” and the “most publicized irritant” in Thai-Malaysian relations and resulted in public protests on both sides of the border. On the Malaysian side, fishers protested against the encroachment of Thai trawlers into their waters, while Thai fishers protested against the arrest of their fishermen in Malaysia. For Thai fishers, these arrests were a serious concern, because despite the protests, approximately 1,000 fishers were still being held in Malaysian prisons by the late 1980s. To this day, the underlying factors behind the conflict could not be resolved and Thai trawlers continue to fish in Malaysian waters. Indeed, throughout the 1990s and into the new millennium incidents involving violence between Thai trawlers and Malaysian authorities have continued to occur. One prominent incident took place in 1995, when a Malaysian patrol craft fired shots at Thai trawlers, killing two Thai fishermen. Even though the trawlers were boarded and brought to a Malaysian port, the circumstances of the shootout and the killing of the fishers remained unclear. Disturbed by the killings, Thai trawler operators decided to respond by blockading the coast of Terengganu with some 2,000 fishing boats. The Malaysian authorities learned about the intention of the Thai fishers and a major incident was avoided when the Thai Ministry of Foreign Affairs and the Thai Fisheries Department persuaded the trawler operators not to carry out their audacious plan.

The illegal activities of Thai trawlers also continue to be a problem in Indonesia, with an estimated 1,000 Thai vessels fishing illegally in the country’s waters each year. Conflict between Thai trawlers and Indonesian fishers occurred throughout the

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119 McDorman, 'International Fishery Relations in the Gulf of Thailand', pp. 40, 47.
120 The number of arrests, however, remained small in comparison with the number of Thai vessels sighted in Malaysian waters. Between 1985 and 1988, 364 foreign vessels were arrested in Malaysian waters, 84 percent of which were Thai vessels. In the same period, 9,163 Thai vessels were sighted in Malaysian waters. However, not all of these would necessarily be involved in illegal fishing. Mohd Mazlan b. Jusoh, 'The Problems of Foreign Fishing in the Malaysian Waters', pp. 5-6.
121 McDorman, 'International Fishery Relations in the Gulf of Thailand', p. 46. The problem of overlapping claims of ownership of ocean areas between Thailand and neighbouring nations also played a role. See: Butcher, "Why Do Thai Trawlers Get into so Much Trouble?" p. 7.
122 However, attempts to solve the problem peacefully were also made by Thai and Malaysian politicians and fishers. See: Butcher, The Closing of the Frontier, p. 249.
123 Ganesan, 'Illegal Fishing and Illegal Migration in Thailand's Bilateral Relations with Malaysia and Myanmar', p. 512.
1990s and is still a concern today. In early 1994, for example, Thai fishing boats were attacked by hundreds of Indonesian fishers with petrol bombs and other weapons off the coast of Aceh.\(^\text{125}\) Other incidents have involved Thai fishers and Indonesian authorities. Indeed, even though Thai fishers seem in many cases to be able to bribe Indonesian officials and avoid direct conflict, shootouts between Thai trawlers and Indonesian local authorities still occur frequently.\(^\text{126}\) In 2000, for example, a Thai trawler fishing illegally in Indonesian waters was approached by local authorities. When the trawler tried to escape, the Indonesian authorities opened fire, killing the captain of the trawler. The fishing boat was subsequently seized and brought to Indonesia. While the surviving crew was eventually allowed to return to Thailand, the vessel itself was held by the Indonesian authorities who contacted the owner in order to sell the boat back. At the time this information was gathered, a compromise about the release price of the vessel had still not been reached after two years of negotiation.\(^\text{127}\) Another such example is an incident that took place in 2004. In this case, the Indonesian military employed two navy boats and two heavily armed helicopters to search for 17 Thai trawlers spotted fishing illegally in Indonesian waters by local fishers. The military was able to capture the Thai fishing vessels but a shot was allegedly fired from one of the Thai vessels when the fleet was being escorted towards the nearest Indonesian port. Aware that some Thai vessels carry heavy weapons, including rocket propelled grenades and machine guns,\(^\text{128}\) the Indonesian authorities responded by firing shots from the naval vessels and missiles from the helicopters. While one fishing vessel was sunk in the attack and several others were damaged, some of the Thai boats were able to escape in the ensuing commotion.\(^\text{129}\) However, not only direct confrontation between Thai trawlers and Indonesian authorities has been a problem for Indonesia, but financial losses also play a role. Indeed, illegal fishing in the countries waters result in losses of approximately US $1.2

\(^{125}\) Butcher, *The Closing of the Frontier*, p. 248.

\(^{126}\) Anucha Charoenpo, 'Illegal Thai Fishing Robbed Indonesia of Billions of Catches and Cash'.

\(^{127}\) Author’s Interview with two trawler owners, November 2002, Bangkok, Thailand.


to 2.4 billion per annum.\textsuperscript{130} The substantial financial losses incurred by illegal fishing and the cases of violent conflict between Thai trawlers and Indonesian naval vessels have been acknowledged by the Indonesian authorities as an important reason for strengthening its naval capabilities.\textsuperscript{131} However, diplomatic solutions to the issue have also been explored. In 2001, for instance, Thailand and Indonesia held their first bilateral fisheries meeting in order to solve the ongoing problem.\textsuperscript{132}

The examples discussed above of illegal fishing activities by Thai trawlers in Malaysian and Indonesian waters demonstrate that such conflicts can be longstanding and can involve violence between the affected parties. While it remains unlikely that fishery disputes, such as the conflicts involving Thai trawlers, will lead to inter-state war at present, they nonetheless contribute to unrest and violence within and between states and adversely affect relations between neighbouring states. Ganesan also points out that “the potential for illegal fishing […] to lead to large-scale conflict should not be discounted. The reason for this observation is the simple fact that unresolved issues build up in scope and intensity over time, often acquiring an independent existence.”\textsuperscript{133}

Therefore, while large-scale conflict caused by fishing disputes is unlikely at present, it may become a concern in the future. Social tension within a country and disputes between countries due to competition among fishers can also adversely impact cooperation between governments on other issues. Furthermore, such disputes may also raise concern in neighbouring countries about the political stability of the affected state(s), especially when those conflicts have the potential to spread further in the region. Illegal fishing activities can also prompt countries to further increase their naval and military capabilities and modernise their fleets of patrol vessels in order to protect their resources and citizens. The issue of illegal fishing therefore also contributes to the militarisation of Southeast Asia, Bangladesh, and other parts of the world. Last but not least, illegal fishing can result in significant financial losses for countries such as Indonesia, which need additional income to address issues such as widespread poverty.

\textsuperscript{130} Anucha Charoenpo, 'Illegal Thai Fishing Robbed Indonesia of Billions of Catches and Cash'. Large fishing boats operated by wealthy foreigners are mostly responsible for these losses.
\textsuperscript{131} Elliot, 'Regional Environmental Security', p. 446.
\textsuperscript{132} Anucha Charoenpo, 'Thai-Indonesian Relations'.
\textsuperscript{133} Ganesan, 'Illegal Fishing and Illegal Migration in Thailand's Bilateral Relations with Malaysia and Myanmar', p. 521.
Conclusion

The fishing industry has changed considerably in Southeast Asia and Bangladesh since the 1960s with the introduction of modern technology and the initiation of international, regional, and national maritime laws and regulations, particularly UNCLOS. With the development of technically sophisticated trawling vessels and insufficient regulation of fisheries, over-fishing has become a serious problem in the waters of Southeast Asia and Bangladesh. This chapter has demonstrated that overexploitation of the seas contributes to the rise of piracy in Southeast Asia and Bangladesh and shapes the nature of such attacks. For instance, desperate fishers may turn to piracy as an alternative source of income when their catches decline. Additionally, fishers in search of fish stock in foreign countries’ EEZs are easy targets for pirates, as they often carry cash to bribe rogue patrol officers and are unable to call for assistance in foreign waters.

The pirate attacks discussed in this chapter therefore highlight the overexploitation of Southeast Asian and Bangladesh waters, as well as the fact that fishing vessels operate illegally in foreign waters. These transnational issues are at the heart of environmental security concerns, which have the potential to become more serious threats to security in the region than piracy. Not only can over-fishing adversely affect the world’s bio and marine diversity, but it can also trigger conflict between fishers. This situation is exacerbated by the fact that trawlers fish illegally in foreign territorial waters or EEZs, elevating the potential for conflict, and contributing to tensions between countries. While at present the conflict over fishery resources has not resulted in major armed conflict, the situation may deteriorate when fisheries become even more overexploited and the opportunities of fishing further afield decline even further.

To solve the problem of over-fishing, different approaches are needed, including cooperation between states, as well as governments and fishers, at international, regional, national, and local levels. It is in fact worthwhile for governments around the world and the international community to approach these issues in a serious fashion, as the problems discussed above are not only prevalent in Southeast Asia and Bangladesh. Indeed, over-fishing affects most, if not all, coastal countries around the globe and
conflict over marine resources can emerge, or intensify, anywhere in the world. One significant step would, for example, be for the international community to stop large fishing vessels, often operating under FOCs, from engaging in IUU fishing activities in waters throughout the world.

On a more positive note, ecosystem modelling and examples from different parts of the world have shown that fish stock can recover if fisheries are managed efficiently and catches are reduced to a sustainable level. Furthermore, efforts to halt illegal fishing and the overexploitation of the ocean do not have to start from scratch but can build on existing laws and regulations such as UNCLOS. Yet, while this convention was one of the first (and maybe the most important) steps in regulating maritime trade and access to resources, it has become apparent that (despite further international and national initiatives) many problems and unresolved issues still exist. Some of these problems ironically result from the very nature and wording of existing regulatory bodies, including UNCLOS. An example is the establishment of FOC registers in compliance with UNCLOS. However, the introduction of UNCLOS and other maritime regulations not only has an impact upon the occurrence and nature of piracy in regard to fishers or fishing vessels, but also on the characteristics of pirate attacks on merchant vessels, as will be discussed in the following chapter.

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134 An example of such a situation that may worsen over time is the ongoing tension between Australia and Indonesia resulting from the illegal fishing activities of Indonesian fishers in Australian waters.
135 The protection of fishing grounds is not only beneficial for marine life in these reserves, but also positively affects marine life in surrounding waters. Butcher, *The Closing of the Frontier*, pp. 290-1.
Chapter 4

Merchant Shipping

Introduction

Shipping and maritime trade is an international business, not only in the sense that vessels transport goods from one country or region to another, but also in regard to the ownership and operation of vessels. For example, a ship may be owned by an individual or a firm in Indonesia but managed by a company based in Singapore. The same vessel may then be registered in Liberia through a holding company, with an ‘office’ in the country of registration. The vessel is crewed by seafarers from different countries, such as Pakistan or the Philippines, hired by a manning agency based in India. Furthermore, the cargo the ship is transporting may be owned by a number of companies in various countries, such as Germany, Australia, or China. On its trade routes, the vessel then visits ports in a variety of countries, thereby entering these state’s territorial waters and jurisdictions. This example is not exaggerated and the real ownership and operation of a vessel may in fact be even more complicated. However, it indicates the international nature and complexities of today’s global shipping industry. In an effort to standardize, control, and regulate maritime trade in accordance with the international character of the shipping industry, different international regulatory regimes have been established that are concerned with basic issues such as the safety of shipping and seafarers, pollution liability, and minimum operational and maintenance standards of ships, to mention but a few. While these regulations cover a wide range of safety and security concerns, the maritime industry remains one of the least controlled transport sectors – a legacy of the age-old idea of the ‘freedom of the sea’. The overall objective of this chapter is to provide an insight into how pirates exploit the general nature and weaknesses of national and international maritime regulations. It also suggests that piracy and the nature of pirate attacks should be seriously examined, as rogue governments, separatists, terrorists, and criminals can use the same regulatory weaknesses to further their aims.

1 This chapter is not concerned with national or cooperative efforts of individual countries to combat piracy through, for example, an increased naval presence in pirate hot-spots or bilateral agreements regarding joint patrols. This will be discussed in Chapter 7.
The first part of the chapter offers a brief overview of the most important regulatory regimes and regulations of the maritime sector and their shortcomings and controversial nature. The following section then discusses how pirates exploit this complicated system and how these shortcomings and characteristics of the maritime sphere shape piracy. The last part argues that terrorists, separatists, and criminals, as well as pariah governments, can also exploit these weaknesses, posing a significant threat to international security.

**International regulatory regimes**

International regulation and standardisation of maritime trade is a difficult task for various reasons. For one, the people and companies involved in the industry, such as shipowners, are primarily interested in maximising their profit. This personal goal often conflicts with the implementation of maritime regulations which require shipowners, for instance, to fulfil (and pay for) up-to-date safety requirements. Furthermore, there are 163 nations around the globe with interests in shipping. As each country has its own priorities, agreement on a set of basic international maritime laws is unlikely to be reached. The system currently in place to regulate the maritime sector is therefore based on an alternative approach, consisting of “an ad hoc mix of rules and regulations enacted and enforced by three different regulatory authorities”, namely the classification societies, the flag states, and the coastal states.3

**Classification societies**

Classification societies (or class societies) emerged in the middle of the 18th century when insurance companies grew concerned about the quality, safety, and maintenance of the vessels covered by their policies.4 Class societies were therefore established to control and certify safety and maintenance standards of vessels based on their own class rules, which are regularly updated to include advances in maritime technology. While procedures differ between class societies, most establish their rules through a committee

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3 Ibid. pp. 422-3.
comprised of maritime experts such as naval architects, engineers, underwriters, shipowners, and ship operators. Class societies oversee the application of their rules by inspecting the technical blueprint and the construction of vessels, and by conducting periodic surveys, controlling the maintenance of ships. If their requirements are met, a classification certificate is issued. These certificates are needed to obtain insurance cover for mercantile and non-mercantile vessels and are a requirement to enlist a vessel in a flag register. Yet, despite the importance of their work, class societies have no legal authority to enforce their rules. However, the role of class societies has expanded over the years. While classification societies were initially created to be the industry’s internal regulatory body, the work they conduct has over time become tightly enmeshed with governmental regulatory efforts. The largest classification societies, for example, now conduct technical inspection work on behalf of governments, as national regulations often cover the same safety and security aspects as class rules.5

Over 50 classification societies with their own rules and standards are currently in operation, including large, prominent organisations as well as small, more obscure societies. Over 90 per cent of all large cargo carrying tonnage is covered by the ten largest societies which include Lloyds Register of Shipping, Nippon Kaiji Kyokei, the American Bureau of Shipping, and Det Norske Veritas. These ten organisations also constitute the International Association of Classification Societies (IACS) which was established in 1968 to allow the creation of a more uniform set of rules and standards for its members.6

Flag states

In order to understand the role of the flag state and the laws and safety regulations governing the maritime sector, it has to be determined which nation’s laws and regulations apply to a vessel. As discussed in the previous chapter, UNCLOS offers some answers regarding the laws and regulations governing ships and their owners.7 As mentioned earlier, UNCLOS endorsed the right of any state to register ships, given that

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6 IACS also has two associate members, namely the Croatian Register of Shipping and the Indian Registry of Shipping. Since 1969, IACS has consultative status at the IMO. International Association of Classification Societies, ‘What Are Classification Societies?’
a genuine link between the state and the vessel exists. On the other hand, as the nature of the genuine link is not clearly defined, individual states are free to establish their own rules. Given this lack of clear guidelines, a state can effectively register any vessel it chooses. However, Article 94 of UNCLOS\(^8\) further clarifies the responsibilities of flag states, stating:

\[\text{Article 94}\]

\[\text{Duties of the flag State}\]

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular every State shall:
   (a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and
   (b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, \textit{inter alia}, to:
   (a) the construction, equipment and seaworthiness of ships;
   (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;
   (c) the use of signals, the maintenance of communications and the prevention of collisions.\(^9\)

Consequently, a vessel registered in Belize, for example, is subject to the laws of Belize, including labour and commercial laws in regard to the registered vessel, its crew, and owner. The flag state also bears legal responsibility for the ship’s safety regulations and is responsible for the protection of the vessel. The flag therefore identifies not only the nationality of a vessel but links it to a recognised set of legal and commercial laws, which in turn enables the ship to trade in ports around the world. Maritime laws of

\(^8\) Article 217, entitled ‘Enforcement by flag state’, defines the role of the flag state even further.
\(^9\) The Article further states: “4. Such measures shall include those necessary to ensure: (a) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship; (b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship; (c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio. 5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.” United Nations, ‘United Nations Convention on the Law of the Sea’, 1982, http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm, accessed 4 July 2005.
individual states, and particularly flag states, are therefore of crucial importance. However, as maritime trade is an international business, efforts have been made to standardize the most fundamental national maritime laws. Part of this process was the creation of international bodies where representatives of maritime states establish international conventions which individual nations can then ratify and integrate into their own national laws. The conventions themselves are consequently not laws as such, but rather guidelines for nations to develop their own legislation. The 1982 UNCLOS convention discussed above is one example. At present, three UN agencies, namely the Shipping Committee of the United Nations Conference on Trade and Development (UNCTAD), the International Labour Organisation (ILO), and the International Maritime Organisation (IMO), are responsible for drafting international shipping conventions, with each of these organisations concerned with a specific range of maritime issues.

Regulatory bodies

UNCTAD was established in 1964 and has a standing Committee on Shipping which is principally concerned with the maritime interests of developing countries. Of the three organisations, UNCTAD has the least significance for this thesis. The second organisation, the ILO, was founded in 1919 and deals mostly with maritime labour issues, such as the working conditions on board vessels and minimum wages for seafarers. For example, the 1976 Merchant Shipping (Minimum Standards)
convention, which came into force in 1981, requires signatories to conform to “safety standards, including standards of competence, hours of work and manning, so as to ensure the safety of life on board ship; social security measures; and shipboard conditions of employment and shipboard living arrangements”. Furthermore, flag states that have ratified this agreement are required to establish the necessary apparatus to enforce these regulations. Most major flags, such as Norway, Italy, Germany, Liberia, and the UK have ratified this particular agreement. Overall, the ratification of ILO conventions varies considerably between countries, with countries such as France or Italy having ratified more than 20 ILO conventions while the USA is signatory to only four and Cyprus to only two conventions. The third institution, the Inter-governmental Maritime Consultative Organisation (IMCO), was established in 1958 and has operated under the name International Maritime Organisation (IMO) since 1982. It is concerned with maritime safety issues and pollution prevention. In its early years, the IMO’s main objective was the drafting of agreements, which included the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, valid since April 1984. With most of its important conventions ratified by countries representing 98 per cent of the world’s merchant fleet, the IMO’s focus has shifted in recent years towards the effective implementation of its conventions.

most important seafarer’s unions is the International Transport Workers’ Federation, which conducts inspections of suspicious vessels in ports around the world, examining such issues as living and working conditions of seafarers on board ships. International Transport Workers’ Federation, ‘Was sind Billigflaggen’, http://www.itf.org.uk/itfweb/general/section_brochures/german/foc.htm, accessed 14 May 2004.


17 Other conventions, such as the Officer’s Competency Certificates Convention of 1936, require seafarers such as masters, navigation officers, able seaman and engineers to hold certificates of competence. The full text of these conventions can be downloaded from: Ibid. Other ILO conventions covering seafarers are concerned with the elimination of child labour, the right of seafarers to join unions and the abolition of forced labour. International Transport Workers' Federation, 'ITF Seafarers' Bulletin', no. 19, 2005, pp. 14-5.

18 Stopford, Maritime Economics, pp. 448-50.

19 The SOLAS convention came into force in May 1980 and covers issues such as navigational safety, the design and stability of vessels, and the transportation of dangerous goods.

20 Another important convention in regard to maritime safety is the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), which came into force in March 1992.

21 Stopford, Maritime Economics, pp. 443-6.
National and open registers

As mentioned earlier, each flag state can decide which agreements it ratifies and the number of conventions signed varies between flag states. Furthermore, even if a state has ratified a convention it still needs to translate it into national law and, just as importantly, needs the necessary bureaucratic, technical, and practical expertise and resources to enforce these laws. Overall, the safety and regulatory standards and their enforcement vary considerably between flag states and their ship registers, particularly between national and open registers.

In the current system, a shipowner can register his vessels in national or open registers, as discussed in the previous chapter. The main difference between the two is that national registers only accept vessels from their own country, while open registers accept vessels from virtually any nation without significant restrictions. The system of registering a vessel in states other than the owner’s home country has a long history, with flagging out vessels in the past mainly motivated by military or political objectives. At present, the main reasons for registering a vessel in a foreign country are economic, as the shipowner can then choose which laws are most beneficial for his company. Today’s open registers emerged between World War I and World War WWII, when some US shipowners registered their vessels in Panama to avoid high tax rates and to circumvent prohibition laws on US passenger vessels. After World War II the trend of flagging out vessels intensified when the US Liberty ships were sold within the US. The new owners of these vessels commissioned their tax lawyers to approach the Liberian government to suggest the creation of an open ship register, leading to the establishment of the open Liberian register in 1948. Panama followed suit a short time later by opening its national register to vessels from all around the world. As these

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22 Stopford points out that it is also possible in some cases to register a vessel under a second flag, allowing the shipowner to circumvent certain restrictions and regulations in the original country of registration. Ibid. p. 438.

23 In the 16th century, for example, English merchants registered their vessels in Spain to avoid restrictions limiting non-Spanish ships to conduct trade in the West Indies. Also, during the Napoleonic Wars, English shipowners registered their vessels in Germany to avoid the French war blockade. For more examples see: Ibid. p. 433.

24 To support the war against Hitler, the US built close to 5,000 tankers and freighters, known as ‘Liberty Ships’. Tim Schroeder, 'Die Materialschlacht', Mare, no. 39, August/September 2003, pp. 92-7.

25 For a detailed account of the establishment of the Panamanian and Liberian registers from 1919 onwards see: Rodney Carlisle, Sovereignty for Sale. The Origins and Evolution of the Panamanian and Liberian Flags of Convenience, Annapolis: Naval Institute Press, 1981. For a discussion on the
registers were designed to earn cash for flag states, while at the same time offering advantageous conditions for shipowners, they were very successful and other countries also began to set up their own open registers. Due to their characteristic of being particularly ‘convenient’ for shipowners, the term ‘Flag of Convenience’ was introduced in the early 1950s.

Today, open registers continue to be successful and remain attractive for shipowners because of their generally lax regulations, created to suit the commercial and legal needs of shipowners in regard to tax and company laws, crew origin, standards and training of crew, as well as vessel safety standards. Conditions and registration procedures vary between flag states but most open registers ask for an initial registration fee and an annual tonnage tax. However, there are usually no additional payments (such as turnover tax) required from the owner. Furthermore, in contrast to national registers, the ownership of vessels does not necessarily have to be disclosed, as shares can be held in ‘bearer form’ and therefore do not reveal the identity of the actual owner.26 Additionally, legal responsibility and liability can be limited, as one-ship companies can easily be established to register vessels in FOC countries.27 A further advantage for shipowners is that states operating open registers are often signatories to fewer conventions and are also known to ratify them more slowly than traditional or embedded maritime nations.28


26 The actual ownership is often not straightforward. The beneficial owner (the person or company who receives the profits) may be based in any country around the world. In the open registry state, often only a one-ship-company, without any assets apart from the vessel, is incorporated. A second company, a holding company, is incorporated in a tax haven. This company’s only assets are the shares in the one-ship-company. The holding company shares are in turn held by the beneficial owner, but there are often no government registers of shareholders, giving the owners anonymity. The day-to-day management of the vessel is carried out by yet another company, a management firm, often located in a convenient shipping hub. Stopford, Maritime Economics, pp. 438-9. International Labour Office, The Global Seafarer. Living and Working Conditions in a Globalized Industry, Geneva: International Labour Office, 2004, p. 42.


28 Embedded maritime nations are those who have been involved in maritime trade, registration of ships, shipbuilding, the training of seafarers, and other maritime related activities for a long time. These countries include: Britain, Norway, Japan, Germany, the Netherlands and France. International Labour Office, The Global Seafarer, pp. 39-40, 49.
Coastal states

The coastal states in which vessels conduct business are the third regulatory body and play an increasingly important role, as flag states in many cases do not satisfactorily regulate and control shipping. UNCLOS determines the role of the coastal state, permitting it solely to ensure the good conduct of ships in its territory. It defines eight areas in which legislation by the coastal state is allowed, including the safety of navigation, the preservation of the environment, the prevention, reduction and control of pollution, and the prevention of infringement of customs and sanitary laws. Article 21 of the same convention states that national requirements “shall not apply to the design, construction, manning or equipment of foreign ships, unless they are giving effect to generally accepted international rules or standards”, 29 meaning that despite some restrictions, the convention empowers coastal states and ports to enforce international regulations. Over the past two decades, port authorities have increasingly made use of this possibility and are today conducting inspections of vessels entering their ports on a regular basis. Some of the vessels which are inspected are chosen at random, but factors such as the age of a vessel, the flag it is flying, and the outcomes of previous inspections largely determine which vessels are chosen. In cases where the required safety and maintenance standards are not met, substandard ships can be detained in the port, resulting in additional costs for shipowners. 30 Furthermore, since the early 1990s, data concerning the technical quality of merchant vessels has been collected by ports and this information is used to rate flag states and their performance in regard to the safety and maintenance of the vessels flying their flag. In accordance with the data, underperforming flags are blacklisted, and vessels flying these colours are subject to more rigorous inspections than other ships in major ports. 31

All three regulatory bodies discussed above play a crucial role in the regulation of the international maritime industry. As the introduction of international conventions demonstrates, the safety of vessels and crews has received considerable global attention

31 Alderton and Winchester, 'Regulation, Representation and the Flag Market'. The majority of port states have ratified one of the three conventions that rate flag states and set conventions. The three agencies rating flag states are the Paris Memorandum of Understanding (MoU), the Tokyo MoU and the US Coast Guard. Budd, 'A Relationship on the Rocks?' p. 50.
over the past decades. However, it was the September 11, 2001 terrorist attacks in the USA that significantly changed the international security environment and led to the introduction of more extensive and stringent maritime safety and security regulations. Some of these will briefly be discussed here.32

Post-September 11, 2001 maritime security arrangements

After the September 11, 2001 terrorist attacks, fears of a maritime terrorist attack heightened.33 Consequently, governments around the world began to look at the world’s oceans with grave concern, resulting in the implementation of new vessel, container, and port safety and security regulations. The USA was the driving force behind many of these initiatives, including the 2002 Container Security Initiative (CSI), which aims at securing ocean-going containers through measures such as pre-screening of containers before they arrive in US ports, and the Proliferation Security Initiative (PSI) launched in May 2003, designed to stop the flow of weapons of mass destruction (WMD).34 The USA also initiated new amendments to the Suppression of Unlawful Acts Against the

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32 The term ‘War on Terrorism’ has often been used since the 11 September 2001 attacks to refer to the US led initiatives against individual terrorists and terrorism as a phenomenon. Yet, to date, no widely accepted definition of the term has emerged. In the broader sense of the term, the new maritime security initiatives discussed here may be interpreted as part of the ‘War on Terrorism’ as the majority of the new regulations aim at preventing terrorist attacks. While this author clearly puts the new security regulations in the context of the US led initiative to prevent terrorism, the phrase ‘War on Terrorism’ will not be used here, as this chapter is only concerned with the new regulations themselves and their impact, not the broader political framework. The ‘War on Terrorism’ itself and its political impact will be discussed in Chapter 6.

33 Indicators of this heightened awareness and fear are the large number of newspaper articles discussing the likelihood of a maritime terrorist attack, as well as the increasing number of academic papers and books looking at the issue. One prominent example is: Michael Richardson, A Time Bomb for Global Trade: Maritime-related Terrorism in an Age of Weapons of Mass Destruction, Singapore: Institute of Southeast Asian Studies, 2004.

Safety of Maritime Navigation Convention (SUA), adopted in October 2005, that aim at preventing acts of terrorism and the use and transportation of WMD.

The most important of the post September 11 security regulations, the International Ship and Port Security Code (ISPS), was introduced by the IMO in December 2002. The ISPS code, which came into force in July 2004, is an amendment to the 1974 Safety of Life at Sea (SOLAS) convention and “contains detailed security-related requirements for Governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B).” The IMO further specifies:

The purpose of the Code is to provide a standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities. [...] This risk management concept will be embodied in the Code through a number of minimum functional security requirements for ships and port facilities. For ships, these requirements will include: · ship security plans · ship security officers · company security officers · certain onboard equipment[.]

For port facilities, the requirements will include: · port facility security plans · port facility security officers · certain security equipment[.]

In addition the requirements for ships and for port facilities include: · monitoring and controlling access · monitoring the activities of people and cargo · ensuring security communications are readily available[.]

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35 The SUA convention will be discussed in more detail in Chapter 7.
36 The IMO states: “The 2005 Protocols broaden the list of offences made unlawful under the treaties, such as to include the offence of using a ship itself in a manner that causes death or serious injury or damage and the transport of weapons and equipment that could be used for weapons of mass destruction. The 2005 SUA protocol introduces provisions for the boarding of ships where there are reasonable grounds to suspect that the ship or a person onboard the ship is, has been, or is about to be involved in, the commission of an offence under the Convention.” This new directive has been particularly controversial as it violates the authority of the flag state over the vessel. International Maritime Organisation, 'Revised Treaties to Address Unlawful Acts at Sea Adopted at International Conference', 2005, http://www.imo.org, accessed 4 February 2006. Further information and more details can be found on the IMO website. For the legal aspects concerning maritime interception operations in regard to the Operation Enduring Freedom, see: W. Heintschel von Heinegg, 'The Legality of Maritime Interception Operations Within the Framework of Operation Enduring Freedom', in Wybo P. Heere (ed.), Terrorism and the Military: International Legal Implications, The Hague: T.M.C. Asser Press, 2003, pp. 43-60.
37 A range of other security initiatives were also introduced after 11 September 2001, which are less relevant for this thesis. These include, for example, the World Customs Organization’s Framework of Standards to improve overall maritime security; and the International Port Security Program introduced by the US Coast Guard. See: Nazery Khalid, 'Improved Security = Lower Risks+Higher Costs: Passing on the Costs of Port Security'. Stephen E. Flynn, 'Port Security Is Still a House of Cards', Far Eastern Economic Review, vol. 169, no. 1, Jan/Feb 2006, pp. 7-8.
39 Ibid. The IMO website also offers further information about the ISPS code, including an ‘ISPS Code database’.
The ISPS code therefore requires shipowners as well as port states to improve the safety of their vessels and facilities, by, for example, restricting the access to ports to authorised personnel only, and by requiring that appointed personnel be trained as ship or port facility officers. Most Asian shipowners and major ports achieved compliance with the ISPS code in time with (or shortly after) the July 2004 deadline.

In summary, this section of the chapter has demonstrated that the regulation of the maritime environment has changed in the past 30 years with the introduction of numerous international and national conventions and maritime laws. Indeed, Bateman points out that until the late 1970s, seafarers and others involved in the maritime trade did not have to be overly concerned about the law of the sea. Back then, the freedom of the high seas, which at that time included all waters more than three miles offshore, was taken for granted. Yet, despite obvious changes in the maritime environment in the past three decades, many characteristics associated with the ‘freedom of the sea’ still exist, as will be discussed in the following section.

The maritime security environment

When closely scrutinised, it becomes clear that many of the regulations discussed above are inadequate or not fully enforced, leaving the maritime sector poorly regulated and offering ample opportunities for grey-zone or outright illegal activities. One of the main characteristics of the maritime sector – and an important factor conducive to grey-zone activities – is that the maritime industry is highly competitive. Not only do shipowners have to compete with each other for potential customers, but some of the very institutions that have been created to regulate and control the safety and maintenance of vessels, as well as the training and welfare of the crew, have to compete for paying

40 Overall, these new regulations should be favourable for seafarers as they increase the safety on board vessels and in ports. However, some of the new regulations have made life more difficult for mariners, especially those coming from countries with a Muslim majority. Due to the new security arrangements, it has, for example, become increasingly difficult for seafarers to go on shore in countries such as the USA. Furthermore, mariners from Islamic countries have lost their jobs, as some believe that there may be a higher potential that these seafarers are linked to terrorist organisations or simply because their presence on a vessel may result in delays due to additional security checks. Seafarers unions as well as shipowners have opposed this treatment of sailors. International Transport Workers’ Federation, ‘ITF Seafarers’ Bulletin’, pp. 32-3. 'Muslim Malaysian Sailors Denied Jobs Over Terror Fears', Jakarta Post.com, 20 September 2005, http://www.thejakartapost.com/detaillatestnews.asp?fileid=20050919114934&irec=7, accessed 20 September 2005.

clients. With harsh competition the norm among classification societies, for instance, incentives have to be created for potential customers, often leading to a decline in the standard of safety and maintenance levels. As Stopford explains:

There is [...] intense competition between classification societies to attract members, leading to the anomaly that they are paid by the same shipowners on whom they have to impose financial penalties through their regulatory inspections. This led to criticism that shipowners are avoiding carrying out essential maintenance by re-classing to a society with less exacting standards.43

Critics of class societies have also pointed out that even though 90 per cent of all large cargo carrying tonnage is classed by the ten IACS members, this amounts to only about 50 per cent of the total number of ships worldwide. The remaining vessels rely on smaller class societies which include disreputable organisations.44 Discussing the reliance of members of the maritime industry on less reputable class societies, Robert Somerville, President of the American Bureau of Shipping, stated in a speech in 2002:

How is it that collectively, we as an industry, allow the tens of disreputable organizations to remain in business? Because there are still too many owners, too many flag states, too many underwriters, and too many charterers willing to accept a certificate without questioning its validity or the professionalism, the expertise, and the ethics of the issuer. Since I am overcome with honesty this morning I will go even further and state the obvious – not even all IACS societies offer services of comparable quality.45

As Sommerville suggests, too many different organisations are willing to accept certificates from smaller, disreputable class societies.46 Insurance companies are among the culprits and play a crucial role as every ship needs insurance cover. If underwriters would examine the vessels they insure more thoroughly and rely on reputable class societies, substandard ships could no longer operate. This, however, would require insurance companies to play an active role in promoting safer shipping and to deny

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45 Ibid.
46 In one of their reports IACS points out that: “Such a certificate does not imply, and should not be construed as, an express warranty of safety, fitness for purpose or seaworthiness of the ship. It is an attestation only that the vessel is in compliance with the standards that have been developed and published by the society issuing the classification certificate.” International Association of Classification Societies, ‘What Are Classification Societies?’
insurance cover for substandard vessels, resulting in financial loss for the company.\(^{47}\)
The same criticism applies to flag states, which accept class certificates from dubious societies, but there are also other, perhaps more serious, weaknesses within the flag state regime.

Despite concerns about the working practices of open registers, more than half (51.3 per cent) of the world’s total gross tonnage was registered under FOC fleets by 1998.\(^{48}\) As of January 2006, the International Transport Workers’ Federation (ITF) identified 32\(^{49}\) FOC registers.\(^{50}\) These are:

<table>
<thead>
<tr>
<th>Country</th>
<th>Register</th>
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</thead>
<tbody>
<tr>
<td>Antigua and Barbuda</td>
<td>Equatorial Guinea</td>
</tr>
<tr>
<td>Bahamas</td>
<td>French International Ship Register (FIS)</td>
</tr>
<tr>
<td>Barbados</td>
<td>German International Ship Register (GIS)</td>
</tr>
<tr>
<td>Belize</td>
<td>Georgia</td>
</tr>
<tr>
<td>Bermuda (UK)</td>
<td>Gibraltar (UK)</td>
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<tr>
<td>Bolivia</td>
<td>Honduras</td>
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<td>Burma</td>
<td>Jamaica</td>
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<tr>
<td>Cambodia</td>
<td>Lebanon</td>
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<tr>
<td>Cayman Islands</td>
<td>Liberia</td>
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<tr>
<td>Comoros</td>
<td>Malta</td>
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<tr>
<td>Cyprus</td>
<td>Marshall Islands (USA)</td>
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<tr>
<td>Mauritius</td>
<td>Mongolia</td>
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<td>Mongolia</td>
<td>Netherlands Antilles</td>
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<tr>
<td>North Korea</td>
<td>Panama</td>
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<tr>
<td>Panama</td>
<td>Sao Tome and Principe</td>
</tr>
<tr>
<td>St Vincent</td>
<td>Sri Lanka</td>
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<tr>
<td>Tonga</td>
<td>Vanuatu</td>
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</tbody>
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While all these states are FOC countries, Alderton and Winchester point out that there are significant differences in rules, and how they are enforced, between the various open registers. Most important are the differences between the old, ‘traditional’ open registers, such as Liberia and Panama, and new open registers established in the past ten

\(^{47}\) Somerville, ‘The Invisible Underwriter’, pp. 12-3. For insurance companies, as for other businesses, making a profit is most important. As long as the losses from insuring substandard vessels do not exceed the income made from these insurance policies, insurance companies will most likely not change their way of conducting business.

\(^{48}\) Alderton and Winchester, ‘Regulation, Representation and the Flag Market’. It is worth stressing that not only merchant vessels, but also fishing vessels, ferries and other craft can be registered under FOCs.

\(^{49}\) There is, however, a concentration of the FOC fleet, with the largest five FOCs, namely the Bahamas, Cyprus, Liberia, Malta and Panama, accounting for about 60 per cent of vessels and 84 per cent of gross tonnage registered under FOCs. International Labour Office, The Global Seafarer, p. 29.

to 15 years. These new registers emerged (or in some cases re-emerged) in countries such as Cambodia, Belize, Equatorial Guinea, and Bolivia, and compete with the established FOCs for vessel registrations. They therefore place additional pressure on an already highly competitive market, as the transfer of a vessel to one of the new registers is an easy task and often only requires the payment of a small registration fee. In fact, many of the new open registers have been successful and have experienced significant growth from the mid 1990s onwards. This success cannot be accounted for by lower registration fees alone – US $2,600 in Belize and US $1,500 in Cambodia compared to US $6,500 in Liberia and US $4,000 in Panama – as these costs are minimal compared to the overall costs of operating a merchant vessel. Both the old and new FOCs also have similar standards in regard to the origin, employment, and payment of the crew. The main distinguishing factor between the two different types of open register is that traditional FOCs mostly require the owner to have some kind of physical presence in the flag state, either in form of a citizen, a legal representative, or a locally registered company linked to the ownership of the vessel, whereas many of the new open registers require no such presence in the flag state. Discussing the requirements of the two different types of FOC registers, Alderton and Winchester aptly state that:

[The] restrictions [of traditional FOCs] are not onerous, the body corporate may be a single ship company whose sole assets are that ship, the legal representative may have only provided their signatures on a document for a small price; nor do these criteria open up the transparency of the maritime industry – there is no stipulation that the beneficial owner of a single ship company must be revealed; bearer shares are permitted; legal representatives do not have to establish any significant or financial relationship to the organisation that they represent. However, the contrast with these new entrants to the flag market is clear, Cambodia, Belize, Bolivia, and Equatorial Guinea do not require any participation in the flag state for registration, not even the minimal requirements that are demanded by the established open registers.

51 At the same time so-called second registers emerged. These are registers which have been established in countries that already have a national register. The second registers offer fewer restrictions and more favourable conditions for shipowners. Some second registers are open while others, such as the German International Ship Register (1988), only accepts German owned ships. Examples of second registers are the French Kerguelen Islands (1987) and the Danish International Ship Register (1988). Second registers are often administered in the same or similar ways as national registers and differ in this way from FOCs. For more details about second registers see: International Labour Office, The Global Seafarer, pp. 28-35. International Transport Workers' Federation, 'ITF Seafarers' Bulletin', pp. 10-11.

52 Including the registers of Cambodia, Belize, Equatorial Guinea and Bolivia.

53 Alderton and Winchester, 'Regulation, Representation and the Flag Market'.

54 Ibid.
The registry of Cambodia offers an example of how new open registers operate. The registry accepts all types of vessels and any person or company owning a vessel under the laws of their own country can register a vessel in Cambodia. The country even offers a 24-hour registration service and is capable of processing an application based on faxed documents within one hour. Furthermore, a provisional registration for a vessel can be obtained by simply paying a fee, and temporary safe manning certificates can be issued without any inspections.\(^{55}\)

With this lack of stringent registration requirements of new open registers, shipowners can save the costs of finding a local representative and/or setting up a company in the flag state (in Liberia the costs are between US $1,000 and US $1,500 and the set up is completed in 48 hours). However, more important for shipowners is that without any assets or legal representatives located in the flag state, it becomes difficult for the flag state to enforce its laws and regulations. Shipowners are therefore practically able to avoid any legal or financial responsibilities and entanglements.\(^{56}\)

Furthermore, as the ‘old’ open registers became over time more concerned about safety and operational standards of the vessels flying their flag, the new, even more convenient registers, became ‘homes’ for vessels which old FOCs would no longer register.\(^{57}\) This is confirmed by Port State Control Statistics, which indicate that the detention rates of vessels flying flags of new open registers are amongst the highest worldwide.\(^{58}\) It is, however, important to note that the data on detention rates and casualties also shows that the high detention rates of some FOCs are matched by some national registers,\(^{59}\) but generally not by those of embedded maritime nations. One reason for high detention rates of vessels registered under national and open registers is the cutting of costs in the implementation and enforcement of safety and maintenance standards by flag states.\(^{60}\) The question of the budget assigned for enforcing these standards therefore plays an important role. The Panamanian administration for example


\(^{56}\) Alderton and Winchester, ‘Regulation, Representation and the Flag Market’.

\(^{57}\) Flag states handle vessels that do not comply with safety and maintenance regulations in different ways. Some registers suspend registration until the shortcomings are rectified. During this time, the vessel is not allowed to trade and cannot register legally under another flag. Other registers, on the other hand, simply delete problematic vessels from their registries, allowing the ship to be registered in another country. International Labour Office, *The Global Seafarer*, p. 44.

\(^{58}\) Alderton and Winchester, ‘Regulation, Representation and the Flag Market’.

\(^{59}\) For example, in the 2000 Paris MOU report, 26 states were blacklisted, with only nine of them being states with open registers.
has an annual budget of around US $20 million to monitor its 6,245 vessels, while its British counterpart has US $78 million to control a fleet less than a quarter this size.\(^{61}\)

The enforcement of regulations also depends on the set up of the administrative body behind the register. National registers and some of the established open registers are operated by their respective governments. In contrast, most of the new open registers and some of the established FOCs are run by private companies, with some based outside the country of the flag register. The Mongolian government, for example, authorised the Singapore based *Mongolian Ship Registry Pte Ltd* to administer its registration system.\(^{62}\) While not all registers run by private companies are necessarily less qualified to register ships than government institutions, government run and supervised agencies, may (in the absence of chronic corruption) be better positioned to control and enforce laws and regulations concerning such issues as safety and maintenance standards.\(^{63}\)

In addition to the lax regulations in regard to the safety and maintenance of vessels, the lack of control and concern about the welfare, training, and payment of seafarers by some flag states is also worrisome. There are once again differences between the practices of individual flag states,\(^{64}\) but an overall pattern can be discerned...

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\(^{61}\) Ibid. p. 41.


\(^{63}\) Once again, the Cambodian register is a case in point. The register was established in the mid 1990s and was operated by the Singapore based *Cambodia Shipping Corp* (CSC), a privately owned company, which was the first in the world to introduce Internet ship registration. However, in 2002, after an increasing number of vessels sailing under the Cambodian flag were blacklisted due to safety and maintenance shortcomings and allegations of involvement in smuggling activities, mounting international criticism of the safety standards of Cambodian vessels forced the Cambodian government to take over control of the register. Yet, announcements were issued after the government takeover stating that companies would be able to bid for the register and take over its operation. Ker Munthit, 'Cambodia Vows to End Flag of Convenience Ship Registrations', Cambodian Parliament, 23 August 2002, http://www.cambodian-parliament.org/english.html, accessed 24 January 2006. Kevin Doyle, 'Cambodian Vessels. A Black Mark on European Seas', *Cambodia Daily*, 7-8 December 2002, http://www.camnet.com.kh/cambodia.daily/selected_features/ship.htm, accessed 24 January 2006. Michael Richardson, 'Drugs and Terrorism Roams the High Seas Under Tuvaluan Flag', *Strait's Times*, Tuvalu News, 22 May 2003, http://www.tuvaluislands.com/news/archived/2003/2003-05-21.htm, accessed 24 January 2006.

\(^{64}\) The ITF also publishes lists of companies and individuals, including shipowners, managers, and crewing agents, which seriously abuse mariners' rights. The list of blacklisted companies can be downloaded from the ITF website. International Transport Workers' Federation, 'FOC Blacklist', http://www.itfglobal.org/flags-convenience/flags-convenien-186.cfm, accessed 3 August 2007. They are also included in the annual reports of the ITF campaign against FOC and substandard shipping. See for example: International Trade Workers' Federation, 'Campaign against Flags of Convenience and Substandard Shipping. Annual Report 2004', pp. 10-1.
and flag registers placed into three different categories, namely those under regulatory efficient states, those under regulatory inefficient states, and those under unregulated states. Registers operated by regulatory efficient states are mostly national registers, run from within a government agency. Flag states within this category offer comparatively high labour standards, including welfare programs for seafarers and entertainment on board vessels. They also train seafarers, therefore guaranteeing a high level of training and education of mariners. The second group, under regulatory inefficient states, is generally comprised of flag registries from established open registers. While these flags have a certain level of registration requirements, labour issues are mostly not regarded as a priority. The new open registers, with only minimal or no regulation and concern for the seafarers’ welfare and training, fall into the third group, sailing under flags from unregulated states. The lax controls and standards of some shipping registers in regard to seafarers are, for example, reflected in the level of scrutiny with which documents such as training certificates are verified and processed. A study by Dr Winchester of the Seafarers’ International Research Centre, Cardiff University, on the global regulation of seafarer certification, found that some flag registers verify as few as 15 per cent of officers’ certificates submitted to them. An important issue is also the payment of seafarers, especially those working on vessels where the flag state has not ratified any agreements concerning minimum wages and welfare of mariners. As a result, seafarers from third world countries are in some cases paid substandard wages and may even experience difficulties in actually receiving their meagre pay. In 2004, for example, the ITF was asked for help in the case of two Burmese seafarers working on the Panamanian flagged vessel Lung Yuin, who had received US $300 in two years of work. When an ITF representative visited the vessel in Yokohama, Japan, he discovered that all eight Burmese crewmembers were owed

66 The training of seafarers is crucial, as supervised training can guarantee high standards. Also, there is a shortage of skilled seafarers and proper training of additional new seafarers could adversely impact the sale of fraudulent certificates. International Transport Workers' Federation, 'FOCs and Seafarers', [http://www.itf.org.uk/itfweb/seafarers/globalisation/pages/pg5-en.html](http://www.itf.org.uk/itfweb/seafarers/globalisation/pages/pg5-en.html), accessed 14 May 2004.
67 International Labour Office, *The Global Seafarer*, p. 50. For more information on low working and training practices of FOC registers see, for example: International Transport Workers' Federation, 'FOCs and Seafarers'.
68 David Osler, 'Flags of Convenience Fail to Verify Up to 85% of Officer Certificates.' *Lloyds List*, 11 July 2005, p. 3.
substantial parts of their wages.\textsuperscript{69} Furthermore, when the \textit{Lung Yuin} was subsequently inspected by port authorities, deficiencies in its structure, stability, and safety equipment were discovered.\textsuperscript{70}

As with the operations of class societies and flag states, there are also concerns about shortcomings in both port state control and the new security regulations introduced after the September 11, 2001 terrorist attacks. There are, for example, concerns in regard to the effectiveness of security checks of vessels and containers by coastal states and port authorities. While security has increased in ports, at least in part in accordance with the ISPS code and the CSI, there remain significant shortcomings. For example, even in major ports, with the most advanced security screening systems in place, the number of vessels and containers opened and examined remains below 10 per cent.\textsuperscript{71} Furthermore, the standards of the security measures implemented after September 11, 2001, vary considerably between ports within and beyond Southeast Asia.\textsuperscript{72} Deepack Dovedy, an employee of MISC, explains this situation by suggesting that the ISPS code was pushed forward by the USA, and was created for their purposes only.\textsuperscript{73} He acknowledges that the ISPS code may indeed put pressure on some port officials and shipowners to increase security, as it has become more difficult to trade with the USA or Europe if a port or ship does not conform to the new regulations. Consequently, the ISPS code only has an impact on ports and vessels trading directly with the USA or Europe and does not have much effect, for example, on smaller ports.

\textsuperscript{69} In this case, the Taiwanese owner was contacted by the ITF and agreed to compensate the crew and sign an ITF-approved agreement.
\textsuperscript{70} International Transport Workers' Federation, 'ITF Seafarers' Bulletin'.
\textsuperscript{71} Statistics for inspection rates of containers in ports in recent years are difficult to find. However, the inspection rate in US ports is estimated to be about five to six per cent. See: Jonathan Weisman, 'House Passes $7.4 Billion Port Security Bill', \textit{Washington Post (Online)}, 5 May 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/05/04/AR2006050401672_pf.html, accessed 27 June 2007. Alwyn Scott, 'Slipping Through the Net - And into Our Ports', \textit{Seattle Times}, 23 April 2006, http://archives.seattletimes.nwsource.com/cgi-bin/texis.cgi/web/vortex/display?slug=portsecurity23&date=20060423&query=patty+murray, accessed 29 June 2007. Flynn points out that if only 'suspicious' vessels and containers (owned/operated or registered in/from certain places or by certain people, or with a bad track record) are screened, terrorists may in fact use 'unsuspicious' vessels or containers for their purposes. Flynn, 'Port Security Is Still a House of Cards', p. 9. For more information about the CSI and the concerns surrounding its adoption see: Irvin Lim, 'Not Yet All Aboard...But Already All at Sea Over Container Security Initiative', IDSS Working Paper, no. 35, Singapore: Institute of Defence and Strategic Studies, October 2002.
\textsuperscript{73} He added that "if you do something for a selfish reason, it has to fail"
and vessels trading within the Asian region.\textsuperscript{74} Captain Mukundan, director of the IMB, also pointed out that the ISPS security initiative has its shortcomings, despite being a step in the right direction to increase awareness of security issues in the maritime industry. He emphasised the importance of the new requirements regarding the training of crew and confirmed that ports would be a safer place to conduct business if all harbours would comply with the new safety regulations. He added, however, that most ports will not be able to fully implement the ISPS improvements in the foreseeable future.\textsuperscript{75}

More critical industry observers have argued that the new security measures in general may not significantly improve safety and security at sea or in ports.\textsuperscript{76} One ship manager, for example, commented that the IMO is a “papertiger”, an outdated organisation with unrealistic aims and operation methods. He claimed that everyone will be able to get the paperwork and the required equipment ready for the deadline of the implementation of the ISPS code, but added that this will not make any significant difference, as the regulations will not be properly implemented.\textsuperscript{77} Indeed, concern has already been voiced over the falsification of ISPS related papers and the corruption of institutions issuing these documents. In the Philippines, for example, allegations have been brought forward that ISPS security compliance certificates were issued without any assessment or verification conducted by the authorities responsible.\textsuperscript{78} Similar accusations such as the sale of forged certificates have also come from other places.

\textsuperscript{74} He believes, however, that terrorists planning an attack within Asia are more likely to choose a locally operating vessel, as the terrorists attacking the World Trade Centre also targeted flights from within the USA, not planes coming from Europe for example. Author’s Interview with Captain Deepak Dovedy, Superintendent Health, Safety & Environment Department, Fleet Management Services Division, Malaysian International Shipping Corporation Berhad, 10 August 2004, Kuala Lumpur, Malaysia.


\textsuperscript{77} Author’s Interview with Captain Chan Kok Leong, General Manager GBLT Shipmanagement PTE LTD, 13 February 2004, Singapore.

around the world, including Hong Kong.79 Mukundan adds that there are also problems in regard to the technological requirements of the ISPS code, as these new arrangements may be exploited by criminals. A telling example is that some shipowners ask their captains to switch off tracking devices installed in accordance with the ISPS code in pirate prone areas, as criminals are able to access the tracking data and use it for their own purposes.80 Additionally, other critics have argued that with the new ISPS requirements, seafarers have to master extra tasks in addition to their already heavy work load81 and that the required training of security officers and the crew are not sufficient to prevent attacks on vessels. As one person involved in the training of security officers pointed out, it remains problematic that security officers participate in only a short training course before they are required to teach their crews. He added: “I have done these training courses, and believe me, these people are not ready to teach their crews”.82

The problems with the implementation of the maritime regulations outlined above, combined with the rather large loopholes in the existing regulatory system, allow shipowners to circumvent stringent laws concerning the safety of ships as well as the training and welfare of the crew. While there are certainly a large number of honourable businesses and individuals involved in the maritime industry, there are also those who exploit the system by operating substandard vessels, often referred to as ‘rust buckets’ or ‘swimming coffins’.83 The problems and loopholes in the regulation and control of the maritime industry make it comparatively simple for shipowners and other people

80 Author’s Interview with Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England. He added that it is, for example, possible to trace all vessels on the North Sea which use tracking devices in accordance with the ISPS code on the Internet.
81 Bob Rust, ‘US Tankers Fleet Facing Labour Row’, TradeWinds, 18 June 2004, p. 19. Anther concern regarding seamen is that with the ISPS code in place, it may become more difficult for seafarers to be allowed to go onshore.
82 Author’s Interview with Alex Morrison, Security Manager, Hart GMSSCO Limited, 20 May 2004, Singapore. He also suggested that the training would be more effective if all crewmembers were trained by professionals directly.
involved in the industry to cut corners and costs. Indeed, the current system allows substandard vessels to operate with valid papers that ostensibly verify that these vessels are in compliance with present maritime regulations. The official documents in these cases serve as a legal facade behind which companies can operate as they please to ensure maximum profits for their enterprises.\textsuperscript{84} The following section now examines how pirates exploit and use the same loopholes in the maritime security-regulatory framework, and how these shortcomings determine the nature of pirate attacks.

**Exploitation of security weaknesses by pirates**

The characteristics of the maritime industry described above, combined with the working practices of maritime businesses, are conducive to the occurrence of pirate attacks. William Langewiesche even suggests that:

> It is not by chance that the more sophisticated pirate groups and terrorists seem to mimic the methods and operational techniques of the shipowners. Their moral and motivations are different, of course, but all have learned to work without the need for a home base and, more significantly, to escape the forces of order not by running away, but by complying with the laws and regulations in order to move about freely and to hide in plain sight.\textsuperscript{85}

While the existence of piracy in Southeast Asia and Bangladesh cannot wholly be attributed to the present state and characteristics of the maritime industry and its regulations, they nonetheless continue to shape the nature and type of pirate attacks. By examining pirate attacks and the working practices of pirates, the inherent weaknesses and problems within the international maritime system are blatantly exposed.

For example, the payment of low wages, mostly on FOC vessels, can result in the employment of less well trained and more unreliable seafarers\textsuperscript{86} with no allegiance to their employer or the shipowner. An example of the possible consequence of employing

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\textsuperscript{85} Ibid. p. 7.

\textsuperscript{86} It is in many cases very difficult to verify passports and documents of seafarers as many come from Third World countries or developing nations in which personal data is not centrally stored and accessible and/or the maritime institutes issuing certificates are not able to provide necessary confirmation if requested. There are different reasons for seafarers to use false documents. Some may use them simply as ‘proof’ that they have acquired skills they do not actually have. In other cases the situation may be more complex. Seafarers from Myanmar, for example, may use false passports when seeking employment after illegally migrating to Thailand. The government of Myanmar registers all seafarers, including their addresses, and the illegally migrated seafarers use false names in order to protect their families in Myanmar from harassment by the government. Unpublished manuscript (author unknown) titled ‘Maritime Piracy, Fraud and Smuggling in Asia Pacific: Terrorism’s Force Multiplier’, pp.4-5.
an unreliable crew is the attack on the MV Clown\textsuperscript{87} near the island of Batam, Indonesia in 2000. The crew of this vessel had decided on an un-authorised stop-over in Batam to spend an evening on the island, which is well known for its inexpensive prostitutes, drugs and gambling. Unfortunately for the crew, the vessel came under attack that night when anchoring near the island and was hijacked by pirates. While it was later established that the crew did not collaborate with the pirate gang, all crewmembers nonetheless lost their jobs because of their negligence in making the unscheduled stopover.\textsuperscript{88}

Furthermore, underpaid and/or ill-trained crew may be less motivated to conduct sufficient pirate watches and to respond to a pirate attack in the appropriate manner. Low wages paid to seafarers, port officials, and dock workers can also offer an incentive for corrupt or desperate mariners or port personnel to accept payments from criminal organisations in exchange for information about a vessel. Information provided could include details about the cargo and route of a vessel, or the amount of money carried on the ship. This knowledge can then be used by organised pirate gangs to decide which vessel may be a worthy target. Generally, the amount of money kept onboard vessels varies, as fuel, stores, and other costs must be covered. In some cases, the wages of the crew are also kept onboard merchant ships. Indeed, some seafarers, who have experienced difficulties with their employers and the payment of their wages, prefer the disbursement of their salaries in cash while on board a vessel. This practice not only ensures in the seafarers eyes that they actually receive the payments, but is also beneficial for these mariners because the on board payment is in many cases made in US Dollars or other strong currencies. The cash can then be exchanged in the seafarer’s home countries at a more favourable rate than an electronic transfer directly into their bank accounts.\textsuperscript{89} The disadvantage of this on board cash payment system is that the money for the wages is held on the vessel. Initially, the money is locked in the safe by the captain until it is paid out to the crew, who often hide the money in their cabins.\textsuperscript{90} The (potential) cash onboard is naturally an incentive for pirates to attack merchant

\textsuperscript{87} The name of the vessel has been changed as requested by the vessels’ manager.
\textsuperscript{88} Author’s Interview, Anonymous, October 2003, Singapore.
\textsuperscript{89} Author’s Interview with Captain Chan Kok Leong, General Manager GBLT Shipmanagement PTE LTD, 13 February 2004, Singapore.
\textsuperscript{90} There are, however exceptions. As mentioned earlier in the thesis, MISC vessels do not carry money onboard. If the captain requires cash, it is delivered to him in ports by a company’s employee.
vessels, particularly in less developed countries or regions. The attack on the chemical tanker *Dewi Madrim* on 26 March 2003 in the Malacca Straits is a case in point. In this attack, ten pirates armed with a machine gun and knives climbed on board. The perpetrators threatened the crew and forced the captain to open the safe which held the unusually large amount of US $21,000. According to the manager of the vessel Mr Chan, the cash onboard was mostly the pay of the Indonesian crew who had planned to exchange the US Dollars in Indonesia, where they expected to get a more favourable exchange rate. Mr Chan believes that the pirates knew in advance that the vessel carried this large amount of cash and therefore targeted the *Dewi Madrim*. He stated that his company was not able to establish how the pirates received the insider information, but ruled out that a crewmember was involved in the attack.91

The cost cutting of shipowners and managers also results in the reduction of crew onboard merchant vessels. The work that has to be conducted on board has consequently to be handled by fewer seafarers, resulting in stress and fatigue. As one mariner states: “12-15 hour days, never had six hours continuous sleep, 87 hour week for three months. Regularly made errors in passage planning and execution. Did not dare to sit down on watch.”92 As he himself is aware, fatigue increases the risk of accidents and decreases the awareness of seafarers for any kind of danger, including approaching pirates.93 For example, it is believed that crew fatigue played a role in the attack on the *Alondra Rainbow*, which was hijacked on 22 October 1999. The Japanese owned vessel was sailing under the flag of Panama and was taken over by pirates after leaving Kuala Tanjung, Indonesia (Map 4). The crew was set adrift in a life raft and the vessel itself was eventually captured and detained by the Indian coast guard on 16 November 1999.94

91 Ibid.
93 Shipowners, for obvious reasons, often have a different view. Daniel Tan, Executive Director, Singapore Shipping Association, for example, stated in an interview that the practice of employing fewer crewmembers on board a vessel does not impact upon the occurrence of pirate attacks. He added that it is not the responsibility of the shipowner, but the states where pirate attacks take place, to secure shipping. Author’s Interview with Daniel Tan, Executive Director, Singapore Shipping Association, 11 October 2002, Singapore.
Photo 13 *Alondra Rainbow* renamed

Photo 14 *Bulletholes inside Alondra Rainbow*  
(Both courtesy of Captain Mathew Mathai, Nippon Maritime Center)
The ability to re-register vessels in open registers, sometimes merely via fax or the internet and without a close check of documents or inspection of the vessel itself, is also conducive to the occurrence of pirate attacks. Organised pirate gangs in particular benefit from this system, as they are able to easily re-register hijacked vessels under a new flag. For this purpose, the stolen vessel has to be renamed and repainted and ‘new’ documents presented to the registry. The newly registered vessel can then either be sold to a new owner or used by the crime syndicate responsible for the hijacking as a phantom ship. The shipjacking of the Malaysian owned Panama flagged cargo vessel *Natris* is a case in point. The ship was hijacked on 17 November 2002 when leaving a shipyard on Batam Island, Indonesia. The original crew was left behind on Batam and the vessel disappeared. In 2003, the vessel was re-registered as the *Paulijing*, with the international Merchant Marine Registry of Belize issuing a provisional registration based on documents stating the vessel’s previous name as *Victoria*. According to the notarised documents, the ship had been deleted from the Sierra Leone registry and had been sold to its new owner for only US $10,000. Under its new registration, the *Paulijing* traded for more than two years, with its owner listed as *Bang Jing Shipping HK LTD*, and its manager as *Pacific King SHPG Holding*, both based at 80, Raffles Place, Singapore. Interestingly, the vessel was not reported hijacked to the IMB, IMO, or any law enforcement agency by the original owner at the time of the attack. It was only two years after the hijacking that authorities were notified and the IMB began searching for the vessel. Following a tip-off from the IMB, the Malaysian marine police was able to detain the vessel on 25 August 2005 in the Straits of Malacca, following a 17 hour chase. In the aftermath of the attack, the Belize flag register was accused of

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95 Jayant Abhyankar from the IMB states that it is several times more expensive to register a phantom ship than an ordinary vessel. The actual application is often submitted by so-called Shipping Bureaux, Shipping Assistance, or Marine Companies. Jayant Abhyankar, 'Maritime Fraud and Piracy', in Phil Williams and Dimitri Vlassis (eds), *Combating Transnational Crime*, London: Frank Cass, 2001, p. 180.

96 In interviews with personnel of PSCs, interviewees have stated that a number of hijackings are not reported to the IMB or authorities by the owners. In some of these cases, PSCs are hired to locate hijacked vessels. According to one interviewee, some shipowners prefer the professional services of private companies working in their interest over the often more difficult cooperation with law enforcement agencies. Author’s Interview with Joe Corless, Operations Director *Gray Page Limited*, 23 June 2004, London, England.

registering the vessel without conducting appropriate background checks. The IMB commented that: “The documents, which have now been proved to be fakes, were accepted at face value and no checks were apparently made before the ship was re-registered under the Belize flag.”98 The IMB also stated that the unusually low selling price should have raised concern. Furthermore, investigations revealed that the IMO number of the Natris and the Paulijing were the same and when Lloyds List received copies of the original documents submitted for the temporary registration, it found that some of the documents were “close to illegible.”99 The case clearly demonstrates that there are deficiencies in the examination and verification of ship documents by FOC registries in countries such as Belize. Had the Belize registry personnel contacted the registry in Sierra Leone and verified the data given, or made further inquiries as a result of the low selling price, the matching IMO numbers, or the illegible documents, registration could have been denied and the crime uncovered much earlier. Criminal gangs clearly benefit from this lax system as they can rely on the fact that the re-registration process will not pose major difficulties. With a new registration, the vessels can then be sold or used as phantom ships, making the hijacking of ships a lucrative business.

The second regulatory regime which has the potential to uncover the real identity of hijacked vessels is the port state. However, as discussed above, the room for manoeuvre of port officials is limited, and the high numbers of vessels passing through ports make it difficult for local authorities to thoroughly check the papers of all vessels visiting their port. The hijacking of the MV Anna Sierra offers one example of how pirates exploit these shortcomings. The Cyprus registered ship was hijacked just after midnight on 13 September 1995 in the Gulf of Thailand when passing the coastal boundary between Thailand and Cambodia.100 The vessel was on its way from Thailand to Manila carrying a cargo of 12,000 metric tonnes of sugar with an estimated value of

99 Ibid. Hand, ‘Belize Defends Registering Stolen Ship’, p. 3. The case was not resolved at the time of writing. The Belize and Sierra Leone register blamed each other for the shortcomings, with the Belize side claiming it did not receive answers to its inquiries from the register in Sierra Leone. They, in turn, responded that Belize should bear the responsibility for registering a hijacked vessel. The old and new owners of the ship are at present fighting over the ownership of the vessel in a Malaysian court.
US $4 million. The ship was attacked by a gang of 30 masked Indonesian pirates armed with machine guns, pistols, and knives, travelling on a fast motor launch. The pirates climbed onboard, overpowered the 23 man strong crew and tied them up before locking them into cabins. Two days later, a group of eight crew was set adrift on a make shift pontoon that soon disintegrated. The remaining 15 crewmembers were later placed in a life raft and left to their own devices in rough seas. However, both groups were rescued by Vietnamese fishers off the coast of Vietnam and a search for the hijacked vessel ensued. Yet, even though the search involved the navies of Thailand, Vietnam, the Philippines, and China, the vessel was able to escape. On 20 September, the Anna Sierra resurfaced in the port of Beihei, southern China. By that time, parts of the vessel had been repainted and the ship was sailing under the name Artic Sea. On 25 September, the ship, with the ‘pirates’ onboard, was detained by the Chinese authorities. According to one of the insurance agents investigating the case, the crew presented crude copies of documents allegedly issued by a company in Malaysia with a Singapore telephone number, stating that the Artic Sea was registered in Honduras. Investigations revealed that the company which purportedly issued the papers was not registered, and the given address did not exist. The telephone number in Singapore did exist but the person answering the phone had no knowledge about the company. The insurance investigator later claimed that if he had not conducted this inquiry and presented the results to the Chinese authorities, the false documents and identity of the Artic Sea would not have been revealed, as port authorities at the time did not verify all ship documents of vessels visiting their harbours. John Martin from the IMB, who also played a crucial role in relocating the vessel, added: “Every time we proved that the documents for the Artic Sea were false, that there was no ship registered under that name, the pirates would produce more false documents. [...] It became impossible for the Chinese authorities to know who to believe.”

100 The exact position given by the IMB for the attack is 11.15N – 102.00E.
101 It was never established whether or not the crewmembers onboard were the actual pirates, accomplices or simply seafarers hired after the attack.
103 Unpublished manuscript (author unknown) titled ‘Maritime Piracy, Fraud and Smuggling in Asia Pacific: Terrorism’s Force Multiplier’, p. 10.
however, ultimately proved that the papers presented by the pirates were fake and further showed that the “Honduran registry number shown in the Artic Sea documents related to previous ships that were involved in the theft of shiploads of cargoes.”\textsuperscript{105} However, despite these efforts by the IMB and the insurance company, no charges were pressed against the ‘pirates’ who were eventually sent back to Indonesia while the vessel remained in detention in China for several years.\textsuperscript{106} The case of the \textit{Anna Sierra} demonstrates that it is comparatively easy for pirates to falsify documents and that a very close inspection of such documents by port authorities is required to reveal that they are indeed forgeries. Whilst the level and quality of port security has certainly improved since 1995, especially after the September 11, 2001 terrorist attacks, the nature of the maritime industry still makes it difficult for port authorities to discover the real identity of hijacked vessels.\textsuperscript{107} Further contributing to the problem is the fact that security checks in some smaller regional ports are not as stringent as in major harbours, such as the port of Singapore, and that access to smaller ports via land or sea is not as closely monitored as in most major ports.\textsuperscript{108} Minor attacks therefore occur frequently in smaller harbours across Southeast Asia and in Bangladesh. The following account is just one of numerous examples of such incidents over the past two decades. The master of the multi purpose vessel \textit{MV Kariba}, which was attacked four times on route from Indonesia to South Korea, travelling via Sandakan (Map 5) and Sipitang Wharf in Brunei Bay, recounts:

The next two attacks took place in Sandakan, on 26th December [1999]. Sandakan is an anchorage port, the access being down a short channel. The vessel arrived about 1600hrs on 25th and was due to begin cargo operations the next morning at 0600hrs. Three men were on deck patrol during the night in addition to the bridge watch. At about 0100hrs on 26th one of the crew spotted a man climbing over the rail. He bashed the pirate's knuckles with a piece of wood, the pirate fell back into the water and the boat alongside with two men in it fled. No weapons were noticed. Cargo loading completed about 1200hrs but the vessel was tide bound until 2300hrs. At 1400hrs that afternoon I was on the bridge checking the tides with the 2nd Officer. The deck crew were securing the hatches for sea. I saw them suddenly run towards the forecastle space and two men run out and jump overside. A line and a grapple were hanging from the rail. They had come on board and

\textsuperscript{105} Abhyankar, 'Maritime Fraud and Piracy', p. 190.
\textsuperscript{107} O'Neill, 'Ex-sea Captain Chases Pirates'.
\textsuperscript{107} As will be discussed later in the thesis, officials in ports in China, Indonesia and other countries in Southeast Asia are believed to accept bribes to ‘overlook’ concerns or problems with ship documents.
\textsuperscript{108} However, there are also major differences between security arrangements in the various large ports, and attacks on vessels have been reported from ports such as Chittagong.
According to an MISC official working in the port of Sandakan between 1996 and 2002, the attacks described above are typical of this port. In these attacks, opportunistic pirates mostly steal small items such as ropes and paint. According to the MISC employee, only occasionally are containers opened, but the pirates usually do not possess insider knowledge about the goods transported in the containers, as demonstrated by the following two examples. In the first case, pirates opened a container carrying grease, a product of no use to them, and in the second attack, the perpetrators broke into a container filled with large tyres. The pirates were fortunate in the latter incident, as they could have been injured by the tyres accidentally rolling out of the container. Generally, the pirates operating around the port of Sandakan approach their victims in small fishing boats or other small vessels such as bumboats. Small vessels of all kinds are regularly passing through the port area and the ‘pirate boats’ are difficult to distinguish, particularly from those vessels which carry Filipino prostitutes that are ‘allowed’ to approach many of the merchant vessels moored in the port. This example indicates that access to ports and vessels is not strictly controlled in some smaller ports.

In summary, pirates in Southeast Asia and Bangladesh (as well as other parts of the world) use the many shortcomings of maritime regulations to their advantage. In fact, pirate attacks are conducted to exploit the weaknesses of the system most effectively. This demonstrates that despite a tightening of national and international maritime rules, laws, and regulations in the past decade (and particularly so after September 11, 2001), the regulatory regime remains comparatively lax in the maritime sphere. Yet, the current number of often minor pirate attacks in Southeast Asia, Bangladesh, and the rest of the world may not provide sufficient incentive for regional or international governments and institutions to further increase security standards in the shipping industry. However, the same loopholes taken advantage of by pirates can also be exploited by rogue states, terrorists, separatists, and organised crime gangs, which pose a more serious threat to security.

109 E-mail from John Clark, Master of MV Kariba to the author. Received on 23 August 2002.
110 Author’s Interview with a former MISC employee, 3 April 2006, Kota Kinabalu, Malaysia.
111 Author’s Interview with Captain Abdullah, SRT-EON, 4 April 2006, Sandakan, Malaysia.
**Beyond piracy – Security implications**

This section of the chapter will demonstrate how terrorists, rogue states, and crime syndicates also take advantage of the international maritime regulatory system, posing a significant threat to national and international security. Furthermore, it will be argued that the same shortcomings that pirates so successfully exploit also increase the likelihood of accidents at sea, which can have an impact on the well-being of seafarers, marine life, and communities situated along coasts. The reduced number of crew onboard a vessel and their low level of qualification and training are, for example, not only beneficial for pirates but can also result in maritime accidents and injuries or deaths of seamen. Fatigue as well as stress can, for instance, lead to suicide, murder, or injury on board vessels. As many shipowners do not keep proper records and port state control inspectors are too busy to check existing records, such cases often go unreported.\(^\text{112}\) Furthermore, accidents such as collisions are more likely to occur when the crew is overworked, tired, stressed, or not sufficiently trained. Lax security standards of FOCs exacerbate the problem and increase the number of accidents, with about 25 stranded or wrecked vessels and 41 collisions recorded for Cambodian registered vessels alone between 1995 and 2002.\(^\text{113}\)

If an accident or collision occurs, the FOC system can also make an already disastrous situation even worse. The sinking of the single-hulled tanker *Prestige* off the northwest coast of Spain in November 2002 provides an example of the consequences of the shortcomings in the flag state regulation regarding the ownership of vessels. In the event, a fuel tank of the *Prestige* burst during a storm on 13 November and the Greek captain called for help from the Spanish authorities. However, the Spanish, as well as the French and Portuguese governments, refused to allow the leaking ship to dock in their ports and on 19 November the vessel broke in half and sank at sea, spilling thousands of tons of heavy crude oil. As a result, large stretches of the Galician and

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\(^{113}\) ‘Warning Shot Across the Bows Could Signal the End of Corrupt Flags of Convenience’, *Guardian Newspapers*, 24 June 2002, [http://www.buzzle.com/editorials/6-24-2002-21077.asp](http://www.buzzle.com/editorials/6-24-2002-21077.asp), accessed 24 January 2006. Furthermore, the age and size of vessels also play a role. One report states that according to data from the Marine Department of Malaysia for the Malacca Straits, over 80 per cent of the 475 casualties reported between 1975 and 1995 were vessels over 20 years of age, and seventy percent were under 10,000 tons. Overall it is more likely that older ships are registered under FOCs. Unpublished Manuscript, ‘Maritime Piracy, Fraud and Smuggling in Asia Pacific: Terrorism’s Force Multiplier’, p. 15.
French coast were polluted and the local fishing industry was badly affected. Given the damage, the search for the owner of the vessel began and it was established that the vessel was registered in the Bahamas, had a Liberian owner, and had been chartered by a Swiss based Russian oil company. Despite the availability of this information, the identity of the beneficial owner of the vessel at first remained unclear. It was later established that a Greek family owned the vessel through a single-ship company registered in Liberia. With this company as the official owner of the vessel, the Greek family could not be held financially responsible for the damage. The case therefore demonstrates clearly the ability of shipowners to hide behind the corporate veil, and, letter-box companies, in order to evade responsibility and costs. Furthermore, the sinking of the *Prestige* also shows that ship inspections do not always prevent substandard ships from continuing their journey, as the vessel had been inspected (and cleared) by the American Bureau of Shipping (ABS) six months prior to the accident. Despite this inspection, shortcomings had been reported in at least one of the ports visited by the vessel before it sailed towards Spain. However, the vessel was nonetheless allowed to continue its voyage.

The working practices of some flag states and the comparatively lax controls in some ports can also be exploited by terrorists, criminal organisations, and pariah governments. Maritime fraud in general, and phantom ship fraud in particular, is, for instance, assisted by the current system, in which ‘new’ papers (or forged ones) for

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114 It was consequently difficult to determine who had to pay the cost, estimated to be US $2 billion, for the substantial environmental damage incurred and the ensuing clean up of the coast, of which the ship’s insurance only covered US $25 million. Having no assets to its name except the *Prestige* itself, the Liberian company was certainly unable to cover any costs. 'Spain - The Lawless Sea', *Frontline*, produced by PBS, 2004, http://www.pbs.org/frontlineworld/stories/spain/, accessed 21 April 2006.

115 In a response to an inquiry, Mark Schapiro, Deputy Editorial Director of the Centre for Investigative Reporting, ABS stated that: “From the perspective of ABS, many incorrectly believe that the powers of the classification society are much wider than they are. In reality the role and responsibility of the class society is very limited and forms only one part of a maritime safety net in which the shipowner is the most important member.” 'The Paper Trail. Examining the Case of the Prestige. The Company View: Response from ABS to Frontline/World', Frontline World, 2003, http://www.pbs.org/frontlineworld/stories/spain/response.html, accessed 21 April 2006.

116 The captain sailing the *Prestige* before it departed on its final journey wrote a fax complaining about security shortcomings onboard the vessel, stating that he would not continue the journey before the vessel was repaired. The owner replaced him with a new captain and the vessel departed with the oil onboard, despite the warnings of the original captain. 'Spain - The Lawless Sea'. There are a large number of detailed reports and articles available on the *Prestige* case. The IMO published an Information Sheet, detailing resources covering the accident, see: International Maritime Organisation, 'Information Resources on the "Prestige"', 2005, http://www.imo.org/includes/blastDataOnly.asp/data_id%3D13791/Prestige%2814February2006%29.doc, accessed 20 February 2006.
vessels and cargo are easy to obtain and difficult to certify, particularly for a trader who is under time pressure to ship his goods. However, especially attractive for terrorists and criminal gangs is that the ownership of a vessel can be disguised when it is registered in certain FOC countries. This system can easily be exploited to launder money, because investors and beneficiaries, as well as the operational structure of these shipping enterprises, do not have to be disclosed. Furthermore, since the September 11, 2001 terrorist attacks, industry observers have suggested that al-Qaeda, or other politically motivated organisations, can use the FOC system to operate vessels without fear that the real ownership of the vessels will be disclosed.\footnote{International Transport Workers’ Federation, ‘Was sind Billigflaggen’.} Indeed, Osama bin Laden and his terrorist network, al-Qaeda, are believed to control up to 23 ships. One of these vessels was utilized in 1998 to deliver explosives to Africa, which were subsequently used in the US embassy bombings in Kenya and Tanzania. Due to the vessel registration system that allows ship owners to remain anonymous, the vessel carrying the explosives could never be identified and neither could any other vessel belonging to Osama bin Laden’s fleet.\footnote{Langewiesche, \textit{The Outlaw Sea}, p. 39. Richardson, \textit{A Time Bomb for Global Trade}, pp. 13-27.} Furthermore, Sri Lanka’s Liberation Tigers of Tamil Eelam (LTTE – or Tamil Tigers) also reportedly own at least ten vessels, mostly registered in Panama, Honduras, and Liberia. The vessels are owned and operated by front companies across Asia and are used for legitimate trade as well as for transporting weapons for the Tamil Tigers.\footnote{However some vessels have been identified that are believed to belong to al-Qaeda’s fleet. For example, two Tongan registered vessels, the \textit{Sara} and the \textit{Twillinger} were caught in 2002 transporting illegal Pakistani immigrants carrying a large amount of cash, false passports and maps. Reports claimed that US officials suspected the Pakistanis and the two vessels were linked to Bin Laden’s network. ‘Hiding Behind the Flag’, \textit{Frontline World}, 2004, \url{http://www.pbs.org/frontlineworld/stories/spain/flags1.html#intro}, accessed 5 December 2004.}


Since September 11, there has been increased interest in the role of flags of convenience in the illicit trade of weapons. Many cases in Human Rights Watch’s files on transportation of illicit weapons to human rights abusing parties were by flags of convenience.\footnote{International Transport Workers’ Federation, ‘Was sind Billigflaggen’.}

\footnote{Langewiesche, \textit{The Outlaw Sea}, p. 39. Richardson, \textit{A Time Bomb for Global Trade}, pp. 13-27.}

\footnote{However some vessels have been identified that are believed to belong to al-Qaeda’s fleet. For example, two Tongan registered vessels, the \textit{Sara} and the \textit{Twillinger} were caught in 2002 transporting illegal Pakistani immigrants carrying a large amount of cash, false passports and maps. Reports claimed that US officials suspected the Pakistanis and the two vessels were linked to Bin Laden’s network. ‘Hiding Behind the Flag’, \textit{Frontline World}, 2004, \url{http://www.pbs.org/frontlineworld/stories/spain/flags1.html#intro}, accessed 5 December 2004.}


\footnote{International Transport Workers’ Federation, ‘Was sind Billigflaggen’.}

\footnote{House Armed Services Committee, ‘Statement of Alex Vines’.
He adds:

Flags of convenience offer a high a level of corporate secrecy. Registering a company or a ship can be very easy. [...] There is no requirement for any annual reports or audits. Such a system is attractive for gunrunning, where the real owner of a particular ship is hard to identify and therefore difficult to hold accountable.\textsuperscript{122}

The difficulty of scanning the large number of containers in ports around the globe further increases the problem. The weapons and small arms smuggled by terrorists, criminals, or other groups on vessels facilitate unrest and conflict, and play a crucial role in the destabilisation of countries or regions around the world, including Southeast Asia and Bangladesh.\textsuperscript{123}

However, it is not only arms but also humans, drugs, endangered animals, and other goods such as cigarettes which are being smuggled. Once again, terrorists, separatists, criminals or even states can be involved. In 2002, for example, the Cambodian flagged vessel \textit{Winner} was seized by French commandos in international waters in the Atlantic. The vessel was carrying a registered cargo of scrap iron destined for Spain, but when French naval authorities searched the vessel, they also discovered more than one tonne of Colombian cocaine valued at US $100 million.\textsuperscript{124} The following year, the North Korean owned freighter \textit{Pong Su}, sailing under the Tuvaluan flag, was captured by the Australian navy and federal police, carrying heroin worth US $50 million. The case received particular attention as the North Korean government was found to be directly involved in the drug trafficking, and concern was voiced that such vessels could also transport missiles and other weapons.\textsuperscript{125} Indeed, by exploiting the FOC system, governments such as the North Korean regime can send or receive

\textsuperscript{122} Ibid.
\textsuperscript{123} This will be discussed in the following Part of the thesis.
\textsuperscript{124} Richardson, 'Drugs and Terrorism Roams the High Seas Under Tuvaluan Flag'. Munthit, 'Cambodia Vows to End Flag of Convenience Ship Registrations'. 'Warning Shot Across the Bows Could Signal the End of Corrupt Flags of Convenience'.
weapons or money to further their aims, which may pose a threat to security not only for their own population but also for other nations.

Controversial or pariah governments do not only benefit indirectly from the open register system. Some FOC registers are directly operated by pariah states or countries in a state of internal breakdown, which use the foreign exchange earned through their registers to buy weapons and other goods to fuel and sustain internal conflict. One example is the profits made by the Liberian register, which were used to support the government under President Charles Taylor between 1997 and 2003.\textsuperscript{126} As mentioned earlier, the Liberian ship register was the first modern open register. Since its establishment in 1948, it has been run by International Registries Incorporated (IRI), a company based in the USA. For decades, the register operated largely free from interference from Liberia and most of its revenue was used to maintain the registry. However, when Taylor was elevated to power in 1997, IRI’s 40 year old contract was cancelled and the register was taken over by the Liberian International Ship and Corporate Register (LISCR),\textsuperscript{127} which agreed to send a greater share of its earnings to Monrovia.\textsuperscript{128} Revenues from the register were substantial as the country had – and still has – the world’s second largest fleet in shipping tonnage, due to its popularity with American, Norwegian, German, Greek and Japanese shipowners.\textsuperscript{129} With few other legitimate sources of income, the Liberian government acknowledged that, at the time, at least 30 per cent of the entire national revenue came from the shipping register, but independent observers estimated the real figure to lie between 50 to 75 per cent.\textsuperscript{130}

\textsuperscript{126} There were also irregularities such as the disappearance of funds from the Liberian ship register after 2003. ‘Head of Ship Registry in Liberia Suspended; Money Missing’, \textit{Dow Jones International News}, 16 July 2005, n. p.

\textsuperscript{127} While offering a high level of corporate secrecy for shipowners, IRI charged higher fees for ship registration than many other FOCs and provided above average technical standards for its clients. Since LISCR took over the management of the register, fees have been dropped in order to prevent existing clients from leaving and to attract new customers, as concerns about the new management of the register emerged among shipowners. International Transport Workers’ Federation and Global Witness, ‘Taylor-made - The Pivotal Role of Liberia’s Forests and Flag of Convenience in Regional Conflict’, \texttt{http://www.globalwitness.org/reports/show.php/en.00021.html}, accessed 18 April 2006, pp. 31-2.

\textsuperscript{128} Ibid. p. 29.

\textsuperscript{129} In 2001, 1,500 ships were registered in Liberia, 60 percent of them owned by American, German, Greek, Norwegian or Japanese companies. By the end of 2005, 2,154 vessels were registered in Liberia. ‘Fleet Growth Continues’, \textit{Flagship. News from the Liberian Registry}, March 2006, \texttt{http://www.liscr.com/}, accessed 19 April 2006, p. 1.

\textsuperscript{130} At times, it was estimated that the percentage was as high as 90 per cent, but in a state like Liberia it is obviously difficult to estimate the percentage of legitimate national revenue. Furthermore, one has to keep
However, by 2000, the Taylor government was receiving an average sum of US $15 to US $20 million per year from the registry. Yet, the population of Liberia, in dire need of assistance, saw little of this money. The funds were instead used to fill the pockets of politicians and to support the government and its coercive policies, which caused worldwide concern resulting in the implementation of UN sanctions against the country in 2001, including a ban on arms sales. The main cause of international alarm was Liberia’s active involvement in the destabilisation of neighbouring Sierra Leone by providing funds and arms – bought, in part, with money from the shipping register – to the Revolutionary United Front (RUF) guerrillas. By supporting the RUF, Taylor fuelled the civil war in Sierra Leone which was characterised by extraordinary brutality manifested in rapes and the hacking off of arms, hands, and feet of thousands of people, including those of woman and children. The revenues from the Liberian shipping register were therefore not only used to circumvent UN sanctions and to finance the Liberian government but they also played a crucial role in prolonging and fuelling conflict and insecurity beyond Liberia.

in mind that unknown additional sums of money are received from the diamond and timber trade which are kept secret by the government. International Transport Workers' Federation and Global Witness, 'Taylor-made', p. 32.

131 Ibid. pp. 31-2.
133 Initially, the LISCR transferred money directly to non-government accounts to pay for arms and transportation in violation of the UN imposed sanctions. After August 2000, the strategy was changed and Liberia’s Bureau of Maritime Affairs diverted money from their share of maritime revenues to buy arms. It is obviously difficult to establish what happens to the money from the register once it is transferred into an account controlled by Taylor’s government. House Armed Services Committee, 'Statement of Alex Vines'. See also: 'Drugs, Diamonds and Deadly Cargoes' in: International Consortium of Investigative Journalists, 'Making a Killing: The Business of War', Center for Public Integrity, 2003, http://www.publicintegrity.org/bow/, accessed 24 November 2003.
135 International Transport Workers' Federation and Global Witness, 'Taylor-made', p. 3. Furthermore, Liberia’s register is also believed to play a crucial role in the illicit trade in so-called ‘conflict diamonds’ from Sierra Leone, by facilitating the operation of shell companies. International Transport Workers' Federation and Global Witness, 'Taylor-made', p. 34.
All these examples show that rogue states, criminals, terrorists, and separatist organisations exploit the same weaknesses in the maritime regulatory system as pirates. While the impact of the exploitation of these shortcomings may be largely restricted to individual vessels in the case of pirate attacks, these other groups and organisations can pose more significant security threats for people within and outside Southeast Asia and Bangladesh, as has been demonstrated in the case of Liberia under President Taylor and the use of al-Qaeda owned vessels to transport explosives.

Conclusion

In the past 30 years, the regulation of the maritime environment has changed significantly, with the introduction of international and national maritime laws and conventions such as UNCLOS. However, despite these changes the regulation of maritime trade remains problematic, with regulations and laws often inadequate or not fully enforced. In fact, the examination of different types of pirate attacks has revealed weaknesses in the regulation and working practices of the maritime industry. The hijacking of vessels, for example, demonstrates the shortcomings in the process of registering a vessel. Indeed, hijackings can only be lucrative because stolen vessels can easily be re-registered in open registers, with the owner of the vessel and its true identity remaining unknown. The nature of the maritime industry and regulatory system therefore, in turn, shape the nature and characteristics of pirate attacks. Pirates also exploit other weaknesses of the maritime sector. For example, the reduced number of crew on modern merchant vessels can lead to fatigue of the crew. Pirate attacks on such vessels are more likely to succeed, as the seafarers will be less capable of performing their duties, including anti-piracy watches. Furthermore, insufficiently paid crew may top-up their income by collaborating with pirate gangs.

In summary, piracy reveals security threats such as hidden ownership of vessels, substandard working conditions of seafarers, and overall loopholes in safety and maintenance regulations of vessels. These same shortcomings and inadequate maritime regulations can also result in maritime accidents and be utilized by criminals, separatists, or terrorists who, compared with pirates, may pose a more significant security threat. This should be incentive enough for governments around the world to further work on improving and enforcing maritime and port security and to support the initiatives of international bodies that aim to increase security and safety standards of
vessels, ports, and crews, including the ITF, the IMO, and the ILO. Furthermore, representatives of the maritime industry could change their working practices and no longer rely on disreputable organisations such as equivocal class societies and loosely controlled FOC registers. Improvements in security by governments and from within the maritime industry are of particular importance because they can prevent groups such as organised crime gangs and terrorists from operating successfully in the maritime sphere. The following Part of the thesis explains in more detail the involvement of terrorists and organised criminals in pirate attacks and discusses how their presence in Southeast Asia and Bangladesh impacts on national, regional, and international security.
Part III

The Dark Side

Criminals have the same aspirations as everyone else. That’s why they become criminals.¹
Michael Dibdin

[A]nd it is of course true that happy, content people seldom, if ever, throw bombs.²
Walter Laqueur

Introduction

The previous chapter demonstrated how pirates, rogue states, terrorists and other criminally or politically motivated groups exploit shortcomings in maritime regulations and laws. While different types of organisations and individuals are able to use economic and political systems to their advantage, it is crime syndicates, terrorists, and guerrillas that are of particular concern for security. This Part of the thesis focuses upon organised criminal groups as well as terrorists and guerrillas operating in and beyond Asia.³ It will discuss the development and nature of such organisations in this region, and explore how they are involved in piracy. Furthermore, it will be argued that the same or similar groups which are involved in piracy are also responsible for other illegal activities such as smuggling operations or terrorist attacks, and hence, pose a serious threat to national and international security.

This Part of the thesis is divided into two chapters, with the first discussing criminal organisations and their involvement in pirate attacks, and the second focusing on terrorist and guerrilla movements, particularly those fighting for separatism. Consequently, a distinction between criminally and politically motivated groups is made.⁴ Put simply, what distinguishes the terrorist and guerrilla fighter from a modern day criminal, including a pirate, is his motive, which conditions and influences his modus operandi. While the criminal is acting primarily for selfish, personal reasons,

³ As will be demonstrated, crime syndicates operate all across Asia. An analysis therefore necessarily has to include countries in Asia beyond Southeast Asia and Bangladesh.
⁴ While overall these distinctions can be made, this, however, does not mean that there are no criminal groups with a political agenda or that support parties or individual politicians at times. In some countries, such as Indonesia, the distinctions between criminal and politically motivated groups are particularly blurred.
guerrillas and terrorists fight for political goals, driven by a specific ideology or political agenda. However, as will be discussed, the boundaries between politically and criminally motivated acts have become increasingly blurred, particularly so after the end of the Cold War, and it can sometimes be difficult to draw a clear distinction between the two.\(^5\) Also, new links between guerrillas, terrorists and criminal organisations have been established, as Williams writes:

> In a few cases, links do exist between transnational criminal enterprises and terrorist organisations, although those links do not amount to a systematic organized crime-terrorism nexus. In some instances, organized crime groups use terror tactics; more often, terrorist organizations use organized crime activities to fund their political and military campaigns. Each type of group, in effect, appropriates the strategies and tactics of the other when necessary or expedient. Yet this does not necessarily mean that there is a convergence of organized crime and terrorism. In many areas of the world, the distinctions between organized crime [...] and terrorism [...] remain clear and distinct.\(^6\)

The following two chapters will offer an insight into the development and characteristics of both politically and criminally motivated groups, their interactions, how their different driving forces influence their *modus operandi*, their involvement in piracy in Southeast Asia and Bangladesh, and the nature, impact and characteristics of their operations in Asia and beyond.

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\(^6\) Phil Williams, 'Transnational Criminal Enterprises, Conflict, and Instability', in Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (eds), *Turbulent Peace. The Challenges of Managing International Conflict*, Washington, D.C.: United States Institute of Peace Press, 2003, p. 97. However, Williams acknowledges that in some places, such as Myanmar and Cambodia, the distinctions between terrorists and organised crime organisations have become blurred.
Chapter 5

Organised Crime

Introduction

In March 2002 the Honduras registered MT Han Wei was boarded in broad daylight by a gang of pirates armed with AK-47 rifles about 100 miles off the Thai island of Phuket (Map 1). The vessel had been on its way from Singapore to Myanmar when the pirates approached the ship in a speedboat and two fishing vessels. Once onboard, the assailants overpowered the crew and forced them to board one of the fishing boats. The seafarers were given 60 litres of fuel and enough food and water for a few days and were instructed to sail to Indonesia. After the disposal of the crew, the pirates sold the cargo of oil and transferred it to a second tanker, repainted parts of the vessel, and changed its name to Phae Tan. The perpetrators then navigated the tanker to the Thai province of Chonburi where it was discovered by the Thai navy, which had received information regarding the whereabouts of the vessel from the IMB. The Thai authorities boarded the vessel with the help of a helicopter but found it deserted. One week later, however, the police arrested three of the alleged Thai pirates in their homes in Ranong. They claimed that they conducted the attack with a gang of seven Thai men and five Burmese soldiers, headed by a Thai leader. The arrestees also testified that the Thai pirate leader had been hired to carry out the attack by a Taiwanese mastermind, known to the pirates only as Ao.7

Attacks such as the hijacking of the Han Wei require planning, maritime skills, and money upfront. Organised pirate gangs are responsible for these attacks, with the perpetrators mostly acting on behalf of a third party. This chapter provides an insight into the operations of organised pirate gangs and explores how their activities are linked to transnational crime syndicates in Asia. The first section of this chapter offers an overview of organised and transnational crime. It seeks to explain the changing nature

of such criminal gangs and their operations around the world and in Asia from the 1990s onwards. The subsequent section discusses the involvement of organised and transnational crime syndicates in maritime piracy in Southeast Asia and Bangladesh. The chapter concludes by demonstrating that pirate attacks are just one type of criminal activity committed by organised crime groups. Indeed, such organisations predominantly carry out other illegal operations and pose a threat to national, regional, and international security.

**Organised crime**

Organised crime has a long history and criminal syndicates have over time adapted their structure and operations to a changing world. To find a satisfactory definition of organised crime is consequently difficult. However, the broad definition used by the US Federal Bureau of Investigation (FBI) is a useful basis for this discussion. The FBI includes in its analysis:

> Any group having some manner of formalized structure and whose primary objective is to obtain money through illegal activities. Such groups maintain their position through the use of violence or threats of violence, corrupt public officials, graft, or extortion, and generally have a significant impact on the people in their locales or region of the country.⁸

At present, crime groups of different scope and magnitude operate in and from countries all around the world and include the Sicilian Mafia (the Cosa Nostra) in Italy, drug cartels in Columbia, the Mafiya in Russia, the triads in China, and the Yakuza in Japan. While some organisations concentrate almost entirely on one illegal activity (often the very profitable trade in drugs), other organisations are involved in a host of illegal activities, including prostitution, fraud, and extortion, as well as smuggling of drugs, counterfeit products, or humans, to mention but a few. Many of the older, established criminal syndicates, and most of the criminal organisations which have emerged and grown in strength in the past two decades, have expanded their operations beyond

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national borders.⁹ This transformation of criminal organisations is at least in part a result of changes in the political environment after the end of the Cold War.

Criminal organisations in the post-Cold War period

The end of the Cold War brought not only political, economic, and social changes in countries around the world, but also in the structure and operations of crime syndicates, which adapted with apparent ease to the post-1989 global environment. In fact, worldwide, criminal organisations have never been as successful and widespread in their operations and influence as they are today.¹⁰ A number of major developments in the global and regional context since the early 1990s were conducive to the development of transnational crime syndicates and may help to explain the characteristics of modern day criminal organisations. Among those developments are four that are of particular importance, (1) the end of the Cold War, (2) accelerating globalisation, (3) technological advances and (4) the intensification of the global economy and the associated spread of capitalism.¹¹

With the end of the Cold War and the collapse of the Soviet Union and communist, or communist supported, regimes in different parts of the world, the international political landscape changed significantly. New states emerged in the former Soviet bloc and others in different parts of the world were transformed by the loss of support from either, or both, of the two Cold War superpowers – the USA and the USSR. In Africa, dictators and authoritarian regimes, including the apartheid regime in South Africa, vanished and in Latin America new governments relying on broader forms of political participation came to power. The result of these changes, which were often interpreted as victories for freedom and democracy, were twofold. In some cases, states began to cooperate more closely, both politically and economically. A key example is the cooperation among nations within the European Union (EU), which now includes states that were in the past part of the Eastern bloc.¹² Criminal enterprises operating in Europe have taken advantage of these political developments such as the

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¹¹ While these international developments are of importance, local developments and the history of individual states also play a significant role in the emergence and development of criminal organisations.

¹² The introduction of the Euro and the abandoning (or at least drastic reduction) of border controls between the Schengen group of countries within the EU are prominent examples of this development.
drastic reduction of border controls between the Schengen countries in the EU to conduct, for example, smuggling operations. In other cases – most often in the developing world – the political changes brought the breakdown of social order, the loss of effective government control, increased inequality, the emergence of violent conflict, and the rise of non-state actors as powerful and influential entities within states and regions. Crime syndicates took almost immediate advantage of these conditions and a widespread shadow economy emerged or was strengthened in these places. Indeed, as Williams argues, crime syndicates “in many cases succeeded in hijacking or derailing the political and economic transitions towards democracy and the free market.”

Accelerating globalisation was also conducive to the operations of organised crime syndicates, which benefited from the increasing interconnectedness of people and nations around the world in the past two decades. This development was supported and made possible by the development of new, sophisticated technology, including the Internet, and improvements in the transportation sector. Technological development also had an immense impact on the global economy, allowing affordable and fast transportation of goods, and the instant transfer of money and ideas to all corners of the world. To facilitate their national and transnational operations, criminal organisations have fully embraced the advantages offered by new technology. Advanced communication technology and Internet banking facilities, for instance, have enabled crime syndicates to network, plan, and execute regional operations.

13 Williams, 'Transnational Criminal Enterprises, Conflict, and Instability', p. 98. Examples include states and areas that were formerly part of the Eastern Block such as Transnistria, as well as numerous countries in Africa, including Angola.

14 Ibid. Overall, states in transitional periods as well as so-called weak states, where border controls are often ineffective, corruption is ripe, and few legitimate economic prospects exist for the population, are conducive to the growth of criminal syndicates. In such countries, criminals can operate with little fear of prosecution and in some cases are able to rise to powerful political and economic positions within countries. However, it has to be stressed that other factors, such as the potential for criminals to make large profits within a country, are also crucial. Williams, 'Transnational Criminal Enterprises, Conflict, and Instability', pp. 99-100.

15 There are also other technological developments that are maybe less obvious that impact on criminal activities. These include the development of hydrophonic cultivation methods, which allow drugs to be grown in places where the climate would naturally not be appropriate. See: Mark Galeotti, 'Transnational Organised Crime: Law Enforcement as a Global Battlespace', Small Wars and Insurgencies, vol. 13, no. 2, Summer 2002, pp. 30-1. Naim, Das Schwarzbuch des globalisierten Verbrechens, pp. 22-3, 103. This system is aided by the existence and compliance of offshore banks.
criminal groups from different parts of the world. However, cooperation is not only confined to collaboration between criminal organisations. In fact, criminal groups have established alliances with politically motivated groups, including terrorists and guerrilla movements. Collaborations between criminals and politically motivated groups seem to be based predominantly on business needs and interests, and have been established in some cases irrespective of ideological antipathies between the groups involved.

Furthermore, as a result of these technological advances and the sudden incorporation of new states into the global capitalist economic system after 1989, trade volume increased, which also facilitated the trade in illegal goods. Smugglers, for instance, use the same container vessels or planes that carry legitimate commodities to transport illegal goods. William even suggests that the structure of “criminal organisations have developed to resemble that of transnational corporations, who treat national borders as nothing more than minor inconveniences to their criminal enterprises.” Indeed, the links between licit and illicit businesses have become ever tighter, with criminal organisations laundering money earned in illicit activities by

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16 Examples of such strategic partnerships include the cooperation of the ‘Ndrangheta and Colombian drug traffickers in cocaine trafficking in Europe and partnerships between the Italian Mafia and Russian gangs in regard to traffic in drugs and nuclear weapons material. Additionally, specialized services such as complicated money-laundering operations are sometimes outsourced to financial specialists. Alison Jamieson, 'Italy's Criminal Gangs Change Their Tactics', Jane's Intelligence Review, vol. 13, no. 12, December 2001, p. 28. 'Italian Law Enforcement Turns Spotlight on Calabrian Mafia', Jane's Intelligence Review, 1 May 2006, n. p. Williams, 'Transnational Criminal Organisations and International Security', p. 41.

17 See: Tamara Makarenko, 'Transnational Crime and Its Evolving Links to Terrorism and Instability', Jane's Intelligence Review, vol. 13, no. 11, November 2001, pp. 22-4. In this regard, countries or regions subject to an international embargo or trade sanctions, such as the 2001 UN sanctions against Liberia under the Taylor regime, are particularly attractive for criminal groups, as these circumstances increase business opportunities and profit margins for criminals.

18 Business arrangements between terrorist and criminals include, for instance, weapon sales from criminal organisations to terrorist or separatist movements or the involvement of politically motivated groups in drug smuggling in conjunction with criminal enterprises. These cooperative arrangements are constrained by the fact that many politically motivated groups and factions have over the years developed their own internal networks to buy or sell products such as drugs and weapons. Williams, 'Transnational Criminal Enterprises, Conflict, and Instability', pp. 103-4, 107.

19 With the end of the Cold War newly established states and other nations formerly restricted by communist ideals or drastic trade regulations entered the international trading system. Naim, Das Schwarzbuch des globalisierten Verbrechens, pp. 37-8.

investing the proceeds in legal businesses, including hotels, petrol stations, real estate businesses, holiday resorts, or construction companies.  

Furthermore, with this singular emergent trading system, Western capitalist ideology spread, accompanied by rampant materialism and consumerism, resulting in the so-called dollarisation of the world. As Chalk writes:

Today in both the developed and particularly the developing world, to possess dollars is to possess power and influence; it is the mark of success. […] Personal meaning and satisfaction have, as a result, come to be defined in terms of driving a ‘flashy’ car, wearing designer clothes, owning expensive jewellery, living in exotic surroundings – in short, having access to and enjoying the very best that Western consumerism and commercialism can offer.  

As money has become an exceedingly important marker in the globalised world, crime has become an increasingly attractive source of income. Indeed, the driving factor behind people, either poor or well off, involved in organised crime is the desire for money, needed to either survive or prosper in a capitalist-material world. A statement made by Judge Giovanni Falcone in regard to the transformation of the Cosa Nostra neatly sums up the impact of capitalism on the organisation and may shed some light on the nature of operations of other crime syndicates in the last two decades. Falcone argues that the spread of mass-consumerism has “changed the entire social context [in Italy] and thus has also changed the Cosa Nostra, whose evolution develops in parallel with it.” Falcone believes that as a result the Cosa Nostra became ever more ruthless and money oriented. Large scale operations by organised crime gangs which promise large profits may therefore be a direct response to the spread of capitalism and materialism around the world. In fact, the rise of powerful crime syndicates in recent

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21 The diffusion of illicit business into the local and global economy makes it more difficult for enforcement agencies to combat criminal groups and their illegal activities. It also allows criminals to raise their status in the business world and within their communities, and can consequently unduly increase their influence in politics on both the local and national levels. Naim, Das Schwarzbuch des globalisierten Verbrechens, pp. 39-40, 89, 100-1. 'Italian Law Enforcement Turns Spotlight on Calabrian Mafia'.


24 This does not mean that criminal organisations only exist in capitalist states. In the former USSR, for example, the nomenklatura (a part of the elite, holding key administrative and political positions) relied on the criminals who controlled the black market for their own enrichment. However, the socialist state similarly imposed strict limits on the operations of crime syndicates. As Williams points out: “It was only when the strong state collapsed that organized crime really began to flourish without restraint and became far more extensive and significant.” Williams, 'Transnational Criminal Enterprises, Conflict, and
years and their ability to adapt to the modern world, and, refine their transnational criminal methods, has shattered the theory that economic development, technological advances, and modernisation will automatically cause the disappearance of organised crime.

Yet, for established crime syndicates to maintain power, and for new emerging organisations to gain strength, changes to the traditional, mostly hierarchical or monolithic structure of crime groups were needed. To adapt to the post-Cold War environment, many crime organisations have transformed themselves into “loose networks of semi-autonomous criminal entrepreneurs.” These networks vary in size, cohesion, and shape and can be highly structured or amorphous in character, centrally directed or decentralised. However, most networks have a core, which is characterised by a close relationship between members and a more loosely connected periphery. A division of labour is also inherent in all network structures, with the ‘organisers’ at the core protected by the ‘insulators’, who communicate directives from the core to the periphery – or in other words, the people who actually carry out illegal activities. This reorganisation of either entire criminal organisations or their command structure decreased the risk of exposure of core members by either law enforcement agencies or informants (pentiti) from within criminal groups. Additionally, the network structure is more flexible and allows criminals greater mobility and adaptability than the more rigid


25 It has been argued that in some cases patron-client relationships better describe the organisational structure of crime syndicates in the past. See: Phil Williams, 'Transnational Criminal Networks', in John Arquilla and David Ronfeldt (eds), Networks and Netwars: The Future of Terror, Crime, and Militancy, Santa Monica: RAND Corporation, 2001, pp. 62-3.

26 Mark Galeotti, 'The New World of Organised Crime', Jane's Intelligence Review, vol. 12, no. 9, September 2000, p. 47. However, Galeotti points out that criminal organisations still have leading figures, but they are no longer able to “give orders so much as have greater assets with which to purchase or compel the assistance of others within the network.” Galeotti, 'Transnational Organised Crime', p. 31. For an insight into the change of tactics of Italian crime groups see: Jamieson, Italy's Criminal Gangs Change Their Tactic', pp. 28-30.


28 Ibid. pp. 72-4.

29 Other roles within networks include ‘extenders’ who recruit new members and establish contacts with other criminal organisations, and ‘crossovers’ who are part of the network while simultaneously holding positions in legal institutions such as governments or banks. For a more comprehensive discussion see: Ibid. pp. 82-4.
hierarchical one.\textsuperscript{30} These structural changes also brought with them an ethnic diversification of criminal organisations. While in the past membership in criminal groups was often based on ethnicity, such organisations now accept and collaborate with people from different ethnic backgrounds, based on their skills, given that they are able to operate within the dominant culture of the host group.\textsuperscript{31} To better reflect these structural changes, the term ‘transnational crime’ has increasingly been used to describe organised crime, as it reflects more accurately the new entrepreneurial and more opportunistic nature of these organisations. Furthermore, it stresses the special context and importance of crime operations across borders and regions.\textsuperscript{32} Indeed, most major criminal organisations active today operate across borders, including those based in Asia.

\textit{Crime syndicates in Asia}

Asia is home to some of the largest crime syndicates in the world.\textsuperscript{33} While criminal organisations in Asia have a long history, they have, like criminal organisations in other parts of the world, adapted their structures and operations to the post-Cold War environment. Asian crime syndicates have, for example, established strategic alliances with criminal - and to a lesser degree terrorist - organisations within and outside of Asia and have embraced new technology to conduct their illegal operations. In addition to the factors discussed above, recent economic, political, and social changes in the Asian region have been conducive to the development and spread of organised crime in Asia. These changes include the economic opening of China and its gradual shift towards capitalism and the 1997 Asian financial crisis.\textsuperscript{34} The crisis exacerbated already growing economic disparities within and between countries in Asia, creating opportunities for

\begin{itemize}
\item \textsuperscript{30} Jamieson, 'Italy's Criminal Gangs Change Their Tactics', p. 28. Williams discusses the advantages of a network structure for criminal organisations in more detail and places it into the context of social network analysis. See: Williams, 'Transnational Criminal Networks', pp. 64-83.
\item \textsuperscript{31} Galeotti, 'Transnational Organised Crime', pp. 32-3. Yet, the structural changes also have disadvantages for criminal organisations. One drawback may be, for example, a loss of loyalty within the group resulting from increased ethnic diversity and the fact that operations of individuals and sub-groups are less strictly controlled. Galeotti, 'Transnational Organised Crime', p. 38. See also: Williams, 'Transnational Criminal Networks', pp. 91-7.
\item \textsuperscript{32} McFarlane and McLennan, 'Transnational Crime', p. 3.
\item \textsuperscript{33} Galeotti, 'The New World of Organised Crime', p. 51.
\end{itemize}
organised crime organisations to operate and find new recruits. Furthermore, the economic growth of the region since the 1980s, including the development of financial centres such as Singapore and Hong Kong, and the increase of trade within and beyond Asia have been beneficial for operations conducted by Asian based organised criminals.

Japan and China

The largest and most prominent criminal syndicates operating in Asia today are the Japanese Yakuza and the triads in China. They are not only the most powerful criminal organisations in their home countries but also control many illegal operations in other Asian nations. The Yakuza is divided into more than 2000 clans; the Yamaguchi-gumi, with over 25,000 members being the largest among them. Yakuza clans are historically ultra-nationalistic and conservative and have a hierarchical structure, with a strong emphasis on discipline. However, in recent years, Yakuza clans have adjusted to the post-Cold War environment and have opened their structure to include people from other backgrounds and countries such as Korea. The main activities of the Yakuza include arms and drug trafficking, prostitution, gambling, extortion rackets, and money laundering. Yakuza groups are also active outside Japan, including in Southeast Asia, and have established strategic alliances with other crime groups, such as Russian gangs.

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38 The exact number of clans and number of members operating in Japan are difficult to establish and the numbers included in publications are often older, going back to the early 1990s.
40 McFarlane, 'Transnational Crime and Asia-Pacific Security', pp. 204-5. For more information on the Yakuza and their operations in Japan and other countries, see: Kaplan and Dubro, *Yakuza*. This book,
The Chinese triads consist of a range of different competing groups and include the Sun Yee On in Hong Kong, the United Bamboo Gang in Taiwan, and the Wo On Lok in Macau. On the Chinese mainland, triad activity was successfully suppressed by the communist government and it was only in the 1970s that the first modern triad group, the Big Circle Boys, emerged there.\textsuperscript{42} Since the return of Hong Kong and Macau to China, triads based in these cities have been able to expand their operations to the Chinese mainland, where they have benefited from, and invested in, the new and expanding Chinese economy.\textsuperscript{43} Similar to other groups around the world, the organisational structure of triads has changed in recent years. In the past, long initiation ceremonies of new members were the norm, lasting up to three days and involving numerous rites.\textsuperscript{44} Yiu demonstrates that – at least in Hong Kong\textsuperscript{45} – these ceremonies have in recent years been replaced by short ceremonies ranging from a simple verbal oath to actual gatherings lasting up to one hour, where minor triad officials initiate new members.\textsuperscript{46} With the new, simplified ceremonies, the initiation of new members has become easier, impacting on the membership and ultimately the structure of triads, as Yiu writes:

As the simplified initiation ceremony [...] [is] widely practised, anyone who wishes to join a triad society can do so without undue difficulty. In addition, traditionally only triad officials had the right to recruit followers. Nowadays, this rule is not respected and any triad member can recruit additional members [...]. As a result, triad membership is difficult to control and it is easy for non-triad subjects to claim to be triad members.\textsuperscript{47}

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\textsuperscript{41} Makarenko, 'Russian, Asian Crime Gangs Find New Opportunities', pp. 12-3.
\textsuperscript{42} Additionally other syncretic and triad-linked sects have emerged over the past decades in the new China. Some of these groups are today also operating in Hong Kong and Macau. Bertil Lintner, 'Chinese Organised Crime', Global Crime, vol. 6, no. 1, February 2004, pp. 85, 91. Galeotti, 'The New World of Organised Crime', p. 51.
\textsuperscript{43} Lintner points out that in contrast to these developments many observers had predicted that the triads would leave Hong Kong and Macau prior to the takeover. However, these predictions did not take into account the relationship between triads and Chinese politicians and military. Lintner, 'Chinese Organised Crime', pp. 84-5. Bertil Lintner, 'Macau: Triad War, Triad Peace', Jane's Intelligence Review, vol. 12, no. 3, March 2000, pp. 26-7.
\textsuperscript{44} Such rites included the mixing and drinking of blood, and the chopping off of a chicken’s head.
\textsuperscript{45} For triads in Hong Kong and their involvement in illegal activities in the West see: Yiu-Kong Chu, 'International Triad Movements. The Threat of Chinese Organised Crime', London: Research Institute for the Study of Conflict and Terrorism, 1996.
\textsuperscript{46} In some of these new ceremonies, the new recruits no longer have to drink mixed blood but have to suck their own blood from their finger, and the chicken is replaced by an egg, which is smashed to signify what is likely to happen to a member who betrays the society. However, the new members are still lectured on the history of triads and their obligations and are required to take an oath. Yiu Kong Chu, The Triads as Business, London: Routledge, 2000, pp. 22-34.
\textsuperscript{47} Ibid. p. 35.
Therefore, while the composition of triads varies between the different societies, triads are now often comparatively loosely knit organisations with a network style structure and little or no central control.48 Triads recruit their foot soldiers from among the young delinquents active in street gangs, who are then requested to take the triad’s oath, swearing lifelong allegiance to the organisation.49 These foot soldiers, as well as unorganised street criminals, are employed to carry out crimes under instructions from junior ‘snakeheads’ (leaders). The junior ‘snakeheads’ in turn receive directives from senior snakeheads, who consequently remain removed from the actual crime.50

Triads have an estimated 170,000 members worldwide and are involved in a wide range of activities, such as heroin trafficking to the US, Europe, and Australia, people smuggling, fraud, money laundering, gambling, and prostitution. Like other criminal organisations, Chinese triads have in recent years shifted their operations towards more discreet white-collar operations, with, as Lintner writes, “[t]he businesslike and well-connected, pinstriped suit-wearing managers of the Sun Yee On Triad [showing] where the future lies”.51 To conduct their activities successfully, triads have extensive contacts in different parts of the world, particularly in Asia, Europe, and the USA. Chinese immigrants have for a long time played an important role in regard to the networks established by triads.52 Lintner, however, points out that it would be

48 Lintner, ‘Chinese Organised Crime’, pp. 90-1. An exception is the Sun Yee On, which has “computerised membership records, and what appears to be a centrally-controlled structure.” Lintner, ‘Chinese Organised Crime’, p. 91. The structure of triads is, however, somewhat contested, with some observers arguing triads are centrally structured while others suggest they are amorphous. Yet, the idea of a network like structure of triads seems to be more and more widely accepted. A triad member from Hong Kong explains the structure in his testimony to a US Senate subcommittee in 1992 as follows: “Triad members do favours for each other, provide introductions and assistance to each other, engage in criminal schemes with one another, but triads generally do not have the kind of strictly disciplined organisational structure that other criminal groups like the Italian Mafia have. For example, a triad member would not necessarily be required to get permission from the dragonhead (leader) of his particular triad in order to engage in a particular criminal undertaking – even if the particular deal involved an outsider or even a member of another triad.” As quoted in: John Hill and Ann Rogers, ‘Triad Societies Seek Increased Opportunities as China Opens Up’, Jane's Intelligence Review, vol. 15, no. 1, January 2003, pp. 22-3. See also: Yiu Kong Chu, The Triads as Business, pp. 22-40.


50 Ibid. p. 89.

51 Ibid. p. 84. Education also plays a role in shaping the nature of crime conducted by triads. With better education available in many Asian countries today, criminal activities are becoming increasingly sophisticated, blurring the line between legal and illegal activities even further. See: Hill and Rogers, ‘Triad Societies Seek Increased Opportunities as China Opens up’, p. 23.

52 Secret societies have been part of overseas Chinese communities for a long time and were often established to protect Chinese workers in their new homes from the foreign, and often hostile, environment. See: Oskar Weggel, ‘Die Internationalisierung der chinesischen Mafia’, Europa-Archiv, vol.
“incorrect to describe the Triads as Crime International Inc”.\textsuperscript{53} Indeed, even if triads of the same name exist in different places, this does not necessarily mean that they are part of a worldwide network. Individuals abroad may, for instance, use the name of a renowned (or notorious) triad for their own enterprise to increase respect and discipline from its members and instil fear in local authorities and rival local criminals.\textsuperscript{54} However, triads have established joint ventures with other transnational crime groups. The Taiwan based United Bamboo Gang, for instance, established a mutually beneficial alliance with the Yamaguchi-gumi in regard to the trafficking of prostitutes and methamphetamine to Japan.\textsuperscript{55}

**Southeast Asia and Bangladesh**

Less widely discussed are organised crime groups based in Bangladesh and Southeast Asian countries, even though these countries are home to numerous crime syndicates operating nationally, regionally, and internationally. In Bangladesh, organised criminal groups are involved in smuggling of weapons, robbery, and forgery and are hired by politicians to intimidate or kill opponents. Particularly the so-called Mastans (hoodlums, thugs) have strong links with local politicians and the police, and play an influential role in elections.\textsuperscript{56}

Illegal activities conducted from Southeast Asia include prostitution, illegal gambling, and money laundering. Of particular importance is also the smuggling of people and drugs,\textsuperscript{57} with illegal immigrants smuggled from Southeast Asia and

\textsuperscript{53} Lintner, 'Chinese Organised Crime', p. 90.

\textsuperscript{54} Ibid.


\textsuperscript{57} The use and smuggling of drugs in Southeast Asia (and other parts of the world) is not a new phenomenon, yet the level of involvement of criminal organisations and the scale of traffic differs today.
Bangladesh to Europe, the USA, and Australia. The trade in illegal drugs is also booming, as the so-called Golden Triangle between eastern Myanmar, northern Thailand, and western Laos, is still one of the world’s largest supply areas for drugs such as heroin. Over recent years, the manufacture of synthetic drugs such as amphetamine-type stimulants has also increased in this area. Until 1989, Khun Sa (Chang Chifu), a warlord based in Myanmar, controlled large parts of the heroin traffic along Myanmar’s border with Thailand. However, in recent years, a new generation of better connected, and more influential, drug traders has emerged along the Chinese border in Myanmar. These new traders are also involved in the export of timber and gems, especially jade, to China, and the smuggling of Chinese illegal immigrants. Additionally, criminal and minority groups in Myanmar exchange weapons for drugs with Thai organised criminal groups, with the weapons trafficking through Thailand increasing dramatically in the 1990s.

Other Thai based crime syndicates are active in the smuggling of wood, gems, and people from and through Thailand, illegal gambling, prostitution, trade in counterfeit products and oil smuggling. The illegal trade in oil emerged in the early 1990s and has developed into a lucrative source of income, as the smugglers circumvent the high taxes on oil. Part of the oil is taken by tankers directly to one of 13 unlicensed depots in Thailand. However, the majority of the oil which is brought into the country illegally is pumped at sea from tankers into fishing boats that are often modified to hold in comparison with the past. For a more historic study of the drug trade see: Alfred W. McCoy with Cathleen B. Read and Leonard P. Adams II, The Politics of Heroin in Southeast Asia, New York: Harper & Row, 1972. Carl A. Trocki, Opium, Empire and Global Political Economy. A Study of the Asian Opium Trade 1750-1950, London: Routledge, 2005. See also: Eric Tagliacozzo, Secret Trades, Porous Borders. Smuggling and States Along a Southeast Asian Frontier, 1865-1915, New Haven: Yale University Press, 2005.


10,000 to 100,000 litres. Eighty per cent of the illegal oil enters the country through the Gulf of Thailand, while the remaining 20 per cent is smuggled via the Andaman Sea coastline. So-called *jao phor* (godfathers) and politicians are involved in the illegal trade in oil. In fact, many Thai based organised crime groups have close links with Thai politicians, and many *jao phor* have entered politics themselves and have gained positions in the central governments and in rural areas, where they have grown strong in the last two decades. Furthermore, members of the military and police in Thailand are also actively involved in illegal activities.

In Malaysia, organised crime syndicates, some with connections to Taiwan, are engaged in the illegal production and sale of DVDs, VCDs, and CDs. Other groups are involved in the manufacture and sale of fake medicine, robberies, or smuggling activities, including the traffic in endangered species, such as Orang Utans from east Malaysia.

In Indonesia, the Pemuda Pancasila re-emerged in the early 1980s as the country’s primary centrally controlled criminal organisation, but their influence declined after the fall of Suharto in 1998. Today the *preman*, organised criminal groups with recognised leaders that first emerged in the Dutch colonial period, are active again and are, for example, involved in protection rackets. Many of these groups profess a belief in Islam and have links to, or work directly with, security forces and politicians in Indonesia. Other organised criminal syndicates operating from Indonesia

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64 Ibid. pp. 113-20. The authors also point out that many of the tankers involved in oil smuggling are registered under foreign flags, which makes it more difficult for Thai authorities to investigate and to control their activities.
65 The spelling of the word varies; different ways of spelling include ‘chaopho’ and ‘jaopor’.
70 Naim, *Das Schwarzbuch des globalisierten Verbrechens*, p. 146. Naim points out that the penalties for illegally copying music and films are roughly US $26,000, while the penalty for the production of counterfeit medicine is only about US $6,500. In contrast, even relatively minor drug related offences can carry the death penalty.
include Pakistani-led organisations involved in the smuggling of people, mostly from the Middle East to Australia.73

Organised crime groups in the Philippines do not have the pronounced organisational structure prevalent in groups such as the Yakuza. Philippine groups are generally more loosely knit, but the organisations are nonetheless highly efficient.74 Criminal groups are based and operate in all parts of the Philippines, with kidnapping for ransom one of the more typical activities of these groups.75 Other illegal activities include bank robberies, drug and people smuggling, and illegal gambling. As in other countries in the region, criminals in the Philippines have links to politicians and members of law enforcement agencies. Additionally, some criminal organisations cooperate with politically motivated movements. The Pentagon Group, for example, is believed to be linked to – and possibly even to have been set up by – the MILF, which is fighting for political causes in the southern part of the country.76

Additionally, ethnic Chinese criminal groups are active throughout Southeast Asia.77 These include the Chiu Chow groups in Burma and Thailand, the 18 Gang and

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73 Lintner, Blood Brothers, p. 304.
75 It is interesting to note that the vast majority of kidnappings occur in the northern part of the country, not in the south where the various separatist movements operate. In 2003, for example, 71 (or 86 per cent) out of a total of 82 kidnappings reported occurred in Luzon and the Visayas. The perpetrators were mostly criminal organisations aiming for financial gain. 'Kidnapping in the Philippines', Philippine Center on Transnational Crime, 19-20 January 2004, http://www.pctc.gov.ph/edocs/updates/ktip.htm, accessed 19 July 2006.
77 Ethnic Chinese criminal groups also operate in other Asian countries outside Southeast Asia, such as Japan. For their operations in Japan see, for example: Mo Bangfu, 'Der Aufstieg der chinesischen Mafia in Japan', Japan Écho, no. 4, 1997, pp. 49-52.
Wah Kee in Malaysia, and the Tiger Dragon Secret Society in Singapore.\textsuperscript{78} Furthermore, criminal organisations from outside the region have begun to operate within Asia, often through contacts with local crime groups. These include Russian criminal groups which are active in Thailand and provide, for example, Slavic women to brothels in Thailand.\textsuperscript{79} Further criminal organisations operating in the region include groups from South Asia, Japan, and Korea, as well as Nigerian criminal enterprises which participate in the drug trade.\textsuperscript{80}

In summary, organised crime syndicates are at present operating from and in countries around the world, including Asian nations. While many criminal operations are conducted on land, some illegal activities such as smuggling, also, either in part, or entirely, take place at sea. An example of such activities is shipjackings conducted by organised pirate gangs.

**Organised crime and piracy**

Transnational organised pirate gangs are involved in long-term and permanent seizures of predominantly medium sized vessels, including cargo ships, bulk carriers, and tankers. Long-term seizures are attacks in which a vessel and its crew is held hostage for an unspecific period of time. In cases of permanent-seizures, the entire vessel is hijacked by pirates. The hijacked vessel is then registered under a different name and turned into a phantom ship. These attacks are characterised by a high degree of organisation and require detailed planning and upfront capital. The perpetrators of such attacks are consequently not opportunistic sea-robbers but rather are part of, or hired by, organised criminal groups. The attack on the MT *Selayang* offers an example of how a hijacking of a vessel is conducted.


\textsuperscript{80} Twelve Nigerian families are believed to be involved in the drug trafficking. They hire ‘armies’ of couriers who each transport a small amount of drugs to destinations such as the USA and Europe. For this reason, the Nigerian traffickers have been referred to as ‘the ant army’. Lintner, 'The Drug Trade in Southeast Asia', n. p. Peter Chalk, 'Countering Nigerian Organised Crime', *Jane's Intelligence Review*, 1 September 2003, n. p. Eric Tagliacozzo, 'Smuggling in Southeast Asia. History and Its Contemporary Vectors in an Unbound Region', *Critical Asian Studies*, vol. 34, no. 2, June 2002, p. 204.

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The *Selayang*, an 88 meter long tanker registered in Malaysia, was attacked on 20 June 2001 approximately seven miles north of Pulau Iyu in the Malacca Straits. The vessel had left Port Dickson the previous day, carrying a cargo of 3,500 metric tons of gasoil destined for Labuan, an island situated off the coast of North Borneo. The 14 Indonesian crewmembers of the vessel were aware that they were transiting pirate prone waters and had taken necessary precautions. All doors to the cabins were locked and secured from the inside, the light on the stern was on, and a spotlight on the bridge was switched on at frequent intervals. Crew also patrolled the deck every hour and a radar watch was maintained. Despite these measures, 19 pirates were able to board the *Selayang* unnoticed around ten past one on the morning of 20 June. They confronted the first crewmember outside the starboard bridge wing, where he had gone to get a closer look at what the crew thought was a fishing vessel in front of the *Selayang*. The pirates approached him from behind, held a knife against his back, and tied up his hands. He was then escorted to the wheelhouse where the assailants overpowered the greaser and the second officer who was on duty on the bridge. At this crucial moment, the third engineer was keeping watch in the engine room and the captain was in the mess room, while all other crew were in their cabins. Two of the pirates escorted the second officer to his cabin, while other perpetrators woke the sleeping crew in their cabins, threatened them with knives and *parangs*, and ransacked some cabins, stealing cash, valuables, and documents. Some crew were slightly injured in the process, receiving knife cuts. The captain, alerted by the noise, was also confronted by the pirates, as was the third engineer in the engine room. The pirates tied up all the crew members and locked them in two cabins. Over the next six days, the two groups of crew were transferred into different cabins. The windows of the cabins were painted black so that the crew were unable to see outside. During their confinement, the hands of all crew remained bound and were only untied in order to eat, go to the toilet, or to perform tasks according to orders from the pirates. The perpetrators also asked for the ship’s documents and the cargo manifest which they were given by the crew. The food for the captive crew was prepared by the cook, who worked under the strict supervision of several pirates. The food was then served to the crew in groups of three who ate under close watch by three or four pirates. Close scrutiny was also paid to those crew visiting the toilet, with crew members being escorted to the toilet by two or three perpetrators. Whenever the pirates interacted with the crew, masks were worn, and only the cook was able to get a
glance at their faces. During the first six days of captivity, crewmembers were repeatedly asked by the pirates to show them how the ship operated and to assist in operational tasks. For example, in the first several days, crew members were forced to show the attackers how to transfer fuel oil from double bottom storage tanks to settling and service tanks, how to reset the alarm after a blackout, and how to change the steering to manual mode. On the third and fourth day, crewmembers were asked to demonstrate how to put the engine on dead slow ahead and how to operate oil pumps. The crew was left with little choice but to obey the pirates. They were told repeatedly that if anything happened to the pirates, they would be killed. The perpetrators also claimed to have the home addresses of all crewmembers and threatened that their family members would be in danger if anything went wrong with the hijacking operation. On 26 June, the situation became even more threatening for two of the seafarers. At about 4 o’clock in the afternoon, the pirates asked for Surjawo, a member of the crew, who was taken to another cabin. There, the pirates untied his hands and retied them behind his back and masked his eyes and mouth. He was then escorted to the deck and his legs were tied to a valve. A short time later, a second crewmember, similarly bound and masked, was tied to Surjawo. After ten minutes, their legs were untied and they were made to sit on a bench nearby for another five minutes. Both seafarers were then individually brought down to the cabins where they were given a glass of water. They were then allowed to eat dinner and later joined their co-workers in the cabin. In the early hours of the following day the chief engineer was forced to go to the bridge and stop the engine, and the crew heard the anchor chain being released.

Unbeknown to the crew, the pirates made alterations to the vessel all through the journey. The name was first changed to Wang Yung and later again to San Ho, with Kelung as the port of registry. Parts of the vessel were also repainted and the original name of the vessel and port of registry was struck out on lifeboats, life rafts, and life buoys. Inside the ship, the name of the vessel was changed on several plans of the ship. The hijacking of the vessel was first noticed on 21 June, the day after the attack. The vessel had Shiploc, a tracking device system, on board and the Singapore based manager of the vessel became aware that the ship had deviated from its designated course. They immediately tried to establish contact with the vessel and, failing to receive a response, notified the Singaporean, Malaysian, and Indonesian authorities and the IMB. Yet, despite the onboard tracking system, the vessel was only detained by the
Indonesian authorities on 27 June, when anchoring near Samarinda, north of Balikpapan, Borneo. The officials arrested the eight pirates on board and waited for the leader of the pirates and one of his gang members, who had gone onshore. They were arrested on return and the vessel, the crew, and the pirates were brought to the Balikpapan naval base for investigation.

The investigation was conducted by the Indonesian navy. On board the vessel, the investigators found a plastic bag containing about 27.3 million Rupiah (US $32,760) in a bin, an Ericsson satellite phone, as well as seven fire-hydrants and 11 strings of nylon rope. It was later established that the pirates had brought the fire hydrants onboard to attach them to the crew before throwing them overboard. The nylon ropes had been used to tie up Sujarwo and his colleague when they were separated from the other crew members. The Indonesian naval official questioned the crew, who were finally cleared of any suspicion on 4 July, following a hunger strike by the captain to protest against the treatment of his men. The shipjackers were also interviewed at the naval base. They stated that 19 pirates were involved in the attack but nine had left the *Selayang* in the Durian Straits (Map 6). They described that they had been hired by a solid built Chinese national called Mr Ching on Batam Island on 18 June, and were promised US $1,000 each for delivering a vessel from Karimun Island to the South China Sea. The perpetrators declared that they did not know, and were not told, that it would be an illegal operation. They claimed that they were only told to travel to Tanjung Balai, Karimun Island, on the following day to receive further instructions. On the afternoon of 20 July, they and the other nine ‘pirates’ left Tanjung Balai in a speedboat in search of the vessel. When they did not find the ship, they returned to shore, but set out again later that night, boarding the vessel just after 1am. When transiting the Durian Straits, the pirate leader gave the satellite phone to his ‘master’ to contact Mr Ching. The captured pirates were not able to recall the number, but remembered that it started with 001-65 – the country code of Singapore. The leader of the pirates instructed his gang to treat the crew well before he and eight pirates disembarked in the Durian Straits. They left the satellite phone behind and on 22 July, near Horsburgh Lighthouse (Map 6), the pirates onboard the *Selayang* attempted to establish contact with Mr Ching according to a prior arrangement, but were not able to reach him. Left without new instructions, they changed the course of the vessel, heading south in the hope of a rendezvous with a second vessel, as planned. When the second vessel did not appear, they sailed towards
Photo 15 Renamed *Selayang*

Photo 16  Original name obscured

Photo 17  Possessions of pirates
Photo 18 Nylon ropes and fire hydrants brought on board by pirates

Photo 19 Crew demonstrating how they were restrained

Photo 20 Indonesian Naval officer with pirates
(All courtesy of Chin Kuen Sen, Ship Manager)
the Makassar Straits, despite an earlier plan to travel to Jakarta. The pirates now continued their journey along the southern coast of Borneo, heading towards Balikpapan.

The navy investigation also revealed some information about the pirates themselves. All ten arrested men were Indonesian, ranging in age from 28 to 49. Table 18 shows that, according to their passports, the gang included Muslims, Christians, and Protestants, born in different places in Indonesia, but especially Sulawesi:

Table 18 Details of pirates – *Selayang* hijacking

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Place of Birth</th>
<th>Status</th>
<th>Religion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jappie Philips Maukar</td>
<td>45</td>
<td>Pare Pare</td>
<td>Single</td>
<td>Protestant</td>
</tr>
<tr>
<td>Deki D. Luntungan</td>
<td>49</td>
<td>Manado</td>
<td>Married</td>
<td>Kristen</td>
</tr>
<tr>
<td>Nasir Lahasan</td>
<td>28</td>
<td>Limboto</td>
<td>Unknown</td>
<td>Islam</td>
</tr>
<tr>
<td>Yuliawan Trikara (Alim)</td>
<td>31</td>
<td>Jakarta</td>
<td>Married</td>
<td>Islam</td>
</tr>
<tr>
<td>Harickson S A Randang</td>
<td>25</td>
<td>Pria</td>
<td>Single</td>
<td>Kristen</td>
</tr>
<tr>
<td>Vengky Franky Koprompis</td>
<td>30</td>
<td>Manado</td>
<td>Single</td>
<td>Kristen</td>
</tr>
<tr>
<td>Julius Indi</td>
<td>36</td>
<td>Manado</td>
<td>Unknown</td>
<td>Islam</td>
</tr>
<tr>
<td>Jujuk Suwarso</td>
<td>31</td>
<td>Blitar</td>
<td>Single</td>
<td>Islam</td>
</tr>
<tr>
<td>Djonlie F. Lumempouw</td>
<td>35</td>
<td>Pria</td>
<td>Married</td>
<td>Protestant</td>
</tr>
<tr>
<td>Alfian Randang</td>
<td>33</td>
<td>Bintung</td>
<td>Unknown</td>
<td>Islam</td>
</tr>
</tbody>
</table>

Source: Based on documents provided by the ship’s manager, Chin Kuen Sen.

Copies of the pirates’ passports further indicated that most had their current address listed on Batam or Bintan Island (Map 6), and it was established that at least four of the pirates had previous experience as seafarers. Joppie Philips Maukar, considered the captain of the pirates by the Indonesian authorities, previously worked as the master of the tug *Sea Collie* owned and operated by the Harbour Tug division of *Sembcorp Logistics*, a large company active in Asia. Deki D. Luntungan had also been employed as a master while Nasir Lahasan had worked as a seafarer. With Yulian Tikara (Alim), the pirates also had their own engineer on board.

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81 At least one of the pirate’s current addresses was given as Jakarta. The copies of the passports are of low quality and the current addresses of some of the pirates noted on the passports could not be deciphered. Also, the question remains how reliable the information given by the pirates is. The pirates would have undoubtedly told lies to protect themselves and their passports may have been forgeries.
On 27 July 2001, the Indonesian navy concluded the investigation. Yet, the fate of the ten pirates still remains unclear. After the investigation ended the Selayang was held for a further period of time in Balikpapan, as negotiations continued between the vessel owner and the navy over an appropriate fee for the vessel’s release. It was not until 11 August and the payment of US $35,000 that the vessel was finally allowed to weigh anchor.

An examination of the hijacking of the tanker Selayang and similar attacks can offer some insights into the operations of organised gangs, or more precisely provide information about the pirates involved, the organisers behind such attacks, and explain why certain vessel types and cargoes are preferred targets.

The pirates

The hijacking of the Selayang provides some insight into the identity of the people directly involved in organised pirate attacks and suggests that the actual pirates conducting an attack can have diverse backgrounds. The perpetrators arrested for the hijacking of the Selayang originally came from various locations in Indonesia, and their religious affiliation differed, with the gang comprising Muslim as well as Christian members. Arrests of pirates in other similar hijacking cases show that the perpetrators do not even always come from the same country. In the case of the attack on the Han Wei, for example, the gang consisted of Thai as well as Burmese nationals, while the ‘crew’ found on the hijacked Global Mars consisted of 11 Filipinos and nine people from Myanmar. Age also does not seem to play a key role, with the attackers of the Selayang aged between 28 and 49. Indeed, not only physically fit people in their twenties or thirties participate in attacks, with one of the men involved in the hijacking

82 At no point was the investigation transferred to the Indonesian police, but was solely handled by the navy.
83 At the time of the author’s investigation, the pirates were still believed to be held in Indonesia awaiting trial. The manager of the vessel had no further information about the fate of the arrested perpetrators.
84 Based on documents provided by the ship’s manager, Chin Kuen Sen, Petrojaya Marine SDN BHD, 21 October 2003, Singapore.
of the Cheung Son being 60 years old at the time of his arrest. 87 However, arrested pirates and pirate gangs do have some factors in common. All arrested culprits have been male and every pirate gang included members that have worked as seafarers before, with usually at least one having a background in engineering. 88 The perpetrators hired to conduct a hijacking or a temporary seizure of a vessel also have to be prepared to use violence against the crew. As in the case of the Selayang, the pirates had planned, or at least considered, killing their victims. Yet, despite the fact that two bound and blindfolded crew were brought on deck, presumably to be killed, all the crew survived. On the other hand, in the case of the Cheung Son, the crew were not that fortunate. The pre-meditated murder of all seafarers onboard this ship is one example of extreme cruelty exercised against pirate victims, as the bound seafarers were bludgeoned to death and thrown overboard. 89 However, even in cases where the crew is not killed, the perpetrators have to be prepared to use threats, intimidation, and violence to control their captives.

Usually the lack of information about individual pirates makes it difficult to determine whether those involved ‘work’ as pirates for prolonged periods of time or whether they are engaged in only one or two attacks before they find other employment. However, it has been established that some individuals have been involved in more than one attack, as shown by the following examples. The first evidence comes from a pirate arrested for the long-term seizure of the Marta. The Cypriot flagged vessel was attacked in August 1990 on its way from Bangkok to Busan near the Thai-Cambodian border. The pirates overpowered the crew, repainted and renamed the vessel, and after several days the cargo of tin plate was discharged into a barge. During this ordeal, the crew was held handcuffed and blindfolded below deck. A few days later, the pirates left the vessel near the north eastern coast of Malaysia, taking the master hostage. The remaining crew onboard were able to sail the damaged ship back to Bangkok, and despite their escape, some of the pirates were subsequently arrested. One of the pirates involved in the seizure later stated that the attack on the Marta was the sixth successful attack they had

87 Cheung Chi-fai, ‘Customs ”Used Pirate Ship”’, South China Morning Post, 12 December 1999, n. p. For details of the attack see Chapter 1.
88 Mukundan states that seafaring skills are absolutely necessary for a vessel hijacking. Author’s Interview with Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England.
89 Lintner, Blood Brothers, pp. 1-2.
conducted within 18 months.\textsuperscript{90} Also, in September 1998 the Japanese owned freighter \textit{Tenyu} disappeared shortly after leaving the port of Kuala Tanjung, Indonesia. The vessel was seized three months later in China, but the ‘crew’ found onboard claimed to have been hired legitimately and to have joined the ship in Myanmar. The Chinese authorities eventually released the alleged pirates, claiming that there was insufficient evidence to convict them. The authorities either did not realise, or did not take into account that one ‘crewmember’ found on the \textit{Tenyu} had been arrested three years earlier in China aboard the hijacked cargo vessel \textit{Anna Sierra}.\textsuperscript{91} Furthermore, at least one of the ‘pirates’ found on the \textit{Tenyu} and released by the Chinese authorities was arrested in October 1999 by the Indian authorities for his involvement in the hijacking of the \textit{Alondra Rainbow}.\textsuperscript{92}

\textbf{The organisers}

The attack on the \textit{Selayang} also highlights that the pirates are not necessarily the organisers of the attack, but may be hired by an outsider. In the case of the \textit{Selayang}, the ‘boss’ who hired the crew was a Mr Ching, who, according to the pirates’ statements, had only limited contact with the perpetrators and remained anonymous. The money offered to the pirates varies from case to case, with the perpetrators who conducted the attack on the \textit{Selayang} claiming that they received only US $1,000 a piece for their participation in the attack.\textsuperscript{93} The pirates responsible for the attack on the \textit{Cheung Son} on the other hand reportedly received US $11,000 each.\textsuperscript{94}

\textsuperscript{91} John S. Burnett, \textit{Dangerous Waters: Modern Piracy and Terror on the High Seas}, London: Penguin Group, 2002, p. 225. For details of the attack see Chapter 4. The pirates involved in the attack on the \textit{Anna Sierra} struck again in September 1995, but operated slightly differently. They persuaded the shipowners of the \textit{Samudra Samrat} to hire a new crew, which then diverted the vessel from its course in order to sell the cargo illegally in Fengcheng, southern China. Even though the name of the vessel was changed, the IMB located the vessel. Yet, the Chinese authorities did not act on the information from the IMB and the vessel disappeared. Abhyankar, ‘Maritime Fraud and Piracy’, pp. 191-2.
\textsuperscript{93} The statement by the pirates, may, however not be true. They may have made up the amount to support their claim of having no knowledge that they were hired for a hijacking. However, it appears unlikely that the pirates involved in the \textit{Selayang} case were not aware of their role and responsibility – as they claimed – given the nature of the arrangement and stipulated payment and the fact that they brought knives, fire hydrants and ropes onboard.
Statements from arrested perpetrators responsible for other shipjackings also indicate that pirates involved in hijackings are often hired by a ‘Mr Ching’. In case of the hijacking of the MT Han Wei in March 2002, the arrested pirates stated that they were hired by an unidentified Taiwanese national by the name of Ao. The instructions for the hijacking of the Alondra Rainbow were given to the pirates on Batam Island by an Indonesian ‘employment agent’ named Yan (or Yance) Makatengkeng, who in turn received orders from an anonymous ‘boss’, believed to be Chinese. These examples also explain why so little is known about the real organisers and initiator of such attacks. Even in the rare cases where pirates have been arrested and questioned thoroughly by authorities, the captives are often unable to provide sufficient information about the chain of organisation and command to reveal the identity of their bosses. In other instances, the fear of retribution for divulging the identity of the crime syndicates which recruited the pirates will have prevented the arrestees from giving out information about their ‘bosses’. Eric Ellen, the former head of the IMB, believes that in East and Southeast Asia Chinese triads are primarily responsible for these types of attacks, with the possibility of more than one triad involved in a single hijacking that entails operations in different parts of East and Southeast Asia. Ellen explains that this cooperation is necessary for international operations as individual triads do not have branches in other countries and therefore rely on local triads or criminal gangs in places where parts of the operation takes place. Captain Mukundan, the current director of the IMB, supports Ellen’s views and adds that hijackings are organised not necessarily by one senior person within a triad or crime syndicate but by a group of people who supply the necessary funds for an attack. Upfront capital is needed to pay part of the money promised to the actual pirates and to cover other costs associated with

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96 Langewiesche, The Outlaw Sea, p. 51.
98 After the hijacking of the Tenyu, the Alondra Rainbow, and other Japanese owned vessels, suspicion emerged that Japanese criminal gangs were involved in the attacks. The Nippon Foundation investigated these incidents to search for links with Japanese criminals. However, no connection could be established. Author’s Interview with Captain Mathew Mathai, Nippon Maritime Center, 27 July 2004, Singapore. For a discussion of attacks on Japanese vessels see: Jun Tsunekawa, 'Economic Turmoil and Piracy in Southeast Asia', in Mohamed Jawhar Hassan, Stephen Leong, and Vincent Lim (eds), Asia Pacific Security: Challenges in the 21st Century, Kuala Lumpur: ISIS Malaysia, pp. 429-30.
99 Stewart, Piraten, pp. 189-90.
hijackings, such as money for weapons and for the new registration of the hijacked vessel. Indeed, Abhyankar from the IMB points out that the registration of a phantom ship is several times higher than the usual fee, with the applications often submitted by a so-called Shipping Bureaux, Shipping Assistance, or Marine Companies. However, all financiers contribute upfront capital, with the amount of money they provide determining the share of the profit they receive later. A senior member of the triad or criminal syndicate then orders his subordinates to either hijack a vessel or to recruit another criminal gang or individuals to conduct the attack. As Mukundan states: “As we understand it, the pirates work as independent agents hired by different syndicates as and when they have a requirement. This is very similar to the way seafarers are employed legitimately to work on board ships.” In some cases, a second group of people is hired. This group is the ‘pirate crew’, who take over the vessel after the actual hijacking. Members of this group do not have to be as ruthless as the pirates themselves, but may be aware that their employment is not entirely legal.

The organisers of attacks also influence the capacity of law enforcement agencies and the judiciary to detain and penalise pirates. Indeed, in the past, the actual pirates not only received cash payments for their participation in an attack but an understanding was reached that if the pirates were caught, the crime organisation would use its influence and money to free the pirates and provide them with good defence lawyers if the case went to trial. Mukundan, for example, points out that the indirect pressure that the triads (or other large crime syndicates) are able to place on representatives of the police or key people within the judicial system is one of the reasons why many captured pirates, especially in China, have been released without a trial. An example of the employment of good defence lawyers pertains to the trial of the pirates arrested onboard the Alondra Rainbow by Indian authorities. The perpetrators were represented in the Indian court by some of the most expensive lawyers

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100 Abhyankar, 'Maritime Fraud and Piracy', pp. 179-80.
101 Author’s Interview with Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England.
102 Ibid. Stewart, Piraten, p. 188.
103 E-mail from Pottungal Mukundan, Director International Maritime Bureau, to the author. Received 4 November 2003.
104 Author’s Interview with Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England.
105 Stewart, Piraten, pp. 188-90.
in Bombay, presumably paid for by the crime syndicate that had hired them. More recently, however, the relationship between the actual pirates and the representatives of crime syndicates has changed. As Mukundan writes:

Interviews carried out by us with members of pirate gangs indicate that in the late 1990's the arrangement that the pirate gangs had with their criminal employers was that if they were caught, they would pay whatever it took to provide them with a good defence or buy them out of the imprisonment. This situation has now changed with a large number of gangs who have been caught in the last few years. We believe that at present there are possible 3 gangs of hijackers pirating in South East Asia. It is difficult to be precise on this because pirates do not work exclusively for one group.

Additionally, little is known about the structure of triads involved in piracy and no high ranking triad member or leader has ever been arrested and charged for involvement in contemporary maritime piracy. However, suspicions about at least one potential leader of a triad or organised crime syndicate have emerged – although these rumours have never been officially verified. The person rumoured to be the leader is the Chinese born Indonesian Liem Sioe Liong (aka Sudono Salim), a wealthy businessman and close friend of former Indonesian president Soeharto. Unconfirmed newspaper reports state that Liem was responsible for ordering the attack on the Siam Xanxei and the Cheung Son and that in both cases, the arrested pirates confessed to links with an organisation headed by Liem. However, no legal action was ever brought against Liem, and given his wealth and close connections to politicians and other powerful people in Indonesia and China, it is unlikely that steps will be taken to investigate his involvement in any pirate attack.

107 E-mail from Pottungal Mukundan, Director International Maritime Bureau, to the author. Received on 17 October 2003.
Yet, while no heads of triads or large criminal organisations have been prosecuted, at least two trials of so-called pirate leaders have taken place in Southeast Asia, namely the 1992 trial of the notorious Filipino pirate Emilio Changco, and the highly publicised trial of Mr Wong in Indonesia in August 1999. Changco operated from a hotel overlooking Manila Bay in the 1980s. At the time, he and his gang were involved in the hijacking of merchant vessels, with his ‘customers’ able to order the shipjacking of a particular vessel for about US $300,000. The attacks organised by Changco were conducted by a gang recruited from the slums of Manila and included the hijacking of the freighter _Silver Med_ in September 1988. In this case, Changco was hired to re-capture the vessel which had been stolen by another crime syndicate. Members of the rival pirate gang had pretended to be police officers and boarded the vessel in Manila Bay. Once onboard, they had overpowered the crew and sailed out of the bay. The crew was later set adrift and the vessel disappeared. A short time later, the ship was spotted near Kota Kinabalu, east Malaysia (Map5), but vanished again before the Malaysian authorities could intervene. In February 1989, the vessel resurfaced again in Luzon, sailing under the name _Sea Rex_. Determined to get his vessel back, the original owner of the ship hired Changco and his gang to steal it. While successfully shipjacking vessels such as the _Sea Rex_ over a number of years, Changco was eventually arrested for hijacking a tanker belonging to the Philippine government owned _National Oil Corporation_. He was put on trial, received a jail sentence, and was incarcerated in a maximum security prison. In 1992, Changco was shot dead while allegedly climbing over the fence of the prison in an attempt to escape. Ellen, however, voiced doubts about the circumstances of his death, stating that Changco was sick at the time and could only walk with the help of a cane, which would have made it difficult for him to climb over any obstacles. He therefore believes that Changco’s shooting was an attempt to silence him.\textsuperscript{110} The second arrest and trial of an alleged pirate leader – Mr Wong – took place in Indonesia in late 1998. Details about Mr Wong’s life, his arrest, and involvement in piracy vary widely. It seems established, however, that he lived on the island of Batam and that his local friends believed him to be a businessman from Singapore.\textsuperscript{111} He was well known on the island and was a frequent visitor to bars and

\textsuperscript{110} Stewart, _Piraten_, pp. 194-7.

\textsuperscript{111} Singapore authorities claimed that he is not a Singaporean citizen but had used the passport of a Singaporean national that had been lost. Mr Wong claimed to have studied at Nanyang University and
brothels. He set up his own oil business on Batam and regularly embarked on business trips to Singapore, Hong Kong, and China. However, port officials allegedly became suspicious of his activities when they noticed that a number of vessels that Mr Wong had inquired about in relation to his own business were subsequently attacked. In late 1998, Mr Wong was arrested by Indonesian authorities for having masterminded over 20 pirate attacks in the Malacca Straits, using his 400 tonne tanker, the MT Pulau Mas, as a mothership to conduct the attacks. The Pulau Mas was searched by the Indonesian authorities and balaclavas, knives, handcuffs, and paint, as well as fake immigration papers, stamps, and ship documents were found onboard. In 1999, Mr Wong was sentenced to seven years in jail, having allegedly admitted his involvement in at least five attacks.

While it could never be confirmed, it is believed that Mr Wong was part of a syndicate which operated in conjunction with gangs from Hong Kong, Malaysia, Indonesia, and the Philippines. Mr Wong was thought to be the leader of operations in Indonesia, with the head of the syndicate based in China. In fact, Mr Wong had allegedly been involved in a number of hijackings in which the cargo was transported to China. His gang targeted ships that transported cargo which could easily be sold in China for a good price, among them tankers, because fuel smuggling was at the time a very lucrative business in China, due to high taxes on oil. An example of such an attack conducted by Mr Wong’s gang is the hijacking of the tanker Petro Ranger. On that occasion, the hijacked vessel was brought to China and the oil onboard was sold there.

112 The circumstances of his arrest are unclear. One version of the event is that Mr Wong was arrested in the Hotel 88 on Batam. A second account states that he was arrested on board the Pulau Mas in Malaysian waters by the Indonesian authorities, who then brought him back to Indonesia. Representatives of the Indonesian navy claimed that he admitted his involvement in the attack on the MT Petro Ranger, the MT Atlanta, the MT Suci, the MT Pendopo and the MT Plaju. According to the authorities, Mr Wong did not admit any involvement in attacks where the crew was harmed. Also, once in prison, Mr Wong claimed that he was never involved in any pirate attacks. His jail sentence was later reduced to four years.

113 For details of the attack see the Introduction to the thesis.

While overall little is known about organised pirate gangs operating in Southeast Asia, the situation is somewhat different in Bangladesh. Here, pirate gangs and their leaders are notorious and their identity is known to the authorities and journalists.\textsuperscript{116} Exceptional is also the fact that many of these gangs target fishing boats and fishers rather than merchant vessels.\textsuperscript{117} Organised gangs targeting fishers are involved in riverine and coastal robberies in which the nets, the machinery, or valuables are stolen and crewmembers are kidnapped and held for ransom. They also sell pre-paid ‘safety cards’ to fishers, which allow them to fish undisturbed. One example is a pirate syndicate which is operating on the Meghna river and other estuaries, headed by a group of influential bosses. It was formed by five individual pirate gangs, namely the Hazari group of Noakhali, the Chairman group of Khulna, the Jahangir group of Boyerchar, the Speaker group of Char Jahiruddin, and the CIA group of Daulatkhan (Map 3). Each gang now controls a specific area, where they attack fishing boats and sell protection cards to trawlers for TK50,000 (US $878), which are valid for one year. If a fisher is found without a safety card, his boat is attacked, and the nets, machinery, cash, or even the entire vessel is stolen.\textsuperscript{118} Even though the authorities are aware of the identity of the assailants they are not arrested because they are protected by their powerful bosses. Furthermore, the perpetrators often have better equipment than the authorities, including faster boats, more advanced weaponry, and more sophisticated communication devices.\textsuperscript{119} The attacks on fishing boats in Bangladesh conducted by gangs like those described above, are different in scale from attacks on fishers in Southeast Asia. In

\textsuperscript{116} The only country in Southeast Asia in which some pirate gangs and the identity of their leaders are known is the Philippines.
\textsuperscript{117} In addition to the syndicates targeting fishing boats, other organised crime gangs are involved in attacks against merchant vessels, particularly in ports. The port of Chittagong, for instance, is reportedly controlled by “Mafia syndicates” with links to politicians, but details about the syndicate are somewhat hazy. Nazimuddin Shyamol, 'Mayor Mohiuddin Tells the Independent Mafia Syndicates Growing in Ctg Port', \textit{Independent}, 14 May 2006, \url{http://independent-bangladesh.com/news/may/15/15052006pl.htm#A3}, accessed 16 May 2006.
\textsuperscript{118} Another example is the pirate gang headed by the notorious pirate chief Alauddin. His gang targets trawlers on the Meghna river in the Bohla district. In most of these attacks, the crew is left on remote islands or shores and the vessel is taken by the perpetrators. The owner of the hijacked vessel is then contacted by the perpetrators or their ‘agents’ via mobile phone or messengers and a ransom is demanded. 'Robberies in Fishing Trawlers Rampant', \textit{Independent}, 18 January 2005, \url{http://www.independent-bangladesh.com/news/Jan/19/19012005ct.htm}, accessed 1 May 2006. '80 Trawlers Looted, 100 Injured', \textit{New Age}, 16 September 2005, \url{http://www.newagebd.com/2005/sep/16/nat.html}, accessed 1 May 2005.
\textsuperscript{119} Anisur Rahman, 'Have a Card and Rest Assured', \textit{Holiday}, 11 July 2003, \url{http://www.weeklyholiday.net/110703/count.html}, accessed 1 May 2006. Not all pirate gangs, however, cooperate peacefully and violent clashes between pirate gangs have been reported. See, for example:
Bangladesh, attacks on fishing vessels take place in a more systematic fashion and significantly larger numbers of fishing boats are attacked. The scale and intensity of the attacks can be demonstrated by the following example. In June 2006 alone, over 500 attacks on fishing trawlers occurred in Bangladesh. In the attacks, two fishers were killed, nearly 300 fishermen were kidnapped, and several trawlers were seized. In the aftermath of the attacks, the perpetrators attempted to exchange the kidnapped fishers and vessels for money and some of their brethren held in custody by the officials.120

Cargo and vessel type

It is not only the actual hijacking of a merchant vessel that requires organisation, but also the selling of the goods on board the ship. The cargo on board a hijacked vessel is either transferred to another ship at sea or discharged in a port, with the criminals often using false documents.121 On the importance of the sale of stolen goods by criminal organisations, Williams notes that:

The specific connections that facilitate criminal entry into the licit world can be understood as gateways or portals, while the relationships at the boundaries of the criminal network and the world of government and/or licit business can prove vital to a whole series of criminal operations and activities. For criminal organizations involved simply in theft, for example, the critical note is the person who can fence the goods, who in effect transfers them from the criminal network back into the world of legitimate business and commerce.122

Williams stresses the importance of contacts within the legitimate business world and within governments for selling stolen goods. In case of criminal syndicates involved in piracy, good relationships with port and customs officials, as well as representatives of other law enforcement agencies, are also crucial as they reduce the risk of the illegal operation being discovered. Indeed, irrespective of the vessel or cargo seized, pirates

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121 In the case of a diesel oil tanker being seized, for example, forged documents may be used for the hijacked vessel and its cargo, and the oil is then ‘legally’ discharged in a port. In attacks in which tankers are seized for a short period of time only, as well as in some permanent hijacking cases, the oil is discharged at sea into other tankers or adapted fishing vessels. The diesel oil is then sold illegally to fishermen, boat operators, or patrol stations. With a high demand for oil in Southeast Asia and Bangladesh, buyers for the cheaper, stolen oil are not difficult to find. Robert S. Redmond, ‘The Modern Pirate’, Contemporary Review, vol. 266, no. 1553, 1995, pp. 292-7. Zou Keyuan, ‘Piracy at Sea and China’s Response’, EAI Background Brief no. 55, 26 January 2000. See also: Pasuk Phongpaichit, Sungsidh Piriyarangsan and Nualnoi Treerat, Guns Girls Gambling Ganja, pp. 113-20.
122 Williams, 'Transnational Criminal Networks', p. 79.
need a reliable support network on shore in order to sell the stolen goods and launder the money gained in the operation. To sell the cargo, contacts with other crime organisations may also be established. Organisations involved in oil smuggling in Thailand may, for example, cooperate with gangs responsible for the hijacking or temporary seizure of oil tankers. However, in these attacks, the perpetrators often know in advance what cargo the targeted vessel is carrying. Indeed, the pirates or their financiers choose cargoes that can be sold easily on a ready (black) market in the region. Cargoes targeted therefore include steel ingots, rubber, as well as palm and diesel oil.\(^{123}\)

Furthermore, incentives like high taxes on goods, which increase the profit margin of criminals, may also play a role in choosing a suitable target.

In the 1990s hijacked vessels were often discovered in Chinese ports. High taxes on goods such as oil and high demand for commodities such as chemicals, steel, wood, rubber, cigarettes, TVs, and motorbikes created incentives for smugglers.\(^{124}\) Criminal gangs could also count on the cooperation of Chinese port and customs officials, who accepted bribes or were closely involved in illegal operations themselves.\(^{125}\) Furthermore, organised crime groups in China, including triads, had invested heavily in some of the newly developing and expanding ports in China, including the container port on the island of Xiamen and the port in Shenzen (Map 1). These investments gave triads control over parts of the port’s operations, which was undoubtedly conducive for their smuggling activities.\(^{126}\) Also, the Chinese government initially did little to discourage hijackers from conducting business in their ports. In the few cases in which pirates were arrested, including the case of the Petro Ranger, the alleged perpetrators were repatriated without being brought to justice.\(^{127}\) However, as international pressure increased and the pirate attacks began to become more serious in nature, Chinese

\(^{125}\) \textit{Ibid.} pp. 778-9. The involvement of officials and politicians will be discussed in more detail in Chapter 7.
\(^{126}\) Jamieson, ‘Weltregierung Mafia!’ pp. 31-2.
authorities stepped up their efforts to combat piracy. In December 1998, when the hijacked Tenyu was located in the Chinese port of Zhangjiagang, sailing under a different name, the authorities intervened and the vessel was returned to its owner. A short time later the Cheung Son was found in China and the pirates were arrested and brought to court in December 1999. The perpetrators received severe penalties under the law, including 13 death sentences.\(^{128}\) After this trial, Chinese ports became less attractive for pirates and lost their appeal as a place for business involving hijacked vessels. In more recent years, the overall number of hijackings of merchant vessels decreased. Mukundan, the director of the IMB, believes that this reduction is due to the fact that most hijacked merchant vessels have been recovered in the last few years, in many cases with the pirates onboard.\(^{129}\) As hijackings of merchant vessels have become too risky, the perpetrators have, since 2001, concentrated on softer targets, namely tugs and barges, as shown in Table 19:

Table 19 Hijackings by vessel type: Southeast Asia and Bangladesh, 1995 - 2006

<table>
<thead>
<tr>
<th>Year</th>
<th>'95</th>
<th>'96</th>
<th>'97</th>
<th>'98</th>
<th>'99</th>
<th>'00</th>
<th>'01</th>
<th>'02</th>
<th>'03</th>
<th>'04</th>
<th>'05</th>
<th>'06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchant Vessels</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>8</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Tugs and Barges</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>8</td>
<td>9</td>
<td>5</td>
<td>3</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: ICC, Piracy and Armed Robbery against Ships. Annual Reports 1995-2006, International Maritime Bureau, 1996-2007. Hijackings include missing vessels. If a barge is hijacked with a tug, it is counted as one incident.

Most of these more recent attacks took place in Indonesia. (See Appendix 2) Generally, barges and tugs are comparatively small and, if carrying cargo, slow moving, making them convenient targets for pirates. Furthermore, the cargo of these vessels typically consists of palm oil, timber, or other commodities that are valuable and easily disposable. The tugs and barges themselves can also be hidden or sold without too many difficulties, or the crew can be held for ransom.\(^{130}\) In June 2006, 14 Indonesian and two Malaysian members of a syndicate targeting tugs and barges were arrested and testified

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\(^{128}\) Zou Keyuan, 'Piracy at Sea and China's Response', p. 13. See also Chapter 1.


\(^{130}\) Ibid., p. 12.
that they had been involved in the hijacking of six vessels. The organisers of the attacks operated by recruiting crew working on the targeted vessels, who took over the ships in Indonesian waters and sailed them to the Philippines. Indeed, at least 11 of the pirates arrested by the Philippine authorities were ‘crewmembers’. The organiser of the attack was allegedly a Singaporean known to the crew as Mr Lee. He instructed the pirate crew to take the vessels to the Philippines, where the tugs and barges were given a new identity and the sale of the boats to an unidentified Filipino buyer was arranged.

In summary, unlike gangs active in Bangladesh, modern organised pirate gangs in Southeast Asia are usually either part of, or hired by, larger criminal syndicates. The operations conducted by hired pirate gangs and their organisers show the same characteristics as operations of criminal syndicates in other parts of the world. For example, the attack on the Selayang and other similar hijackings demonstrate that pirates in Southeast Asia have adapted their own methods to a rapidly changing world, becoming increasingly sophisticated in the process. In the attack on the Selayang, for instance, satellite phones were used by the pirates to communicate with their ‘boss’. The gathering of intelligence and the conduct of surveillance with modern technical equipment are today common practice among organised pirates to target selected ships and cargoes. This is in accordance with other criminal organisations, which now use modern equipment and facilities to further their aims. The attack on the Selayang also indicates that organised criminal gangs hire people who need to earn money quickly and have exhausted other options. The commander of the navy base in Balikpapan, Lt Col Agus Subagyo, who was involved in the investigation of the Selayang hijacking, stated that: “They [the pirates] were earlier trying to look for jobs in Batam but could not find any. Later, they decided to hijack the tanker”. It may therefore not be a coincidence that other pirate gangs have also been hired on Batam, an island with a high rate of unemployment. Batam is also a destination for people looking to earn money quickly.

131 The vessels include the Malaysian registered tug Martha Dini, the Indonesian registered barge Sentana, the Marcopolo and the Gemini.
and some of the ‘pirates’ may have chosen to accept an offer from a criminal gang as a way to suddenly earn windfall capital rather than specifically looking to work as pirates. As in other parts of the world, organised crime groups engaged in piracy are therefore exploiting the hunger of unemployed and opportunistically people for cash. However, it is not only the type of people hired, but also the way in which they are hired, that demonstrates a resemblance with other criminal syndicates. The actual pirates are recruited in such an anonymous fashion that even if they are caught, the organisers behind attacks remain unknown and cannot be sufficiently connected to the attack to warrant their arrest.  

In this regard, the close tacit connections between criminal syndicates, politicians, and members of law enforcement agencies are important, as they offer additional protection for the organisers of pirate attacks. Indeed, like other crime syndicates, organised pirate gangs have to rely on corrupt officials to operate successfully. These foul symbiotic relationships are essential for receiving inside information about vessels and, even more so, selling the stolen cargo and operating phantom vessels. Furthermore, the arrest of Mr Wong and the allegation that his gang cooperated with other criminal groups in the Asian region shows the systemic character of syndicates involved in piracy. The network is flexible, and even if Mr Wong’s side of the criminal syndicate is impaired or destroyed, the other parts and links can continue to function. The hydra-headed systemic-network aspect of pirate activities also demonstrates the far reaching impact of such organisations, with operations by organised pirate gangs spanning Asia, and requiring crucial contacts in different parts of Southeast and East Asia. Additionally, the syndicate that hires the actual pirates are also able to provide the modern weapons used for attacks. IMB reports indicate that modern day pirates are increasingly prepared to use violence to further their aims, with the number of pirates armed with modern automatic weapons on the rise. The criminal organisations ordering pirate attacks may have access to such weapons as they have the necessary funds and contacts to buy arms or may themselves be involved in the illegal arms trade. The following section of this chapter will show that the same and similar organised criminal syndicates that are involved in piracy are also conducting other illegal activities and pose a significant threat to security in and beyond Asia.

134 It is important to note that as with other illegal activities instigated by organised crime organisations, the actual perpetrators do not necessarily have to be members or part of that organisation.
**Beyond piracy – Security implications**

Remaining in the maritime sphere, criminal organisations are involved in a range of illegal activities besides piracy. In some cases, the same groups that are responsible for pirate attacks are also conducting other crimes under the rubric of traffic. Investigations by the IMB, of which no details are known, for example, have shown that organisations responsible for pirate attacks are also engaged in the trafficking of humans.\(^{135}\) One possible example is the criminal network that revolves around Liem Sioe Liong, the Chinese-Indonesian business tycoon suspected to be involved in piracy. His network is believed to smuggle illegal Chinese immigrants, mostly from Fujian province, to Canada and the USA on merchant vessels.\(^{136}\) It remains unclear whether Liem’s network uses pirated vessels or those owned by Liem’s many legal enterprises to transport the illegal immigrants. However, other criminal syndicates have used hijacked ships as phantom vessels to transport stolen goods or to smuggle humans or other commodities.\(^{137}\) One example is a small 1500 ton freighter which had been hijacked by pirates in the Philippines. After the shipjacking, the vessel was renamed and re-registered in Belize and was subsequently used by a triad to transport illegal immigrants on parts of their journey from China to the USA.\(^{138}\)

Overall, smuggling of humans, drugs, weapons, cigarettes, rice, flora, and fauna are some of the major transnational activities of criminal organisations, with many of these goods trafficked by sea.\(^{139}\) For example, in the space of three months in early 2006, British port authorities intercepted £10 million (US $18.5 million) worth of heroin shipped by ‘ghost companies’ based in Bangladesh.\(^{140}\) The drugs had been hidden in consignments labelled beauty products, foodstuffs, or floor tiles and were sent

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\(^{136}\) 'Dark Alliance Rules the High Seas', 'Piracy Returns as Order on the High Seas Disappears and Modern-day Privateers and Apparently Legitimate International Businessmen Delve into Piracy and the International Trade of Sex Slaves and Cheap Labour'.

\(^{137}\) Stewart, *Piraten*, p. 196.

\(^{138}\) Ibid. pp. 265-8.


\(^{140}\) Drugs are also intercepted in Southeast Asian ports. Singapore authorities, for example, discovered 72 kilos of heroin hidden inside engine bodies for air processors in a container. The container had arrived from Bangkok and was on its way to Fiji. B. A. H. Parritt, 'Facts and Figures About Illicit Drug Trafficking and the Maritime Industry', in Council of the Nautical Institute (ed.), *Illegal Drugs by Sea*, London: Nautical Institute, 1998, p. 11.
by companies ostensibly trading in legal commodities such as spices or granite for kitchens and bathrooms. At least six Bangladeshi government officials are believed to have been involved in the smuggling activities and a chairman of one of Bangladesh’s most respected companies was arrested for his role in the illicit enterprise.141

Other criminal activities in the maritime sphere include document, insurance, and container fraud, as well as the operation of phantom ships.142 However, most of these activities involve operations both on land and at sea, and the same or similar organised crime syndicates that are active in the maritime sphere also conduct operations that do not have a maritime component, such as the trafficking of commodities and people by air, protection rackets, money laundering, illegal gambling, and prostitution. Even though most examples that will be discussed in this chapter are from Asia, these activities are by no means restricted to this region.

Organised crime – A threat to security

Regardless of where their operations take place – at sea or on land – transnational crime organisations pose a threat to security beyond the maritime realm, yet, since the September 2001 attacks, the international focus on security issues has been concentrated on terrorism.143 Indeed, government policies and security initiatives in recent years have primarily aimed at combating terrorism, and publications ranging from newspaper articles to academic books have largely focused on the security threat posed by al-Qaeda and other terrorist organisations. Williams aptly points out that criminal organisations are often not regarded as a threat to international security because “they are economic rather than political organisations” and therefore “do not pose the same

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142 Not all cases involve a phantom ship stolen by pirates. Vessels can also be bought legitimately or a syndicate may change the identity of a vessel it already owns. For examples and a broader discussion of these activities see: Eric Ellen (Ed.), Shipping at Risk - The Rising Tide of Organised Crime, Paris: ICC Publishing SA, 1997. Or: Abhyankar, 'Maritime Fraud and Piracy', pp. 157-94.

kinds of overt or obvious challenges to states as do terrorist organisations”. This insight is of particular relevance today, as many criminal organisations have in recent years decreased their use of public violence and may therefore appear less dangerous in the public’s perception. Yet, the reduction of visible violence should not be interpreted as a sign of defeat or decreased illegal activity, but rather as a shift towards the use of more subtle and invidious methods such as white collar crime, indicating a chosen cohabitation with state and economic institutions. Indeed, with the rise and expansion of criminal organisations and illegal operations in the post-Cold War era, criminal groups operating today may pose a more serious threat to security than in earlier times. In order to recognise and combat organised crime as a security threat, the perception of security has to be expanded from the narrow military assessment concerned with interstate conflict to include non-traditional and human security issues. If the perception of security is broadened in this manner, transnational criminal activities can be interpreted as posing a challenge to human, national, and international security.

In regard to human security, criminal organisations and the illegal goods they provide have an impact on the security of individuals and communities. Commodities such as weapons, illegal drugs, and counterfeit medication, for example, adversely affect the well-being and health of many people. Furthermore, organised crime gangs often mistreat and exploit their ‘clients’ and the people who ‘work’ for them, including women and girls working as prostitutes. A major criminal presence also causes fear among the population, which is exploited by means of collecting protection money from businesses, including small shops and restaurants. Crime syndicates can also undermine the establishment of civil society by threatening members of social and non-governmental organisations (NGOs) and by killing social workers, priests, and journalists who openly challenge criminal organisations. Through these acts, the public

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148 The World Health Organisation estimates that eight per cent of all medicine sold worldwide are counterfeits of varying quality.
149 Examples of other counterfeit products that affect security are bogus car and airplane parts. Overall, the International Chamber of Commerce estimates that seven to nine per cent of world trade is in counterfeits. Naim, Das Schwarzbuch des globalisierten Verbrechens, pp. 154-5, 159.
is intimidated and human rights and the freedom of speech are violated, rupturing the democratic foundations of states.¹⁵⁰

On the national level,¹⁵¹ organised crime networks are economic and political rivals for states. In economic terms, criminal activities adversely affect the local economy as the illegal or smuggled goods are sold without taxes being paid. The sale of smuggled items also results in the loss of income for those merchants who sell the same goods legitimately, but at a higher price. Illegal activities such as theft or money laundering also affect financial institutions and cause financial loss to the victims of those operations. The financial losses for individual states and their citizens can be significant. In Thailand, for example, the economic value of crime between 1993 and 1995 was estimated to be between US $23 to 32 billion, or 14 to 19 percent of the country’s GDP.¹⁵² Additionally, measures and initiatives against crime have to be paid for by the state, including the salaries of personnel and the sophisticated equipment of law enforcement agencies which is needed to compete with modern criminal networks.

Organised crime groups have in some countries also become serious political rivals for state authorities and pose a threat to democracy and the rule of law. Crime syndicates use different methods to increase the scale of their operations and their influence within a country, undermining state authority in the process. As discussed earlier, many criminal networks have shifted their activities towards white collar crimes and have, in recent years, invested more heavily in legal businesses. As a consequence, criminals have risen to powerful positions in the business community and have penetrated politics, the judiciary, and law enforcement agencies. In some countries, such as Russia or Mexico, crime syndicates have successfully infiltrated, if not taken over, political and administrative bodies and state functions.¹⁵³ In other countries individual politicians are members of criminal organisations. In Thailand, for example, active as well as ‘retired’ members of crime syndicates have been members of parliament and the


¹⁵¹ There are also states, such as North Korea, in which the government itself has become, to some degree, a criminal enterprise. As North Korea has been discussed in the previous chapter and will be considered in the following chapter, it will not be discussed here. See: Williams, ‘Transnational Criminal Enterprises, Conflict, and Instability’, p. 109.


Furthermore, criminal syndicates have also sought to increase their power and political clout by financing political campaigns and by eliminating those politicians (and judges) that threaten their operations. The infiltration of the judiciary by criminal organisations, as well as the intimidation or cooperation of individual judges, can result in the decline of the rule of law. Criminals who have been arrested, for example, may not be prosecuted or may receive lenient sentences if their ‘bosses’ have influential positions in politics, law enforcement agencies, or the judiciary. As discussed earlier, pirates hired by triads who have been arrested in China before 1998 have benefited from their patrons’ contacts and influence. Crime syndicates also benefit from cooperation with corrupt law enforcement and military officers. Members of law enforcement agencies may be conducting illicit business themselves, accept bribes from criminals to turn a blind eye to illegal activities, or are being either threatened or blackmailed to cooperate with criminals. Notable examples include the involvement of the Myanmar military and government officials in the drug trade, and the active participation of members of the Thai military and police in the sale of arms to criminals and minority groups in Myanmar. In Malaysia, in contrast, organised crime groups involved in the counterfeiting of discs have threatened officials with death if they do not allow the syndicate to operate.

The steady infiltration of politics, the legal system, and law enforcement agencies by organised crime groups is of concern, “because their goals are to further their own criminal interests (illicit profits), not the interests of the populace at large.”

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155 Other officials targeted and assassinated by crime organizations include civil servants as well as police and military officers who pose a threat to, or do not cooperate with, a criminal organisation.
156 Examples of such killings can be found all around the world, but some places are certainly more affected by political assassinations than others. In Italy, the killing of Judge Giovanni Falcone was a high profile killing. In Columbia, more than 1,000 civil servants and three presidential candidates were killed in the 1980s. Jamieson, 'Weltregierung Mafia?' p. 27.
157 The impact of corruption will be discussed in more detail in Chapter 7.
159 Furthermore, after the death of Lao Suamnali (the head of the most successful and dominant crime syndicate in Bangkok) in 1991, a different syndicate that had been operating quietly for ten years has emerged from the shadows. This group is led by army officers who work as professional gunmen and is involved in protection rackets, collecting money from bars, gambling dens, and night clubs. Pasuk Phongpaichit, Sungsidh Piriyarangsan and Nualnoi Treerat, Guns Girls Gambling Ganja, pp. 31-2, 137-42, 147-50.
160 Naim, Das Schwarzbuch des globalisierten Verbrechens, p. 162.
The consequences for the affected states are the loss of authority and legitimacy. Summarising these threats, Lupsha writes:

Penetration of the legal system and legitimate sectors by organized crime tilts the scales of justice, unbalances the economy, eliminates the rule of fairness, and tilts the playing field against ordinary citizens. In the long term, criminal impunity creates political immunity that leads to fear, intimidation, oppression, violence and tyranny as the state becomes criminal and delegitimate. The end result is the rupture of civil society and community.\textsuperscript{162}

Yet, while state authority may be declining and the civil society and community are torn asunder, a total collapse of such states is rare, as criminal organisations are unlikely to destroy an environment that is generally beneficial for their operations.\textsuperscript{163} In fact, in some instances, criminal organisations have succeeded in acquiring a certain degree of public legitimacy within states. As Galeotti writes, this may be the result of “public relations” strategies such as “fostering a myth of community spirit (as witnessed by the Yakuza’s prompt dispatch of aid to the survivors of the 1995 Kobe earthquake)\textsuperscript{164} or by posing as champions of national or cultural identity (whether in Kosovo, Chechnya or Kurdistan).”\textsuperscript{165} In other cases, organised crime groups have won over local populations by offering income and employment. Illegal logging, for example, provides an income for farmers and other impoverished people in West Kalimantan. These illegal loggers cooperate with organised crime syndicates that organise the transport and sale of the valuable timber.\textsuperscript{166} Other people in Southeast Asia and Bangladesh find employment in one of many factories that produce counterfeit products. In central Thailand, for example, officials raided a toy company producing unlicensed copies of stuffed Mickey Mouse figures and other famous Disney characters in 2001. Over 1,000 local people


\textsuperscript{163}Williams, ‘Transnational Criminal Enterprises, Conflict, and Instability’, p. 103. However, the attacks by organised crime gangs that more or less paralysed Sao Paulo in May 2006, are one example of just how powerful organised crime groups are in some places. Due to the attacks, schools, universities, train stations, shops, and other facilities remained closed. ‘Mafia haelt Sao Paulo im Griff’, Spiegel Online, 16 Mai 2006, \url{http://www.spiegel.de/panorama/0,1518,416321,00.html}, accessed 16 May 2006.


\textsuperscript{165}Galeotti, ‘Transnational Organised Crime’, p. 36.

who earned their income from the 'pirate' company unsuccessfully attempted to block the raid to preserve their jobs.\(^{167}\)

States and regions also have to pay the social as well as political costs for the goods illegally transported and sold across borders by criminal enterprises. Particularly concerning from a security standpoint are the sales of drugs and firearms. Southeast Asian countries and Bangladesh are no longer predominantly states of origin or transhipment of drugs, as an increasing number of people in these countries have become users in recent years.\(^{168}\) For example, according to data from the Philippine National Anti-Drug Program of Action, the number of drug users in the country rose from 20,000 in 1972 to 1.8 million regular and 1.6 million casual users in 2001.\(^{169}\) Overall, drug use increased in almost all Southeast Asian countries and Bangladesh since the 1990s, with organised crime syndicates actively developing and expanding drug dependency.\(^{170}\) With this expansion, incidences of drug related violence and, even more disturbing, rates of HIV/AIDS infections have increased in the region.\(^{171}\)

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in HIV/AIDS infection is also linked to prostitution, which also involves organised crime syndicates.\textsuperscript{172} The spread of AIDS, as well as drug use and the increase in drug related violence, have an impact on the security and wellbeing of individuals, as mentioned earlier. However, drug trafficking and other illegal activities which are accompanied by corruption and violence also pose a threat to the stability and development of states. Furthermore, the effects of illegal transnational activities such as drug trafficking, corruption, and violence can spill across borders to other countries. Corruption spreading to neighbouring states along smuggling routes, and the misuse of banking and other economic facilities by crime syndicates in nearby countries to launder money are but two examples.\textsuperscript{173}

The same is true for the effects of illegal weapons trafficking, as it impacts national, regional, and sometimes even international security. Organised crime syndicates, rogue states, individual and opportunistic criminals, as well as terrorist and separatist movements all benefit from the illegal transfer and sale of weapons. Security problems can stem, for instance, from the sale of nuclear weapons and heavy arms to terrorists or pariah states.\textsuperscript{174} However, thus far, the greater threat to international security has been the illegal trade in light weapons and small arms, as they are more widespread and extremely difficult to control. In fact, a recent Security Council report states that: “Small arms and light weapons have been sufficient to destabilise states and entire regions, increase the lethality and longevity of conflicts, obstruct relief programmes, undermine peace initiatives, exacerbate human rights abuses and hamper development.”\textsuperscript{175} The availability and use of weapons is also a major problem in Southeast Asia and Bangladesh. In the Philippines, for example, about 800,000 firearms are registered and an estimated additional 450,000 unlicensed guns are in the hands of

\textsuperscript{172} However, HIV infection has now spread beyond drug users and sex workers, mostly through, for example, sexual intercourse but also through transmission from mother to child. See, for example: Bezziechieri, Wayne and Barrett, ‘Drugs and HIV in Southeast Asia’.


\textsuperscript{174} Williams, ‘Transnational Criminal Organisations and International Security’, p. 45. Criminal organisations are also known to attempt to buy heavy arms. Khun Sa in Burma, for example, is believed to have had several Sam and Stinger missiles and the Cali cartel in Columbia bought a number of 500 pound bombs. Lupsha, ‘Transnational Organized Crime Versus the Nation-State’, p. 30.

private citizens. One third of the unlicensed guns are believed to be owned by criminals, insurgents, or separatist groups. Commenting on the impact of small arms in the region, Chalk notes that:

The illicit trade in small arms carries significant implications for security and stability in Southeast Asia. Most directly, it has considerably heightened the violence potential threshold of separatists, crime syndicates, drug lords and pirates, many of which are now able to take advantage of tactical options formerly reserved only for the state and its armed forces. This has not only given non-state actors an enhanced ability to inflict considerable damage, it has also provided discontented and profit-oriented groups with the means to attain a real degree of empowerment vis-à-vis governing structures.

The impact of firearms on human, national, and regional security is particularly high in places where criminal organisations have their own armies or militias. The existence of such militias is most predominant in Latin American countries such as Columbia, where drug cartels have their own ‘armed forces’. However, groups involved in the drug trade in Myanmar and criminal gangs in the Philippines, for example, also have their own armed fighters. These organisations therefore infringe on the monopoly of the use of force by states, as Lupsha points out:

Today […] nation-states are challenged by non-state actors, such as transnational organized crime groups, which have the ability to rival and compete with nation-states in terms of their monopoly over the use of force. And, in many areas of the world, non-state actors, frequently organized criminals, control large portions of the nation-state’s population and territory.

Furthermore, on the regional and international level, the activities of organised crime syndicates can result in tension (or in some cases open conflict) between states. The most prominent example from Southeast Asia is probably the tension over, and international condemnation of, the cultivation and trade in drugs in Myanmar.

176 The numbers are estimates by the Philippine Action Network on Small Arms. Dennis Gadil and Peter J. G. Tabingo, 'With Safeguards, We’ll Okay Anti-terror Bill', Malaya, 6 July 2006, http://www.malaya.com.ph/jul06/news7.htm, accessed 31 July 2006. In the Philippines, as well as Indonesia, small arms are also used in attacks prior to elections and have become part of the electoral process. Chalk also points out that the illegal trade in weapons is fuelling the trade in drugs, which are used in many cases to pay for weapons. Other illegal items traded for weapons include so called conflict diamonds, originating mostly from Africa. Peter Chalk, 'Light Arms Trading in Southeast Asia', Jane's Intelligence Review, March 2002, p. 45.
177 Ibid.
179 Lupsha, 'Transnational Organized Crime Versus the Nation-State', p. 29.
Operations conducted by organised crime syndicates can also adversely affect the financial security of regions and have an impact on the global economy.\(^{181}\) Shelley suggests that:

The practice by transnational criminal organizations of large-scale money laundering, of corrupting of key officials in economic and customs positions and of utilizing banks, stock exchanges, venture capital opportunities and commodities markets, all undermine the financial security of world markets. The pensions and savings of ordinary citizens are also jeopardized when banks and stock funds collapse because of illegal manipulation of the financial sectors by international organized crime groups.\(^{182}\)

McFarlane argues, for example, that organised crime, as well as corruption and cronyism, contributed to the 1997 Asian financial crisis.\(^ {183}\) Last but not least, the operations of organised crime groups can also cause substantial ecological damage, as their activities are oriented towards the creation of immediate profits, not sustainable development.\(^ {184}\) Illegal logging in many countries in Southeast Asia is one crucial example. These activities not only destroy the native forest with all its biodiversity, but in Indonesia, for example, the fires to clear forests, which are often deliberately lit by logging companies, are also responsible for severe annual smog, spreading over Singapore, Brunei, and parts of Thailand, Malaysia, and the Philippines.\(^ {185}\)

In summary, organised crime groups are active in all parts of the world and their operations include maritime as well as land based operations. Their activities pose a threat to democratic development, the legitimate economy, as well as national and international security. The operations of criminal organisations also have an impact on human security both within and beyond Southeast Asia and Bangladesh.

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\(^{181}\) Businesses run by organised crime syndicates also exploit their employees. An example of this practice comes from Italy, where triads involved in people trafficking have sold illegal Chinese immigrants to the Camorra to work in their sweat-shops. Lupsha, 'Transnational Organized Crime Versus the Nation-State', p. 27.


\(^{183}\) Important factors in that regard were deals between legitimate enterprises and organised crime groups as well as the morphing of organised crime groups, such as the Yakuza, into legitimate businesses. With its legitimate companies, the Yakuza was, for example, able to borrow money at the cheapest rates, inflating the so-called bubble economy further, ending with the collapse of the economies of numerous Asian nations. See: John McFarlane, 'The Asian Financial Crisis: Corruption, Cronyism and Organised Crime', SDSC Working Paper no. 341, Canberra: Strategic and Defence Studies Centre, Australian National University, October 1999. See also: Jamieson, 'Weltregierung Mafia?' p. 32.


Conclusion

In the post-Cold War era, organised crime syndicates around the world have changed their internal set-up to a more systematic and network-like structure and have succeeded in expanding their operations across borders. They have successfully taken advantage of the political, social, technological, and economic changes that have occurred since 1989, and have entered into strategic partnerships with similar organisations in different parts of the world. Criminal organisations are today involved in illegal activities ranging from smuggling to money laundering, and are active all around the world, including Asia. Transnational crime syndicates are also involved in pirate attacks, or more precisely, temporary and permanent seizures of vessels. It is believed that crime organisations with links to China or ethnic Chinese leaders play an important role in hiring pirates to conduct these attacks. Furthermore, similar, or even the same, organisations that are involved in piracy are also conducting other criminal activities on land and at sea and pose a threat to human, national, regional, and international security. They undermine civil society and the rule of law and pose a challenge to state authority and sovereignty.

A number of national, regional, and international efforts have been made by states as well as non-governmental organisations to combat organised crime, but have not yet been particularly successful. While national efforts are important, regional and international co-operation between states and law enforcement agencies is crucial to successfully combat organisations that operate, or have allies, in many different countries. At present, however, such cooperation is still limited and national and international attention is focused more on the threat of terrorism than on organised crime. In this regard the links between terrorists and organised crime syndicates are

important, as criminal organisations can provide terrorists with weaponry and other necessary instruments for furthering their aims. The following chapter discusses politically motivated groups such as terrorists and separatists, their involvement in piracy, and the threat they pose to national, regional, and international security.
Chapter 6

Terrorist and Guerrilla Movements

Introduction

On July 18, 2006, Indonesian authorities arrested three former members of the GAM for their alleged involvement in a string of pirate attacks in the northern Malacca Straits, including an attack on a vessel carrying aid for tsunami victims. The three pirates were captured two days after their latest attack in Lhokseumawe, a city in northern Aceh (Map 4).¹ These arrests show that people associated with politically motivated groups, such as the GAM, are believed to be responsible for some pirate attacks. However, the involvement of politically motivated groups in pirate attacks is contested, with leaders of these groups often denying their movement’s participation in these criminal activities. This chapter explores the involvement and links between piracy and politically motivated groups in Southeast Asia.² In this region, two different types of politically motivated groups, namely terrorists and guerrillas, are potentially involved in piracy in two different ways. Firstly, members of some of these organisations conduct pirate attacks to finance their group and its operations. In Southeast Asia, three politically motivated groups are at present believed to be actively involved in piracy, namely, the GAM in Aceh, and the Abu Sayyaf and, to a lesser extent, the MILF in the southern Philippines. Secondly, pirates may cooperate directly with, or be of assistance to, terrorist organisations. Terrorist groups discussed in this regard in the context of Southeast Asia include the internationally operating al-Qaeda and the Indonesia based JI. This chapter discusses the actual and possible involvement of these guerrilla and terrorist groups in piracy, and explains why these and similar politically motivated groups pose a threat to national, regional, and international security well beyond pirate attacks.

² According to the author’s sources, there are no terrorist or guerrilla groups in Bangladesh that are involved in piracy. As the author was not able to travel to Bangladesh to collect further information, piracy in Bangladesh will not be discussed in this chapter.
The first part of the chapter discusses the evolution of terrorist and guerrilla movements in the post-Cold War era, focusing on Southeast Asia. The second part of the chapter is concerned with the possible links between piracy and politically motivated groups. Particular attention is paid to the Abu Sayyaf, GAM, JI, and al-Qaeda. The final part of the chapter argues that these and similar politically motivated organisations pose a threat to the security and stability of countries and regions. Furthermore, the existence of these movements indicates serious social, political, and economic problems and the marginalisation of people and communities within and beyond Southeast Asia.

**Terrorists and guerrillas**

*Distinguishing types of (political) violence*

Defining terrorism is a difficult task. Part of the problem, as Walter Laqueur points out, is that terrorism is not an ideology but an insurrectional strategy, which can be used by people of very different political convictions. Historically, terrorist tactics have been employed by various national or religious groups, by the left and by the right, by nationalist as well as internationalist movements and even, on some rare occasions, by liberals and conservatives. Moreover, the meaning and usage of the word terrorism changed from the time of the French Revolution, when the term first came into common political usage, to accommodate the ideological vernacular and discourse of subsequent eras. Furthermore, the nature of terrorism also varies from country to country as a result of cultural traditions, social structures, and political relationships. The search for a satisfactory definition is further complicated by the fact that many so-called terrorists

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4 Terror tactics have also been employed by states. Usually, terror by non-state actors is referred to as terrorism, while the term terror is used to describe terror inflicted by states. This distinction is useful and only terrorist groups are considered in this chapter as only they have a direct impact on modern piracy. Paul Wilkinson, ‘Observations on the Relationship of Freedom and Terrorism’, in Lawrence Howard (ed.), *Terrorism. Roots, Impact, Responses*, New York: Praeger, 1992, p. 157. For examples of state terrorism see the various essays in the second part of: David C. Rapoport and Yonah Alexander (eds), *The Morality of Terrorism. Religious and Secular Justifications*, New York: Pergamon Press, 1982, pp. 127-216.
5 Laqueur, *Terrorism*, p. 79.
do not consider themselves terrorists but rather prefer other terms, such as freedom fighters or militants,\(^8\) and select names for their organisations that consciously eschew the word terrorism in any of its variable forms, in order to avoid the word’s morally undesirable connotations.\(^9\) Acknowledging these semantic, albeit political-cultural, difficulties, Hoffman suggests that:

> We may [...] attempt to define terrorism as the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change. All terrorist acts involve violence or the threat of violence. Terrorism is specifically designed to have far-reaching psychological effects beyond the immediate victim(s) or object of the terrorist attack. It is meant to instil fear within, and thereby intimidate, a wider ‘target audience’ that might include a rival ethnic or religious group, an entire country, a national government or political party, or public opinion in general. Terrorism is designed to create power where there is none or to consolidate power where there is very little. Through the publicity generated by the violence, terrorists seek to obtain the leverage, influence and power they otherwise lack to effect political change on either a local or an international scale.\(^10\)

By defining terrorism in this manner it is possible to distinguish it from other types of violence, such as guerrilla warfare,\(^11\) and ordinary criminal acts.\(^12\) Hoffman points out that even though guerrilla groups might use similar tactics, they differ considerably from terrorist organisations. Guerrilla, he argues, usually refers to a:

> numerically larger group of armed individuals, who operate as a military unit, attack enemy military forces, and seize and hold territory, [...] while also exercising some form of sovereignty or control over a defined geographical area and its population. Terrorists, however, do not function in the open as armed units, generally do not attempt to seize or hold territory, deliberately avoid engaging enemy military forces in combat and rarely exercise any direct control or sovereignty either over territory or population.\(^13\)

Like terrorism, guerrilla warfare is an insurrectional strategy and has been employed by organisations with different political convictions and motivations to fight against ruling

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\(^7\) Laqueur, *Terrorism*, p. 135.
\(^8\) Religiously motivated groups also often use labels such as ‘mujahadeen’, ‘soldier and servant in the cause of Allah’ or ‘soldier for Christ’, to mention just a few. See: Juergensmeyer, *Terror in the Mind of God*, pp. 188-90.
\(^11\) The term guerrilla means ‘little war’ and “derives from the activities of Spanish irregulars or partidas against occupying French forces between 1808 and 1814, but the first documented reference to guerrilla warfare appears to have been in the *Anastas*, a Hittite parchment dating from the fifteenth century BC.” Ian F. W. Beckett, *Modern Insurgencies and Counter Insurgencies. Guerrillas and Their Opponents Since 1750*, London: Routledge, 2001, p. 1.
\(^12\) Hoffman, *Inside Terrorism*, pp. 39-40.
governments or foreign invaders. However, despite the different ideologies motivating guerrilla movements, they clearly fight for political changes and aims. The motive of guerrillas and terrorists therefore distinguishes them from ordinary criminals, who are mainly interested in personal financial gain.14

Yet, the different types of politically motivated violence rarely occur in a pristine form. Guerrilla movements, for example, can use guerrilla warfare integrated with other forms of political violence, including terrorist tactics. Hence, the boundaries between militant groups, variously labelled terrorist or guerrilla, are often fluid. This is particularly so because terrorist and guerrilla groups may fight for similar aims, such as political changes within a country or region, or for separatist goals, aiming at forming independent states, or at least to achieve a certain level of political, economic, and cultural autonomy. The label separatist movement is often used to describe groups fighting for this cause, regardless of the type of violence employed. Separatist movements are of particular importance for this thesis as many of the groups that have potential links to piracy are fighting for separatist causes. They include the terrorist group Abu Sayyaf as well as the GAM and MILF, which are the only two guerrilla movements believed to be involved in piracy in Southeast Asia at present. As most groups that have potential links to piracy in this region are terrorist groups, the emphasis of the following discussion is on terrorism and to a lesser extent on guerrilla movements fighting for separatist causes, with only cursory attention being paid to those guerrilla movements fighting for political changes within countries. However, to better understand the links and differences between modern day terrorists and guerrillas, it is important to briefly look at the evolution of these politically motivated movements after the Cold War.

Changes in the post-Cold War era: Guerrillas, terrorists, and separatists after 1989

Like criminal organisations, terrorist and guerrilla movements have changed and adapted their operations to the post-Cold War environment, with many of their activities a direct response to political changes and developments. For example, the emergence of new conflicts in the 1990s, discussed in the previous chapter, reinforced the

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establishment of new politically motivated groups, including terrorist movements. In the Balkans, Eastern Europe, and Central Asia, for instance, new terrorist groups emerged after the break-up of the Yugoslav Federation and the Soviet Union. Additionally, with the collapse of the Soviet Union, sweeping changes altered the behaviour and policies of both state and non-state actors and brought about significant changes for terrorist and guerrilla groups. Most importantly, with the end of the Cold War, patron states cut their financial support to client terrorists and guerrillas, who now have to depend more on financial assistance from local and international organisations, private sponsors, and international religious or ethnic networks. Furthermore, guerrillas as well as terrorists have increasingly become involved in criminal activities to finance their operations. So-called narco-terrorists and guerrillas – politically motivated organisations that finance themselves through participation in the global drug trade – are perhaps the most prominent examples of funding through criminal activities.

Terrorist and guerrilla groups have also embraced new technology. Advances in communication and information technology and growing world interdependence have afforded politically motivated fighters increased mobility, better means of communication, more advanced weaponry, and a host of new targets. Technological developments, for example, have facilitated the spread of radical ideologies, and have enabled militant organisations to network with powerful and wealthy transnational

14 Hoffman, Inside Terrorism, pp. 41-3.
15 Areas particularly affected include Bosnia-Herzegovina, the Kosovo enclave in Serbia, Russia, Georgia and Azerbaijan. Peter Chalk, Non-military Security and Global Order. The Impact of Extremism, Violence and Chaos on National and International Security, New York: St Martin's Press, LLC, 2000, p. 17.
17 A serious side effect of these new social and political arrangements is that current guerrilla and terrorist groups are less restrained in their choice of weapons and target selection and tend to be more violent and radical, as they are no longer constrained by the limits placed on violence that state sponsors had previously imposed on their proxies. David Martin Jones and Mike Smith, 'Identity Politics in Southeast Asia', Jane's Intelligence Review, November 2000, p. 44. Rohan Gunaratna, 'Terrorist Threats Target Asia', Jane's Intelligence Review, July 2000, pp. 37-8.
sympathisers.20 Also, affordable and fast travel opportunities have been conducive to
the establishment of international training camps, primarily set up by Islam-inspired
terrorist organisations or host governments. However, members of guerrilla movements
have also been trained in these and similar camps.21 Technological advances also allow
terrorists to travel frequently from one country or continent to another to carry out their
attacks, and civilians outside of the terrorists’ home country who have little, if anything,
to do with the terrorists’ cause or grievances, have increasingly become targets for
terrorist aggression.22 New communication technology and the modern mass media also
play a role in terrorist attacks. The objective of these attacks is to attract maximum
public attention, or even sympathy, for the terrorists’ demands. The rationale behind
terrorist acts is therefore not simply the destruction or the killing itself, but attacks are
designed as an extreme communication strategy, which has become increasingly
effective with recent advances in satellite communication technology. Similarly,
guerrilla groups have taken advantage of the media and new technology such as the
internet to make their cause, aims, and grievances known to a wider audience.23

Terrorist and guerrilla movements have also benefited from the availability of
small arms and light weapons since the end of the Cold War. However, particularly for
terrorist groups, the accessibility of chemical, biological, radiological, and even nuclear

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20 Peter Chalk, Grey-area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political
Terrorism, Canberra: Strategic and Defence Studies Centre, Australian National University, 1997, pp. 13-

21 Courses offered generally provide training in basic firearms and explosives technology, as well as
advanced guerrilla and terrorist techniques, counter-insurgency, kidnapping, psychological warfare, and
communication and survival skills. Furthermore, these camps offer an opportunity for members of
militant groups from all over the world to establish new contacts and networks. For further details on
Banker and Bowman H. Miller, 'Out-inventing the 'Terrorist'', in Yonah Alexander, David Carlton, and
Jihadists' Operational Code', in David Aaron (ed.), Three Years After: Next Steps in the War on Terror,

22 David L. Milbank, 'International and Transnational Terrorism: Diagnosis and Prognosis', in John D.
Elliott and Leslie K. Gibson (eds), Contemporary Terrorism. Selected Readings, Gaithersburg, Maryland:
Russell, Banker and Miller, 'Out-inventing the Terrorist', pp. 5-6.

However, the ‘use’ of the media by terrorists and guerrillas differs in character and terrorists generally
rely more on media coverage of their activities than guerrillas. See: Laqueur, The New Terrorism, pp. 44-
5. Carolin Liss, 'The Sipadan Kidnapping 'Drama' (April - September 2000). The Rise of the Abu Sayyaf,
weapons is also of significance. Since the collapse of the Soviet Union, both knowledge about the construction of weapons of mass destruction, and the actual weapons themselves have become easier to obtain for non-state actors, including terrorist groups. Russian scientists, for example, have sold their expertise, and arsenals in former states of the Soviet Union have been described as “leaking like a sieve”.

The availability of these new, more deadly weapons and the spread of radical ideology has had an impact on the scale and lethality of operations conducted by guerrilla and terrorist movements.

Guerrilla movements

Hoffman noted in 1992 that the changes which have occurred in guerrilla warfare are not as substantial as those within terrorist groups. However, guerrilla wars and insurgencies are still fought in many parts of the world, primarily in post-independence developing countries. Indeed, rising inequality within nations and internationally in the post-Cold War era led, in some parts of the world, to the emergence and strengthening of “anti-elite insurgencies and rebellions often stemming from the development of radical social movements.” Strong population growth, often in countries with weak economies, also had an impact on guerrilla movements. Beckett, for instance, points out that: “The predominance of an alienated population that is largely youthful has […] provided ready recruits for insurgencies in developing countries, child soldiers being all too common in a number of contemporary African insurgencies.” Furthermore, due to political, social, and economic changes in the post-Cold War era, new groups have emerged which are no longer motivated by the more traditional driving forces of guerrilla movements, which have in the past included mainly ethnic or separatist causes. These new groups include ‘spiritual insurgents’, who

26 Hoffman, ‘Low Intensity Conflict: Terrorism and Guerrilla Warfare in the Coming Decade’, p. 146.
27 Beckett, for example, uses the term ‘insurgency’ to describe modern revolutionary guerrilla warfare, which emerged in the 1930s and 1940s. Beckett, Modern Insurgencies and Counter Insurgencies, p. vii.
28 Ibid. p. 218.
have emerged in response to globalisation and modernisation, and ‘commercial/economic insurgents’, fighting for control over mineral resources or drugs. An example of the latter is Charles Taylor’s National Patriotic Front of Liberia, which in the 1990s successfully fought for control of the country’s diamonds and gold resources. The fighting-power of guerrilla movements also increased through the availability of more sophisticated weapons, and the gap between the armament of government forces and guerrillas has narrowed. Guerrilla groups are also no longer primarily fighting their war against governments in jungles or remote areas, but have moved into urban centres. Overall, the availability of more deadly weapons, the spread of radical ideology, and the training of fighters in international training camps have led to the use of more radical methods by guerrilla movements, with some groups relying increasingly on terrorist tactics. Furthermore, dissatisfied members of guerrilla movements, particularly those fighting for separatism, have split from their parent organisations to form their own, usually more radical, groups. Such splits often occurred when a peaceful settlement between the original organisation and a government was negotiated.

**Terrorist groups**

Terrorism has changed more substantially in the post-Cold War era than guerrilla warfare, when the latest form of terrorism – often referred to as the ‘new terrorism’ – with its own unique set of characteristics emerged. What distinguishes the new terrorism from acts of violence which characterised terrorism in the past is the new terrorists’ more radical approach, accepting or even aiming at the deaths of large numbers of ‘innocent’ civilians. The methods and weapons used by terrorist groups

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31 Ibid.
32 Ibid. pp. 247-8. Taylor has been discussed in more detail in Chapter 4.
34 Examples will be provided later in this chapter.
36 This new breed of terrorist is also sometimes referred to as a ‘second generation terrorist’. See, for example: Frank J. Cillufo and Thomas Tomarchio, 'Responding to New Terrorist Threats', *Orbis*, vol. 42, no. 3, Summer 1998, pp. 439-52.
have changed accordingly and include today biological and chemical weapons. While it is still comparatively difficult to conduct a nuclear, chemical, or biological attack, a number of terrorist groups are now willing to use these WMD. The first group who employed such weapons was arguably the Aum Shinrikyo sect in Japan. Even though their 1995 sarin gas attack on the Tokyo subway system killed ‘only’ 12 people (but injured 5000), a precedent for the use of WMD by terrorists had been set. With the use of these more deadly weapons and tactics, the nature of terrorist attacks changed, and attacks by new terrorist groups now often appear to be almost an end in themselves. They often seem pointless to the observer since they generally do not lead directly to any political strategic goal, as the bombing of the World Trade Center in 1993 and the September 11 terrorist attacks demonstrate. In fact, new terrorist movements rarely leave room for negotiations, but simply destroy, kill, and terrorise on a large scale, to communicate their message. Furthermore, terrorist acts seem today in many cases, as Juergensmeyer puts it, ‘exotic’ since they are frequently couched in the visionary rhetoric of religion.

In the post-Cold War era, the number of these more deadly terrorist attacks increased. Chalk argues that the increase is largely due to three factors, namely the emergence of so-called ‘ad hoc’ or amateur terrorism, the rise of religious fundamentalist inspired terrorism, and a continuing high level of ethno-religious/separatist based terrorism. Ad hoc or amateur terrorism (sometimes also referred to as single issue terrorism), is represented by extremist groups protesting against a perceived grievance, usually attributed to governmental action or inaction, with causes including the ‘fight’ against abortion and the destruction of the environment. Ad hoc terrorists are particularly associated with transient, extreme right

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38 Chalk, Non-military Security and Global Order, p. 35.
40 Ibid.
41 Chalk, Non-military Security and Global Order, p. 16. However, Chalk only focuses on Islamic inspired terrorism as the second factor responsible for the increase in the number of terrorist attacks in the 1990s.
42 Single issue terrorists, such as anti-abortion terrorists, can also be partly inspired by religion. Their aim, however, is not to change the political system as such but rather to achieve their sole goal. For an example see: Juergensmeyer, Terror in the Mind of God, pp. 20-4.
wing groups and militias in Europe and North America, such as the Animal Liberation Front in Western Europe and the Army of God, which has claimed responsibility for attacks on several abortion clinics, in North America. However, the other two major driving forces behind terrorism, religion and ethno-political divisions and motivations, are of far more importance for this thesis.

Religiously motivated violence has occurred since ancient times, but it was not until the 1980s – as a result of the Iranian Revolution – that the first modern religiously motivated terrorist groups emerged, comprising primarily new strands of strident Muslim terrorism that were unrelated to the Palestinian or any other clear-cut political cause. By the mid 1990s religious-based terrorism targeting civilians, as well as symbols of government power, had spread throughout the world. Religious terrorist groups arguably use more intense acts of violence, that usually result in many more deaths, than secular terrorist organisations. Hoffman explains this phenomenon by pointing to the “radically different value systems”, and “mechanisms of legitimisation and justification” embraced by religious terrorists for whom violence is often a sacramental act or divine duty that has an intrinsic personal meaning in itself. Although the West has tended to associate this form of terrorism with Islam,

44 In the past, terrorists were generally part of a well-defined organisation with a centralised, hierarchical structure. The ad hoc terrorist, in contrast, is often an ‘amateur’, belonging to more loosely structured organisations. The new ‘groups’ rarely ever meet in person and its members primarily communicate with each other over the Internet. Chalk, Non-military Security and Global Order, pp. 23-5. See also: Walter Laqueur, Postmodern Terrorism, Global Issues (USIA Electronic Journal), vol. 2, no. 1, February 1997, http://usinfo.state.gov/journals/itgic/0297/iage/gi-3.htm, accessed 26 August 2006.

45 Hirschmann, The Changing Face of Terrorism, p. 299.

46 This raises the question whether, in cases when violence is perpetrated in the name of religion, it is simply being used for political purposes or to inflict political changes. This question is more complex than it might seem and cannot be discussed in this thesis. See, for example: Juergensmeyer, Terror in the Mind of God, p. 10. While page 10 of this volume offers a brief discussion, the entire volume offers one possible interpretation. However, it is crucial to acknowledge that not everyone is drawing the same distinctions between politics and religion. Many Muslims would, for example, argue that this distinction does not exist in the way that might seem apparent for a Christian or, more generally, in the dominant Western view. See: Ahmad Yousif, Islam, Minorities and Religious Freedom: A Challenge to Modern Theory of Pluralism, Journal of Muslim Minority Affairs, vol. 20, no. 1, 2000, pp. 29-40.

47 For examples of religiously motivated terrorism before the 1980s see the various essays in the first part of: Rapoport and Alexander (eds), The Morality of Terrorism, pp. 3-123.

48 The 1995 Rand-St. Andrews Chronology of International Terrorist Incidents found that the proportion of religiously motivated terrorist organisations compared to the number of all international terrorist groups rose from 16 of 49 terrorist groups identified in 1994, to 26 out of 56 in the following year. Juergensmeyer, Understanding the New Terrorism, p. 158. Juergensmeyer, Terror in the Mind of God, p. 6.

49 Hoffman, Inside Terrorism, p. 94.

50 This common misconception is often based on limited knowledge about Islam that results in a negative, often aggressive portrayal and interpretation of Islam – or what is perceived to be Islam. See: Edward W.
religiously motivated groups have been inspired by all major religions and various cults and sects, and include Islamic suicide bombers in the Middle East, Christian militants in the US, a terrorist Buddhist sect in Japan, Jewish assassins in Israel, as well as radical Sikhs and Hindus in India. However, militant Islamic terrorism deserves special attention because of the scale of international Islamic-inspired terrorist networks and activity around the world in recent years.

The post-Cold War period experienced a dramatic rise in fundamentalist Islam-inspired terrorism associated with militant Wahabbism. Muslim groups inspired by this ideology became progressively more violent and more willing to strike at Western, (particularly USA), Israeli, and other secular targets around the world. Driving forces behind this development include the ongoing conflict between Israel and Palestine, and the US-led War on Terror following the September 11 attacks, including the recent wars in Afghanistan and Iraq. Islamic-inspired terrorists rely on an anti-accommodative version of Islam, which largely charges Western modernisation as the force responsible for the wholesale and systematic corruption of the Islamic ideal. It has become clear

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51 None of the major world religions, however, ordinarily encourages violence. Juergensmeyer argues that while religion does play a role, a set of social, political, and ideological circumstances have to be in place to trigger violence in the name of religion. In these cases, religion becomes entangled with “violent expressions of social aspirations, personal pride, and movements for political change.” Juergensmeyer, _Terror in the Mind of God_, p. 10.


55 Chalk, _Non-military Security and Global Order_, p. 21. It is important to stress that these groups often do not reject modernisation as such but rather the dominant Western influence that accompanies it. Consequently, many religiously motivated terrorist groups feel they are at ‘war’ with modern governments, or even in some cases the Western world as such. Being at ‘war’ then morally justifies violent acts, as in wartime different rules apply. This has led to an increase in the lethality of terrorist acts, as it justified in the eyes of the perpetrators a large number of civilian victims.
after the September 11 attack that many Islamic terrorists operate (or cooperate) under the umbrella of Osama bin Laden’s al-Qaeda network. Al-Qaeda operates differently to more traditional terrorist groups, which have usually consisted of a defined group operating from a ‘headquarters’ with an established command and control apparatus. Al-Qaeda’s structure is in contrast more diffuse and fluid. Most of the group’s activists receive training in camps, primarily in the Middle East, before they are sent out to join almost autonomous cells, which in some cases await instructions from senior al-Qaeda leaders, but mostly act on their own, planning independent attacks and raising their own funds. Today, al-Qaeda has operating and sleeping cells in many countries around the world and offers specialist training, as well as moral and financial support, for terrorist groups fighting in the name of Allah from Europe to the southern Philippines.

While religion may be part of the motivation of ethno-national/separatist terrorist groups, the overriding objective of such organisations is political in nature. Ethno-political or ethno-nationalist/separatist terrorism is generally motivated by the desire of ethnic or political minorities in existing nations to form their own states, or at least achieve a certain degree of political and cultural autonomy. The origin of modern ethno-nationalist/separatist terrorism can be traced back to groups engaged in anti-colonial struggles that choreographed their violent activities for an audience far beyond the immediate geographical vicinity of their respective conflicts. However, the advent of what is considered modern international ethno-nationalist/separatist terrorism occurred on 22 July, 1968, when armed Palestinian terrorists, belonging to the Popular Front of the Liberation of Palestine (one of the six groups then comprising the Palestine

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56 Lisa Beyer, ‘The Most Wanted Man in the World’, *Time Magazine*, vol. 158, no. 13 (Special Issue), 24 September 2001, pp. 52-3. The attacks on the transport system in London (July 2005) and Madrid (March 2004), and the foiled attempt to blow up passenger planes between London and the US in August 2006 indicate that al-Qaeda is indeed not a centralised movement but that individual groups, with similar goals, operate independently. Yassin Musharbash, ‘Terror, Made in Britain’, *Spiegel Online*, 10 August 2006, http://www.spiegel.de/panorama/0,1518,431134,00.html, accessed 11 August. See also: Jason Burke, *Al-Qaeda: Casting a Shadow of Terror*, London: I. B. Tauris, 2004. However, information about al-Qaeda is difficult to verify, as the group relies on secrecy and anonymity of their operators to perform their operations. Yet, after September 11, 2001, a large number of books of varying quality about the group have been published. These include, for example: Rohan Gunaratna, *Inside Al Qaeda. Global Network of Terror*, Carlton North, Victoria: Scribe Publications, 2005.


58 Examples of ethno-nationalist/separatist terrorist movements are the Palestine Liberation Organisation (PLO), and the Euskadi ta Askatasuna (ETA), the Basque terrorist group operating in northern Spain.

59 Hirschmann, ‘The Changing Face of Terrorism’, p. 299. Ethno-nationalist/separatist terrorism is often considered to be the most successful and long lasting form of terrorism because the terrorists have fairly strong mass support. Laqueur, *Terrorism*, p. 86.
Liberation Organisation [PLO]), hijacked an Israeli commercial airliner en route from Rome to Tel Aviv. \(^{60}\) Since that event, modern international ethno-nationalist/separatist terrorists have often employed drastic methods such as the hijacking of aircraft or the kidnapping of foreigners, to achieve maximum international awareness of their plight.

Today, the level of ethno-religious nationalist and separatist based terrorism remains high and groups have become more radical. \(^{61}\) In a number of cases, ethno-national/separatist movements evolved out of long-standing guerrilla-separatist movements. An example is the Real Irish Republican Army in Ireland, which split from the Provisional Irish Republican Army, and is a more radical movement than its parent organisation. \(^{62}\) In other cases an organisation resorts to terrorist measures after conventional attempts, such as non-violent political action to publicise the group’s cause, have failed. \(^{63}\)

*Guerrillas, terrorists, and separatists in Southeast Asia*

Low-intensity conflict, political violence, and terrorism are not new to Southeast Asia. \(^{64}\) However, a number of major developments in the global and regional context in the 1990s have led to the emergence of new, more radical political groups in the region, and have resulted in changes in the financing and operations of existing politically motivated groups engaged in armed struggle. Like those movements in other parts of the world, politically motivated groups in Southeast Asia have benefited from technological advances, increased international connections, and the spread of radical ideologies and political tactics. Terrorists, separatists, and guerrillas in Southeast Asia are now readily able to develop closer political and financial links with militants, arms suppliers, criminals, and supporters within Asia, the Middle East, and other parts of the world. \(^{65}\) Guerrilla as well as terrorist movements in the region have also benefited from the

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\(^{60}\) Hoffman, *Inside Terrorism*, p. 67.


\(^{63}\) Laqueur, *Terrorism*, p. 80.


training their members received in camps in the Middle East in the 1980s and 1990s. In more recent years, the training of militants from various Southeast Asian groups has taken place in the southern Philippines, with the number of people trained there now believed to equal the number of militants trained in Afghanistan.\textsuperscript{66} Furthermore, militant Islamic organisations in the region gained strength from veterans of the Afghanistan war who had fought against the Soviet Union from 1970 to 1991.\textsuperscript{67} After returning to Southeast Asia, many of these \textit{mujahadeen} contributed to the radicalisation of local politics and conflicts in their respective homelands. Additionally, Muslim organisations have provided volunteers, often hardened veterans of the Afghanistan war, to fight in Southeast Asian countries on behalf of Islam.\textsuperscript{68} As Bruce points out:

\begin{quote}
It is likely that there would have been Islamic eruptions whether there had been Arab veterans of the Afghan war or not. But what is undeniable is that these combat-experienced zealots have given the fundamentalists a powerful arm that they would not otherwise have had.\textsuperscript{69}
\end{quote}

Additionally, the September 11 terrorist attacks and the subsequent US-led War on Terrorism, including the wars in Afghanistan and Iraq, have impacted on Islamic guerrilla, separatist, and terrorist movements in Southeast Asia in two ways. Firstly, it has increased anti-US and anti-Western feelings among parts of the Muslim population in the region, resulting in more public support for groups fighting under the banner of Islam.\textsuperscript{70} Secondly, increased security consciousness since September 11 has led to the implementation of new security initiatives and campaigns, including those aiming at the elimination of (mostly Islamic) guerrilla and terrorist groups. Campaigns such as the Philippine government’s efforts to eradicate the Abu Sayyaf involved substantial military violence and relied on direct assistance from the USA.\textsuperscript{71} These efforts have led

\begin{footnotesize}

\textsuperscript{67} Muslims from different parts of the world had joined the \textit{jihad} or holy war fought by the \textit{mujahadeen} of Afghanistan against the regime in Kabul.


\textsuperscript{69} Bruce, ‘Arab Veterans of the Afghan War’, p. 175.

\textsuperscript{70} These public sentiments are obviously difficult to measure, but the sale of pro-Osama bin Laden t-shirts and anti-USA (and war) demonstrations in the region are indicators.

\textsuperscript{71} Thousands of US soldiers were sent to the area to assist in the fight against the group, whose members and many of its leaders still remain at large. See, for example: Herbert Docena, ‘On-the-job Training: Are US Soldiers Engaged in Actual Combat in the Philippines?’ Focus on the Global South, 9 March 2006, http://www.focusweb.org/content/view/841/93/, accessed 19 September 2006.
\end{footnotesize}
to a rise in the level of conflict and violence in the region and will most likely polarise the population further.

These global trends and changes both influenced and coincided with political, social and economic developments in Southeast Asia in the 1990s. Among the domestic political developments, the fall of the Indonesian president Suharto in May 1998 played a particularly important role. Under his leadership, power within the country was highly centralised and the unity and territorial integrity of the state was kept intact by harsh military means. When Suharto’s regime collapsed, Indonesia tentatively moved towards a more democratic system which allowed a certain degree of decentralisation of authority and regional autonomy within the country. In this climate, separatist movements emerged, re-emerged, or gathered new strengths in different parts of the archipelago.72 In other countries, such as the Philippines and Thailand, long standing conflict between governments and separatist movements using either guerrilla and/or terrorist tactics also continued and intensified from 1989 onwards, as Southeast Asia experienced a resurgence of religious fundamentalism and a sharpened sense of maintaining ethnic identities and boundaries.73 These developments were, for example, caused by the increasing marginalisation of certain ethnic or religious groups across the region, who suffered from state sponsored administrative and economic neglect.74 In the aftermath of the 1997 Asian economic crisis, poverty, uncertainty, and political dissatisfaction with central governments and regimes spread ever more widely in Southeast Asia and strengthened separatist groups.75 Overall, the post-Cold War era fostered an environment conducive to the growth of organisations using radical forms of warfare and violence, including terrorist tactics.76 As a result, many existing guerrilla groups increasingly relied on terrorist tactics, and new, more radical, groups split from existing guerrilla movements. Indeed, terrorism in Southeast Asia is largely a historical

73 Chalk, Grey-area Phenomena, pp. 7-11.
74 Ibid. pp. 17-8.
75 These circumstances are favourable for terrorist groups because terrorists can more easily find recruits and anti-government support in poverty-stricken areas. The theory that relative deprivation can serve as a powerful motivating influence for aggression was developed by Ted Gurr. For more details see: Ted Robert Gurr, Why Men Rebel, Princeton: Princeton University Press for the Center of International Studies, 1970.
76 See: Jones and Smith, 'Identity Politics in Southeast Asia', pp. 44-5.
off-shoot of ethno-nationalist/separatist conflicts taking place within national boundaries.

At present, a number of guerrilla and terrorist movements are active in Southeast Asia, and include the following groups,77 which will be discussed in more detail later in the chapter: On the Indonesia island of Sumatra the guerrilla group GAM has been fighting for separatism for decades, whilst in other parts of the country the terrorist organisation JI is active.78 In the Philippines, two splinter groups of the guerrilla-separatist group MNLF are active, namely the MILF, which mainly employs guerrilla tactics, and the terrorist group Abu Sayyaf. Additionally, foreign groups such as al-Qaeda79 also have the potential to conduct operations in the region and have established contacts with local terrorist groups such as JI.

**Terrorists and guerrillas and/as pirates**

The presence and activities of guerrilla and terrorist groups in Southeast Asia impact on piracy in two ways. First, it is believed that members of some of these politically motivated groups conduct pirate attacks to finance their operations. Second, it has been suggested that pirates may cooperate with, or be of assistance to, terrorist organisations.

*Guerrilla, separatist, and terrorist pirates*

Newspapers in the region have repeatedly published articles indicating that the GAM in Indonesia and the Abu Sayyaf, and to a lesser extent the MILF (and MNLF) in the Philippines, have conducted pirate attacks. It is believed that the purpose of these attacks is to gain funds to finance their politically motivated operations or to simply cover the living costs of the group. As will be discussed, the motive behind the attacks is crucial, as it determines the *modus operandi* of the perpetrators.

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77 There are other groups that are not listed here such as the Barisan Nationale Baru and the New Pattani United Liberation Organization (New PULO), both factions of the PULO, the largest of several Malay Muslim groups operating in southern Thailand. However, only those politically motivated groups that are associated with piracy will be discussed here.


MNLF, MILF, and Abu Sayyaf

In the early 1970s, broad-based separatist movements began to emerge in the southern Philippines as a result of the ongoing political, social, and economic marginalisation of the Muslim population of Mindanao and Sulu. The first major group to emerge was the MNLF lead by Nur Misuari, which was founded in 1971. The initial aim of the group was to establish a separate Moro homeland and preserve Islamic and indigenous culture. However, internal fighting divided the group from the outset and over the years a number of factions split from the MNLF, including the MILF, identified with the Islamic scholar Hashim Salamat, which separated from the MNLF in 1984. The MILF broke away from the MNLF, stressing the ideological importance of Islamic renewal as part of the struggle for Muslim self-determination.

Guerrilla warfare was the predominant pattern of armed struggle used by the MNLF and the MILF, with their troops controlling parts of the countryside and establishing fixed bases in the southern Philippines. However, in both organisations individual leaders and their idiosyncratic tactics constantly caused problems. Rogue elements within both groups were accused of being responsible for kidnappings, extortion, and robberies in the Philippines and occasional pirate attacks off the country’s coast. Even so, it remained difficult to establish whether these rogue elements acted from outside, or within, the accepted MNLF and MILF structure. However, since the 1970s, attempts have been made by the MNLF, MILF and the Philippine government to end the conflict in the south. In 1996, the MNLF signed a peace agreement with the Philippine government. Throughout the negotiation process many dissatisfied MNLF members defected to the MILF, particularly after 1996, due to their frustration over the

81 A number of other groups split from the MNLF over the years but in regard to the armed struggle, the MILF played the most prominent role.
83 Some argue, however, that the MNLF initially employed mostly conventional warfare tactics. It was only after the increased government effort to crush the movement militarily and the destruction of Jolo in 1974 that the MNLF resorted to guerrilla warfare. See: Rainer Werning, US-Imperialismus auf den Philippinen. Der Mindanao Konflikt, Muenster: Wurf Verlag, 1983, p. 90.
outcome of the peace agreement.\textsuperscript{85} Negotiations with the MILF were less successful and while a number of agreements and ceasefires were reached over the years, the situation still remains volatile.

Overall, the MNLF’s importance in the conflict declined in the second half of the 1990s and its members are no longer believed to be involved in piracy. MILF members on the contrary are still conducting pirate attacks. In 2003, for example, the MILF was responsible for 16 out of 155 actual and attempted attacks recorded in the Philippines. At the time, 17 pirate gangs were believed to be active in the country, six of them having links to, or consisting of members of, the MILF.\textsuperscript{86} For 2004, Santos notes that:

The sea robberies in Southern Mindanao are being perpetrated by the Ampak Pare group and the members of the MILF. The MILF is also behind the sea marauding incidents in Southwestern and Northern Mindanao. Among the notorious MILF leaders who are engaged in piracy and extortion activities are Nurhan Amil (also known as commander Ramsy of Zamboanga del Sur), Mosanip Maquib (also known as commander Marish of Zamboanga del Norte) and commander Samal Masgal of Cotabato. The latter, together with his twenty fully armed men, admitted killing three fishermen on board a small fishing craft in Midsayap, North Cotabato in the last week of July 2004.\textsuperscript{87}

However, the MILF is not the only politically motivated group operating in the southern Philippines believed to be involved in piracy, with members of the more radical militant group Abu Sayyaf also thought to be responsible for such attacks.

The Abu Sayyaf was founded in the early 1990s by the former MNLF member Abdurajak Janjalani,\textsuperscript{88} who broke with the MNLF, as he, unlike the MNLF leadership, remained committed to the notion of \textit{jihad} for an independent Islamic state.\textsuperscript{89} Since the early 1990s, the Abu Sayyaf is believed to be responsible for a spate of attacks and robberies in the southern Philippines, including bombings, extortion, village raids,

\begin{footnotes}
\textsuperscript{85} Therefore, by 1996 (if not earlier) the MILF became the most powerful insurgent movement in the southern Philippines.
\textsuperscript{87} Ibid. pp. 44-5.
\textsuperscript{88} Janjalani was a charismatic leader, an eloquent speaker, and a committed Muslim scholar who had studied, among other places, in Mecca and Libya.
\end{footnotes}
attacks on military posts, and kidnappings.\textsuperscript{90} Even though kidnappings and other criminal activities have played an important part in the group’s strategy, the group’s basic aim in the past was clearly defined as the establishment of an independent Islamic state in the southern Philippines. Judging by demands made during kidnapping incidents throughout the 1990s, other, perhaps more realistic political aims, were also of crucial importance to the group and included, for example, the exclusion of undesirable foreign influences, such as Christian missionaries, from the southern Philippines.\textsuperscript{91} However, in 1998 Abdurajak Janjalani was killed in a gun battle with the police and the organisational and ideological structure of the Abu Sayyaf changed. After considerable internal struggle within the group, Abdurajak Janjalani was succeeded by his brother Khaddafy Janjalani, who lacked the ideological and religious moorings of Abdurajak.\textsuperscript{92}

Not all commanders and fighters of the Abu Sayyaf accepted Khaddafy as their new leader,\textsuperscript{93} and the group developed into an even more radical movement consisting of several loosely connected factions, with a fluid leadership and without a clear set of doctrines and principles.\textsuperscript{94}

The Abu Sayyaf’s operations were confined to the Philippines until April 2000, when the group’s strategy changed with the audacious kidnapping of international tourists and resort workers from the nearby Malaysian resort island of Sipadan.

\textsuperscript{90} The military blamed the Abu Sayyaf for committing 102 terrorist acts between 1991 and 1995 alone and claimed it amassed Pesos 20 million through kidnappings in that period. Vitug and Gloria, \textit{Under the Crescent Moon}, pp. 219-20.  
\textsuperscript{91} Other demands included the banning of foreign fishing boats from the waters of the Sulu and Celebes seas, and the teaching of Islam in Philippine schools. Mark Turner, 'Terrorism and Secession in the Southern Philippines: The Rise of the Abu Sayyaf', \textit{Contemporary Southeast Asia}, vol. 17, no. 1, June 1995, p. 15.  
captives were brought by boat to Jolo (Map 5) and a large ransom was paid and promises of developmental projects were made in return for the hostages. This kidnapping, and other Abu Sayyaf operations, included a maritime component and the group has also directly attacked maritime targets. One example is the bombing of the *SuperFerry 14* in February 2004, in which more than 100 people lost their lives.95

In addition to these terrorist acts, the Abu Sayyaf has also been associated with pirate activity, particularly after Abdurajak Janjalani’s death.96 Evidence supporting this claim is mostly ‘anecdotal’ and almost no evidence is currently available concerning individual pirate attacks. The group has, however, been associated with the hijacking of a fishing trawler in August 2003, with Philippine special forces allegedly identifying the perpetrators two days after the attack while patrolling waters in the southern Philippines. A fire fight between the government forces and the alleged Abu Sayyaf members travelling in a pump boat ensued, in which four of the perpetrators lost their lives. While the bodies were never recovered from the sea, the authorities claimed that they were members of an Abu Sayyaf faction.97 Also, some reports claim that Abu Sayyaf members were behind the attack on the Malaysian tug *Eastern Ocean 2* in the vicinity of Taganak Island, Sulu Sea, in April 2004. In the event, crew members were taken hostage, brought to the southern Philippines, and a ransom was demanded for their release.98

However, the following example demonstrates that attacks allegedly involving the Abu Sayyaf are not always reported correctly. The Abu Sayyaf was rumoured to be involved in the attack on the Singaporean registered tug *Sintel Marine 88* near Jolo in

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June 2002, in which crew were kidnapped and held captive on the island.\textsuperscript{99} Yet, as Bruyneel states:

\textit{The Tug and barge were left to drift off Tamuk island near Basilan with the two remaining crew. One of the hostages managed to escape from his abductors and was found after a long "hike" through the jungle at the village of Nangkaan. At first there was some doubt as to the identity of the abductors and the Abu Sayyaf was suspected to be involved. According to a newspaper article of 25 June in the Philippine Daily Inquirer the pirate group was reported to be unconnected to the Abu Sayyaf. The confusion also had to do with the supposed identification from a photo by the escaped Indonesian of Abu Sayyaf leader Hamsiraji Sali as part of the abductors. It turned out to be a mistake and the pirate leader is now identified as Commander Malud Mahili. Malud is a notorious pirate based in Lahing-Lahing, Sulu.}\textsuperscript{100}

This example shows that while there are pirate attacks occurring in areas where the Abu Sayyaf is active, the group may not necessarily be involved in these activities. Indeed, there are a large number of armed groups and individuals operating in the southern Philippines — both politically motivated and with pure criminal intent — and to find the real culprits in this predatory maze is often impossible. Furthermore, although some Abu Sayyaf members or splinter groups are most likely involved in criminal activities — including piracy — it remains difficult to establish if only some Abu Sayyaf members, factions, or the entire group are involved and support pirate attacks. Yet, there are other links between the occurrence of piracy, the activities of the Abu Sayyaf and the MILF, and the government’s military responses to these activities. Willy Torres, who conducted research in the southern Philippines, observed:

\begin{quote}
that every time there is a military operation in the hinterlands of Sulu, there is a rise in the incidence of piratical attacks in the Sulu sea. During military operations, life becomes very difficult for the people in the interior (who are Tausugs). They are harassed by some military elements, they cannot farm, their animals die or are stolen. Hence, some groups resort to piracy.
\end{quote}

If his on the spot observations are correct, then low intensity warfare conducted against the MILF and Abu Sayyaf by the armed forces contributes to both the scale and number of pirate attacks in the area. Also, due to the ongoing armed conflict in the southern Philippines, the area is awash with light weapons and small arms, which are not only available to terrorists and guerrilla groups, but also to pirates based in the area.

\textsuperscript{99} There are different reports stating that Abu Sayyaf members were directly involved in the attack or 'bought' the hostages on Jolo. Herbert-Burns and Zucker, 'Malevolent Tide', pp. 6-7.
\textsuperscript{101} E-mail from Willy Torres to the author. Received on 21 October 2005.
The GAM

Members of the GAM in Aceh are also believed to have conducted pirate attacks in recent years in order to finance their struggle against the Indonesian government. The GAM was founded in 1976, aiming at the establishment of an independent state in Aceh. Since the emergence of the GAM, the conflict in Aceh and the group itself have undergone three phases. In the early years, GAM was a small organisation with an estimated 70 members, led by a well educated elite. In 1979, Indonesian forces nearly defeated the movement and many of its leaders were killed or forced to leave Aceh, while their followers were driven underground. It was not until 1989 that GAM re-emerged in Aceh, with many of its new recruits having received training in Libya in the 1980s. Despite these well trained fighters, the Indonesian military, Tentara Nasional Indonesia (TNI), was again able to successfully operate against the GAM, using extreme force and violence, including rape and torture, against GAM members, their families, and other people suspected of sympathising with or assisting the group. By 1991, the military campaign had all but crushed the GAM, but the movement nonetheless survived as its leaders were safe in exile in Sweden. A large number of GAM members were also able to escape to Malaysia, where they found a safe haven and kept the movement alive among the political refugees. After the fall of Suharto in 1998, GAM was once again able to thrive in Aceh, because, as Schulze argues:

The fall of Suharto not only allowed the Indonesian government to explore avenues other than force to resolve the Aceh conflict but also presented GAM with the opportunity to modify its strategy and transform itself into a genuinely popular movement. In fact, since 1998 the Aceh conflict has escalated as GAM poses an ever greater challenge to the Indonesian state. By May 2003 the insurgents had increased their active membership fivefold, expanded from their traditional stronghold areas into the rest of Aceh, and successfully controlled between 70 and 80 percent of the province including local government through their shadow civil service structure. GAM had grown from a small, armed organization with an intellectual vanguard into a popular resistance movement.

102 The aims of the GAM and the type of state they want to establish are contested. Indeed, recent peace negotiations between the GAM and the Indonesian authorities have indicated that Aceh may remain a part of Indonesia with special rights and a local government. For a discussion of the role of history and the relationship between Indonesia and Aceh over the struggle for independence see: Anthony Reid, 'War, Peace and the Burden of History in Aceh', Working Paper Series no. 1, Singapore: Asia Research Institute, National University of Singapore, June 2003. Anthony Reid, An Indonesian Frontier: Acehnese & Other Histories of Sumatra, Singapore: Singapore University Press, 2005.


With the geographical expansion, new members from different ethnic groups joined the formerly more ethnically homogenous group. This shift in membership consequently resulted in the ethnic diversification of the GAM. Furthermore, the new recruits did not always join the group for political or ideological reasons but rather “saw the advantages of [operating under] the GAM label in their quest for easy money.”105 Schulze therefore concludes that the price the GAM had to pay for its recruitment policy and expansion was the criminalisation of parts of the group.106

In contrast to these criminally motivated elements within the organisation, GAM has used mainly guerrilla tactics to further their aims, with GAM operations on the ground ideally following instructions from the leadership in exile. Indeed, the group has a clearly defined civilian and military structure, with the overall aims and tactics of the organisation determined by the former.107 There are, however, serious problems with this structure, as the leaders in exile cannot closely control nor monitor how their fighters operate on the ground. Furthermore, the lower ranks of the GAM military structure can be factionalised and undisciplined and “actions carried out [by these factions] for hard-line ideological reasons or indeed for purely economic gain of individuals, cells, or factions are sometimes at odds with directives of the top leadership.”108 Also, over the years, a number of groups have split from the GAM, some of which are believed to have links with al-Qaeda and JI,109 while other groups operating on the ground in Aceh have remained loosely affiliated with the GAM but do not necessarily operate in a fashion approved by the GAM leadership. Aspinall even suggests that some groups are “simply gangsters who claim GAM credentials in order to extort money from the unfortunate locals. Some seem to be military deserters, while, […] most Acehnese believe that disguised military units are provoking much of the worst mayhem.”110 Indeed, the Indonesian military has repeatedly been accused of

105 Ibid. p. 16.
106 Ibid. p. 17.
107 For more details see: Ibid. pp. 10-4.
109 The main splinter group that broke away is the Majles Pemerintahan GAM, under Teuku Don Zulfahri, who has lived in Malaysia since 1981, but friction also occurred among the leadership in Sweden. Another example of a splinter group is the Front Mujahidin Islam Aceh, which has a stronger emphasis on Islam. Ibid. pp. 21-3. Rizal Sukma, 'The Acehnese Rebellion', pp. 385-6.
conducting attacks in the name of GAM to create a climate of fear.\textsuperscript{111} Indonesian intelligence has also used fake GAM documents to incriminate the group. This said, the GAM has been involved in criminal activities to gain funds for their operations. In fact, the GAM is believed to have three main sources of income: first, the collection of taxes from locals in Aceh, second, donations from outside Aceh and third, money earned through criminal activities such as kidnappings and the cultivation and sale of drugs, particularly marijuana.\textsuperscript{112} The third source of income is of particular interest, although the scale of the drug sales by GAM is difficult to determine as other people and organisations, including local criminals and members of the police and army, are also involved in the trade.\textsuperscript{113} The kidnapping targets selected by the GAM have often had a political significance and have included employers of large (foreign) corporations, such as Exxon Mobile, TNI informers, women dating TNI soldiers, and ‘biased’ journalists, as well as local legislators or businessmen.\textsuperscript{114} Schulze, however, points out that:

\begin{quote}
The GAM leadership in Sweden denies that its members carry out kidnappings for ransom, and it is almost certainly not the case that kidnappings were centrally endorsed from exile. More likely they are the product of warlordism and the result of local decision making. Beyond doubt the economically driven recruits who joined GAM in 1999 have been a key element. People posing as GAM cannot be ruled out either. Hostage negotiators and Acehnese civil leaders who have intervened in kidnapping cases maintain they were talking to the real GAM. This assertion is supported by evidence that senior GAM commanders, recognizing the detrimental impact of criminalization, have ordered executions for ‘criminal misbehavior’ within the ranks.\textsuperscript{115}
\end{quote}

Among the attacks and kidnappings allegedly conducted by the GAM are some with a maritime component, including attacks on merchant vessels and fishing boats. For example, the GAM, was blamed by the Indonesian authorities for the attack on the cargo vessel \textit{Ocean Silver} in late August 2001, in which six Indonesian crewmembers were taken hostage. After the Indonesian military failed to rescue the hostages, negotiations with the perpetrators, who demanded a ransom of US $33,000, ensued. According to reports, the GAM issued a statement shortly after the attack, claiming that all vessels passing through the straits between Sumatra and Malaysia first needed to get

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\textsuperscript{111} Ibid.
\textsuperscript{113} The drugs are also cultivated by the GAM to be exchanged for guns from Cambodia, Thailand, or from the Indonesian security forces.
\textsuperscript{114} Schulze, 'The Free Aceh Movement', pp. 27-9.
\textsuperscript{115} Ibid. p. 28.
permission from the guerrillas. Other examples of attacks allegedly involving the GAM are the attack on the Malaysian MT *Penrider* in August 2003 and the Indonesian MT *Tri Samudra* in March 2005. In both cases, hostages were taken, a ransom was demanded, and the kidnapped crew were released unharmed after the ransom was paid. Allegations that the kidnappers were GAM members have been voiced by the shipowner of the *Tri Samudra* and the sailors taken hostage from the *Penrider*, who described their captors as uniformed men who spoke Acehnese. Furthermore, some of the captives were reportedly taken to a GAM camp in the jungle of Aceh.

The GAM is also believed to be responsible for attacks on fishing boats, targeting Indonesian fishers and trawlers from Peninsular Malaysia. However, among fishers from Malaysian villages along the Malacca Straits who have been attacked by ‘pirates’ in the northern part of the strait, opinion differs as to who is to blame. Fishers from Kuala Perlis, for example, stated in interviews that they were not able to say with certainty if the GAM was responsible even though they acknowledged that some of the attacks on their vessels were conducted by people in uniforms who spoke Acehnese. However, they believed that this did not necessarily prove that the ‘pirates’ were GAM members, especially because some of the perpetrators had long hair rather than the typical military style crew cuts. On the other hand, the head of the fishing association in Hutan Melintang was convinced that the GAM was involved in the kidnapping of

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120 Detailed research determining the scale of attacks has yet to be conducted in Indonesian fishing villages in Sumatra. There are, however, a few (newspaper) reports about attacks on Indonesian fishers stating that GAM members conducted the attacks. See, for example: Donald Urquhart, 'Indon Navy Guarding Fishermen Against Piracy Threats', *Shipping Times*, 12 September 2002, n. p.

121 Author’s Interview with local fishers and Shamsul bin Chin, Pengurus Besar, Persatuan Nelayan Kawasan Kuala Perlis, 29 October 2004 and 10 November 2004, Kuala Perlis, Malaysia.
vessels and crew from his village. He believed that the GAM conducted the attacks with its own fleet of stolen Indonesian fishing vessels, which are slimmer and faster than the Malaysian boats and are therefore suitable for such attacks. He further explained that there are a number of factors confirming that the GAM is indeed responsible for the kidnappings. Among these are reports from hostages who, after their return to Hutan Melintang, stated that their kidnappers wore uniforms, insignia, and badges identifying them as GAM members. Furthermore, some of the victims in earlier years were taken into GAM territory in Aceh and held in the jungle. Such perpetrators have also shown their victims Malaysian identity cards and have spoken of long periods of time spent in exile in Malaysia. As a large number of GAM members fled to Malaysia and lived there for extended periods of time, the identity cards confirmed for the head of the fishing association that the perpetrators were indeed GAM members. He also stated that the GAM has been involved in different types of attacks over time, with the group changing its modus operandi over the past few years. In earlier cases, the crew and fishing vessel were taken by the assailants and brought to Aceh, where the crew was held captive in the jungle. However, over time, the hijacking of Malaysian fishing vessels became too risky for the perpetrators, as demonstrated by the following example of an attack on a Malaysian trawler believed to be conducted by GAM members. In this instance, the ‘pirates’ approached the vessel, boarded, and transferred the crew to an Indonesian fishing vessel before making their way towards Aceh with the hostages and the Malaysian fishing boat. On the way, the ‘convoy’ was confronted by an Indonesian navy patrol and a shootout occurred between the pirates and the naval vessels. The Malaysian fishing vessel was sunk in the gunfight and two of the perpetrators were killed. The remaining culprits were able to flee with the kidnapped crew, and the victims were later released after a ransom was paid. After this incident, the perpetrators changed their tactics and only kidnapped crewmembers, leaving the Malaysian fishing vessels at sea. Furthermore, hostages in more recent kidnappings were not taken to Aceh or other parts of Indonesia but instead held on board vessels while the ransom negotiation took place. Despite these changes in the operations and practice of the perpetrators, it has been a constant practice that all hostages are treated well and are released unharmed after the ransom has been paid. Indeed, according to the representative of the fishing association, the release of kidnapped fishers from his village became problematic in only one of the earlier incidents. In this case, two fishing
vessels and some crew were kidnapped by GAM members and taken to Aceh. After the ransom was paid, fighting between the GAM and the TNI ensued and the GAM was not able to release the victims. While the two Malaysian fishing vessels were destroyed during the fight, the Malaysian fishers escaped. They were later discovered by the Indonesian military and repatriated.122

Indonesian and Malaysian authorities also differ in their opinion as to whether or not the GAM is involved in pirate attacks. Indonesian authorities have publicly stated that they are certain that the GAM is involved and have recently allegedly arrested GAM members for their involvement in piracy.123 However, their counterparts in Malaysia are more cautious. For example, one senior police officer familiar with the investigation into pirate attacks in the Malacca Straits doubts that the GAM is involved and suspects that Indonesian authorities pose as GAM members to conduct pirate attacks. Relying in part on information from informers (often fishers or barter traders from Aceh and other parts of Sumatra) he believed that there are too many Indonesian navy and police boats near Aceh for the GAM to hijack vessels or kidnap crew successfully.124

The IMB’s director Mukundan is also somewhat sceptical of the involvement of the GAM in pirate attacks. He confirms that victims have stated that they have been attacked by people wearing GAM uniforms who behaved in a military manner and addressed each other by their military ranks.125 Furthermore, he acknowledges that Indonesian authorities claimed to have arrested and killed pirates who were GAM members. However, he adds that it is not difficult to copy the GAM uniform and that information about Aceh and the GAM from the Indonesian authorities may not always be reliable.126 Indeed, the GAM leadership in exile has vehemently denied the group’s involvement in pirate attacks and has accused the TNI of framing the group.

122 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
124 Author’s Interview with a high ranking police officer, March 2004, Kuala Lumpur, Malaysia.
125 E-mail from Pottungal Mukundan, Director International Maritime Bureau, to the author. Received on 17 October 2003.
126 Author’s Interview with Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England.
Commenting on the GAM’s alleged involvement in piracy, Bakhtiar Abdullah, information officer of the GAM in Sweden, stated:

It has been always the main policy of the ASNLF(GAM) to adhere to the international laws and norms in our just struggle for self-determination and independence. This includes forbidding piracy. Thereby, the accusation that GAM is responsible for such acts, was unfounded and fabricated for cheap propaganda by the Indonesian regime, innocently picked-up by the international community. Under the current circumstances, whereby the Indonesian regime has sealed off Aceh from the international world, they are also enjoying a thriving enterprise of robbing the Achchenese of their properties and valuables. In addition to that, in their campaign to defame GAM, they have resorted to extortions and broad-day robbery as well as piracy, using the GAMs uniforms that they seized in the massive and brutal military operations throughout Aceh.127

Addressing some of the issues and evidence incriminating the GAM in more detail, Bakhtiar Abdullah adds:

to my best knowledge, although we do have the chain of command, we do not address ourselves in ranks and files. The command is also in Achchenese, which I doubt if they can differentiate the language with some other Indonesians and even a handful of Achchenese who are in the TNI.128

Furthermore, the group’s leadership denied claims that they planned to collect a ‘passage tax’ from all vessels transiting ‘their’ waters, stating that the GAM “respects freedom of innocent passage in the Straits of Malacca and all other relevant international laws.”129

Given these statements from various parties with an interest in the involvement of the GAM in piracy, the answer to the question of whether or not the GAM is involved in piracy remains contested. While it is feasible to conclude that the GAM leadership does not endorse pirate attacks, it cannot be ruled out that GAM members or people loosely connected to the organisation may be involved in piracy, particularly after the expansion of the GAM and the ensuing criminalisation of the movement. In these cases, the boundaries between a pirate attack and a politically motivated act are blurred, in the sense that the money from such attacks may be used to finance the

127 E-mail from Bakhtiar Abdullah, Information Officer for the GAM, to the author. Received on 10 October 2003. The media also repeatedly reported that the GAM leadership denies GAM involvement in pirate attacks. See, for example: ‘Malaysian Village Copes with Pirates in Silence’, Kyodo News International, 2005, http://www.findarticles.com/p/articles/mi_m0WDQ/is_2005_March_21/ai_n13458327, accessed 24 August 2005.
128 E-mail from Bakhtiar Abdullah, Information Officer for the GAM, to the author. Received on 21 October 2003.
129 E-mail from ASNLF.net to the author. Received on 8 October 2003.
GAM’s politically motivated struggle. However, the pirate attacks allegedly conducted by the GAM clearly demonstrate the different nature of terrorist acts and attacks conducted for financial gain. Indeed, the different motivation of terrorists and pirates (including members of politically motivated movements acting to gain funds) is reflected in the perpetrators’ *modus operandi*. A comparison between the abduction of holidaymakers by the terrorist group Abu Sayyaf from Sipadan Island in 2000 and kidnappings conducted by ‘pirates’ (or GAM members) in the northern part of the Malacca Strait, illustrates the differences. In the case of the Abu Sayyaf attack, the captives were taken to the southern Philippine island of Jolo, where they were held hostage for several months, while political and financial demands for their freedom were negotiated. The kidnapping event attracted the attention of media representatives from around the world, with around 200 international journalists and television crews travelling to Jolo to cover the ‘event’. The kidnapping received media attention not only because of the involvement of international holidaymakers, but also because the kidnappers opened the hostage camps to the media and allowed journalists to interview, film, and photograph the hostages on a regular basis. While the captives were well treated for a hostage taking, their lives were in danger during the event, as the Abu Sayyaf has been known to kill hostages. In contrast, the kidnappings of fishers and seafarers in the Malacca Straits by GAM members or ‘simple’ pirates has hardly attracted any media attention. The perpetrators in these cases remained mostly anonymous and, unlike the Abu Sayyaf, did not exploit the kidnappings to voice their grievances or political demands. Indeed, the perpetrators in the Malacca Straits were primarily interested in receiving ransom payments for their victims and therefore attempted to keep their operations quiet, hidden from the limelight. It can be argued that there was less danger for the victims kidnapped by the ‘pirates’ as their demands could be more easily met. Indeed, fishers kidnapped by these pirates stated that that they were


treated comparatively well and that it was clear that they would be released once the ransom was paid.132

However, the pirate attacks near Aceh could also have been conducted by criminals posing as the GAM or by members of the Indonesian military, who many suspect of being involved in piracy in the Malacca Straits.133 In the future, it may become easier to determine who is responsible for these pirate attacks in the waters near Aceh. Due to the devastating tsunami that destroyed large parts of Aceh in December 2004, many boats were lost, reducing the number of potential ‘pirate vessels’. Furthermore, the recent peace agreement between the GAM and the Indonesian authorities, which was signed in August 2005 and included the gradual disarmament of the GAM and a withdrawal of Indonesian forces from Aceh, may, if it lasts, help to determine who is really responsible for pirate attacks in the waters near Aceh. At present, however, with the truce just being implemented, tensions and accusations remain. Indeed, as discussed earlier, recent reports state that the Indonesian authorities have arrested three former GAM members for piracy. Commenting on the event, Indonesian navy officers stated that “with the peace deal nearly fully implemented, some criminal elements of GAM are realising the peace dividend has had little benefit for them and are returning to their former ways”.134

Co-operation between terrorists and pirates

Since the attacks of September 11, 2001, fears have been expressed by politicians,135 law enforcement personnel,136 academics,137 security experts,138 and media

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132 Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
133 This has already been mentioned in the first part of the thesis and will be discussed in more detail in the following chapter.
138 Many of those security experts work for Private Military/Security Companies, which will be discussed in Chapter 8. For an example see: Herbert-Burns and Zucker, 'Malevolent Tide', pp. 1-14. Herbert-Burns and Zucker wrote the report on behalf of the Maritime Intelligence Group (MIG).
representatives that pirates may cooperate with, or inspire, terrorists. Two terrorist groups active in Southeast Asia, namely the internationally operating al-Qaeda and the Indonesia based JI, are thought to potentially be inspired by, join forces with, or recruit pirates to conduct maritime terrorist attacks. Both groups are believed to have the will and motivation to conduct such attacks in the region. In fact, al-Qaeda has been responsible for a number of maritime attacks in other parts of the world, including the bombing of the guided-missile destroyer USS Cole in October 2000 in Yemen, and the attack on the French tanker Limburg in 2002 in the same country. Also, only a few months after the September 11 attacks, Singaporean intelligence discovered al-Qaeda plans for a series of attacks, including an assault on an American warship visiting Singapore. JI in contrast has until now not been very active in the maritime sphere. The group emerged in 1993 out of the Darul Islam group, which was founded in 1948, and aimed at the establishment of an Islamic state in Indonesia. In the early 1990s, the movement consisted of two divisions, the first covering Malaysia and Singapore and the second, Indonesia. A third division covering the Philippines (and Eastern Malaysia) came into existence in 1997, and a fourth, covering Australia, emerged later. In recent years, the division in Malaysia and Singapore has been decimated – if not crushed – by local government forces. These developments show that the structure of JI is fluid and subject to external influences, and that the group has members and interests in a number of countries in the Asia-Pacific region. This notion is strengthened by the fact that JI members have trained and operated with other militant groups in Southeast Asia, including the Abu Sayyaf and MILF. However, Jones points out that “JI never really had the capacity to be for Southeast Asia what al-Qaeda was for the world, the nerve centre of salafi jihadism.” Indeed, the main objective of the group remains the establishment of an Islamic state in Indonesia.

140 Bangladesh is not often mentioned in this regard. However, some authors use the label terrorists for the GAM and include the group in this debate. See, for example: Herbert-Burns and Zucker, 'Malevolent Tide', pp. 1-12.
142 Ibid. p. 67.
143 Ibid. p. 67.
144 Ibid. p. 67.
145 Ibid. p. 67.
146 Ibid. pp. 174-5.
To further their aims, JI has conducted a number of attacks in recent years, which have established its reputation as Southeast Asia’s “best-known” terrorist organisation. Yet, aside from a report that a JI member has admitted that the group has considered shipping in the Malacca Straits as a potential target, JI operations have been largely land based. JI was, for example, responsible for the October 2002 bombing of the Sari Club and Paddy’s Bar in Kuta, Bali, in which more than 200 people lost their lives, and the explosion of a bomb in front of the Australian embassy in Jakarta in September 2004, for which ‘foot-soldiers’ from outside the group (in this case from a different Darul Islam splinter group) were employed. The employment of these ‘foot-soldiers’ demonstrates that JI – like al-Qaeda – has hired or relied on ‘outsiders’ to assist in an attack. Proponents of the theory that terrorists may cooperate with pirates suggest that pirates similarly could be ‘hired’ or assist terrorist groups in conducting a maritime attack. However, the actual level of cooperation is contested. Moderate observers have argued that terrorists can learn from pirates by observing their activities and copying their practices. Others have suggested that pirates may directly work for (or with) terrorists. In this scenario, pirates could assist terrorists in actual attacks on merchant vessels and help in navigating hijacked ships. More suggestive illustrations of such an event envision pirates hijacking a tanker in the Malacca Straits that is then sunk in the Malacca Straits or turned into a floating bomb and exploded in an US port. It has also been argued that “pirates could sell assets such as maritime and littoral knowledge, stolen vessels (such as tugs) and stolen documentation to conventional terrorists, who could then leverage these assets into a large-scale terrorist attack on a

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146 Ibid. p. 169.
150 Furthermore, some observers believe that, given the violence and type of attacks they conduct, pirates should more accurately be labelled terrorists. Herbert-Burns and Zucker, 'Malevolent Tide', pp. 1-2. Some authors have chosen the label ‘terrorist pirate’ to describe people involved in maritime attacks. See, for example: Luft and Korin, 'Terrorism Goes to Sea'.
152 The example is taken from an article written by Herbert-Burns and Zucker in 2004. The authors describe the attack, set to occur on the 25 November 2007, in great detail. Herbert-Burns and Zucker, 'Malevolent Tide'.

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port as far removed as New York.” 153 There are two main factors that play a role in the possible recruitment of pirates, namely money and religion. It has been argued that because pirates are motivated by money, they may be willing to cooperate with terrorists if paid handsomely. 154 Interestingly, the role of Islam has so far not been discussed, even though the assumption that pirates may cooperate with terrorists in Southeast Asia is most likely also based on the problematic presumption that the pirates are Muslims, and therefore willing to subscribe and act according to extremist Islamist views. 155

However, the allegations that pirates cooperate with terrorists in Southeast Asia have so far not been substantiated. 156 Indeed, a number of politicians, 157 security experts, 158 academics, 159 and media representatives have pointed out that despite the fact that ‘nothing is impossible’, no links between pirates and terrorists have thus far been identified by law enforcement agencies in the region 160 and that cooperation

153 Ibid. p. 10.
154 Vijay Sakhuja, 'The Sea Muggers Are Back in Malacca Straits'.
155 Presented in this way, it is understandable that many observers do not discuss religion in that context to safeguard themselves from allegations that they link Muslims in general to terrorism.
156 There have been unconfirmed speculations that JI discussed plans to attack a vessel in the Malacca Straits with the assistance of pirates. See: Iglauer, 'Piracy-cum-terrorism'. However, as discussed above, the entire discussion about the cooperation between pirates and terrorists has so far been based largely on speculation. This is the reason why the author does not want to discuss the different possible kinds of cooperation in more detail. Furthermore, the lack of evidence raises the question of why different observers have insisted on the link. While in some cases insufficient research can be blamed, in other cases, different motivations may lie behind these statements. As will be discussed in Chapter 8, PSCs and the security experts they employ may increase business for their companies if the level of threat is perceived to be high. For the media these often rather sensationalist reports may be a way of increasing circulation. Politicians and members of law enforcement agencies may also have voiced these suspicions in order to further their own agenda. This will be discussed in the following chapter.
158 See, for example: 'No Evidence of Terror Threats in Malacca Straits, Experts Said'.
between terrorists and pirates is not very likely. There are a number of reasons given for this position, which include the following. Most importantly, pirates and terrorists are motivated by different objectives. Indeed, the fact that individuals, including pirates, are engaged in criminal activities does not necessarily mean that they will sympathise with the ideology or working practices of terrorists. As discussed previously, most pirate attacks in Southeast Asia and Bangladesh are simple hit-and-run attacks, often occurring in ports. The perpetrators responsible for these attacks seem to be of a very different mindset to terrorists, and many of these pirates may not believe that killing a large number of ‘innocent’ people to further political aims is justifiable. Supporting this view, Mukundan, states that: “To date (the) IMB has found no evidence to indicate that ‘commercial’ pirates would willingly participate in a terrorist attack, […] and it is indeed difficult to imagine why such a pirate would be prepared to risk his life for political objectives." Overall, terrorists, unlike pirates, aim at disrupting society, while criminals, and particularly organised crime groups, tend to benefit from current political and economic arrangements. Indeed, terrorists and pirates have mutually exclusive interests. For example, if a major maritime terrorist attack was to occur in the Malacca Straits, the area would be heavily patrolled in the aftermath of the event to prevent further such acts. Subsequently, pirate attacks in these waters would become difficult to conduct, particularly so if vessels were forced to choose different transit routes. For hit-and-run pirates on Batam, for example, who prey on merchant vessels in the straits and rely heavily on the income from piracy, a maritime terrorism attack would therefore destroy their ‘regular income’.

Additionally, Frécon, who conducted research in the Riau Archipelago and interviewed pirates and members of the community they live in, concludes that while locals tolerate piracy, terrorism would be regarded differently within the community and among its leaders. He believes that in case of a planned terrorist attack by, or in

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161 However an individual who was involved in pirate attacks may, for personal reasons, join a terrorist network at some point in time.
163 Mukundan quoted in: Scott, 'Piracy - Scourge of the Seas'.
164 Liss, 'Maritime Piracy in Southeast Asia', p. 64.
conjunction with, local pirates, strict measures would be taken by village leaders to prevent such an incident. Frécon also did not find any pesantren (Koranic schools) in the villages he visited and Islamic customs were not strictly observed by members of these communities. Frécon therefore concludes that a collaboration of local pirates with terrorists is not likely.¹⁶⁶

However, it has to be stressed that proponents of the theory that cooperation between pirates and terrorist is not likely nonetheless acknowledge that there is a risk of maritime terrorist attacks in Southeast Asia. Indeed, there are terrorist groups capable and willing to conduct such attacks in the region, posing a real threat to security in Southeast Asia. The following part will discuss how the same, or similar, groups (allegedly) involved in piracy pose a threat to national, regional, and international security.

**Beyond piracy – Security implications**

Examining the involvement of terrorist and guerrilla groups in piracy exposes only some aspects of these groups’ operations. In fact, the politically motivated groups discussed above, as well as similar movements, mainly conduct other operations and pose a threat to security well beyond piracy. This part of the chapter discusses the security implications of terrorist and guerrilla groups, including those fighting for separatist goals. Furthermore, it will be argued that the existence of these politically motivated groups exposes social, economic, and political problems in Southeast Asian countries and beyond.

Remaining in the maritime sphere, terrorist organisations, and to a lesser degree guerrilla movements, including those fighting for territorial secession, have conducted a range of maritime attacks in Southeast Asia. One example is the bombing of the **SuperFerry 14** in February 2004 by the Abu Sayyaf, in which more than 100 people lost their lives. On this occasion, an Abu Sayyaf member brought a package with a TV filled with explosives onboard the ferry sailing from Manila to Bacolod and Davao. The perpetrator placed the bomb in the cheapest and busiest passenger section and left the boat before it cast off. An hour after its departure, the bomb, triggered by a time device,

exploded and started a fire that engulfed the ship.\textsuperscript{167} However, according to the RAND-MIPT Terrorism Incident database, only two per cent of terrorist attacks have targeted maritime installations or vessels in the past 30 years.\textsuperscript{168} The low percentage of maritime attacks is accounted for by the fact that overall, maritime attacks are more difficult to conduct, as the “recondite nature of the sea compared to the familiarity of land, […] complicates terrorist operations.”\textsuperscript{169} Furthermore, maritime targets are often out of sight of witnesses, spectators, and media representatives and are consequently less suitable for terrorists.\textsuperscript{170} The same factors also impact upon operations by guerrilla movements, which often also do not have the capacity and equipment to conduct operations at sea. Therefore, even though an increase in attacks aimed at maritime targets, including vessels, ports, and offshore energy installations, is feared, most attacks, both by terrorist and guerrilla movements, still occur on land.\textsuperscript{171} Regardless of where the attacks take place, however, terrorist and guerrilla movements pose a threat to human, national, and international security.

\textit{Human and national security implications}

As discussed in the first part of this chapter, politically motivated groups now have access to technology and equipment that was not available in earlier times and their attacks and strike power have consequently become more deadly. Furthermore, terrorist, and to a lesser degree guerrilla, movements have in the post-Cold War era adopted more radical methods aimed at killing larger numbers of civilians. Consequently, such attacks increasingly impact upon human security and adversely affect the safety and security of individuals. Terrorist attacks demonstrating these new characteristics include those conducted by al-Qaeda and its sympathisers, namely the Sept. 11, 2001, terrorist attacks in the US, and the bomb attacks on the transport systems in London in July 2005 and in Madrid in March 2004. In London over 50 people lost their lives in the attack and 700

\textsuperscript{168} Chalk, ‘Maritime Terrorism in the Contemporary Era’, p. 21.
\textsuperscript{171} In this regard, it has to be emphasised that neither the occurrence nor an increase in the number of pirate attacks in Southeast Asia necessarily results in an increased risk of maritime terrorism in the region. See: ‘Piracy and Terrorism Should Not Be Conflated’, \textit{Jane's Intelligence Review}, 1 August 2004, n. p.
were injured, while in Madrid 191 people were killed and over 1,500 wounded. Terror attacks in recent years conducted by other, non-al-Qaeda linked, organisations have included the seizure of a school in Beslan, North Ossetia, by Chechen terrorists in which more than 330 hostages lost their lives,\textsuperscript{172} and a series of bomb attacks in Turkey conducted by the Kurdistan Liberation Hawks in 2006.\textsuperscript{173} All terrorist attacks, regardless of the perpetrators’ motivation or ideology, have an immediate impact on the security of individuals, as ‘innocent’ people are killed or injured and property and infrastructure is damaged. Furthermore, terrorist attacks, or the threat of attacks, can also affect the mental health of individuals, with the fear of an attack, causing trauma-related stress reactions in some people.\textsuperscript{174}

Conflict between guerrilla and terrorist groups (often fighting for separatist goals) and government forces also affect human security. Governments in all parts of the world have responded with military force to guerrilla warfare or the presence of terrorist groups, resulting in zones of armed conflict within countries. Examples include the Philippine government’s efforts to defeat the MNLF, MILF, and Abu Sayyaf in the southern part of the country, and campaigns by the Indonesian military against secessionist movements in East Timor and Aceh. The populations living in areas of armed conflict are always directly affected, especially because both government and separatist fighters have in many places targeted, killed, and injured civilians,\textsuperscript{175} and human rights and the rule of law have invariably been violated by both parties. An example of a guerrilla group that used extreme brutality against non-combatants is the RUF in Sierra Leone.\textsuperscript{176} The RUF actively targeted civilians with tactics used by the movement including torture, mass rapes and mutilation of civilians, and the abduction of children to become sex slaves and soldiers.\textsuperscript{177} However, government forces are

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\textsuperscript{174} Jenkins, ‘Terrorism’, p. 9.

\textsuperscript{175} Shafruddin Hashim, ‘Governance, Political Accommodation and Security’, p. 341.

generally better equipped and numerically stronger and have therefore in some places inflicted more suffering on local populations. The conflict in Aceh is one example. Rizal Sukma, for example, writes that investigations into the atrocities conducted by the Indonesian army have shown “that the events in Aceh during the 1989-98 period ranked as one of the greatest human rights atrocities at the turn of the 21st century.” Similar examples can also be found in Latin America and Africa. Furthermore, as more radical groups emerged out of existing guerrilla movements throughout the 1990s, conflicts intensified and more civilians became targets. The increasing criminalisation of guerrilla and terrorist movements added further risk for locals and their businesses, as the kidnapping for ransom of businessmen by Abu Sayyaf members highlights.

Guerrilla and terrorist attacks can also adversely affect individuals and countries financially. Terrorists attacks can, for example, interrupt trade routes for important goods, such as oil; tourists may choose ‘safer’ places for their holidays; (foreign) investors may prefer to invest their money in more ‘secure’ countries; and insurance premiums for vessels servicing ‘high risk’ ports or countries may be higher. Developing countries which rely on foreign investment and income from tourists are consequently particularly vulnerable and those people working in the tourism sector, for example, can be especially affected. Terrorist attacks can therefore increase economic vulnerability of sections of the local population, and in extreme cases, such as the southern Philippines, can impede economic development in (parts of) a country. Areas in which guerrilla groups are active are similarly affected as such internal conflict hinders economic development and increases poverty and suffering among the local population. Increased poverty combined with human rights violations can then accelerate and broaden the bases of these conflicts.

Both terrorist and guerrilla movements also challenge the states’ monopoly on violence and demonstrate the inability of governments to adequately protect their

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180 See: Blanche, 'Terror Attacks Threaten Gulf's Oil Routes', pp. 6-11.
citizens from harm. In many cases, the presence of terrorist and guerrilla movements therefore increases military spending and contributes to the militarization of countries and regions. Furthermore, in some countries, the success of politically motivated groups is facilitated by corruption within militaries and law enforcement agencies. Members of the TNI have, for example, sold weapons to the GAM, while the Philippine army is believed to have provided weapons to the Abu Sayyaf and received portions of ransom money from Abu Sayyaf kidnappings. This kind of cooperation not only prolongs conflicts and enables guerrilla and terrorist movements to operate more successfully, but also demonstrates the level of corruption and disloyalty of members of law enforcement agencies, who no longer serve the interest of the population and the state but rather exploit their positions for their own personal gain. This in turn, weakens and undermines state authority and the rule of law.

Additionally, guerrilla or terrorist groups threaten national security as they destabilise countries, challenge governments and, if fighting for separatism, threaten the cohesion of states. Within larger, heterogeneous nations, the prospect of a possible Balkanisation – a break up of a country into smaller independent nations – triggered by politically motivated groups has also become a real concern. Indonesia, with its series of separatist movements operating in different parts of the archipelago and the secession of East Timor in 2002, is one country ‘at risk’. As Ooi Giok Ling points out, “the spectre of the Balkanisation of Indonesia has been held out as a prospect that will have substantial repercussions for the region.” Indeed, anxiety about the strength and possible success of separatist movements can spread like prairie fire to neighbouring countries. In Southeast Asia, for example, the separation of East Timor from Indonesia and the popularity of secessionist ideas in Aceh have caused serious concerns in the

181 Australian Government Department of Foreign Affairs and Trade, 'Combating Terrorism in the Transport Sector. Economic Costs and Benefits', 2004, pp. 1-2, 4-6. Additionally, costs resulting from rescue efforts and terrorist attack prevention have to be covered by states.
184 The problem of corruption will be discussed in more detail in the following chapter.
Philippines and Thailand. In both countries, separatist movements are active and government officials have voiced concern that East Timor’s successful struggle for independence may have set a precedent and strengthened separatist movements in their own countries.186

The existence of separatist movements in the region also “suggests that no effective means of accommodating provincially concentrated diversity have yet been developed”187 in countries such as Indonesia, Thailand, and the Philippines. Supporters of secessionist causes often feel that their needs and rights are neither adequately addressed nor protected by the central government.188 Separatist movements have, for example, emerged in areas in which the majority or a substantial part of the population belongs to a religious or ethnic minority who believe that their cultural and religious needs are ignored. Additionally, economic factors often play a crucial role in the emergence of separatists and other politically motivated groups. Indeed, socio-economic factors, including uneven distribution of government revenue, economic exploitation of provinces, poverty, and a lack of economic opportunities are often of crucial importance in spawning separatist movements. For example, Basilan (Map 5), home of the Abu Sayyaf, is one of the Philippines’ poorest provinces and a place where different extra-legal armed groups dominate a populace long neglected, if not virtually abandoned, by the government. More than 50 per cent of the population of Basilan live just on or below the poverty-line, the literacy rate is low, and social services hardly exist.189 The poor socio-economic conditions of Basilan and the remedial weaknesses of the Philippine state were conducive for the emergence of the Abu Sayyaf because where there is entrenched poverty, extremist organisations and campaigns can more easily find recruits and anti-government support. The existence of separatist and other politically

188 As Ooi Giok Ling points out, the creation of a national identity in states in Southeast Asia is difficult because today’s states and their borders have been decided upon by colonial powers, who have often not considered ethnic groups and identities. Ooi Giok Ling, ‘Governance in Plural Societies and Security’, p. 288. This is also true for other regions such as Africa. Also, Wilkinson states that in some former colonial states, people have transferred their grievances against the colonial powers to the new governments. Struggles and independence movements consequently have a long history in these countries. The problem of national boundaries in Southeast Asia will be discussed in the following chapter. Wilkinson, ‘Observations on the Relationship of Freedom and Terrorism’, pp. 161-2.
motivated groups is therefore not only a direct threat to security but also often an indicator of dissatisfaction with central governments, unequal economic development, poverty, and the marginalisation of religious or ethnic minorities within certain countries\textsuperscript{190} – all of which adversely impacts on human and national security.

**Regional and international security implications**

Conflict caused by guerrilla and terrorist groups can also spread to, and affect, neighbouring countries, as displaced people seek refuge across borders. As in the case of GAM members and refugees fleeing to Malaysia during the conflict in Aceh, these flows of people into neighbouring countries can lead to tension between the nations concerned. Host countries have not only to deal with the refugees but have in some cases been accused of backing the political movements whose members they accommodate. This can complicate and strain regional relations\textsuperscript{191}. Furthermore, as has been discussed in the previous chapter, links have been established between guerrilla movements, terrorists, and criminal organisations in different parts of the world. For example, criminal networks in southern Thailand have sold weapons to the LTTE in Sri Lanka, the GAM, and other politically motivated organisations in Indonesia\textsuperscript{192}. Another case in point comes from South America, where the guerrilla group Fuerzas Armadas Revolucionarias de Colombia (FARC) is heavily involved in the drug trade. Since the late 1980s, the group collected a ‘tax’ from farmers growing drug crops and from drug manufacturing laboratories, but by the late 1990s the FARC changed its modus operandi and became directly involved in the cultivation of drug crops\textsuperscript{193}. To distribute the drugs, FARC reportedly established links with Mexican drug cartels and the Russian Mafiya. However, since 2000, FARC has set up its own export network in order to receive a share of the highly profitable sale of drugs in countries of destination\textsuperscript{194}. This demonstrates that politically motivated groups have become involved in large-scale

\begin{itemize}
  \item \textsuperscript{190} However, not only people from poor, marginalised communities join terrorist movements. Others, may, for example join such groups in search of spiritual fulfilment. Jenkins, 'The Jihadists' Operational Code', p. 7.
  \item \textsuperscript{191} Rizal Sukma, 'The Acehnese Rebellion', p. 400.
  \item \textsuperscript{192} Tamara Makarenko, 'A Model of Terrorist-criminal Relationships', Jane's Intelligence Review, 1 September 2003, n. p.
  \item \textsuperscript{193} In 2003, it was estimated that the FARC earns almost US $630 million from its involvement in the drug trade per year. Jeremy McDermott, 'Colombian Report Shows FARC Is World's Richest Insurgent Group', Jane's Intelligence Review, 1 September 2005, n. p.
\end{itemize}
criminal activities beyond kidnappings or protection rackets in their own country or territory. Overall, the criminalisation of politically motivated groups and their cooperation with criminal networks strengthens terrorist and guerrilla movements and enables them to acquire the weapons and material they require for their operations. Similarly, the cooperation provides business opportunities for criminal organisations and fuels the trade in illegal commodities, particularly drugs and arms.

Generally, terrorist movements pose a greater threat to international security than guerrilla groups, whose activities are often confined to their own, and occasionally neighbouring, countries. Terrorist organisations, on the contrary, now operate across regions, or even internationally, and the impact and threat posed by these organisations spreads well beyond national borders. Examples of such attacks include al-Qaeda’s attacks in New York and the region-wide operations of JI. With these transnational attacks, terrorist groups have succeeded in increasing the feeling of insecurity of people in targeted countries and those places believed to be potential targets. Indeed, organisations such as al-Qaeda have accomplished one of their goals by spreading fear even in places that have not experienced any actual attacks and where the risk of an attack is comparatively low. The most ‘successful’ terrorist act in this regard was the September 11 attacks. Governments, media representatives, security experts, and law enforcement personnel from different countries, but particularly from the US, have exploited and fuelled this fear to further their aims.195 Examining the perceived threat of terrorism since September 11, Jackson concludes that: “In a world of multiple threats, many of which pose a far greater risk to individual safety, the fact that terrorism is widely seen as posing the greatest and most immediate threat is due to the deliberate construction of a discourse of danger.”196 This does not imply that the threat should not

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195 Some observers have encouraged policy makers to link other security issues to terrorism to exploit the fear of terrorist attacks. Ong, for instance, suggests conflating the threat of piracy with terrorism, to use the fear created by terrorism to attract more attention to piracy and to “help reluctant developing countries to let maritime powers [such as the US or Singapore] pursue pirates and terrorists in their territorial and archipelagic waters.” Graham Gerard Ong, 'Ships Can Be Dangerous, Too: Coupling Piracy and Terrorism in Southeast Asia's Maritime Security Framework', in Derek Johnson and Mark J. Valencia (eds), Piracy in Southeast Asia. Status, Issues, and Responses, Singapore: Institute of Southeast Asian Studies, 2005, pp. 63-7.
196 Richard Jackson, 'Security, Democracy, and the Rhetoric of Counter-Terrorism', Democracy and Security, no. 1, 2005, p. 157. Jackson also argues that “acts of political violence never have clear or objective meanings; they have to be interpreted by political leaders to determine the appropriate response”. Indeed, “dangers are those facets of social life interpreted as threats […]", and what is
be taken seriously, rather that it should be put into proper historical and contextual perspective and responded to adequately within the realms of international law and democratic practices. Indeed, concerns have been voiced that:

democracies could be tempted to respond to terrorist attacks by curtailing civil liberties and weakening their own standards of accountability and transparency. If this was to happen, the terrorists’ (real or hypothetical) aim of undermining democracy would, in part, be fulfilled.197

A good example in this regard is the US led (Global) War on Terrorism, following the September 11 attacks. As Jahangir and Azzam write:

The resort to a ‘war on terrorism’ without UN sanction, degrading and inhuman treatment of prisoners, attacks on and detention of non-combatants and the excessive use of force have severely tested human rights principles, especially that of proportionality. In this new ‘war’, there seems to be no precise and proven enemy nor is there an objective criterion of measuring the level of threat or risk to warrant military action. Any state harbouring a ‘suspected terrorist’ could be attacked by the aggrieved state with little proof required and even less opportunity to prove otherwise. The interpretation of self-defence has been greatly widened, and the legal provisions and principles of humanitarian law have become almost irrelevant to the ‘war on terror’. No time limit has been set and no clear victory can be envisioned.198

As these quotes demonstrate, critics of this initiative have pointed out that civil liberties and international law have been infringed upon by measures taken by the Bush administration, its allies, and other countries around the world allegedly in response to, and in the fight against, terrorism.199 In fact, in the course of the War on Terrorism, civil liberties have been curtailed in many countries, including in established democracies and in developing countries. Examining the impact of the War on Terrorism in Singapore and Thailand, Rodan and Hewison argue:

that the US-led War on Terror has created new opportunities for the consolidation, refinement and restoration of authoritarian practices in both countries. These opportunities do relate not only to a strengthening of repressive powers that the state can use for political rather than security purposes, but also to an environment that is

interpreted as posing a threat may not always correspond to the realities of the actual risk [or] harm.” Ibid. pp. 150, 157.
199 Furthermore, every opposition can be crushed under the realm of national security. Also, the War on Terrorism allows the US to further their geo-strategic objectives in the Middle East and other places. Jackson, 'Security, Democracy, and the Rhetoric of Counter Terrorism', pp. 159, 167.
conducive to official ideologies that justify these and other measures that are hostile to political pluralism.\textsuperscript{200}

Terrorism therefore indirectly poses a threat to democratic governance, the rule of law, and international institutions, as well as the freedom and rights of individuals.\textsuperscript{201} These developments are a threat to security because they curtail certain aspects of democratic practice which are actually associated with security and stability, including the promotion of equality, the protection of human rights, and opportunities to express grievances in a peaceful manner.\textsuperscript{202} Consequently, as Jenkins points out: “We should not, by our very efforts to protect society against terrorism, destroy what may be our best defense – a free and tolerant society.”\textsuperscript{203}

Furthermore, the War on Terrorism also demonstrates that terrorist attacks can indirectly result in wars, conflict, and unrest in numerous countries around the world. The US-led wars in Afghanistan and Iraq are two examples. Fought under the banner of democracy, these wars have so far brought neither peace nor justice to these and neighbouring countries. Indeed, many of the people to be liberated lost their lives, homes, and families in these military campaigns.\textsuperscript{204} It can therefore be argued that the tactics employed have not been effective in eradicating terrorism, but have rather contributed to international instability and fuelled violence and hatred, as Jackson notes:

Another very real danger is that the ‘war on terrorism’, as it is currently constructed and practiced, is actually making international terrorism worse through entrenching cycles of


\textsuperscript{201} This, however, does not mean that the promotion of democracy to eradicate terrorism with all means available (particularly violent means) will work, or that there are no terrorist groups operating in democratic countries. See: Nodia, ‘Democracy Promotion’, pp. 21-5. Jackson, ‘Security, Democracy, and the Rhetoric of Counter Terrorism’, p. 166.


violence and counter-violence [...] it is making the world less secure, more violent, and more unjust, and creating self-fulfilling prophesies [...]. 205

The US response to terrorism has, according to the above quote, both exacerbated and intensified many of the underlying problems that caused terrorism in the first place and produced a new generation of Islamic extremists in different parts of the world. 206 In fact, if the September 11 terrorist attacks are put into historical perspective, it becomes clear that they are in large measure a reaction to US (and Western) foreign policies, which have over decades contributed to the highly volatile situation in the Middle East. As Chomsky points out, the mass of poor and suffering people in this region “are hardly pleased to see the wealth of the region flow to the West and to small Western-oriented elites and corrupt and brutal rulers backed by Western power.” 207 The terror attacks are therefore in some ways a barometer for political, economic, and social problems caused, at least in part, by Western policies and interventions in the region. Hence, if the War on Terrorism is continued in the current fashion, these problems will be intensified. Indeed, as with the terrorist attacks, the War on Terrorism has already contributed to the polarisation of the world into ‘East’ versus ‘West’, or Muslims against Christians, and has fuelled widespread distrust and international instability. 208 One example from the maritime sector of how this distrust is created and fuelled is the warnings voiced by commentators about the possible danger of employing seafarers from ‘high risk’ countries ‘associated’ with terrorism. The following statement is a case in point: “The Philippines, home to the Abu Sayyaf, is the world’s biggest crew supplier, while Indonesia – the second biggest supplier of crews – is home to numerous radical Muslim groups.” 209 These expressions of suspicion cast against entire populations of countries (despite the fact that the Abu Sayyaf is an Islamic organisation and the majority of the

206 Newspapers reported in September 2006 that a classified US intelligence report came to the same conclusions, stating that the threat of terrorism has consequently increased since the September 11 attacks. 'Iraq War Spawns Terror', Australian, 25 September 2006, p. 11.
208 This should not be confused with Huntington’s clash of civilizations theory, in which he predicts that the primary source of conflict will be cultural differences, rather than economic or ideological interests. See: Samuel P. Huntington, The Clash of Civilizations and the Remaking of World Order, New York: Simon & Schuster, 1996.
population of the Philippines is Christian) are sensationalist if not disturbing and do nothing but increase distrust and prejudices in an already volatile world.

In summary, terrorist attacks and guerrilla warfare cause a direct threat to the security of individuals, governments, and states. They also create opportunities for democratic or other moderate states to introduce policies that undermine democratic and humanitarian standards. Ironically, this not only increases the impact and success of terrorist and guerrilla organisations, which aim at destroying current systems and gain new support from those affected by state violence, but also poses a threat to human, national, and international security.

Conclusion

In Southeast Asia, members of two different kinds of politically motivated groups, namely guerrillas and terrorists, are believed to have links to piracy. Members of the MILF, Abu Sayyaf, and the GAM are thought to be responsible for attacks in the waters of the southern Philippines and the northern Malacca Straits. However, despite the increasing criminalisation of guerrilla and terrorist movements, including those fighting for independence, little actual proof has been presented that members of these groups are conducting pirate attacks. Opinions on whether the groups are involved in piracy consequently differ. It has also been suggested that pirates in Southeast Asia may assist or work for terrorist groups, such as JI and al-Qaeda. So far, however, no conclusive evidence for such cooperation has been presented and a number of factors, such as the different driving forces behind terrorist and pirate attacks, indicate that such cooperation may in fact be unlikely. Yet, the same and similar politically motivated groups that are (or may be) involved in piracy in the region, pose a threat to human, national, and international security well beyond piracy. Guerrilla, as well as terrorist movements have in recent years become increasingly well armed, have forged contacts with supporters in different parts of the world, and, particularly terrorist groups, have used more deadly tactics, aiming at killing larger numbers of civilians. The existence of these politically motivated groups also indicates grave socio-economic problems within countries or regions, as such movements often emerge and find supporters in places where the local population experiences hardship and feels that their economic, cultural, or religious needs are neglected. Successful national approaches to those conflicts therefore have to first address these root causes of political violence, and have to include policies that
effectively reverse socio-economic divisions and patterns of dominance. Furthermore, internationally, fundamental changes in US and Western policies are also necessary.\textsuperscript{210} However, government responses to terrorist and guerrilla movements have often not focused on these socio-economic and cultural issues, but have involved a high level of military violence, which has in many cases prolonged conflicts, done little to solve existing problems, and even intensified existing security concerns. This highlights the fact that the measures adopted by governments are most important, as their actions can adversely affect security. The same governments, militaries, and law enforcement agencies that are dealing with these problems in Southeast Asia are also responsible for addressing piracy in the region. The following Part of the thesis will examine state responses and private responses to piracy in Southeast Asia and Bangladesh.

\textsuperscript{210} See: Rogers, 'Political Violence and Global Order', pp. 223-4.
Part IV

Counter-Forces

Although our defence capability to deal with any threat is adequate at the moment, we will continue to enhance it in accordance with the country's financial capacity.¹ Malaysian Deputy Prime Minister Datuk Seri Najib Abdul Razak

[T]he most immediate telling effect on the modern buccaneers may well come not as a result of high-sounding pontifications from international bodies. It may well result from the availability of well trained and equipped commercial marine security forces operating out of North America, Europe, Africa and Southeast Asia – driven as the pirates are by the pursuit of profit.²

Introduction

Regardless of whether or not politically motivated groups are involved in pirate attacks, piracy in Southeast Asia has become a major concern for ship owners, international organisations, insurance companies, and governments. These interest groups have consequently responded to the threat of piracy within their own limits. International organisations, most notably the IMB and the IMO, have raised the awareness of modern day piracy and have initiated and promoted a number of counter-measures, including international anti-piracy programs and agreements. States and PSCs are of particular importance in actively combating piracy in Southeast Asia and Bangladesh, and will be investigated in this Part of the thesis.

This Part is divided into two chapters, with the first examining state responses to piracy. It will discuss the nature and limits of governmental responses to piracy in Southeast Asia and Bangladesh by countries from within and outside the region. It will also investigate how the economic and political developments and changes within states, particularly since the early 1990s, have determined state responses to increasing numbers of pirate attacks. Furthermore, it will be argued that the same factors that impact upon piracy and determine state responses are indicators of other threats to national, regional, and international security. The second chapter will discuss the involvement of PSCs in combating piracy in Southeast Asia. It examines the work conducted by these companies and discusses the crucial problems and controversies

associated with it, arguing that the existence and nature of work conducted by PSCs demonstrates weaknesses in current state security arrangements. Furthermore, by examining the work conducted by PSCs, security implications of the privatisation of the (maritime) security sector are revealed.
Chapter 7

State Responses to Piracy

Introduction

In an interview with the author, Daniel Tan, the Executive Director of the Singapore Shipping Association (SSA), explained that merchant vessels simply exist to transport goods from point A to point B. Shipowners and operators therefore provide a service that both assists the global economy and is important to states. Consequently, Tan believes that it is the responsibility of the states where pirate attacks occur, rather than the shipowners, to provide security for merchant vessels.¹ As a representative of the interests of shipowners, Tan clearly wants to place the responsibility for security and the financial costs that such measures incur into the hands of states and their law enforcement agencies. What is evident here is the contested nature of who is responsible for providing security in the maritime sphere. Overall, states and law enforcement agencies are the primary providers of security for ships in ports and waters under their jurisdiction. This chapter discusses state responses to piracy in Southeast Asia and Bangladesh. It seeks to explore how states, government policies, and the economic and political situation within countries and regions impact on piracy. It will be suggested that factors such as the limited resources of national militaries and law enforcement agencies, as well as restricted cooperation between countries, are conducive to the occurrence of pirate attacks and impact upon security more generally.

The first section of this chapter briefly discusses the political and economic development of nation states in Southeast Asia and Bangladesh. Particular attention is paid to the emergence of national maritime borders, the establishment and development of those government agencies responsible for addressing piracy, and security cooperation in Southeast Asia and between Bangladesh and its neighbours. The second section of the chapter examines how these factors impact upon the occurrence of piracy in the waters of Southeast Asia and Bangladesh. The final section concludes that the conditions and shortcomings that facilitate piracy are also signs of problems within

¹ Author’s Interview with Daniel Tan, Executive Director, Singapore Shipping Association, 11 October 2002, Singapore.
countries and regions that can pose a threat to national, regional, and international security.

**States, borders, and militaries in Southeast Asia and Bangladesh**

*Pre 1989*

Bangladesh and most Southeast Asian countries became independent nations within the three decades following World War II. The way in which these independent states emerged, the economic development of these countries, and the establishment and funding of their military forces and law enforcement agencies, has had a major impact upon contemporary maritime piracy. This section of the chapter therefore provides a brief overview of these developments, focusing solely on issues that are of relevance to piracy in the region today.

**States and Boundaries**

Bangladesh and most Southeast Asian states emerged after World War II out of colonies established first by European powers and later also the USA. Prior to the arrival of Europeans in Southeast Asia, political power was often based upon control over people, rather than territory, and political entities were consequently loosely defined spheres of influence rather than clearly delineated geographical areas. While some of the new post-colonial states superficially resemble earlier indigenous political entities, the boundaries of today’s states were generally determined by colonial powers, based largely around their own interests and/or geographical features. As Ooi Giok Ling points out:

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A majority of the modern nation states in Southeast Asia have been carved out of former colonies of Western industrial powers, such that the boundaries of these states have greater meaning in terms of the resources and territory that the colonial powers secured than in terms of the different ethnic groups and identities within each state.4

Little attention was therefore paid to indigenous political and cultural entities or their trade patterns, with so-called ‘frontier zones’ emerging in Southeast Asia after the demarcation of national boundaries. In these buffer zones, which were often located in remote, difficult to control areas, indigenous people continued to move back and forth between countries, often not aware of the existence of the newly established borders.5 However, over the years, border controls became stricter as national boundaries became more clearly defined. This was necessary because the borders drawn by the colonial powers were not always precise, as Lee Yong Leng states:

Some [borders] were imprecise, being badly delimited or demarcated: some cut through ethnic homogeneity; and others used vague or changing physiographic features. They did not evolve like boundaries in Europe. As a result, boundary disputes have arisen between states today. Boundaries have, in fact, become an important issue in the politics of Southeast Asia.6

These boundary disputes include rivalries over maritime borders. During colonial times, maritime borders were often not decided upon by demarcating actual boundaries, but were determined by the ownership of islands.7 After independence, numerous agreements were reached to establish clearer maritime boundaries in Southeast Asia.8 However, as discussed in Chapter 3, control and ownership of the sea changed fundamentally with the adoption of UNCLOS and its widely accepted guidelines on the nature of, and jurisdiction over, different maritime zones. With the establishment of EEZs – which reached up to 200 miles offshore – maritime zones under the jurisdiction of individual countries were considerably extended. Furthermore, some countries,

5 The travel was usually conducted for trade or family reasons. An example is the Dayaks who moved between East Malaysia and Indonesia on the island of Borneo. Lee Yong Leng, Southeast Asia, p. 5. For an analysis of the development of new frontiers in Southeast Asia and ensuing smuggling activities see: Eric Tagliacozzo, Secret Trades, Porous Borders. Smuggling and States Along a Southeast Asian Frontier, 1865-1915, New Haven: Yale University Press, 2005.
6 Lee Yong Leng, Southeast Asia, p. 30.
7 Ibid. p. 10.
including the Southeast Asian states of Indonesia and the Philippines, were able to claim archipelagic status, thus further increasing the maritime zones under their jurisdiction.9

The demarcation of boundaries at sea and the extension of national waters stemming from UNCLOS has led to disputes between Southeast Asian countries, and Bangladesh and its neighbours, due to overlapping claims of ownership of ocean areas and islands. Examples of such disputes include overlapping claims of ownership of waters and islands in the Sulu Sea between Malaysia, Indonesia, and the Philippines. While some of the overlapping claims have been resolved over the years, there are some maritime boundaries in Southeast Asia that are still not agreed upon. For example, overlapping claims of ownership of Pedra Branca, on which the Horsburgh Lighthouse is situated, impact upon the location of the maritime boundary between Singapore and Indonesia.10 Indeed, as such maritime disputes have primarily emerged over islands in strategic locations, access to fishing grounds, and, most importantly, over areas in which natural resources such as oil or gas are located, rivalry among countries over ownership of waters and islands has intensified in recent years, as natural resources have become increasingly important to governments. An example is the ongoing dispute over the Spratly Islands, situated at the southern ‘entrance’ to the South China Sea, which are believed to be rich in oil and phosphates. China, Taiwan, Vietnam, and the Philippines each claim ownership of at least one of the islands in this group.11

To legitimate their claims in such disputes and to protect their borders and natural resources from foreign actors, Southeast Asian states and Bangladesh have built up military forces and law enforcement agencies, with land-based, as well as maritime, capabilities.

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11 For a list of unresolved boundary areas see: Prescott, ‘Maritime Jurisdictional Issues’, pp. 64-6.

11 Lee Yong Leng, *Southeast Asia*, pp. 54-7.
The Military

With the exception of Thailand, the militaries in Southeast Asian countries and Bangladesh emerged either out of colonial armies (as in Malaysia) or out of armed resistance movements against colonial powers or other occupying forces (as in Indonesia and Bangladesh). From the beginning, militaries and governments in many Southeast Asian countries and Bangladesh have had a close relationship, with high-ranking military officers often maintaining close ties to the political elite or being directly involved in politics. In Indonesia, for example, the armed forces under Soeharto officially fulfilled a dual function (dwifungsii), being involved in socio-political tasks as well as being responsible for national defence. Furthermore, particularly in Indonesia and Thailand, the military is an active player in the local legitimate and black economies, and owns major businesses.

All of the newly-emerging independent Southeast Asian countries inherited military equipment from their former colonial powers. In the early years after independence, Southeast Asian forces primarily relied on equipment and training provided as aid by foreign military forces, particularly the USA and Britain, and in the case of Indonesia, from the Soviet Union. When this foreign assistance began to decline in the early 1970s, large quantities of low priced second-hand armaments were bought from Britain, France, and Israel to equip and expand local military forces. However, in the mid 1960s, the economies of Indonesia, Thailand, Malaysia and Singapore began to grow rapidly and in the mid-1980s, when states in the region became more affluent, 

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13 Malaysia is an exception, as the military has not played a major role in politics and has never attempted a coup. Harold Crouch, 'The Military in Malaysia', Paper presented at the 'Armed Forces in Asia and the Pacific: Prospects for the 1990s' Conference, Department of Politics and Social Change, Research School of Pacific Studies, Australian National University, Canberra, 30 November - 1 December, 1989, n. p.
limited quantities of sophisticated weaponry and equipment were purchased. Yet, military spending and the size of weapons contracts remained modest in Southeast Asia throughout the 1980s. Indeed, while military spending varied between countries in Southeast Asia, it remained low in comparison to the military spending of other developing countries in Latin America and Africa.

In the early years after independence, the security threats faced by the newly emerging Southeast Asian nations were primarily challenges to the national territorial integrity from within nation-states and included ethnic secessionist movements and communist insurgents. The development of national armed forces was therefore, at the time, centred on strategies that aimed to protect the nation from internal threats. To address these threats in many Southeast Asian countries, particular emphasis was initially placed on the development of national armies, rather than navies. However, given the geographical features of Southeast Asia, the maritime capabilities of local militaries (and police forces) were also developed. The acquisition of military weaponry and equipment therefore included patrol vessels and second-hand capital ships. While Booth suggests that generally the role of naval forces is threefold and includes military, diplomatic, and policing tasks, Snyder points out that:

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21 In some Southeast Asian countries, the police were part of the armed forces, while in others – such as Malaysia – the police were under the control of other institutions. Crouch, 'The Military in Malaysia'.

22 Overall, navies develop differently in different countries and receive different amounts of funding. Simon states that in general, “the less democratically and economically developed a state, the more [their] responsibilities focus on domestic control, and the greater the political role and share of defense budgets that go to armies rather than navies and air forces.” However, geography may also play a role, with more focus on naval forces in archipelagic states. Sheldon W. Simon, 'Asian Armed Forces: Internal and External Tasks and Capabilities', in Sheldon W. Simon (ed.), *The Many Faces of Asian Security*, Lanham: Rowman & Littlefield Publishers, 2001, p. 49.

23 However, the protection of national waters and the response to criminal activities at sea is conducted by the navy in conjunction with other government agencies, which will be discussed briefly later in this chapter.

Indeed, in Southeast Asian countries, the navy had, and often still has, external defence as well as internal security responsibilities, and plays an important role in securing national waters and combating maritime crime. Yet, historically, the role and development of navies differed between countries, with factors such as the countries’ resources and relationship to states outside the region impacting on the strengths of their respective naval forces. It is therefore worth briefly looking at the development and nature of the navy in each country.

The Indonesian navy received substantial support under President Sukarno but when Soeharto came to power in 1967, the navy was downsized for political and economic reasons. At the time, the greatest threat to the security of Indonesia was perceived to come from within the country (in the form of the Indonesian Communist Party, PKI) and a strong army, not navy, was deemed necessary to protect the nation. Furthermore, the Indonesian economy was not able to sustain a substantial navy and in the 1970s a large number of vessels, mostly from the USSR, were decommissioned. Hence, by the mid-1980s, the Indonesian navy was considerably smaller in size than in earlier years, but due to the introduction of boats and equipment from Western countries, it had modernised. However, due to this emphasis on quality over quantity, the navy had an inadequate number of vessels available to efficiently patrol its large national waters.

Today’s Malaysian navy was formed within the Federation of Malaya in 1958, one year after independence, and relied heavily on vessels and equipment from its former colonial master, Britain. The breakaway of Singapore from Malaysia in 1965 caused problems for the Malaysian navy because the main navy command and training

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27 Naidu, Indian Navy and Southeast Asia, pp. 116-8. The author also provides details on the number and types of vessels owned by the Indonesian navy at different points in time.
facilities had been established in Singapore during the British colonial period. To replace these facilities and modernise the Malaysian navy, a new naval base was built in Lumut (Map 4) which became operational in the late 1970s, and a limited number of vessels were acquired from Western countries. Indeed, it was not before the 1980s when its economy grew stronger that Malaysia began to significantly expand its military. This expansion and modernisation included the naval forces, with a US $3.5 billion deal with Britain to supply Tornado aircraft and naval helicopters, among other items, signed in 1988.28

The Singapore navy was established in 1967 and initially consisted of only two small vessels, but new ships were ordered the following year and by the late 1970s the expansion of the navy was well on its way. Due to Singapore’s persistent economic success, the country was able to consistently invest in its naval forces throughout the 1980s. Furthermore, the Singaporean government placed an emphasis on indigenous shipbuilding capabilities and, by the early 1980s, Singaporean shipbuilders were able to build their first patrol craft.29

Thailand, which was never under colonial rule, began to purchase British and American ships from the 1950s onwards. At this time, the country relied heavily on the USA in terms of security, receiving military aid from the USA and approving the establishment of a string of American military bases in Thailand, which were only closed in the mid 1970s. After the American withdrawal, Thailand aimed to become more self-reliant in terms of maritime security and increased its naval power. To strengthen the Thai navy, war vessels were bought from China in the late 1980s and Thailand became the first country in Southeast Asia to acquire an aircraft carrier.30

In comparison to the countries discussed above, the defence budgets of the Philippines and Bangladesh remained small and their defence forces – in particular the air force and navy – received little money for modernisation and repair.31 Even after independence, the Philippines has relied heavily on US provided security and has placed little importance on its own naval forces. The Philippine fleet, therefore, initially consisted mainly of US vessels, with additional moth-balled US ships bought or

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29 Naidu, Indian Navy and Southeast Asia, pp. 130-1.
received through the Military Assistance Programme in the late 1960s and 1970s. Due to this US assistance, the navy had a comparatively large number of vessels at its disposal by the 1980s. However, the majority of these vessels were vintage ships in poor shape, with an average age of over 40 years.32

Bangladesh’s navy was established in 1972, one year after Bangladesh won independence from Pakistan in the Bangladesh Liberation War. In the Pakistan era (1941-71), the navy was largely neglected and the Mukti Bahini (Liberation Army) had no maritime assets (except for several combat divers). The newly established Bangladesh navy therefore inherited little from pre-existing forces. During the 1970s and 1980s, Bangladesh built up its navy, acquiring, among other items, second-hand vessels and equipment from Britain and 24 patrol boats from China. However, Bangladesh’s economy did not develop as rapidly as the economies of the Southeast Asian countries and funding for its navy remained modest. Consequently, while the Bangladesh navy had grown into a coastal and riverine defence force by the late 1980s, it had no air wing, marine corps, or reserves.33

Due to the transnational nature of security threats and criminal activities conducted at sea, including piracy and smuggling activities, cooperation between naval forces in Southeast Asia and between Bangladesh and its neighbours is of importance. Indeed, as Bateman points out: “Navies have a clear advantage over other military services in promoting regional security co-operation because they form part of both a defence community and a maritime community. They tend to carry less political ‘baggage’.”34 However, cooperation between Bangladesh and its neighbours remained difficult. Cooperation with India was, for instance, hampered by tension between the two countries stemming from, among other issues, overlapping claims of ownership of islands and maritime boundaries that date back to the 1970s.35 Within the wider framework of Southeast Asia, multilateral naval cooperation also remained limited.

32 Naidu, Indian Navy and Southeast Asia, pp. 125-7.
during the Cold War, with a clear divide between communist and non-communist countries. Yet within these parameters, some bilateral naval activities and exercises took place in the region and vessels from the USSR and the USA assisted in patrolling waters of their allies in Southeast Asia. Furthermore, regional organisations, such as ASEAN, offered forums for discussion of regional issues, aiming to build confidence and dialogue between states to improve regional security cooperation.

Political and economic changes after the end of the Cold War

With the end of the Cold War, a new world order emerged and security cooperation between Bangladesh and its neighbours and nations in Southeast Asia slowly improved, with communist states such as Laos and Vietnam becoming more integrated into the region’s security initiatives. This increased cooperation included joint exercises and operations between naval forces and other maritime law enforcement agencies from different Southeast Asian countries, including search and rescue exercises and operations to combat different types of criminal activity at sea. Furthermore, joint exercises between Southeast Asian navies and naval forces from outside the region, including the USA and Australia, have taken place on a more regular basis. However, despite the increased interest of countries in and beyond Southeast Asia in enhancing maritime security in the region, agreements often remained limited to promoting dialogue, confidence building measures, and pledges of greater cooperation in the future. Indeed, it was only after the September 11 terrorist attacks and the attacks on the USS Cole, the Limburg, and the maritime attacks conducted by the Abu Sayyaf that international maritime security cooperation between countries became more pronounced. This created a new dynamic which led to the introduction of new

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36 Bateman, 'Sea Change in Asia-Pacific ', n. p.
Another organisation important in regard to naval cooperation is the Five Power Defence Arrangements (FPDA) between the UK, Australia, New Zealand, Malaysia and Singapore, which emerged in 1971 out of the 1948 ANZAM agreement. During the Cold War, FPDA was an organisation to counter communist and particularly Soviet forces in Southeast Asia. In more recent years members of the FPDA meet regularly and conduct naval exercises and training. However, the organisation plays only a very limited role in regard to contemporary piracy and will therefore not be discussed in detail. David Foxwell, 'Downturn Ties Up RMN Ambitions', Jane's Navy International, vol. 103, no. 3, 1 April 1998, n. p.
international maritime security initiatives such as the ISPS code, the PSI, and the CSI.\footnote{See Chapter 4.}

New regional multilateral and bilateral efforts have also been introduced which have increasingly emphasised non-traditional security threats such as terrorism and piracy.\footnote{Bradford, 'The Growing Prospects for Maritime Security Cooperation in Southeast Asia', pp. 66-9.}

Furthermore, with the end of the Cold War, the number of superpower naval vessels patrolling sea lanes was significantly reduced in Southeast Asia, with a sharp decline in the number of war ships from the former Soviet Union in the region’s waters. The presence of US forces in Southeast Asia was reduced in 1991 and 1992 by the withdrawal of US troops from the Philippines, including the closure of the Clark Air Force Base and Subic Bay Naval Base. The US Congress also placed strict limitations on military-to-military contacts with Indonesian forces in 1993 because of concerns about human rights violations by the Indonesian military in East Timor. As a result of the withdrawal of USSR and US forces from the region, stretches of international and national waters in Southeast Asia were left without regular naval patrols.\footnote{Peter Chalk, \textit{Non-military Security and Global Order. The Impact of Extremism, Violence and Chaos on National and International Security}, New York: St Martin's Press, LLC, 2000, p. 60. Bradford, 'The Growing Prospects for Maritime Security Cooperation in Southeast Asia', p. 66. Shie, 'Maritime Piracy in Southeast Asia', p. 171.}

However, since 1989, other powers, particularly China, India, and Japan, have increased their military presence and influence in Southeast Asia. Indeed, China has been expanding its naval power and capacity, establishing a blue-water navy with a reach beyond the East and South China Sea. For example, China now controls at least three ports in Myanmar.\footnote{They are the ports of Akyab, Cheduba, and Bassein. See: Ramtanu Maitra, 'India Bids to Rule the Waves', \textit{Asia Times}, 19 October 2005, \url{http://www.atimes.com/atimes/South_Asia/GJ19Df03.html}, accessed 8 November 2006.}

Japan and India perceived this rapid Chinese naval expansion, which now reached into their own maritime spheres of interest, as a security concern and this, in part, became a catalyst to improve the capability and reach of their own naval forces.\footnote{India, for example, conducted manoeuvres in the South China Sea for the first time in 2000. Malcolm Davis, Rahul Bedi and Richard Scott, 'Back on Course', \textit{Jane's Defence Weekly}, 24 January 2001, n. p.}

Southeast Asian armed forces not only had to adapt to the changed security environment in the region but also had to modernise their militaries, as the second-hand equipment bought during the 1970s and 1980s was approaching obsolescence. In response, Southeast Asian states intensified their effort to build up indigenous defence industries,\footnote{Karp, 'Military Procurement and Regional Security in Southeast Asia', pp. 334-5.} while simultaneously buying equipment from foreign countries. Indeed,
due to the continuing economic success experienced throughout the first half of the 1990s, Southeast Asian countries were in a better position than in earlier years to expand and modernise their military forces, including their navies, both in quantity and quality. The upgrading of the naval forces was triggered by concerns such as overlapping claims of ownership of islands and ocean areas, the importance of maritime trade, and a growing desire to become more self reliant in terms of maritime security. Emphasis has therefore been placed on the modernisation of technology for information collection and airborne surface surveillance, capabilities to improve coastal surveillance, and the monitoring of EEZs to address problems such as illegal immigration, smuggling, and piracy. To address these security threats, different types of vessels and equipment were needed, including, for example, faster boats to apprehend smugglers and pirates operating on small speed boats. While military spending varied between countries in Southeast Asia, with the Philippines spending considerably less on their naval forces than Thailand, Malaysia, Indonesia, and Singapore, the scale of purchases of new (and the modernisation of old) naval equipment in Southeast Asian countries triggered fears of a naval arms race in the region by the mid 1990s. However, as Bateman pointed out in 1996, Singapore, Thailand, Malaysia, and Indonesia still remained only medium maritime powers despite modernisation programs, with no major maritime power, such as Russia, France, or the UK, located in Southeast Asia. Even in comparison to the naval forces of neighbouring

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49 Bateman, 'ASEAN's Tiger Navies'. For an analysis of whether or not it was an arms race see: Panitan Wattanayagorn and Ball, 'A Regional Arms Race?' pp. 147-74. Mak and Hamzah, 'The External Maritime Dimension of ASEAN Security', pp. 123-46. Tan, Southeast Asia, pp. 43-81.
countries, such as Japan and China, the naval capabilities of Southeast Asian forces have remained moderate.\(^{50}\)

In 1997, the expansion and modernisation of the military and naval forces in Southeast Asia slowed down due to the Asian financial crisis, which affected the economies of all countries in the region, but particularly those of Thailand, Indonesia, and to a lesser extent Malaysia. As a result of the crisis, various states in the region had less capital available to finance military modernisation programs, with equipment procurement plans being either delayed, postponed or, in some rare cases, completely suspended. In the immediate aftermath of the crisis, Indonesia was forced to cut back its defence budget by 40 per cent, while Thailand reduced its 1998 military budget by 30 per cent and made further cuts the following year. Malaysia and the Philippines had to make fewer concessions, but were also forced to slow down or withdraw some existing modernisation plans. Overall, in 1998, ASEAN members spent one third less than in 1997 on their armed forces. The exception here was Singapore, which was able to increase its military budget by five per cent in 1998.\(^{51}\)

Yet, both local economies and military spending recovered within a few years in most countries in Southeast Asia. Indeed, increasing concerns about the political stability of Indonesia, unresolved boundary disputes accelerated by rising demand for natural resources, and concern about the presence of foreign powers in the region caused governments to increase military spending according to resources available.\(^{52}\) Malaysia, being less affected by the crisis than most countries in the region, was able to resume its naval modernisation program more quickly than other countries.\(^{53}\) The Indonesian and Thai navies on the other hand struggled longer with funding problems, and the Philippine navy, despite some efforts at modernisation, is still considered the weakest in Southeast Asia.\(^{54}\) However, in addition to national efforts to modernise naval

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50 The US is the only naval superpower. Bateman, 'Sea Change in Asia-Pacific'. Bateman, 'ASEAN's Tiger Navies'.


52 Umbach, 'Financial Crisis Slows but Fails to Halt Easy Asian Arms Race - Part One'. Foxwell, 'Downturn Ties Up RMN Ambitions'.

53 Davis, Bedi and Scott, 'Back on Course'.

forces, some countries in the region, including the Philippines and Indonesia, received substantial financial assistance and training from the US after the September 11 attacks, to strengthen the capacities of their militaries and police forces to combat terrorism.  

Bangladesh also experienced tremendous political changes in the 1990s. In 1990 the military government collapsed, giving way to civilian rule which has been plagued by internal unrest. Overall, Bangladesh never experienced the same economic growth as the Southeast Asian states, with 44 per cent of the population still living below the poverty line in 2004. Consequently, the navy in Bangladesh has less money available than the navies of Southeast Asian countries and has relied largely on second-hand equipment from the UK and China. However, indigenous ship building capacities are improving, with river patrol craft already being built in the country. Furthermore, Bangladesh established additional law enforcement agencies, including a coast guard, to assist in the fight against piracy and other security threats, in order to allow the navy to focus more directly on defence and war fighting abilities. In fact, the navies of Southeast Asian countries also increasingly share the task of safeguarding national waters with other government agencies, such as the coast guard and the marine police. 

As Simon states:

As regional economies began to recover in 1999, several Southeast Asian militaries adopted a new strategy to enhance modernization. Although coping with internal security challenges remains an important concern, this responsibility is being transferred from the army to the national police. Singapore, Thailand, and Malaysia are making this transition. Even Indonesia, whose military remains embroiled in domestic upheavals, plans to transfer internal security responsibilities to the police as the internal situation warrants.

However, regardless of the type of government agency responsible for maritime security, their resources, funding and cooperation with agencies from neighbouring countries has a direct impact upon the occurrence of pirate attacks.

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56 Till, 'Overcoming Austerity'.
Resources and corruption – The impact upon piracy

The independence of Bangladesh and the Southeast Asian countries, their economic development, and the resources available to their navies and maritime law enforcement agencies have an impact upon piracy. Also, the cooperation of those agencies combating piracy with their counterparts in other countries plays an important role in successfully addressing piracy.

Piracy hot-spots have, since the early 1990s, shifted to different places and countries, as has been discussed in the first chapter of the thesis. From 1990 to 1992, the waters of the Malacca and Singapore Straits were identified as the most pirate-prone in Asia, but the number of attacks in this area declined in 1993 and the focus of piracy shifted to the South China Sea. However, since the mid-1990s, as Soeharto’s New Order regime unravelled, Indonesian ports and national waters have been identified as the most pirate-infested in Southeast Asia (see Table 6). Of considerable concern in the early 21st century is the once again high number of attacks in the busy Malacca Straits, and to a lesser extent the Singapore Straits. Outside Southeast Asia, Bangladesh also experienced a spate of attacks between 2000 and 2003. In 2004, the number of incidents declined significantly in Bangladesh, before increasing again in 2005 and 2006. The agencies responsible for combating piracy in Indonesia, Bangladesh, and Malaysia are therefore of particular interest. The military and the law enforcement agencies of Singapore and Thailand play a lesser role, and will not be discussed in detail below, as there have only been a limited number of attacks reported from their respective national waters in the past ten years. In Singapore the low number of attacks can be explained by the limited size of the country’s national waters and the fact that the Singaporean naval forces are well equipped, trained, and paid. The limited number of attacks on merchant vessels in Thailand is more difficult to explain, and underreporting of attacks may play a role. Large Thai fishing vessels operating in Thai waters may be less likely to be targeted than their foreign counterparts because they are known to often carry firearms. However, the efforts of Thailand and Singapore to secure the Malacca Straits – in conjunction with Malaysia and Indonesia – will be discussed below, as the level of

59 Chalk, Non-military Security and Global Order, pp. 68-71. As discussed in Chapter 1, the Chinese government was able to suppress piracy in its waters by tightening control over rogue elements of law enforcement agencies believed to be responsible for attacks. Furthermore, perpetrators of hijackings were arrested and brought to trial, receiving severe punishments.
cooperation of countries in the fight against piracy in Southeast Asia plays a crucial role. Additionally, Philippine law enforcement agencies and their cooperation with agencies in neighbouring countries are of interest because of the high number of attacks on small boats in Philippine waters and the seas between the southern part of the country, Indonesia, and Malaysia, in addition to attacks on merchant vessels in the Philippines.

**Bangladesh**

The Bangladesh coast guard was established in 1995. It is primarily active on the country’s many rivers but also has a presence in coastal areas. The coast guard is in charge of combating piracy on rivers, which is a serious problem in Bangladesh, with fishing boats being a primary target. Despite some success, including the arrest of 41 pirates in August 2005, the coast guard is unable to eradicate piracy on the rivers as it remains severely under-funded and under-equipped. Indeed, with only around six patrol vessels and 500 officers at its disposal, it is difficult, if not impossible, to effectively combat maritime crime. What makes the coast guard’s task even more difficult is that Indian-based pirates operate on rivers which divide the two countries. These pirates attack Bangladeshi (fishing) boats, take crew hostage, and ferry them across the border. One of the victims is then sent back to Bangladesh to arrange a ransom payment, with a money-for-hostages exchange conducted in India.\(^6^0\)

To better protect Bangladeshi waters, the navy’s role has recently been expanded and its operational focus has been shifted to increasingly include non-traditional security threats such as illegal fishing, natural disasters, smuggling, and piracy. In order to fulfill this task, the navy received additional funding, its land-based facilities were improved, a number of patrol vessels and other ships were bought, and plans to build-up a maritime aviation wing have been announced. However, despite these recent improvements, the Bangladesh navy remains under-equipped, with limited funds available for refurbishing of old, and the acquiring of new, equipment.\(^6^1\) Further complicating the navy’s efforts is that the maritime boundaries between Bangladesh-

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India and Bangladesh-Myanmar have not been officially demarcated and remain contested. Indeed, the potential for conflict over maritime boundaries intensified in the 1990s when gas, oil, and other natural resources were discovered in waters between these countries.\textsuperscript{62} In these resource based disputes, Bangladesh is in a weak position, as the navies of both India and Myanmar are larger and better equipped.\textsuperscript{63} Furthermore, as Till writes:

\begin{quote}
The Bangladesh Navy has always found it difficult to provide the necessary assets to defend what it claims to be its sovereign rights over a sea area of 160,000km\textsuperscript{2}. Even in the area that is indisputably Bangladeshi, maritime surveillance against intruding illegal fishermen is patchy.\textsuperscript{64}
\end{quote}

Indeed, fishers from countries such as India, Myanmar, Thailand, and Malaysia take advantage of the non-delimitation of boundaries and the inadequate resources of the Bangladesh naval forces and fish ‘illegally’ in waters which should be under Bangladeshi control.

All these economic and geographical factors have an impact upon piracy. As on the country’s rivers, pirates operating at sea can act with little fear of being caught by Bangladeshi government forces. Furthermore, pirates can operate across Bangladesh’s international maritime borders with greater ease than between other countries where borders are clearly defined and patrols of border areas are less problematic. The overlapping claims of ownership of ocean areas also enhances distrust between the countries concerned and adversely impacts upon cooperation between Bangladesh and its neighbours to jointly combat piracy. Furthermore, fishers from outside Bangladesh who fish illegally in the country’s waters not only deplete its fish stocks but have also been involved in pirate attacks. In these incidents Bangladeshi fishers are targeted and their catch and tackle stolen.\textsuperscript{65}

However, despite limited resources, government agencies were able to reduce the number of pirate attacks on merchant vessels in Bangladesh significantly after a

\begin{itemize}
\item \textsuperscript{61} Robert Karniol, 'Funding Shortfalls Hinder Bangladesh's Focus on Enhanced Naval Capabilities', \textit{Jane's Navy International}, 1 April 2006, n. p. Till, 'Overcoming Austerity'.
\item \textsuperscript{63} Till, 'Overcoming Austerity'.
\item \textsuperscript{64} Ibid.
\end{itemize}
spate of attacks between 2000 and 2003. Commenting on the decline in the number of incidents in 2004, the IMB stated that the reduction was due to increased government efforts, including more frequent maritime patrols.\textsuperscript{66} The success may also partly be attributed to the fact that the majority of all reported pirate attacks in Bangladesh occurred in ports,\textsuperscript{67} particularly in Chittagong harbour. Anti-piracy measures could therefore be concentrated on port areas. The Chittagong Port Authority, for instance, increased security in the 48 square kilometre territorial waters of the Bay of Bengal in the outer anchorage of the port by purchasing two vessels for the coast guard. The coast guard themselves also acquired a further two vessels for this area.\textsuperscript{68} However, the number of attacks began to slowly increase again in 2005 and, by 2006, the number of recorded attacks reached the level of incidents which occurred between 2000 and 2003. (See Table 6)

\textit{Indonesia}

Indonesia’s national waters are the largest in Southeast Asia, consisting of three million square kilometres of archipelagic and territorial waters and a further three million square kilometres of EEZ and continental shelf. In Indonesia, ten different agencies are responsible for maritime security management, with nine of them permitted to conduct law enforcement operations at sea. The different roles of these agencies have, however, not been sufficiently clarified in relation to one another and the coordination of their activities has been difficult, despite the establishment of Bakorkamla, the Coordination Agency for Security at Sea, under the direction of the Commander of the Armed Forces. There have, however, been important changes in recent years regarding the division of tasks of government agencies responsible for security. In the past, the police and military operated under one umbrella, but in 1999 they were separated and their tasks


\textsuperscript{67} See: Table 10.

\textsuperscript{68} ‘Coast Guards Capture 41 Sea Pirates off Kutubdia’, \textit{Independent Internet Edition}, no. 1708, 10 August 2005, \url{http://independent-bangladesh.com/news/aug/10/10082005.htm}, accessed 5 February 2007. Some observers also suggest that the controversial Rapid Action Battalion, which was established in 2004 to combat crime, is also involved in combating piracy in some coastal areas and ports, including Chittagong. The Rapid Action Battalion has been criticised for human rights abuses and the excessive use of violence.
more clearly demarcated, with the police accepting greater responsibility for internal security. In theory, the TNI\(^{69}\) is today responsible for national security, while the police (in conjunction with other agencies), are in charge of law enforcement. In practice, however, these legal-strategic divisions are less clear cut and the navy is still largely responsible for law enforcement at sea.\(^{70}\)

Even though the Indonesian navy is one of the largest in Southeast Asia, “it is certainly no match for any major navy in the neighbourhood”\(^{71}\) and overall, has only limited resources available to secure the country’s waters and ports. Indonesia’s total fleet consists of about 115 vessels of different sizes of which only around 25 are operational at any given time. Combating piracy in Indonesian waters with such limited resources is difficult, particularly because piracy is only one of many major problems the navy and other law enforcement agencies have to face at sea. Aware of the lack of resources, desperate fishers in the Malacca Straits have even donated old fishing boats to the local marine police in the hope that these additional vessels will be used by police officers to protect local fishers from pirates and to help prevent foreign fishing vessels from encroaching in their territory.\(^{72}\) More than second-hand fishing vessels are needed however, with the Special Advisor to the Minister, Indonesian Department of Maritime Affairs and Fisheries, Hasjim Djalal, estimating that Indonesia would need at least 300 fully operational vessels to secure its waters.\(^{73}\)

The navy’s and the law enforcement agencies’ obvious lack of resources is clearly advantageous for pirates based in Indonesia, whether active in Indonesian waters or operating in neighbouring countries. Despite the fact that piracy on the high seas and armed robbery in Indonesian waters are crimes punished severely in Indonesia – with penalties including up to 15 years imprisonment (or if an attack resulted in the death of

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\(^{71}\) Naidu, *Indian Navy and Southeast Asia*, p. 119.

\(^{72}\) Author’s Interview, Anonymous, July 2004, Singapore.

a victim, with life imprisonment or the death sentence)\textsuperscript{74} – pirates can conduct attacks with little fear of reprisal as the chances of being caught and brought to trial are small. Indeed, even in cases in which the location of a hijacked vessel was known, Indonesian authorities have in some instances reacted slowly, as demonstrated by the example of the shipjacking of the \textit{Selayang}. As discussed earlier, the vessel was hijacked by 19 pirates on 20 June 2001 north of Pulau Iyu in the Malacca Straits. The vessel had \textit{Shiploc}, a tracking device, onboard and the manager of the vessel, as well as the IMB and local authorities, were aware of the position of the ship throughout the hijacking. As the vessel was mostly sailing in Indonesian waters, Indonesian authorities were in charge of responding to the attack. Attempting to help, the Malaysian navy offered assistance with the operation and requested permission from the Indonesian authorities to enter Indonesian waters to intercept the ship south of Singapore. The offer was, however, declined and despite the onboard tracking system, the \textit{Selayang} was only intercepted by the Indonesian authorities on 27 June, when anchoring near Samarinda, north of Balikpapan, Borneo. The data from the \textit{Shiploc} system shows (Map 7) the route of the vessel which sailed from the Malacca Straits all the way to Balikpapan, Kalimantan, including a detour towards the Singapore Straits. While the \textit{Shiploc} system did not work without problems and updates of the vessels position took at times up to six hours,\textsuperscript{75} the Indonesian authorities were nonetheless slow to react. The reason for the delay in re-capturing the vessel, can, at least in part, be explained by the lack of resources of the Indonesian authorities and continuing problems in the cooperation between the operational commands responsible for different geographical areas in Indonesia.

The comparatively low Indonesian military budget (including funding for the police), particularly after the Asian financial crisis, is largely responsible for the lack of resources available. In the past, government officials have claimed that only 25 to 30 per cent of the military’s expenditure is covered by the military budget, while in 2005,


\textsuperscript{75} Author’s Interview with Chin Kuen Sen, Marine Manager, Petrojaya Marine SDN BHD, 21 October, 2003, Singapore.
an estimated 50 per cent of military costs were provided.\textsuperscript{76} To compensate for the historical lack of government funding, the Indonesian military and police are involved in commercial ventures, operating their own businesses and both partnering and providing services for private enterprises. Other funding is derived from illegal activities, as a 2006 Human Rights Watch report states: “The Indonesian military draws on off-budget (extra-budgetary and unaccountable) funds derived from military-owned enterprises, informal alliances with private entrepreneurs to whom the military often provides services, mafia-like criminal activity, and corruption.”\textsuperscript{77} The criminal activities conducted by the Indonesian military and the alleged corruption of military personnel also have a major impact upon piracy. Indeed, members of the Indonesian military are believed to have been involved in pirate attacks on fishing and merchant vessels, particularly in the Malacca Straits. These suspicions are largely based on reports from victims stating that the perpetrators wore military fatigues, had crew cuts, behaved in a military fashion, and used sophisticated equipment, including boats and weapons, associated with military forces.\textsuperscript{78} One example of targeting fishing vessels is the attack on a Malaysian trawler from Kuala Perlis. The vessel was attacked by ten Indonesian men, wearing army uniforms and carrying M-16 rifles, who took crew hostage and held them on an Indonesian island until a ransom was paid to a middleman. Because of the uniforms, weapons, and the men’s behaviour, the victims were certain that the ‘pirates’ were members of the military. A second boat owner from the same village is also convinced that the Indonesian military is involved, stating that the perpetrators in an attack on his vessel also wore uniforms and carried M-16 rifles and hand grenades.\textsuperscript{79} An example involving a merchant vessel is the attack on the general cargo ship \textit{Natris} in November 2002. The vessel had received repairs in a shipyard on the island of Batam and was set to leave the island when 20 uniformed men who claimed to be Navy Seals of Indonesia boarded the ship. The crew of the \textit{Natris} was ‘arrested’ and forced to sign a

\textsuperscript{76} Human Rights Watch, ‘Too High a Price. The Human Rights Cost of the Indonesian Military’s Economic Activities’, vol. 18, no. 5, June 2006, pp. 4-5. However, as the report points out, these estimates are controversial.

\textsuperscript{77} Ibid. p. 2.


\textsuperscript{79} Author’s Interview with Jobli bin Johen and Zulaskah bin Aziz, 29 October and 10 November 2004, Kuala Perlis, Malaysia.
blank sheet of paper before being released. The perpetrators sailed away onboard the vessel, which was only recovered three years later.\textsuperscript{80} Yet, apart from such statements, little evidence has yet been brought forward to substantiate these claims. However, Eric Ellen, the founder of the IMB, also believes that the Indonesian Navy is involved, including high ranking officers. According to Ellen, navy boats have even been used as motherships to conduct attacks on merchant vessels.\textsuperscript{81}

Furthermore, in January 2006, Indonesian navy officials arrested a gang of five pirates, among them a low ranking TNI member stationed in Aceh. The arrested pirate gang had been operating for a few years, targeting fishing boats and merchant vessels.\textsuperscript{82} Furthermore, according to a high ranking Malaysian police official, Malaysian authorities have arrested a number of pirates in their waters who were identified as members of the Indonesian military. In order to avoid an “international incident” and increase tensions between the two countries, the perpetrators were not charged for their offences but were instead repatriated quietly.\textsuperscript{83}

Even if military or navy officers are not directly involved in pirate attacks, they may still be complicit in piracy by accepting bribes or ‘taxes’ from pirates or victims of attacks. Such corruption in the Indonesian military is not a new concern and is often explained by the comparatively low salaries military personnel receive.\textsuperscript{84} In regard to piracy, fishers on the Malaysian side of the Malacca Straits have, for example, claimed to have paid ‘protection’ money to Indonesian authorities. According to information from the Malaysian marine police, the bribing of Indonesian officers is, however, not as simple as it may seem. According to their sources, Malaysian fishers pay around RM500 (US $135) per month to be ‘allowed’ to fish in Indonesian waters. However, the problem is that there are many different Indonesian maritime agencies and divisions responsible for securing the Malacca Straits and the protection money only ‘protects’ the Malaysian fishers from extortion or arrest by the agency or division paid. If a fisher is caught without having paid protection money, the vessel is either robbed or detained

\textsuperscript{83} Author’s Interview with a high ranking police officer, July 2004, Kuala Lumpur, Malaysia.
and the fishers arrested for illegal fishing and held until a fine or ‘ransom’ is paid.\textsuperscript{85} Yet, according to fishers from Hutan Melintang, there is also the option of paying a fine at sea directly to the Indonesian authorities and preventing the probability of arrest and seizure of a vessel. In the Soeharto era, the fine demanded lay between RM1,000 and RM10,000 (US $414 and US $4,140) when approached by the Indonesian navy and between RM1,000 and RM2,000 (US $414 and US $818) if the boat was stopped by a customs vessel. Today the payments are more substantial, with the various Indonesian naval authorities asking between RM20,000 and RM100,000 (US $5,475 and US $27,380). However, the sum is open to negotiation.\textsuperscript{86}

Allegations regarding corruption and the involvement of Indonesian officials in criminal activities are also voiced by the crew, owners, and operators of merchant vessels.\textsuperscript{87} One example is the experiences of a ship manager from Singapore who believes that the Indonesian navy is directly involved in piracy and confirmed that his company’s vessels are occasionally harassed by Indonesian navy personnel and money paid to the officers. Furthermore, his company has paid the Indonesian navy to protect its vessels while at berth in Aceh and has also paid Indonesian officials on other occasions. In one incident in the post-Soeharto era, one of the company’s vessels was detained by the Indonesian navy on Batam. The detaining officers claimed that they had witnessed waste being dumped from the vessel into the ocean the previous night. The ship manager was contacted and asked the Indonesian officers for the official papers relating to the detention in order to claim any losses from his insurance company. The navy officials, however, replied that official procedures could take weeks or even months but offered the company the option of paying ‘compensation money’, after which the vessel would be free to leave. The company decided to pay the ‘compensation money’ of Singapore $200,000 (US $120,000), which was delivered in cash to the navy officers on Batam. According to the ship manager, it was easier to conduct business in

\textsuperscript{84} In 1997, for example, a major on an operational appointment received about Rp500,000 (US $214) per month. Tim Huxley, 'Indonesia's Armed Forces Face Up to New Threats', \textit{Jane's Intelligence Review}, vol. 9, no. 1, 1 January 1997, n. p.

\textsuperscript{85} Author’s Interview with ACP Jalaluddin B. AB. Rahman, Timbalan Komander Pasukan Polis Marin, 11 March 2004, Kuala Lumpur, Malaysia. As discussed in Chapter 3, once a vessel is arrested, the price for the release of the vessel and crew can be substantial, with one Malaysian shipowner paying RM300,000 for the release of his vessel and his imprisoned relative.

\textsuperscript{86} Author’s Interview Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang, Malaysia.
Indonesia under the Soeharto regime. In his opinion, the government at that time had stronger control over the military and their extra-legal activities and it was easier to determine which officers and officials had to be bribed. A further example demonstrating the request of payments by the Indonesian authorities is the hijacking of the MV *Octopus* in 2001. The stolen vessel, with the pirates onboard, was arrested by the Indonesian navy, which also conducted the investigation into the attack. After the investigation was concluded, the navy officers involved demanded a fee for the release of the vessel from the shipowner. The Indonesian officers initially asked for US $100,000, but eventually accepted US $35,000 after weeks of negotiation. The payment was made into the private bank account of one of the investigating officers. Indeed, the naval officers never attempted to hide the fact that at least part of the money was to be divided between high ranking officers, with the largest sum to be received by the officer in command of the naval base where the ship was held.

Such experiences of shipowners with authorities in Indonesia explain their reluctance to report attacks in Indonesia. In fact, officers from the Royal Malaysian Marine Police based in Penang are concerned that many attacks are reported to Malaysian authorities even though the attacks occurred in Indonesian waters. They believe that some victims even change the location of attacks in their reports (stating that the attacks occurred in Malaysian waters) in order to avoid dealing with Indonesian authorities. However, other crews and shipowners may choose not to report such incidents taking place in Indonesia at all. Overall, the underreporting of attacks is conducive to such incidents recurring because local authorities and international organisations are not able to respond to the attacks, warn other potential victims, or initiate measures to combat piracy without knowledge of such attacks. Furthermore, the inherent corruption of Indonesian authorities can also be an indicator that the same officials may also accept bribes from pirates. Bribed officials may then turn a blind eye to the pirates’ activities or, if the pirates are apprehended, do not press charges against the perpetrators.

88 Author’s Interview with a ship manager, February 2004, Singapore.
89 Author’s Interview, Anonymous, October 2003, Singapore.
90 Author’s Interview with a high ranking police officer, March 2004, Penang, Malaysia.
Malaysia

The Malaysian authorities responsible for addressing piracy have more funds and better equipment available than their Indonesian counterparts. Indeed, Malaysia embarked on a modernisation program of its military forces from the late 1980s onwards, with the facelift of the navy driven in the 1990s in part by the need to protect its offshore oil and gas installations and its EEZs. To fulfil this task, the navy’s maritime and air patrol capabilities were improved and other maritime law enforcement agencies received additional funding.\(^91\) Seven agencies are involved in protecting Malaysian waters, namely the Royal Malaysian Police (Marine), the Royal Customs and Excise Department, the Marine Department, the Fishery Department, the Royal Malaysian Navy (RMN), the Department of Environment, and the Immigration Department. Furthermore, since 1985, the Maritime Enforcement Co-ordinating Centre (MECC) has collected data on piracy. Generally speaking, the RMN and the Royal Malaysian Air Force are responsible for the protection of Malaysia’s EEZs, while the other agencies are responsible for different operations and tasks in the country’s territorial waters.\(^92\) To further strengthen the Malaysian maritime law enforcement capabilities and to improve coordination between the seven agencies, the Malaysian Maritime Enforcement Agency (MMEA) was established and became operational in November 2005 (the official launch occurred in March the following year).\(^93\)


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In regard to piracy, the Malacca Straits and Sabah waters are the most affected in Malaysia. Securing the Malacca Straits is made logistically difficult by the border dividing the straits between Malaysia and Indonesia. Despite improved resources on the Malaysian side to patrol the straits, pirate attacks still occur, with pirates operating from Indonesia able to rapidly cross the border to escape from Malaysian authorities.
Furthermore, even though Malaysian authorities along the Malacca Straits enjoy a better reputation than their Indonesian counterparts, fishers are nonetheless often reluctant to report pirate attacks to local authorities.\footnote{This was confirmed by fishers and representatives from fishing associations the author spoke to in Hutan Melintang, Kuala Perlis, Penang, and Port Klang between 2002 and 2005.} Kidnapings of crew are, however, occasionally reported, but only after the victims have returned safely, because the fishers do not trust the marine police to negotiate the safe return of the victims. The reason for the lack of trust, according to the head of the fishing association in Hutan Melintang, is that marine police officers are often corrupt and regularly harass local fishers and demand money.\footnote{Author’s Interview with Zee Hai, Head of Koperasi Nelayan Hilir Perak Berhad, April 2005, Hutan Melintang.} Even senior Malaysian police officers working along the Malacca Straits acknowledge this problem, stating that a number of pirate victims do not report attacks because they are afraid of acts of revenge as they believe, or know, that officers from Malaysian law enforcement agencies are involved in illegal activities, including piracy.\footnote{Author’s Interview with a high ranking police officer, March 2004, Penang, Malaysia.}

The second piracy hot-spot is the waters off east Sabah. In this area, the strength of the RMN and the marine police has been improved substantially since the early 1990s, and particularly since 2000. The case of Sabah offers an interesting example of how an increase in the resources available to maritime forces impacts upon piracy. Furthermore, because corruption and the involvement of law enforcement personnel in piracy and other illegal activities is a concern in Sabah, it also offers an insight into how these activities affect the local population.

Given the extraordinary geographical features of an indented coastline, difficult to navigate rivers, and innumerable offshore islands, securing the waters off Sabah is not an easy task at the best of times, and the limited resources and equipment of local law enforcement agencies made the mission considerably more challenging in the 1990s. By 1996, the marine police in Sabah had a fleet of 62 patrol boats of different classes and types to safeguard the inshore and offshore waters of the state. Forty to sixty per cent of the vessels were normally operational, with the remaining craft being out of service due to maintenance or repair work. Furthermore, to operate these vessels and attend to other security concerns, the marine police were intended to employ 800 personnel, but only 650 police were stationed in Sabah. In 1996, an assessment of the
resources of the marine police from within their own ranks came to the conclusion that despite the fact that new, faster patrol vessels were purchased in the first half of the 1990s, the number of vessels and personnel remained inadequate to combat piracy and other illegal activities in Sabah’s waters. In addition to the efforts made by the marine police, the presence of the Malaysian navy in Sabah increased throughout the 1990s in order to strengthen security in east Malaysian waters. Yet, while plans to build additional naval bases in Sabah had already been made in the late 1980s, it was not until late 1996 that the Malaysian government proceeded with the development of a major naval base in Sandakan, on the north-eastern coast of Sabah. Meanwhile, plans to build an additional naval base near Semporna were further delayed.

However, the kidnapping of tourists and resort workers from the Malaysian island of Sipadan in 2000 by the Abu Sayyaf prompted the Malaysian government to significantly increase maritime security in Sabah’s waters. While the hostages were still being held in the Philippines, Malaysian government representatives announced that a major new naval base would be built in Semporna – the town closest to the island of Sipadan – and that patrols by the marine police would be intensified immediately. Furthermore, the number of marine police officers was increased and new equipment, including eleven speed and blitz boats, were supplied for the district of Semporna. The number of Malaysian navy personnel was also increased considerably in the district. A navy patrol vessel with a crew of 200 was brought to Semporna, as were five additional specialised boats to patrol the waters in this hazardous area, and special army and police teams were placed on selected islands. Also, in accordance with the

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97 To prevent attacks on villages, the marine police also cooperate with the police field force which is stationed at strategic locations in coastal villages and on islands throughout Sabah.
99 For details about the kidnapping see Chapter 6.
102 Hj Chacho Hj Bulah, 'Towards Enhancing the Economy and Improving the Society's Quality of Living in the Semporna District Through the Management and the Implementation of the Development
announcement made during the Sipadan kidnapping, construction began on the Semporna naval base which was officially opened in July 2005.  

Photo 24 Military personnel stationed on Sipadan Island

Photo 25 Fast military vessel, Semporna


In Sabah, this increase in resources available to law enforcement agencies, as well as several other factors such as corruption and the direct involvement of law enforcement officers in illegal activities, had a direct impact on piracy. Throughout the 1990s, pirates operated in Sabah waters targeting small vessels, including fishing boats. The pirates in this area were armed with guns and automatic weapons and attacked small vessels to steal outboard engines and other valuables onboard. Some of these attacks were very violent in nature, while in other cases victims were only harmed if they resisted the pirates. Local fishers in Semporna believe that some of the non-violent attacks were conducted by off-duty members of the Malaysian marine police. They used fishing boats and wore masks during the attacks, but as they lived and worked locally, the fishers knew who they were and in some cases even exchanged pleasantries with the culprits. In the 1990s, the relative lack of resources of the naval authorities was conducive to the occurrence of pirate attacks, as the naval forces were not able to effectively patrol all of Sabah’s waters. Consequently, the increase in resources and manpower placed at the disposal of the marine police and navy after the Sipadan kidnapping had a substantial impact on piracy in the area. While the waters of the Philippines and Indonesia remained trouble spots, the number of pirate attacks on fishing vessels and other small craft has declined sharply in Sabah waters, particularly

104 Author’s Interview with fishers, trawler owners, and local politicians, November 2004, April, October, November 2005, March, April, November 2006, Semporna, Malaysia.
in areas where naval bases have been built, such as Sandakan and Semporna. Due to the suddenly increased patrols by the local law enforcement agencies, it is more difficult now for Malaysian pirates to operate in the area and for Filipino pirates to enter and leave Malaysian waters unnoticed. Nonetheless, the increased presence of law enforcement personnel in the area could not fully eradicate piracy, and pirate attacks and kidnappings of crew still take place in Sabah waters. In 2005, for example, a tug and barge were attacked in Sabah waters near Mataking Island by five pirates armed with M-16 and AK-47 rifles. The perpetrators took valuables and the tug’s communication equipment and kidnapped the master and two crewmembers. Furthermore, the increased presence of marine police officers did not necessarily improve the overall situation for all segments of the population in certain places in Sabah, as the following example from Semporna demonstrates. In this town, the increased number of police officers has in fact created additional problems for local fishers. According to local informants, a number of officers from the marine police continue to be involved in sea robberies targeting small fishing vessels and other tiny craft. Furthermore, small fishing vessels are also regularly forced to hand over some of the most valuable catch to marine police officers at sea. Part of the catch given to the police is then sold at the local market. Trawler owners, in contrast, have to pay substantial amounts of ‘protection money’ to marine police officers upfront. The payments, in cash or occasionally in-kind, are usually arranged by phone or written notes detailing the demands. A three months ‘fishing license’ for a large trawler (worth between RM600,000 to RM800,000 – US $164,400 and US $219,200) costs between RM10,000 and RM14,000 (US $2,740 and US $3,835), while the owners of smaller trawlers pay between RM2,000 and RM5,000 (US $550 and US $1,370). When trawler owners refuse to pay, problems are created for the crew of the vessel or the boat itself. While protection money had been paid even before the Abu Sayyaf kidnapping incident, the larger number of marine police patrols and officers stationed in Semporna

105 Author’s Interviews with fishers and owners of small boats from Semporna, Kota Kinabalu, and Lahad Datu between November 2004 and November 2006.
107 Some members of the crew working on trawlers based in Semporna are from the Philippines and not all have valid working documentation allowing them to work on Malaysian vessels. In cases in which all of the crew have valid papers, other faults or problems can readily be found or created, preventing the vessel from going out to fish.
only further increased the power, influence, and demands of members of the marine police engaged in the protection racket. However, it remains open to question as to whether the marine police as an institution are implicated in these illegal activities or if the extortion is conducted solely by a ring of rogue officers. Either way, the involvement of marine police personnel in these activities helps explain the reluctance of local fishers to report pirate attacks to the marine police in Semporna. Interestingly, trawler owners seem to welcome the growing presence of navy vessels and personnel in the region, as the navy is not involved in any of the illegal activities discussed above, and trawler owners believe that the navy’s presence will ultimately weaken the local influence and power of the marine police in Semporna.\footnote{Author’s Interview with fishers, trawler owners, and local politicians, November 2004, April, October, November 2005, March, April, November 2006, Semporna, Malaysia.}

\textit{The Philippines}

As a large percentage of pirates operating in the waters between the southern Philippines and east Malaysia are from the Philippines, the Philippine maritime forces play an important role in combating piracy in these waters. Furthermore, attacks on fishers also take place in Philippine waters, and in the northern part of the archipelago merchant vessels are targeted, including those berthed in major ports. In the Philippines, the navy, the Maritime Group of the Philippine National Police (which operates in the coastal areas), the Philippine Ports Authority, and the coast guard are jointly responsible for combating piracy. Other agencies, such as the army, also play a role, as their Riverine Group, for example, conducts patrols along the coast of Mindanao as part of their effort to combat insurgent groups such as the MILF or the Abu Sayyaf.\footnote{Eduardo Ma R. Santos, 'Piracy and Armed Robbery against Ships in the Philippines', in Graham Gerard Ong-Webb (ed.), \textit{Piracy, Maritime Terrorism and Securing the Malacca Straits}, Singapore:}

As noted previously, the Philippine navy is the weakest in Southeast Asia and other maritime agencies such as the coast guard also have only limited resources available to secure the vast archipelagic waters of the country. In the past, the Philippines relied heavily on assistance and security provided by the US. However, in the 1990s US aid to the Philippines was reduced significantly and it also became clear to Manila that the defence treaty with the US did not cover disputed areas such as the Spratly Islands. The Philippine government consequently decided to become more self-
reliant in terms of security, including maritime security, and to modernise its naval forces, as their vessels and equipment were dated even though, due to funding problems caused by inflation and severe natural disasters, initial plans for a thorough modernisation program (announced in 1995) had to be scaled down.\textsuperscript{110} However, the Philippines received substantial military assistance and training from the US after September 11, 2001 in order to enhance the country’s ability to combat terrorism.\textsuperscript{111} Yet, despite some improvements, the Philippine’s maritime authorities remain small and are not able to secure the country’s waters effectively, as demonstrated by the following statement by the Philippine National Security Advisor, Noberto Gonzales, made in 2006:

\begin{quote}
We cannot watch and check every boat that travels between Indonesia and Mindanao. Over 26,000 trips are made by these boats and it is impossible to monitor each of them given the government’s meagre resources [...] How do you expect government to tightly watch its territorial waters when we lack the necessary equipment and vessels to patrol our borders with Indonesia?\textsuperscript{112}
\end{quote}

This lack of effective patrol craft and other technological resources also affects all other waters under Philippine jurisdiction. Additionally, the country’s limited resources have had to be divided to counter numerous security threats. Indeed, piracy is only one of many such problems local law enforcement agencies and the military face in the Philippines, with many of the other security concerns being far more severe. The ongoing armed conflict between the Philippine army and Muslim separatist movements such as the MILF and Abu Sayyaf is only one example.\textsuperscript{113} Pirate attacks, most of which target small vessels, therefore only receive limited attention within the overall framework of national security. In fact, because of the lack of protection from the local authorities, some fishers from the Philippines who live near piracy hot-spots have ventured into safer waters, including areas outside their home countries. In the southern Philippines, for example, fishers have moved into Malaysian and Indonesian waters to

\textsuperscript{110} Naidu, \textit{Indian Navy and Southeast Asia}, pp. 127-8.
\textsuperscript{111} Capie, 'Between a Hegemon and a Hard Place', pp. 233-6.
\textsuperscript{113} Other examples include the response to natural catastrophes and ongoing political conflict in the Philippines, such as coups and counter-coups.
fish because the waters of the southern Philippines are notorious for pirate attacks and the local authorities are unable to protect them.\textsuperscript{114}

The Philippine navy and other law enforcement agencies are known for corruption, including the acceptance of bribes and the sale of firearms to civilians or members of separatist movements.\textsuperscript{115} When combined with a lack of adequate financial and material resources, this leaves Philippine-based pirates with ample scope and opportunity to operate in the country’s waters and to travel back and forth between the Philippines and neighbouring states. Furthermore, it allows the perpetrators to sell their stolen goods on land, with little fear of being arrested by local authorities. This is important as most goods, including boat engines, stolen from Malaysian fishers are sold on Philippine islands, well known for their markets offering stolen goods.\textsuperscript{116}

\textit{Regional and international cooperation}

Piracy in Southeast Asia and Bangladesh often occurs in waters near international borders. The perpetrators of such attacks exploit the fact that they can have their base in one country and attack vessels in the waters of a neighbouring state. The scale and level of cooperation between local governments and their maritime forces in combating piracy is therefore a matter of genuine importance. Close cooperation is, however, not always easy to achieve, as factors such as disputes over borders or mutual distrust can inhibit states from effectively working together. One classic example is the limited cooperation between Malaysia, the Philippines, and Indonesia to secure the waters between the southern Philippines, Sabah, and east Kalimantan. To date, collaboration between the three countries to combat piracy takes place in the form of bilateral or multilateral arrangements. The Philippine and Indonesian navies have, for example, entered a “border crossing and joint patrol agreement […] to monitor and secure through coordinated joint patrols the movement of people, goods and services in their common borders against piracy and lawless activities at sea.”\textsuperscript{117} Furthermore, in

\textsuperscript{114} Santos, 'Piracy and Armed Robbery against Ships in the Philippines', pp. 46-7.
\textsuperscript{116} Author’s Interview with fishers, trawler owners, and local politicians, November 2004, April, October, November 2005, March, April, November 2006, Semporna, Malaysia.
\textsuperscript{117} Santos, 'Piracy and Armed Robbery against Ships in the Philippines', p. 50.
December 2005, Indonesia, Malaysia, the Philippines, and Brunei agreed to conduct coordinated sea patrols, following a suggestion from Philippine president Arroyo. However, overlapping claims of ownership of islands and waters, often believed to be rich in natural resources, pose serious obstacles to work together for law enforcement agencies from Malaysia, Indonesia, and the Philippines. Reasons for such tension between Indonesia and Malaysia have until recently included the long running dispute over the islands of Sipadan and Ligitan (Map 5). In 1996, the case was transferred to the International Court of Justice in The Hague, which decided in 2002 that the islands are part of Malaysia. Furthermore, the Philippines have never officially withdrawn their claim to Sabah as a significant part of Philippine territory. The overlapping claims of ownership impact upon cooperation between the three countries and limit the success of existing arrangements. For example, rivalry and distrust between these countries can make it more difficult to reach agreements regarding maritime security cooperation. Furthermore, the contested interests of the three countries is one reason for the initiation of coordinated, rather than joint patrols, meaning that hot-pursuit into, or patrolling of, waters of neighbouring countries is not permitted. Pirates operating in the area clearly benefit from this awkward situation, as it makes it easier for them to conduct lightning attacks in or near disputed waters and allows them to use porous international borders to their advantage, enabling their escape.

In terms of cooperation between states, the Malacca Straits is probably of even greater significance, as cooperation here not only involves the littoral states but also countries from outside Southeast Asia. Indeed, given its importance as a global waterway, the security of the Malacca Straits is of international concern and the straits

119 For a map showing the contested area see: George Kent and Mark J. Valencia (eds), Marine Policy in Southeast Asia, Berkeley: University of California Press, 1985, pp. 64-6.
have been at the core of maritime security cooperation, including those initiatives targeting piracy.

As discussed earlier, the waters of the Malacca Straits are mostly comprised of Malaysian and Indonesian national waters and the waterway joins the Singapore Straits in the south and borders Thai national waters in the north. The vast majority of attacks in this area occur in Indonesian and Malaysian waters, with fewer attacks reported from Thailand and rarely any reports from Singapore. In addition to national attempts to secure the Malacca Straits area, a range of multilateral and bilateral agreements to control piracy have been implemented and discussed in Southeast Asia since the early 1990s. Since 1996, when it identified piracy as a major regional security problem, ASEAN has played a leading role in these efforts. Since then, piracy has been on ASEAN’s security agenda and in 2002 the Senior Official Meeting on Transnational Crime approved a comprehensive Plan of Action to Combat Transnational Crime, which comprises decisive steps to be taken against piracy in the region, including for the first time deadlines that determine when these measures should be implemented. Furthermore, ASEAN leaders pledged in October 2003 to increase cooperation in order to build an ASEAN Security Community to jointly combat piracy, terrorism, and other transnational crimes in the region. ASEAN efforts to combat piracy have, however, been hampered by ASEAN’s consensus model and its policy of non-interference in domestic affairs – a policy introduced as a result of concern over national sovereignty. As Shie summarises:

Trademarks of ASEAN’s cooperation strategy are its decision making process termed the ‘ASEAN Way’ and the principal of ‘non-interference’. The ASEAN Way is the distinctive and informal style of diplomacy developed for intra-ASEAN relations. It is characterised by the dual Malay terms of *musyawarah* (consultation) and *mufakat* (consensus), and a step-by-step process of dialogue over issues designed to build

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122 These efforts have been discussed in detail by other authors and only the most important agreements and efforts will be outlined here. For additional information see, for example: Hasjim Djalal, 'Combating Piracy', pp. 143-59. Here, the author offers an in-depth discussion of the South China Sea Workshop. See also: Mark J. Valencia, 'Piracy and Politics in Southeast Asia', in Derek Johnson and Mark J. Valencia (eds), *Piracy in Southeast Asia: Status, Issues, and Responses*, Singapore: Institute of Southeast Asian Studies, 2005, pp. 103-21.

123 For a discussion of ASEAN’s involvement in combating piracy before the 1990s see: Shie, 'Maritime Piracy in Southeast Asia', pp. 168-70.

124 Ibid. pp. 171, 176.

confidence and avoid conflict between members. An integral part of the ASEAN Way is the tenet of non-interference in the internal affairs of member states.\textsuperscript{126} Law and order and the prevention of criminal acts, such as pirate attacks, which mostly occur in national waters, have in the past been considered domestic affairs. While cooperation in regard to piracy has increased in more recent years, attacks in national waters are still mainly regarded as domestic issues and direct involvement of states in the fight against piracy in neighbouring countries remains therefore limited.\textsuperscript{127} Furthermore, with the consensus model in place, controversial issues, such as the problems created by the non-interference policy, are adjourned rather than solved. The ASEAN Regional Forum (ARF), which also addresses security concerns, is hampered by the same shortcomings and has so-far concentrated on “[c]o-operative security rather than collective defence.”\textsuperscript{128} The implementation of other multinational agreements has also been fraught with problems. In 2004, for example, 16 countries, including the ASEAN members, China, South Korea, Japan, Bangladesh, India, and Sri Lanka signed the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), an initiative initially proposed by Japan, which promotes the sharing of information related to piracy and the establishment of an information sharing centre. While the centre was established in Singapore in 2006, the agreement does not “obligate members to any specific action other than sharing information that they deem pertinent to imminent piracy attacks”.\textsuperscript{129}

Emphasis has also been placed on bilateral and trilateral cooperation and agreements between Southeast Asian nations. Malaysia and Thailand, for example, announced in 2003 that they would conduct coordinated maritime patrols in the northern part of the Malacca Straits in answer to the increased threat of terrorism and piracy in these waters.\textsuperscript{130} Furthermore, a series of bilateral agreements among Singapore, Malaysia, and Indonesia to conduct joint exercises at sea and to coordinate naval patrols

\textsuperscript{126} Shie, 'Maritime Piracy in Southeast Asia', p. 169.
\textsuperscript{129} Bradford, 'The Growing Prospects for Maritime Security Cooperation in Southeast Asia', p. 69. An additional problem in the future may be that the Information Sharing Centre is funded by voluntary contributions from governments.
in the Malacca Straits have received international attention. However, initiatives such as the coordinated patrols have been criticised as consisting of little more than an exchange of schedules.\footnote{Valencia, 'Piracy and Politics in Southeast Asia', pp. 104-5. Bradford, 'The Growing Prospects for Maritime Security Cooperation in Southeast Asia', pp. 66-7.} However, in 2004, a trilateral agreement between Singapore, Malaysia, and Indonesia was reached to conduct coordinated patrols (named MALSINDO) in the Malacca Straits. Two years later, combined coordinated air patrols over the Malacca Straits, named Eyes in the Sky (EiS), were introduced. The three littoral states and Thailand agreed that initially each state should conduct up to two air patrols a week. Statements issued by participating countries also declared that: “Other friendly states and stakeholders would be welcomed in the near future after a period of review with the agreement of the littoral states.”\footnote{Ministry of Defence Singapore, 'Launch of Eyes in the Sky (EiS) Initiative', Government of Singapore, 13 September 2005, http://www.mindef.gov.sg/imindf/news and events/nr/2005/sep/13sep05_nr.html, accessed 6 November 2006.} In April 2006, the MALSINDO and EiS initiatives were brought together under the umbrella of the Malacca Straits Patrol Network.\footnote{Rajeev Sawhney, 'Redefining the Limits of the Straits: A Composite Malacca Straits Security System', \textit{IDS Commentaries}, Institute of Defence and Strategic Studies, 18 May 2006, \texttt{http://www.ntu.edu.sg/ids/publications/Perspective/IDSS0372006.pdf}, accessed 3 November 2006, p. 1.} However, these coordinated air and sea patrols have so far failed to eradicate piracy in the straits. The limited success of these initiatives can in part be explained by corruption of law enforcement personnel and the relative scale of the coordinated operations which is determined by such factors as the resources currently available to Indonesian and Malaysian militaries and law enforcement agencies. Indeed, the EiS program has been widely criticised for the low number of actual flights taking place and the lack of resources available to respond to incidents spotted from surveillance planes.\footnote{Catherine Zara Raymond, 'Piracy in Southeast Asia: New Trends, Issues, and Responses', Working Paper no. 89, Institute of Defence and Strategic Studies, October 2005, \texttt{http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP89.pdf}, accessed 28 December 2005, pp. 16-17.} Yet, the level of cooperation between the countries concerned is also an important factor influencing the outcome of the air and sea patrols. While the surveillance planes are allowed to fly for up to three nautical miles into the territorial waters of the participating states, naval patrols remain coordinated, rather than joint patrols.\footnote{Ibid. pp. 16-7.} This demonstrates that even though cooperation does take place, it remains limited for a variety of reasons, including contesting claims of ownership of ocean areas (Maps 8a/b), concerns about
sovereignty, and contending interests of states. Indeed, as Mak argues, the current difficulties have their roots in conflicting views about the ownership and control of the Malacca Straits, which emerged after Singapore, Malaysia, and Indonesia became independent.\textsuperscript{136} Today, the interests of these three countries still differ. While Singapore is primarily concerned with securing the Malacca Straits for shipping, Indonesia and Malaysia are also concerned about maintaining sovereignty over their claimed national waters. This leads to tension between these countries as the initiatives which Singapore supports to secure the Malacca Straits are not necessarily in the interest of the other two states.

Countries from outside Southeast Asia have also shown interest in securing Southeast Asian shipping lanes, with particular emphasis placed upon the Malacca Straits, and have offered assistance to complement local security efforts. Among these countries, Japan, China, India, and the USA have played the most important roles.\textsuperscript{137} Japan, which relies on oil and other goods shipped through the Malacca Straits, has the third largest navy in the world and a coast guard (known as the Japan Maritime Safety Agency before 2001) which has a larger budget than many regional navies. After a spate of high profile hijackings of Japanese vessels in the late 1990s, including the attacks on the \textit{Petro Ranger}, the \textit{Tenyu} and the \textit{Alondra Rainbow},\textsuperscript{138} Japan’s interest in combating piracy in Southeast Asian waters intensified. To support the fight against piracy, Japan has in recent years sponsored conferences and initiated expert meetings on maritime security, conducted joint patrols with Malaysia and India in November 2000, and the Japanese Coast Guard has visited various Southeast Asian countries. Japan has also provided technical and financial assistance to Indonesia to establish a coast guard. Furthermore, at the 1999 ASEAN Leaders Summit, the Japanese Prime Minister Keizo Obuchi promoted an enhanced exchange of information between states and suggested the introduction of joint patrols in high risk waters in Southeast Asia to be conducted by members of the coast guard from different countries. These suggestions became widely

\begin{footnotesize}
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\item \textsuperscript{137} Australia plays a more limited role, but has in recent years shown increased interest in maritime security in Southeast Asia and has conducted maritime security exercises with a number of Southeast Asian countries. As Australia’s efforts have so far not had a large impact on piracy, it will not be discussed here.
\end{itemize}
\end{footnotesize}
known as the Obuchi Initiative. However, many of the Japanese suggestions have so far been met with scepticism by Southeast Asian governments. Indeed, the Obuchi Initiative has been particularly controversial because the “lingering memories of Japanese wartime behaviour makes this proposal difficult for Southeast Asian governments and their publics to accept.”

China has in recent years made efforts to improve the capacity of its naval forces, shifting its focus from coastal to offshore defence. The country has increasingly shown interest in maritime security in Southeast Asia, primarily because of China’s dependence on oil and other supplies shipped through the region’s sea lanes. The vulnerability of the Malacca Straits is of particular concern to China, with one Chinese newspaper declaring that: “It is no exaggeration to say that whoever controls the Strait of Malacca will also have a stranglehold on the energy route of China.” To safeguard its interests in the Malacca Straits area, China has enhanced its naval presence in the Indian Ocean and the Bay of Bengal. Yet, while China has offered Malaysia and Indonesia assistance with capacity building and training, it has thus far rejected proposals to conduct joint patrols in the Malacca Straits. In fact, the Chinese government has generally not been open to the idea that outside powers should play a greater role in actively securing the straits, with some Chinese analysts accusing the US and Japan of using the threat of terrorism and piracy as an excuse to increase their military presence in and around the Straits of Malacca. However, some recent developments, such as China’s first international maritime exercises in decades –

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138 For details of these attacks see: Introduction (Petro Ranger), Chapter 5 (Tenyu), Chapter 4 (Alondra Rainbow).
144 Chaikin, 'Piracy in Asia', p. 136.
145 Storey, 'China's "Malacca Dilemma"', p. 4.
consisting of short search-and-rescue exercises with India and Pakistan – suggest that China is becoming more open to the idea of enhanced maritime security cooperation.\textsuperscript{146} A further indication is the agreement to establish a Strategic and Cooperative Partnership for Peace and Prosperity between China and India in April 2005.\textsuperscript{147} Yet, despite this cooperation with India, China is also aware of the emergence of India as a major economic, military, and maritime power in Asia.

Indeed, while India has in the past not put major emphasis on the development of its naval forces, the government has in recent years realised the importance of a powerful navy.\textsuperscript{148} India has also shown rising interest in securing the Malacca Straits and has since 2001, modernised its military facilities on the Andaman and Nicobar Islands (Map 1) which consist of 572 mostly uninhabited islets. The most southern of these islands is located only 165 kilometres from Sumatra, with the Six Degree Channel separating the two countries. The waters between the Andaman and Nicobar Islands and Sumatra are of importance in regard to maritime security in the Malacca Straits area because most vessels passing through the straits sail through them and because the Andaman and Nicobar Islands can offer hideouts for pirates and smugglers.\textsuperscript{149} A reflection of India’s enhanced interest in securing the Malacca Straits area is also the initiation of coordinated patrols along the maritime borders between India and Indonesia in 2001 and along the Indian-Thai border in 2005. Yet, India’s offer to participate in the maritime patrols conducted in the Malacca Straits as part of the MALSINDO and Malacca Straits Patrol Network initiatives has so far been rejected. The Indian navy does conduct regular joint exercises with the Singaporean and other Southeast Asian navies\textsuperscript{150} and has in recent years strengthened its ties with the USA, with a 10 year defence agreement being signed by the two governments in 2005.\textsuperscript{151} However, even before this agreement, the USA has relied on assistance from the Indian navy, which, for example, escorted ships carrying high value US cargo through the Malacca Straits in

\begin{thebibliography}{99}
\bibitem{148} Storey, 'China’s "Malacca Dilemma"', p. 4.
\bibitem{149} Ibid. Sawhney, 'Redefining the Limits of the Straits', p. 2.
\bibitem{150} Sawhney, 'Redefining the Limits of the Straits', p. 3.
\end{thebibliography}
2001 and 2002. In the same period, the USA also escorted vessels through the straits, with both Indian and US escort vessels tolerated by Indonesia and Malaysia.

Despite the reduction of US military forces in Southeast Asia after the end of the Cold War, the US still plays an important role in regard to security in maritime Southeast Asia, with US interest in securing the region’s sea lanes, and particularly the Malacca Straits, growing after the September 11 attacks. In addition to the introduction of US-initiated international regulations such as the ISPS Code to secure shipping worldwide, the US has in recent years made efforts to increase cooperation and security in Southeast Asia. The Regional Maritime Security Initiative (RMSI), a US-led initiative to enhance information sharing and to facilitate law enforcement activities, and its follow-on programs are examples of Asia-Pacific security cooperation. Furthermore, in April 2004, a joint US-ASEAN workshop on Enhancing Maritime Anti-Piracy and Counter Terrorism Cooperation was held reflecting US interest in combating terrorism and piracy at sea. However, US involvement in securing Asian shipping routes has also raised regional criticism. China, for example, has opposed the RMSI proposal and has repeatedly questioned US intentions regarding their involvement in Southeast Asia, reflecting the ongoing rivalry between China and the US. Furthermore, when Admiral Thomas B. Fargo was misquoted by the international media, allegedly stating that US Marines and Special Forces would be patrolling the Malacca Straits in small vessels under the RMSI agreement, both the Malaysian and Indonesian governments reacted strongly, emphasising their sovereignty over the Malacca Straits. Indeed, Indonesia and Malaysia publicly opposed the RMSI project, while Singapore voiced its support for the initiative, including the idea of foreign forces patrolling the Malacca Straits. RMSI therefore explicitly brought to light the different interests of the littoral states and increased already existing tension between these countries.

These examples demonstrate that the involvement of states from outside Southeast Asia to actively contribute to securing the Malacca Straits remains problematic. While donations of military hardware have been accepted, offers of more direct involvement by those countries in securing the straits have been rejected. Sensitivities about sovereignty are often cited as the main reason behind this refusal.\(^{157}\) Indeed, both Malaysian and Indonesian officials have accused foreign nations of deliberately using the terrorist and piracy threat to undermine the two countries’ national interests, as Mak writes:

The then Indonesian Chief of Navy, Admiral Bernard Sondakh, went so far as to say that the piracy situation in the Malacca Straits had been deliberately exaggerated, and that it was part of an international ploy to justify foreign intervention in Indonesia by portraying the country as weak and incapable of looking after its own waters. Similarly in June 2004, Mohamed Nazri Abdul Aziz, a Malaysian Minister in the Prime Minister’s Department, remarked that if the Straits was not ‘guarded properly, foreign powers may be prone to intervene in its management, and this will pose a threat to the country’s sovereignty.’\(^{158}\)

In fact, as Mak further points out, the underlying fear of the Malaysian and Indonesian governments is that they will lose control over their claimed waters. This is a real concern for local politicians because:

The offshore maritime zones of Malaysia and Indonesia are not only strategic and extensive, but they also contain valuable living and non-living resources. Malaysia’s maritime boundaries in particular, are still not universally recognized and accepted by the international community. Thus maritime sovereignty in the Malacca Straits is important for Indonesia and Malaysia not merely because the Straits is a strategic waterway for them, but because any change in their authority over, and management of, the waterway would have ramifications for their extensive maritime boundaries and zones beyond the Straits.\(^{159}\)

However, other factors which restrict international cooperation also play a role and include rivalry between states from outside the region willing to contribute, such as the tension between the US and China, as well as fear that military cooperation may expose domestic inadequacies.\(^{160}\)

\(^{157}\) Storey, ‘China’s “Malacca Dilemma”’, p. 4.
\(^{159}\) Ibid. pp. 157-8.
\(^{160}\) Bradford, ‘The Growing Prospects for Maritime Security Cooperation in Southeast Asia’, p. 74. With the establishment of coast guards (and similar civilian forces) in Bangladesh and the Southeast Asian countries, some of these obstacles may be overcome in the future. See: Bateman, ‘Coast Guards: New Forces for Regional Order and Security’.
All these factors inhibiting regional or international cooperation are not only valid in regard to the Malacca Straits, but also hamper collaboration in other parts of Southeast Asia and impact upon cooperation between Bangladesh and its neighbours. Furthermore, the same concerns about sovereignty and overlapping claims of ownership of ocean areas can prevent countries from signing international safety and security agreements which impact upon piracy. The 1988 United Nations SUA convention is one example. As Valencia notes:

SUAs were meant to ‘fill many of the jurisdictional gaps highlighted when the acts endanger the safety of international navigation and occur on board national or foreign flag ships while underway in the territorial sea, international Straits or international waters. The convention requires states to criminalize such acts under national law and to cooperate in the investigation and prosecution of their perpetrators’. Although the convention was developed largely in response to the 1985 Achille Lauro incident and with the objective of combating terrorism, it can also be an anti-piracy and anti-sea robbery measure. Indeed, ‘if a person seizes control of a ship by force, or threat thereof, or performs an act of violence likely to endanger the ship’s safe navigation, the person has committed an offence under the convention, regardless of the motive’.161

ASEAN countries have long been reluctant to sign the SUA convention for a variety of reasons, including their unwillingness to commit to prosecuting suspected criminals caught in their territory who have conducted illegal activities in foreign countries.162 Furthermore, as Valencia states:

For countries with a recent colonial history and relatively newly won independence, as well as ineffective navies and disputed or porous maritime boundaries, the convention can be seen as underscoring their inability to fulfil their obligations, or even compromising their national sovereignty.163

Of particular concern in regard to sovereignty is that the SUA convention endorses the hot-pursuit of vessels into foreign national territory. By not signing the SUA convention and similar international agreements, countries in Southeast Asia undermine international efforts to combat piracy and allow pirates more room to operate. Since 2002, Vietnam, Brunei, Singapore, Myanmar, and the Philippines have become signatories to SUA.164

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All the limits placed on cooperation which have been discussed above directly affect piracy in the region. Pirates, for example, often operate across national borders and close cooperation is therefore needed to combat the threat. However, so far collaboration remains limited and pirates cannot, for instance, be chased into neighbouring countries waters. Limits on information sharing between countries may also prevent the arrest of pirates at sea or in their home countries. Furthermore, most anti-piracy initiatives have so far focused on the Malacca Straits, even though attacks in this area have in most years accounted for only about 10 per cent of all attacks reported in Southeast Asia. Consequently, additional joint efforts have to be undertaken to address piracy in other areas in Southeast Asia, as pirates can otherwise shift their operations to these less protected waters. More important is probably the fact that the majority of initiatives to combat piracy have focused on the symptoms – the attacks themselves – and not on the underlying causes of piracy, which include over-fishing and socio-economic factors such as poverty in the region.

In summary, crucial issues such as the lack of resources of government forces are conducive to the occurrence of pirate attacks in Southeast Asia and Bangladesh. Other factors such as corruption of government officials and the level of cooperation between states also play a key role. Yet, these factors are not only conducive to the occurrence of pirate attacks but have wider security implications, which will be discussed in the following section.

Beyond piracy - Security implications

The lack of equipment of militaries and law enforcement agencies, corruption within these government forces, and limited cooperation between countries does not only impact upon piracy but also causes, or is an indicator of, wider national and international security concerns.

Tensions between countries

The examination of piracy and the countermeasures initiated by states has revealed the existence of tensions and unresolved problems between states in Southeast Asia and between Bangladesh and its neighbours. Such tensions and mutual distrust emerged out

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165 The exception is the year 2000, when 29 per cent of attacks occurred in the Malacca Straits.
of territorial disputes, contending interests of states, and the fear of losing sovereignty over national territory, to name but a few sources of possible conflict. These root causes of friction and the tension they create between nations have a direct impact on security beyond piracy as they can also cause armed conflict between states or hamper political and security related cooperation between nations.

While inter-state cooperation in Southeast Asia and between Bangladesh and its neighbours has improved over the years, the potential for states to solve disputes by use of force still exists. One example is the violent dispute between Bangladeshi and Indian border guards in April 2001 over a disputed patch of land near the village of Padua (known as Pyrdiwah in India), which adjoins the Indian state of Meghalaya and the Timbil area of the Bangladesh border in the Sylhet district. The conflict claimed the lives of several Indian and Bangladeshi soldiers and more than 10,000 local villagers fled their homes to escape the fighting. A reminder that armed conflict between nations in Southeast Asia cannot be ruled out was the 2005 dispute between Malaysia and Indonesia over an oil-rich territory in the Sulawesi Sea (Map 1). The dispute commenced when Malaysia’s national oil company Petronas announced the award of an exploration contract to the Royal Dutch/Shell Group in an area popularly known as Ambalat. The Indonesian government protested the decision, stating that part of the area in the contract was Indonesian territory and that the concession overlapped those granted by Indonesia to Italy’s EEN in 1999 and the US based company UNOCAL in 2004. To protect its interests, Indonesia sent war ships and fighter planes to the area, with Malaysia responding in kind. Newspaper coverage of the dispute triggered public outrage in Indonesia, including demonstrations, flag burnings, and protests in front of the Malaysian embassy in Jakarta and the consulate in Pekanbaru (Map 4). Furthermore, hackers from both Malaysia and Indonesia attacked government websites. To diffuse the tension, politicians from both countries pronounced their determination to solve the conflict peacefully. However, when an Indonesian and a Malaysian war ship collided in the disputed area, causing minor damage to both vessels, tensions rose once again. Even though the tension was eventually reduced through negotiation, the dispute remains a

167 After the incident, the Indian military accused the Bangladeshi forces of war crimes, claiming that some of the bodies of Indian soldiers that were returned to their homeland were mutilated. 'India Accuses Bangladesh of War Crimes', CNN, 27 April 2001, [http://edition.cnn.com/2001/WORLD/asiapcf/south/04/26/india.police/index.html](http://edition.cnn.com/2001/WORLD/asiapcf/south/04/26/india.police/index.html), accessed 22 June 2007.
problem between the two countries, with Indonesian navy personnel claiming as recently as February 2007 that Malaysian vessels and aircraft have entered Indonesian territory in this area. Overall, the deployment of war ships and fighter jets, as well as the collective animosity of parts of the Indonesian population towards Malaysia, demonstrates the seriousness of the incident. Such strong reactions by governments and the public are, however, mostly the result of a previously strained relationship between countries. The reaction of the Indonesian public, for example, was most likely triggered not only by the territorial dispute but by other factors such as the earlier decision by the Malaysian government to send over a million illegal immigrants back home to Indonesia.\footnote{Mokhzani Zubir, 'Malaysia-Indonesia Relations Surrmount Negative Publicity', Centre for Maritime Security & Diplomacy, 2005, \url{http://www.mima.gov.my/mima/htmls/papers/pdf/mokhzani/Mal-Indon.pdf}, accessed 16 February 2007. ‘Malaysia, Indonesia Pledge to Resolve Dispute Through Talks’, Kyodo News International, 7 March 2005, \url{http://www.findarticles.com/p/articles/mi_m0WDQ/is_2005_March_7/ai_n11854716}, accessed 15 February 2007. Ioannis Gatsiounis, ‘Malaysia, Indonesia Stir the Friendship Pot’, \textit{Asia Times Online}, 24 March 2005, \url{http://www.atimes.com/atimes/Southeast_Asia/GC24Ae02.html}, accessed 17 February 2007. ‘Malaysian Warships Trespass RI Waters in Ambalat’, \textit{Jakarta Post}, 4 March 2007, \url{http://www.thejakartapost.com/detailgeneral.asp?fileid=200702227175331&irec=42}, accessed 4 March 2007.} Tension between countries and their populations can therefore build up over time, and may escalate if governments do not work together to solve the underlying causes. This kind of friction not only exists between Malaysia and Indonesia but also between other countries in Southeast Asia,\footnote{A leading Thai daily newspaper published an article in which it described a scenario in which a war between Thailand and Malaysia is provoked in 2008 by an armed Thai fishing boat sinking a Malaysian patrol vessel in Malaysian waters. Tan, \textit{Southeast Asia}, p. 30.} between Bangladesh and its neighbours, and between countries in other parts of the world. Furthermore, the increase in the acquisition of arms and other military equipment in places such as Southeast Asia over the past decades not only indicates that mutual suspicions still exist, but could also make potential conflicts more deadly if they were to escalate.\footnote{See: Ibid. p. 32.}

Unresolved disputes and interstate tension also impacts bilateral and multilateral cooperation between Southeast Asian nations and Bangladesh and its neighbours, as has been discussed in regard to piracy. However, these factors not only adversely impact upon cooperation to combat piracy, but cooperation in general, including political and military cooperation, as well as collaboration to combat security concerns such as transnational crime, illegal fishing, and terrorism. Illegal activities, criminally or politically motivated, can therefore be conducted with greater ease. One example of
limited bilateral cooperation is the lack of mutual legal assistance and extradition treaties between Southeast Asian countries to improve judicial assistance between states and to regulate the delivery of suspected or convicted criminals from the state where the person has found refuge to the state where the crime was committed. A second example is the limited cooperation between countries within ASEAN in regard to a wide range of security concerns. As Tan notes:

Much of academia [...] understates the fact that despite the establishment of ASEAN, interstate issues, territorial disputes, and historical, ethnic, and religious animosities continue to underlie the relations between the various ASEAN states. Such dynamics are indicative of the presence of significant diversities that have divided the region. They have affected interstate relations to this day, despite over 30 years of development in regional cooperation, and have placed serious constraints on the development of an ASEAN security and economic community. [...] The three antecedent conditions for such a security community, as outlined by Karl Deutsch, such as compatibility of values, responsiveness to each others’ needs and predictability of policy goals by the political elites, are simply absent in Southeast Asia.

Other factors which prevent ASEAN from successfully addressing security challenges are the organisation’s reliance on the ASEAN Way style of diplomacy. For example, as with piracy, ASEAN has acknowledged that issues such as drug trafficking, human smuggling, transnational crime, and terrorism pose a threat to security, but the association has largely failed to implement joint action to combat these threats. As Emmers points out, one problem is ASEAN’s “tendency to focus on the proclamation of intentions rather than action, which has affected a whole range of issue areas besides crime.” In fact, more direct action would require a shift from ASEAN’s consensus model and its policy of non-interference in domestic matters, and while such changes have been proposed, they have not yet been adopted. With the current consensus model, issues are adjourned if members are not able to reach a compromise. Indeed, as Emmers writes: “National considerations take precedence in case of disagreements. Some members can slow down or even stop multilateral cooperation if they believe that

172 Tan, Southeast Asia, p. 5.
173 Emmers, 'ASEAN and the Securitization of Transnational Crime in Southeast Asia', p. 430.
174 See: Collins, Security and Southeast Asia, pp. 127-54. The non-interference policy allows governments to introduce controversial measures in their own countries with little fear of provoking criticism from other ASEAN members. ASEAN’s limited criticism of the regime in Myanmar, reknowned for its human rights abuses, is one example. Furthermore, it also demonstrates that ASEAN’s
collective actions may undermine their domestic interests."

As a result, ASEAN has been described as an organisation which manages, but does not solve problems. The same is also true for the ARF, which is still considered mostly a forum for dialogue, rather than an institution which actively resolves problems or emergent tensions between countries. Indeed, like ASEAN, the ARF has avoided addressing difficult issues, such as the ownership of Sabah or Pedra Branca, which are often not even on the organisation’s agenda.

The same issues which prevent closer cooperation between states in Southeast Asia, and Bangladesh and its neighbours, also impact on these countries’ cooperation with nations from other parts of the world. Offers of active international assistance in combating transnational crime or terrorism are, for example, often met with the same scepticism that international assistance in fighting piracy receives. Further, tensions between countries from outside Southeast Asia, which prevent closer international cooperation to combat piracy, also adversely impact collaboration to address other security threats. As noted above, China has been critical of US involvement in combating terrorism in Southeast Asia, due to concern that US-initiated anti-terrorism operations could be used as a ploy for activities to support other strategic goals.

Furthermore, as discussed earlier, sovereignty issues and overlapping claims of ownership of ocean areas prevent countries from signing international agreements to improve security. This not only affects international cooperation in regard to piracy but international cooperation in general, including collaboration to combat transnational crime, protect the environment, or counter politically motivated violence. An example is again the SUA Convention, which was originally developed in response to terrorism but which is also a useful agreement to assist in the fight against piracy. However, without signatory support, the SUA Convention will remain ineffectual in addressing both piracy and terrorism.

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approach of constructive engagement does not necessarily bring about change in countries in which the regime opposes reform. Collins, Security and Southeast Asia, p. 144.

Emmers, 'ASEAN and the Securitization of Transnational Crime in Southeast Asia', p. 433.

Collins, Security and Southeast Asia, pp. 134-5.

Tan, Southeast Asia, p. 33.


Lack of resources of government forces

The limited resources of militaries and law enforcement agencies are not only conducive to the occurrence of piracy but also to all other criminal activities and politically motivated violence. Criminal activities such as smuggling of people, drugs, weapons, and other goods often rely on transport via sea and are conducted by transnational crime syndicates as well as opportunistic criminals. Without sufficient government forces in place to combat such criminal activity, the perpetrators are able to operate with greater facility and ease. Furthermore, the limited resources of regional maritime forces make it easier for subsistence and commercial fishers to fish illegally in foreign national waters. Politically motivated groups such as separatists or terrorists also benefit from lax control over ocean areas, as they often rely on weapons or drugs smuggled on vessels. Inadequate patrolling allows members of such groups to travel with impunity between countries. Here, JI members entering the southern Philippines by boat to train and fight with the Abu Sayyaf is one important example. The activities of criminals, illegal fishers, and radical politically motivated groups all adversely impact upon security, as has been discussed in detail in previous chapters.

The lack of manpower and resources of military and police forces has also led to the establishment of private security forces which provide protection or anti-crime services in cities as well as rural areas. An example is the emergence of such groups in Bali and Lombok, Indonesia, in the aftermath of the Asian financial crisis. The International Crisis Group identified three main reasons for the rise of such groups on the two islands, namely (1) “the perceived breakdown in law and order following the collapse of the Soeharto government in 1998, combined with general distrust of the police”, (2) the decentralisation of power after 1998, and (3) “a shortage of police to cope with post-Soeharto problems, particularly after the formal separation of the police from the armed forces in 1999.” This example shows that under-funded and under-

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equipped government forces are unable to address not only piracy but also other security concerns such as robbery and other forms of crime. Generally, the formation of such private security forces leads to the deterioration in the credibility of government forces and challenges “the state as the final guarantor of security”.182 Also, as Sidney Jones, International Crisis Group’s Southeast Asia Project Director, points out: “These private security forces often exacerbate rather than reduce security problems, especially when they are linked to particular religious, ethnic, or political groups”.183 These security implications are not only valid for Indonesia but for all countries in which private security forces operate.184

Pirates also benefit from the corruption of law enforcement and/or military personnel. However, the existence of corruption in some Southeast Asian countries and Bangladesh185 has security implications that go well beyond piracy. For example, other organised or opportunistic criminals, as well as radical politically motivated groups, exploit the same situation to conduct their extra-legal operations.186 Furthermore, corruption of police and military officers can result in the loss of public confidence in these key institutions of governance. In Bangladesh, for example, the military and police are renowned for corruption, or as a retired public servant puts it: “Police in Bangladesh know every dirty trick to extort money from both criminals and innocent people alike”.187 One consequence of this behaviour is that people no longer approach the authorities to report crimes or when they are in danger. Particularly affected by corruption in countries such as Bangladesh are the poor, as they cannot afford to pay

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183 Ibid.
184 In addition to these militia-style private security forces, PSCs have emerged, offering their services in places where local law enforcement is weak – a phenomenon which will be discussed in detail in Chapter 8.
185 Corruption is often not limited to the military or law enforcement agencies, but also involves, among others, politicians and other civil servants. The impact of corruption is contested and the subject is too broad to be discussed here. For a discussion of corruption and its impact in Asia see, for example: Syed Hussein Alatas, Corruption and the Destiny of Asia, Petaling Jaya: Simon and Schuster (Asia), 1999. Fethi Ben Jomma Ahmed, The Dilemma of Corruption in Southeast Asia, Kuala Lumpur: University of Malaya Press, 2005.
186 See Chapter 5.
law enforcement agencies for services which should be free for the public. In other countries, corruption of government forces also adversely affects people in need of assistance. For example, in Southeast Asia and other countries around the world, military forces are often involved in distributing foreign aid in the aftermath of a crisis, including natural disasters. In countries where military forces are corrupt, parts of the aid provided often do not reach the people in need but is held back by military personnel. For example, the TNI was accused by aid workers and locals of collecting money and equipment donated to help the victims of the tsunami which destroyed large parts of Aceh on 26 December 2004. The TNI and Indonesian police have also benefited financially from other humanitarian crises in the country, by, for instance, charging people fleeing from communal unrest for transportation. These examples demonstrate that corrupt officers not only collect money from victims of piracy but also from other people in need of assistance and that the corruption of military and police personnel affects the security of individuals and undermines state authority.

Collecting money for services from those in need of assistance is only one way for the personnel of government forces to earn additional money. Military and/or police involvement in economic activities is another controversial method/technique used in some Southeast Asian states and other countries around the world. The widespread involvement of the Indonesian military and police in legal and illegal (business) activities is an important case in point. Indeed, members of Indonesian government forces are not only believed to be involved in piracy but also in other illegal activities such as smuggling of arms and drugs and participation in the illegal timber trade. Overall, the issue of self-funding has an impact on the quality of services provided by the military and police as their “focus on fundraising reduces military professionalism and readiness.” However, self-funding has further, maybe more subtle but invidious impacts, as explained in a Human Rights Watch report:

188 Ibid.
190 Ibid. pp. 74-5.
191 In his PhD thesis, Stenross, for instance, discusses numerous examples of Indonesian police, navy, and forestry officials accepting money from timber traders. See: Kurt Stenross, 'The Seafarers and Maritime Entrepreneurs of Madura. History, Culture, and Their Role in the Java Sea Timber Trade', PhD Thesis, Murdoch University, 2007, pp. 175-6, 194-5. See also Chapter 5 of this thesis.
192 Human Rights Watch, 'Too High a Price', p. 5.
Military economic engagements are bad for the economy: they introduce market distortion and irrationalities; provide a platform for corruption and rent-seeking behavior (defined as the extraction of excess profits, such as through privileged access to lucrative natural resources); add to the cost of doing business (through the payment of protection money); and contribute to environmental degradation that impedes sustainable development.

The compelling human costs of the military’s economic activities also must be considered. Civil society groups have long drawn attention to the many ways in which military economic entanglements fuel abuses of power, including corruption and human rights violations. The Indonesian military has a dismal human rights record, and it is widely recognized that military self-financing plays a role in facilitating such abuses. Economic incentives can motivate certain military abuses—including extortion, property seizures, and profiteering—and also can help fuel or sustain violence in conflict areas where the armed forces have access to lucrative natural resources or money-making ventures. More generally, the military’s financial autonomy undermines civilian authority and accountability.193

All these factors impact individual, national, and international security. Individuals can, for example suffer from the human rights abuses inflicted by military or police forces, while national security is threatened by the loss of control of (elected) civilian governments over the armed forces. These factors can cause political instability, or even armed conflict within countries, which can spread to neighbouring countries or, if for example a large number of people are forced to flee from their home country, directly affect states in other parts of the world.

Conclusion

Since independence, Bangladesh and the Southeast Asian countries have developed and expanded national militaries and law enforcement agencies with maritime capabilities, according to strategic considerations and funds available.194 The economic development of those countries therefore played a key role in the expansion of such government agencies. The level of resources available to navies and maritime law enforcement agencies impacts upon piracy, as only sufficiently equipped and trained agencies can successfully combat piracy. In countries such as Indonesia, Bangladesh, or the Philippines, where only limited resources are available and corruption is rife, piracy flourishes. In Singapore, on the other hand, piracy in the country’s waters is only a minor concern because of the limited size of the country’s waters and the fact that the

193 Ibid. p. 6.
Singaporean navy and law enforcement agencies are well managed and equipped. Also, given that piracy is often a transnational activity, the cooperation between states within Southeast Asia and between Bangladesh and its neighbours is of importance. Such collaboration is, however, often hampered by concerns over sovereignty, overlapping claims of ownership of ocean areas and islands, and other related issues. Cooperation between these countries and states from outside the region to fight piracy is also problematic due to the contested interests of countries and the fear by local governments of losing control over their national territory. Indeed, active involvement of countries from outside the region in securing Southeast Asian waters has often been met with resistance, with Malaysia and Indonesia alternatively suggesting that those states relying on the Malacca Straits and other Asian sea lanes should provide funds or equipment to littoral states to increase security. Overall, limited regional and international cooperation is contributing to piracy, as pirates cannot, for example, be chased into neighbouring countries’ waters.

Limited cooperation between states and the lack of resources of navies and law enforcement agencies have security implications well beyond piracy. Criminals or radical politically motivated groups can, for instance, exploit the same shortcomings which pirates also take advantage of – including the meagre resources of government agencies and the corruption of navy and law enforcement personnel. Additionally, the lack of adequate resources of government agencies poses an incentive for armed forces personnel to find their own sources of income, which is problematic as it ultimately undermines civilian control over these institutions. Furthermore, controversial militia-style private security forces have emerged in countries such as Indonesia to compensate for the lack of proper protection provided by state agencies. Another type of private security provider, namely PSCs, also offer additional security services where state provided protection is insufficient, as will be discussed in the following chapter.
Chapter 8

Privatising the Fight against Piracy

Introduction

We live in an increasingly privatised world. Private education, private airlines, private telephone companies, and private healthcare are only a few examples of the increasing impact of privatisation on our daily lives. Designed to stay competitive in the global market, private companies promise cheaper rates and better service for the customer. Today, such companies offer services for every aspect of life, including the security and military sectors. It should, therefore, come as no surprise that so-called PSCs or PMCs (Private Military Companies) are also employed to secure the world’s oceans. In the last ten years an increasing number of private companies have surfaced and expanded their operations, offering services ranging from piracy response training for law enforcement personnel to recapturing hijacked vessels and rescuing kidnapped crew members. This new alternative for ship owners, insurance companies, and other businesses involved in the maritime sector to respond to piracy in Southeast Asia¹ is part of – and exemplifies – the increasing privatisation of security. By examining anti-piracy services offered by PMCs/PSCs one can therefore understand the role, impact, and shortcomings of the privatised security industry within and beyond maritime Southeast Asia.

The first section of this chapter briefly discusses the privatisation of security and the emergence of PMCs/PSCs, including those active in maritime Southeast Asia. The second section then examines the nature and characteristics of PSCs offering anti-piracy services in Southeast Asia and looks at the different types of anti-piracy services provided.² The third section suggests that the existence of PMCs/PSCs and their operations in maritime Southeast Asia indicate that there are security gaps and

¹ The author has so far not come across any PMCs/PSCs conducting anti-piracy operations in Bangladesh. Bangladesh will, therefore, not be discussed here. However, the conclusions drawn from PMC/PSC operations in Southeast Asia would also apply to Bangladesh if such companies operate, or will eventually begin to operate, there.
² As will be discussed later, PMCs/PSCs seem to be in a constant state of flux and company set-up, ownership, staff, websites, and services offered change often. Some of the companies described in this chapter may therefore have changed, may have become part of other companies, or may no longer exist.
weaknesses in current maritime security arrangements, such as a lack of resources of some local law enforcement agencies. By discussing examples of work conducted by PSCs in Southeast Asia, including anti-piracy services, it also highlights some of the crucial problems and controversies associated with the privatisation of maritime security. The chapter concludes by suggesting that the anti-piracy services offered by PMCs/PSCs in Southeast Asia show that clear laws are required to control and regulate the work conducted by PMCs/PSCs and that the public as well as other observers should be critically aware when relying on information from the commercially motivated PMCs/PSCs.

Privatisation of security

The US-led war in Iraq in 2003 and its aftermath have brought to world attention the existence and involvement of private companies in wars and post-war reconstruction efforts. Indeed, media reports of the horrific deaths of four employees of Blackwater USA in Fallujah and the coverage of private contractors’ alleged involvement in the abuse of Iraqi detainees at Abu Ghraib prison heightened public awareness of the nature of work conducted by the private military industry in conflict zones. Given the scale of the employment of PMCs/PSCs in Iraq, Singer suggests:

[T]he Iraq War is where the history books will note that the [private military] industry took full flight. Iraq is not just the biggest U.S. military commitment in a generation but also the biggest marketplace in the short history of the privatized military industry. In Iraq, private actors play a pivotal role in great-power warfare to an extent not seen since the advent of the mass nation-state armies in the Napoleonic Age.

Singer’s statement also shows that outsourcing of military services is hardly a new phenomenon. Looking at history one finds numerous examples of private military actors

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3 Since these issues have been discussed at length in earlier chapters this section will be dealt with in an abbreviated form.
known as mercenaries,condotieri, or dogs of war to mention just a few—in past conflicts and wars around the world. However, in the past 15 years, PMCs or PSCs have arisen as a new breed of private military actor. PMCs/PSCs are private business companies, offering a large variety of services in the military and security sector. There has been an ongoing debate over how to distinguish between PMCs and PSCs. Some observers have suggested that PMCs provide active security services, including military training, while PSCs offer more passive services, such as logistics support for military operations. Yet, as Singer argues, these distinctions are difficult to put into practice. Today, this is increasingly so, as companies expand and merge, with many of the smaller companies bought by their larger counterparts, resulting in single companies offering an ever expanding range of services. However, as this discussion is concerned mainly with anti-piracy services—services mostly provided outside areas of active armed conflict or war—the term PSC will be used here.

7 The most commonly accepted definition of a mercenary is the definition included in Article 47, Protocol I of the Geneva Convention. All the following factors have to apply to classify someone as a mercenary. A mercenary is someone who: “(a) is specifically recruited locally or abroad in order to fight in an armed conflict; (b) does, in fact, take direct part in the hostilities; (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that party; (d) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (e) is not a member of the armed forces of a party to the conflict; and (f) has not been sent by a state which is not a party to the conflict on official duty as a member of the armed forces.” Quoted in: David Shearer, Private Armies and Military Intervention, New York: Oxford University Press, 1998, p. 17.

8 The names and labels for such private actors have changed over time, depending on the location and character of the conflict and the nature of the private actor’s involvement. The label chosen for private actors largely depends on the commentator’s point of view. For modern PMCs/PSCs the label mercenary is occasionally still used. However, various authors convincingly point out the differences between mercenaries and PMC/PSC operators. See, for example: Singer, Corporate Warriors, pp. 40-8. Shearer, Private Armies and Military Intervention pp. 13-22.

9 For a detailed discussion see the second chapter in: Singer, Corporate Warriors, pp. 19-39.


11 Singer, Corporate Warriors, pp. 89-91.

12 In a United Kingdom Parliament Select Committee on Foreign Affairs report concerned with the regulation of PMCs, the capabilities of PMCs are divided between ‘Non-Lethal’ and ‘Lethal Capabilities’, with anti-piracy capabilities placed in the lethal section. The United Kingdom Parliament, ‘Select Committee on Foreign Affairs Minutes of Evidence, Chapter 1—Introduction’, http://www.publications.parliament.uk/pa/cm200102/cmselect/cmfaff/922/2061321.htm, accessed 26 August 2004.

13 It is, however, important to note that these PSCs have little in common with domestic security companies providing, for example, security guards for condominiums or shopping centres in countries such as Singapore or Malaysia.

14 Shearer suggested that in contrast to PMCs, PSCs “tend to be confined to specific areas, notably those in which foreign investment is located, and their role limited to protecting installations against banditry
The number of PSCs and the variety of services they offer have grown rapidly in the post-Cold War environment. One of the major reasons for the growth of the privatised military industry was the changing nature of conflict after 1989. With the end of the Cold War, the number of internal and regional armed conflicts – formerly held in check by the USA and the USSR – increased. Many of these conflicts, predominantly in the developing world, were fought over control of natural resources and the wealth and power resulting from the exploitation of these resources. These conflicts were “[o]ften intermixed with ethnic, religious, and tribal antagonisms,” and were characterised by the involvement of transnational crime syndicates, regional or local warlords, rebel groups, terrorists, and insurgents. The emergence of these conflicts coincided with a general unwillingness of Western states to intervene in these conflicts. As Taulbee states:

The negative experiences with intervention in the early 1990s undercut the [United Nations] Security Council’s ability to interfere on humanitarian or other grounds without explicit consent from the parties in conflict. The political will to intervene has become dependent upon estimates of potential casualties and costs, not strategic value or humanitarian issues. […] Defense services provided to other states such as training, procurement and certain tasks associated with UN peacekeeping operations, have been increasingly delegated to private companies.

Furthermore, with the end of the Cold War, a global downsizing of major armies began, particularly in the former Soviet Union but also in the USA and the UK, leaving an abundance of well-trained and experienced soldiers available either to set up, or be employed by, PSCs. Also, the reduction in size of the military at a time when numerous conflicts in different parts of the world emerged led the US government to increase military outsourcing, in order to be able to respond to these conflicts. However, the

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16 Singer, Corporate Warriors, pp. 50-3.
latest increase in demand for PSCs services, fostering the establishment of even more PSCs, is linked to the War on Terrorism, including the US-led intervention in Iraq.19

Apart from the US government, PSCs today are also employed by various other governments, the UN, humanitarian NGOs, and multinational corporations. They have also been known to assist rebel groups and international criminal syndicates.20 Like their clients, PSCs are now based all around the globe, with many new companies emerging in developing countries, and a number of large established companies, often based in the USA or Britain, opening branch offices in different corners of the world. These PSCs offer services ranging from logistics support, risk analysis, training of military units, and intelligence gathering, to the rescue of hostages, and the protection of assets and people in conflict zones.

Today, PSCs are successful because, according to their proponents, private companies can offer more effective military services at more competitive prices than state militaries and can respond to crises more rapidly. Also, it has been stressed that PSCs have played an important role in post-conflict zones, providing, for example, demining services.21 However, with the increasing employment of PSCs, a number of concerns about the nature of their work have surfaced. These concerns mostly centre on the lack of transparency and public oversight of operations and business practices of PSCs and the question of whether or not the protection of national security and the provision of military services should remain within the domain of governments, rather than the profit motivated private sector. Furthermore, some observers have argued that the employment of PSCs allows Western governments “to pursue policies in tough corners of the world with the distance and comfort of plausible deniability.”22 These concerns have been fuelled by reports of scandals surrounding the work conducted by a number of PSCs. Allegations included overcharging, the prolonging of conflict in order

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19 Isenberg, 'Corporate Mercenaries. Part 1: Profit Comes with a Price'.
21 Brooks, 'Messiahs or Mercenaries?' pp. 131-2.
22 International Consortium of Investigative Journalists, 'Making a Killing. The Business of War', Center for Public Integrity, 2003, http://www.publicintegrity.org/bow/, accessed 24 November 2003. Chapter 1, p.1. Furthermore, the links between governments and PSCs also remain a critical issue, because many of these companies are politically very well connected - a fact that is very beneficial for the companies in order to win or receive contracts. See, for example: David Isenberg, Corporate Mercenaries Part 2: Myths and Mystery, Asia Times, 20 May 2004, http://www.atimes/Middle_East/FE20Ak02.html, accessed 21 May 2004.
to increase their own profits, involvement in criminal activities, and the acceptance of payment in the form of mining or oil concessions. One example of a controversial PSC operation is the intervention of *Sandline International* – a British company set up by the infamous Colonel Tim Spicer – in Papua New Guinea (PNG) in 1997. *Sandline* was hired by the PNG government after local military efforts failed to recapture the world’s largest copper mine on Bougainville island. The mine had been seized by local rebels, who had shut it down to prevent further pollution of their island, and to demand a larger share of the revenue for the local population. The government offered *Sandline* US $36 million to help recover the island from the rebels and restore the mine to full operation. However, the arrival of Spicer and 70 ex-soldiers in PNG provoked the army to rebel and stage a coup, leading ultimately to the government’s collapse. Spicer was arrested for illegally importing arms, but was later allowed to return to the UK after he agreed to be questioned by a government commission of enquiry.

The example of *Sandline*’s involvement in PNG shows that PSCs are active in Asia, even though PSC operations are often thought to be largely confined to Africa and the Middle East. Indeed, since the advent of the recent war in Iraq, the work conducted by PSCs is primarily associated with the conduct of conventional wars or post-war reconstruction efforts. PSCs, however, also operate in regions and countries that have not been involved in wars for prolonged periods of time.

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24 Singer points out that the payment in the form of mining or oil concessions can have a long-term impact on the client nation as a potentially valuable resource and profits from it are lost for the state in question for years after the conflict has ended. Singer, *Corporate Warriors*, pp. 166-7.

25 Over the course of his career as a soldier and as a PSC employee, Spicer has been involved in numerous controversial activities that have often attracted media attention. Some of his activities will be discussed in this chapter. His own account of events can be found in his autobiography: Tim Spicer, *An Unorthodox Soldier. Peace and War and the Sandline Affair*, Edinburgh: Mainstream Publishing Company, 1999.


27 However, as discussed in earlier chapters, internal armed conflicts are occurring in some Southeast Asian countries.
Southeast Asia, for example, largely generate business from other social and political crises.\(^{28}\)

In Southeast Asia, the intensification of the global economy has brought about many changes in the post Cold War era, as discussed earlier. These include not only the transformation of economies and polities, but also the development and dissemination of radical political and religious ideologies within the region. As a result, more radical movements, including terrorist and separatist groups, have emerged and established themselves across the region.\(^ {29}\) Criminal syndicates, smugglers, and fraudsters are also active in Southeast Asia, and in the aftermath of the Asian economic crisis of 1997, poverty and political dissatisfaction with central governments and regimes have spread ever more widely in Southeast Asia. Also, with the advent of the War on Terrorism and the more recent terrorist attacks in the region – including the October 2002 and 2005 bombings on the Indonesian island of Bali – the feeling of insecurity and the sense of imminent threat, especially to foreign interests, have increased dramatically. All these developments heightened the demand for services offered by PSCs. Work conducted in the Southeast Asian region has therefore been diverse, as demonstrated by the following examples. The Indonesian government, for instance, has employed *Strategic Communication Laboratories*, a firm specialising in psychological warfare operations, to train its forces to respond to religious or secessionist violence more effectively. *Onix International* has rescued a businessman kidnapped in East Timor\(^ {30}\) and *TASK International* has trained the Royal Malaysian Police in close protection, hostage rescue, and crisis management in preparation for the 1998 Commonwealth games.\(^ {31}\) Furthermore, *Grayworks*, a Filipino company, has trained the Filipino police counter-

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\(^{28}\) In neighbouring countries, PSCs have conducted services linked directly to armed conflict and war. The French company COFRAS has, for example, conducted demining services in Cambodia. Singer, *Corporate Warriors*, p. 13.

\(^{29}\) Peter Chalk, *Grey-area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political Terrorism*, Canberra: Strategic and Defence Studies Centre, Australian National University, 1997, pp. 7-11. He points out that these developments were also fuelled by the increasing marginalisation of certain ethnic or religious groups across the region, who suffered from state sponsored administrative and economic neglect as a result of development programmes which had as their prime purpose the furthering of the interests of the dominant community. Chalk, *Grey-area Phenomena*, pp. 17-8.

\(^{30}\) ginger, *Corporate Warriors*, pp. 13-4, 80.

terrorism force and has sent its specialists on missions into conflict areas, such as the southern part of the archipelago, with the forces they trained.\footnote{The company is based in the North Cotabato Province, the Philippines, and is involved in diverse activities, ranging from the protection of a Dole fruit plantation in North Cotabato to involvement in the fight against terrorist and separatist movements in the southern Philippines. David Pugliese, 'Canada’s Guns for Hire on Terror’s Front Lines', \textit{The Ottawa Citizen}, 2 November 2002, \texttt{http://www.sandline.com/hotlinks/canada_story.html}, accessed 13 November 2003.}

These examples of PSC involvement in Southeast Asia and other parts of the world may seem a far cry from maritime security issues. However, the history, past operations, and current state of PSCs are important in regard to maritime security, as it is to a large extent the same (or similar) companies and individuals discussed above that offer maritime security and anti-piracy services in the Southeast Asian region today.

\textit{Privatisation of maritime security}

A number of social, political, and economic factors shaping the Southeast Asian maritime environment have been conducive to the growth of the privatised maritime security industry. The region is home to important sea-lanes and straits and the safety of shipping is crucial to the economy of all Southeast Asian nations as well as other countries relying on commodities shipped through the region’s waters. The different types of pirate attacks, the threat of maritime terrorism, and other illegal activities such as fraud and smuggling all pose a risk to shipping in Southeast Asia.

The region is also rich in gas, oil, and mineral resources and both onshore and offshore energy installations are operating in many Southeast Asian countries. Companies extracting oil, gas, or other natural resources depend on terminals along the coast from which the extracted goods are shipped to various destinations around the world. A large number of mining sites and oil/gas fields in Southeast Asia are located in economically underdeveloped or politically volatile places, some with ongoing armed conflict. The exploitation of these fields, including those in Riau Province and Aceh, is therefore only possible with efficient security arrangements in place.\footnote{Examples of protests and attacks against a company’s assets will be given later in this chapter. However, protection is not only needed in Southeast Asia but also in other parts of the world. There are many examples of companies requiring additional security and protection in Africa for instance. See, for example: Madelaine Drohan, \textit{Making a Killing. How Corporations Use Armed Force to Do Business}, Guilford, CT: Lyons Press, 2003.} Indeed, theft as well as protest or sabotage by local residents can pose a security threat for oil/gas and
mining companies operating in the region. Furthermore, separatist and terrorist groups have in the past targeted maritime facilities operated by oil/gas or mining corporations. In Aceh, for example, GAM has launched offensives against *ExxonMobil*. Indeed, in 2001 the attacks against *ExxonMobil* employees in Aceh were so severe that the company was forced to close its operations for four months. Additionally, as in other parts of the world, accidents and natural disasters also pose risks for the maritime and offshore energy industry.

The risk of accidents, terrorism, separatism, as well as fraud, piracy, and other criminal activities are not a new threat to maritime security in Southeast Asia. Yet, as discussed previously, the security environment changed considerably after the end of the Cold War, and particularly since the September 11 terrorist attacks, creating a crucial niche for PSCs to offer maritime security services. For example, with a heightened fear of a major maritime terrorist attack, governments began to look at the world’s oceans with grave concern, resulting in the implementation of the ISPS code and the introduction of other new safety and security regulations in the maritime sector. These developments enhanced the emergence of a new security consciousness in the shipping industry, with many companies becoming aware that security improvements were necessary to adequately protect their assets, investments, and crews. These changes undoubtedly offered an unprecedented opportunity for PSCs, as government authorities and agencies were unable to provide security, training, and technical equipment on the scale that was now sought by the maritime industry, or is today required as part of new regulations.

To address the growing demand for security services, an increasing number of PSCs offer a wide range of services designed to protect expensive and particularly vulnerable assets. Currently, PSC services advertised include risk assessment, port security, the deployment of guards on vessels or offshore energy installations, the training of military or law enforcement personnel, and assistance in emergencies or

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35 As discussed in previous chapters, the GAM and the Indonesian government signed a peace agreement on 15 August 2005 and if the agreement is upheld by both parties and profits from the exploitation of resources become more evenly distributed, attacks against energy installations may cease in Aceh.
accidents. These services help customers protect their assets in manifold ways and from multiple security threats. Risk assessment services and the preparation of security plans may, for example, prepare energy companies and their employees on offshore energy installations for possible attacks by separatist movements. Armed guards on vessels may prevent smugglers or stowaways from boarding a ship, and undercover PSC employees onboard a vessel may be able to prevent or respond to mutiny of a crew or other illegal activities conducted onboard. Furthermore, fraud victims or owners of detained vessels or cargoes can hire a PSC to investigate an incident and assist in the recovery of the company’s assets. Additionally, Southeast Asian nations can improve the capabilities and the operation of their law enforcement officers through training in advanced skills by experienced ex-special forces personnel employed by PSCs. Governments can also hire PSC employees to protect their EEZs from poachers who fish illegally in their territory.

**Privatising the fight against piracy**

Most PSCs active in the maritime sector also offer services to address the growing piracy problem in Southeast Asia (and other parts of the world). Many PSCs offering anti-piracy security are part of, or linked to, larger PSCs or transnational corporations outside the security industry. While many of the larger companies are based in the USA and Great Britain, a number of them have over the past few years established branch offices in the Southeast Asian region. One example is Hart, which has opened an office in Singapore. Moreover, a number of smaller companies have been established in the region, such as Background Asia, with headquarters also in Singapore. Other companies are based around the world, yet they offer anti-piracy services covering the Southeast Asian region. These include in Britain, Gray Page Limited, in Germany MarineServe GmbH, in Israel G.S.SEALS, in the USA the Trident Group, and in

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37 Some companies also offer a broad range of technical maritime security products. These include electrical fences for vessels and non-lethal weapons such as shootable glue. Research into these new technologies is conducted by a range of companies based in the Netherlands.
Australia the Australian National Security Service,\textsuperscript{43} to mention just a few. Being part of the overall process of the privatisation of military and security services, the majority of companies presently offering anti-piracy services for Southeast Asia emerged after 1989. Yet, their number increased significantly after the September 11, 2001 terrorist attacks. There are, however, a limited number of companies which have been working in the maritime security business in the region for decades. An example is Glenn Defense Marine (Asia) which was established in 1946 and has offices in Singapore, Hong Kong, Indonesia, and other countries in Asia. Glenn Defense Marine is also unusual in respect to the size of its workforce, with over 500 people from diverse backgrounds currently employed by the Glenn Group of Companies.\textsuperscript{44} Most other companies, in contrast, consist of a much smaller number of permanent staff, an office, and, usually, an impressive presence on the Internet. These companies hire additional personnel and acquire necessary equipment on a case-by-case basis, once a contract with a client is signed, which allows the companies to run their business with limited expenses and capital. While this type of company set up can be beneficial for the client – as resources are bought and staff hired specifically for the client’s needs – it also allows companies to rapidly dissolve and recreate themselves if need be.\textsuperscript{45} Also, it allows the establishment of PSCs by a wide variety of people.

Information provided by companies about their background, the company itself, and the services they have conducted in the past, as well as information about the people they hire if required, is usually sparse.\textsuperscript{46} As Frank Hopkins writes:

There are many shingles out for ‘maritime security’, including several with a shingle but no credentials or track record. They would like to sign you up as a client or sell you stock in their company, either way is fine as long as they get your money. There are others who have even initiated relationships with legitimate security firms or army suppliers, but sail under false flags as far as credentials and experience [are concerned].

\textsuperscript{45} This is also the case for PSCs offering non-maritime related services. See: Singer, Corporate Warriors, pp. 73-5. Since the author began this research in 2003, almost all of the companies investigated initially have changed in various ways, either in their set-up, structure, ownership, or have ceased to exist.  
\textsuperscript{46} However, over the past few years some companies have published more information about the company and employees.
There are many very professional web sites, behind which we were unable to find a professional organization.\textsuperscript{47} However, the level of information about these companies, their founders, and employees vary considerably. Some companies, such as \textit{Enterprising Securities}\textsuperscript{48} with headquarters in Corpus Christi, Texas, provide hardly any information at all, while other companies such as the British based \textit{Gray Page Limited}, offer brief background information about its founders and staff.\textsuperscript{49} This is not the only regard in which \textit{Gray Page} is unusual: the company is set up and run mostly by people without a military background. The majority of PSCs offering anti-piracy services seem in contrast to be founded by, and to employ, mostly ex-military or ex-law enforcement personnel, with the credentials and reputation of the company often linked closely to the past military experiences of its founding members and employees. Therefore, most companies advertise that they employ former members of elite special forces from around the globe, with ‘vast experience’. Whether or not this experience is in the maritime sector or related to the services and tasks they are now employed for by the company – including for example knowledge about the vulnerabilities of a ship – often remains unclear. To bridge the existing gap in background information and to win a potential client’s trust, PSCs go to great lengths in stressing the high moral standing of their employees. A good example is \textit{Securewest International’s} use of the Gurkha soldiers’ reputation to reflect on the company and its operational abilities, as they employ former soldiers from the British Army Brigade of Gurkhas. They are described in the company’s brochures not only as “the bravest of the brave” but also as “the most likable people you will ever meet.”\textsuperscript{50} Other companies often use descriptions such as ‘of good character’ or ‘men with highly tested character’ to depict the sort of people they employ if needed. Nowhere, however, is it explained just how and by whom their character has been tested.

The anti-piracy services offered by PSCs range from risk consulting to the rescue of kidnapped crew. Some companies specialise in the protection of specific

\textsuperscript{49} Gray Page Limited, Homepage.
assets, such as the London based company *Yacht-Secure Ltd*,\(^{51}\) but most companies offer anti-piracy services for a variety of assets, such as ports and different types of vessels. While not all companies offer all anti-piracy services,\(^{52}\) with some solely providing risk consulting or vessel tracking services, most seem to offer many of the major anti-piracy services. These include\(^{53}\):

a) **Risk assessment and consulting:** Almost all companies offer risk consulting services, either consisting of general political risk reports published and updated regularly, or client-specific risk assessments. These range from port or vessel threat assessments and pre-employment screening to crisis management planning. Companies such as *Control Risks Group*,\(^{54}\) which are solely offering consultancy services, stress on their corporate websites that their role is strictly advisory.\(^{55}\)

b) **Training of crews, port authority personnel, or military and law enforcement units; vessel tracking:** Almost all companies also seem to offer ISPS training courses and surveillance services rendered through 24 hour monitored vessel tracking systems.\(^{56}\) Security-awareness training courses for crewmembers, including piracy response and prevention training, are also offered. More advanced training for law enforcement officers or military personnel is also available from selected companies. *Enterprising Securities*, for example, offers such courses, which include “anti-piracy interdiction” training. The courses are held either in the US or at other international locations, including the Philippines.\(^{57}\)

c) **Provision of (armed) guards onboard vessels or vessel escorts:** A large number of companies offer to provide escort vessels or armed/unarmed guards for commercial vessels or yachts to prevent and respond to piracy or terrorist attacks. *Securewest International*,\(^{58}\) for instance, offers armed and unarmed ex-Gurkha security officers to protect commercial and military shipping in port and at sea.

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\(^{51}\) Yacht-Secure Limited, Homepage, [http://www.yacht-secure.co.uk/home.html](http://www.yacht-secure.co.uk/home.html), accessed 13 August 2005.

\(^{52}\) Some of the services are not solely anti-piracy services but are designed to prevent operations by pirates, terrorists, smugglers, and other criminals alike.

\(^{53}\) The following services are provided by numerous companies. The companies given as examples for particular services are only random samples. The author is not intending to imply that these companies are more reliable than others, or offer particular expertise that other companies do not offer.


\(^{55}\) However, *CRG* has recently joined forces with *Port Maritime Security International (PMSi)*, which offers training for *CRG*’s clients.

\(^{56}\) Once the majority of vessels and crews are ISPS-compliant, there will be less demand for ISPS related training.

\(^{57}\) Enterprising Securities, Homepage.
d) Crisis response, investigation and recovery of hijacked vessels and cargoes, and the rescue of kidnapped crew: Many companies offer crisis response, with some extending their services to the investigation and recovery of hijacked vessels and stolen cargoes. Two companies specialising in investigations and the recovery of hijacked vessels are Gray Page Limited and Pilgrim Elite Limited, both based in the UK. Some companies also offer to assist in the negotiation process in cases of kidnapped crewmembers, with some even offering to rescue hostages in cases where negotiations have failed.

e) Fisheries protection: Perhaps the least attention has so far been paid to the services provided in the fisheries sector. For example, Hart offers EEZ Fisheries Protection, which has in the past included “protection for local fishermen against illegal foreign fishermen and the preservation of the territorial limit for exclusive use of local fishermen”, as well as “anti pollution, piracy, smuggling and terrorist capabilities”.

PSCs, therefore, offer preventive as well as post-attack services, addressing all types of pirate incidents on commercial vessels and pleasure crafts. Hit-and-run robberies, possibly even attacks by organised pirate gangs or syndicates, may be prevented through better training of the crew or the presence of armed or unarmed guards onboard a vessel. Victims of hijackings can rely on crisis management assistance during the event, or employ a company to relocate or recover the hijacked vessel or stolen cargo afterwards. Furthermore, by enforcing EEZs, PSC services may even help to prevent attacks on fishermen. This diversity of services offered makes PSCs not only attractive for clients based in piracy prone regions, but also for insurance companies, oil/gas companies, cargo owners, and banks located in major cities around the globe. Anti-piracy work conducted by PSCs for such clients has so-far included the escort of tankers by Background Asia through the Malacca Straits, and the provision of protection for a vessel which departed from an oil rig and travelled through the Malacca Straits by Counter Terrorism International (CTI).
Piracy and beyond - Security implications

PSCs are only able to conduct maritime security services in an environment in which the safety of shipping is at risk and the existing security arrangements – mostly provided by state law enforcement agencies – are insufficient. Therefore, only in an area where maritime terrorism, piracy, fraud, smuggling, or other illegal activities are a security concern – real or perceived – can companies offering protection from these threats prosper. This part of the chapter will argue that the existence of PSCs operating in maritime Southeast Asia and the services they offer reveal a number of problems and security challenges in the region, including lax control and regulation of the maritime sector, and the lack of resources of some local law enforcement agencies. Furthermore, it suggests that the anti-piracy services conducted by PSCs highlight some of the most significant controversies associated with the work conducted by such companies.

The maritime environment

The services offered by PSCs are only attractive for potential clients if the threats to their assets and interests are believed to be real. Conducive to the existence of crime and terrorism at sea are the comparatively lax rules and laws regulating the maritime environment, which have been discussed in detail earlier. As mentioned previously, despite the emergence of a new security consciousness in the maritime industry and among policy makers after the September 11 terrorist attacks, there has been wide concern about whether or not the implementation of the ISPS code and other new regulations will substantially increase security.

Two examples, directly linked to the work conducted by PSCs, will highlight some crucial security deficiencies and shortcomings in the maritime environment. First, it remains comparatively easy to re-register a hijacked vessel, making it very difficult to locate the vessel once it is given a new identity. This, as a result, gives PSCs the

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Reportedly hired in late 2005 to fight piracy in Somali waters. Since 1991 Somalia has not had an effective government in place and is therefore unable to address the piracy problem. However, shortly after the deal was announced, questions were raised about the contract itself, about who had hired the company, and who would pay for the services provided by TopCat. TopCat Marine Security Inc, Homepage, http://www.topcatmarinesecurity.com/, accessed 3 January 2006. 'Mercenaries to Police Somali Coast', Somaliland Times, 27 November 2005, http://www.somalilandtimes.net/sl/2005/203/26.shtml, accessed 3 January 2006.

See Chapter 4.

opportunity to offer investigation and vessel recovery services. Additionally, companies such as *Gray Page Limited* offer not only to recover hijacked vessels but also “specialise in lifting the corporate veils between off-shore registered companies to provide title to assets such as vessels to which beneficial ownership has been concealed through the use of non-disclosure domiciles.”65 The fact that PSCs offer and sell these services therefore shows that the registration of vessels and the set up and working practices of certain maritime companies are problematic. As noted earlier, these shortcomings pose a threat to security as re-registered vessels, or vessels owned or operated by shady companies, may, for example, be used for smuggling or other illegal activities.66

Second, some PSCs offer pre-employment and crew background checks, which demonstrates that document fraud remains a major problem in the maritime industry. Indeed, the Seafarers International Research Centre at Cardiff University found, for instance, more than 12,000 cases of forged certificates of competency in a survey of 54 maritime administrations.67 Proper background and document checks are important as they not only increase the overall safety on vessels but may also, in some cases, prevent the employment of crew likely to collaborate with smugglers, terrorists, or pirate gangs. As these examples show, the existence of PSCs and the nature of the services they offer in the maritime sector demonstrate that there are crucial weaknesses in national and international efforts to secure shipping.

**Problems with local military and law enforcement agencies**

A number of factors may influence the decision of a company to hire a PSC to protect its assets or employees. However, if the security situation in a country is satisfactory and the local law enforcement agencies competent, trustworthy, and well equipped, most companies would find it unnecessary to hire additional private security personnel, especially because this supplementary assistance can be rather expensive.68 The

65 *Gray Page Limited*, Homepage.
66 See Chapter 4.
68 *Background Asia* suggests the employment of ten guards on a vessel for a passage longer than 24 hours. They also provide an indication of the expected costs, stating ‘a basic team of ten men would be about US
increasing employment of PSCs offering anti-piracy services in Southeast Asia therefore indicates that first, not all local law enforcement agencies in the region have sufficient resources (or the will) to control and/or eradicate problems such as piracy. Second, it shows that corporations believe that additional security is necessary because local authorities cannot adequately protect their most vulnerable interests. Some of the services offered by PSCs therefore reflect the lack of adequate funding of law enforcement agencies and the inherent corruption and other associated problems discussed earlier. An example of such security services is the deployment of armed guards and armed escort vessels in the Malacca Straits. If Malaysian and even more so Indonesian, naval authorities had sufficient resources, piracy might not be such a serious concern. Furthermore, as discussed previously, the corruption and alleged involvement of the Indonesian authorities in pirate attacks hinders the eradication of piracy.

An additional problem related to the lack of security provided by government forces is that oil, gas, and mining companies often operate in economically underdeveloped or politically volatile parts of Southeast Asia, and the companies’ presence and work practices do not always find approval with local residents. Theft, protest, and even sabotage by local residents demanding compensation for pollution and damage to land and livelihood, or a share of the profits from the exploitation of the resources for local community development, sometimes occurs and poses a security threat for oil, gas and mining companies operating in the region. There are a number of examples of such resistance and violence conducted against companies, including the protests against Unocal in east Kalimantan, where locals demonstrated against the pollution of their seas, and demanded payment of compensation money. In 2000, the conflict eventually resulted in violence. Furthermore, it is not only installations but also the employees of oil, gas, and mining companies that are at risk. One example is the kidnapping of three employees of the British company Premier Oil in east Java in 2000/1 by local people, following concerns that the company’s operations would...

$30,000 to US $40,000 per months and would probably be deployable on vessels in dangerous passages for 25 days a months’. Background Asia, ‘Piracy and Terrorism’, September 2003, http://www.backgroundasia.com, accessed 1 August 2004, pp. 4-5.

See Chapter 7. Not all services conducted by PSCs necessarily show that local law enforcement agencies are under-funded or corrupt; some services simply supplement the services provided by state agencies. This is the reason why PSCs also find employment in other countries in the maritime sector, such as the USA. Examples of PSC services supplementing the services provided by state forces and authorities include ISPS code training for seafarers or training of law enforcement personnel.
endanger the environment and cause losses for local fishers and farmers because the exploration site was located too close to the shore. 71 Attacks by separatist movements have also in recent years been directed against maritime targets and have included an assault on a supply vessel chartered by ExxonMobil, which was allegedly attacked by GAM rebels in June 2002. 72 To protect companies from such attacks, PSCs offer, for example, combined anti-piracy and anti-terrorist services, with armed guards onboard a vessel preventing an attack by either pirates or terrorists. Other services include shielding maritime energy installations from sabotage and protecting employees from violence. The need for these services therefore signifies the existence of politically volatile areas, the prevailing threat of both maritime terrorism and pirate attacks, and the controversial business practices of international corporations extracting resources in Southeast Asia with impunity, which has resulted in local protests and resistance.

Additionally, in past decades, some companies operating in the gas, oil or mining sectors in Southeast Asia have paid local law enforcement agencies to guarantee the safety of their assets and employees. 73 These payments to state security forces have resulted in a number of controversies and problems, including accusations of corruption and human rights abuses by the paid agencies. An example is the controversial deployment of the Indonesian military 74 to protect Freeport’s 75 mining operations in

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70 See Chapter 7.
73 In Indonesia, for example, the military acknowledged in 2002 that 1,800 troops guard 12 mining sites across the country. The actual number, however, is believed to be much higher. Ardimas Sasdi, ‘Pushing the Military to the Wall Imprudent Policy’, *Jakarta Post*, 20 November 2003, http://www.kabar-irian.com/pipermail/kabar-irian/2003-November/000372.html, accessed 28 December 2005.
74 According to Indonesian law, security forces have to guard resource projects that are of national importance, but these laws are at present under revision. Since the implementation of Law No.3/2002, the Indonesian police force is formally separated from the military and certain duties, including internal security affairs and the guarding of vital installations, are now in the realm of the police force. However, according to some observers, the police do not have the necessary manpower to conduct all the new operations they are now responsible for and the military therefore still provides some of these services. Shawn Donnan, ‘Indonesia to Change Security Pay Rules’, *Forex Trading*, 7 February 2006, http://news.ft.com/cms/s/1b286542-976a-11da-82b7-0000779e2340.s01=1.html, accessed 8 February 2006. Ardimas Sasdi, ‘Pushing the Military to the Wall Imprudent Policy’.
75 More precisely, the Grasberg mine in Papua is operated by *PT Freeport Indonesia*, which is 90.64 per cent owned by *Freeport McMoRan* and 9.36% owned by the Indonesian government. Global Witness,
Indonesia’s eastern region of Papua (Map 1), formerly known as Irian Jaya, from the 1970s onwards. Controversies arose as the military was at the same time fighting against a rebellion for Papuan independence and allegations of corruption and extreme violence against the local population by the Indonesian military surfaced. Another example is the allegations brought against Exxon Mobil, of having “paid and directed government forces who committed atrocities while protecting the oil company’s facilities” in Aceh. The case received international attention when the International Labour Rights Fund filed charges under the US Alien Tort Claims Act against ExxonMobil on behalf of 11 Acehnese who accused the Indonesian military personnel guarding the oil company’s operations of murder, rape, and the kidnapping of local residents. The services offered by PSCs can be an effective alternative to hiring state law enforcement agencies to protect a corporation’s interests. The existence and acceptance of PSC services, which replace state law enforcement personnel, indicates that the employment of military and state law enforcement personnel has been problematic in Southeast Asia, because of corruption in these institutions and their involvement in human rights abuses. As noted earlier, the prevalence of corrupt

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76 In late December 2005, the former Trikora Military Commander in Papua, Maj. Gen. Mahidin Simbolon Mahidin, admitted that the military had received direct payments from Freeport-McMoRan. He added: “The soldiers are deployed for security purposes to guard vital objects in the country. I suppose (US oil firm) ExxonMobil is also paying the soldiers assigned to guard its site in Aceh. It might well be the case that Exxon is paying more than Freeport because the risks are more severe in Aceh.” Two months later, the Indonesian government announced it would review guidelines which determine the relationship between its military and foreign companies. ‘Indonesian Officer Confirms U.S. Firm's Payments for Security’, TMCnet, 29 December 2005, http://www.tmcnet.com/usubmit/2005/dec/1245849.htm, accessed 30 December 2005. Donnan, ‘Indonesia to Change Security Pay Rules’.  
77 See: Global Witness, 'Paying for Protection'.  
79 These cases are seldom straightforward however, as oil/gas and mining companies are known to have paid separatist and other local movements either for protection or to remain quiet while similarly paying state forces to protect them from attacks.  
80 Abid Aslam, 'RIGHTS: US Oil Giant Sued Over Human Rights Abuses in Indonesia'.  
81 There are, however, other preferable ways for oil/gas or mining companies to prevent local unrest, including respect for the local people and their culture, as well as the environment, and a sincere consideration of the interests of the people in surrounding communities.  
82 There have also been other indicators. In November 2003, TNI Chief Gen. Endriartono Sutarto, announced that the military would withdraw from its traditional business of guarding mining sites. According to the Jakarta Post, the military had made this decision due to being “pushed to the limit by negative news portraying it as a mercenary force”. However, no time frame was given as to when the soldiers would be withdrawn, and payments to the TNI are still believed to be ongoing.ARDIMAS SASDI, 'Pushing the Military to the Wall Imprudent Policy'.  

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officials in countries such as Indonesia, which have repeatedly been involved in human rights abuses, is a threat to local, national, and international security.\footnote{See Chapters 5 and 7. However, it must be acknowledged that PSC personnel have in the past also been accused of conducting human rights abuses and several measures (which will be discussed later in this chapter) have to be implemented to ensure that PSCs will operate according to the law and will not commit human rights abuses when protecting the interests of powerful clients.}

*The privatisation of security: Problems and controversies*

The rising number of PSCs active in the maritime sector also demonstrates the recent trend of increasing privatisation of military and security services that is prevalent not only in Southeast Asia but all around the world. Furthermore, the work offered and conducted in maritime Southeast Asia reflects some of the most crucial problems associated with the privatisation of security in general, and the privatisation of maritime security in particular. These concerns include the lack of reliable information about individual companies and the work they conduct, the use of firearms by PSC employees, and insufficient national and international regulation and oversight of PSCs.

The lack of information about a company’s track record and real experience in the services they advertise is a characteristic common among all PSCs operating in the maritime sector in Southeast Asia. All stress on their websites that the services and operations they conduct for a client remain confidential. While this is understandable in some cases, it offers companies the easy option of claiming to have conducted a wide range of services, without anyone being able to verify the information given.\footnote{Some companies offer potential clients additional information about the company’s track record if this information is requested. In interviews, many PSC employees stated that this is not always necessary because some new clients approach their company after having heard about their services from former clients.} One example that comes to mind is the vast number of companies claiming to be experienced in, or claiming to have recovered, hijacked vessels. The number of hijacked vessels would have to be enormous if all these claims were true and it should be kept in mind that a vessel can be anything from a super tanker to a rubber dinghy.\footnote{However, the author believes that there are a small number of elite companies which have been able to recover hijacked vessels.} However, the lack of information about the track records of PSCs is also an indicator of another more serious problem. PSCs conduct their operations for specific clients and are bound to follow their client’s interests. If a hijacked vessel is recovered, for example, information about the hijacking and the culprits is only given to local authorities with
the client’s consent. If the client has no interest in, or does not believe it fruitful to inform law enforcement agencies, the perpetrators remain free to continue their criminal activities.

Examining the operations of PSCs also indicates that there is, at least in some Southeast Asian countries, a lack of national regulation and oversight of the work conducted by these companies. PSCs operating in Southeast Asia need to comply with the laws and regulations set by the states where they operate. This can be a complex task, especially when commercial vessels are protected by PSCs, as a vessel not only moves between various states and jurisdictions, using the right of innocent passage, but also usually sails under the flag of yet another state. Hence, some governments have recently voiced their concern about a number of services offered by PSCs to be conducted in regional waters, including territorial waters and EEZs. For example, a number of companies offer armed escort vessels for shipping in high risk areas and piracy hot-spots, such as the Malacca Straits. The publication of a handful of newspaper articles in the *Straits Times* in April 2005, describing these services, sparked an outcry from Malaysian and Indonesian authorities. Both countries rejected outright the employment of private armed escorts, with the Malaysian Director of Internal Security and Public Order, Datuk Othman Talib, warning that any such vessel found in Malaysian waters would be detained and the crew arrested as either terrorists or mercenaries. They would then subsequently be charged under the Internal Security Act. He also pointed out that any PSC wishing to operate in Malaysian waters had to apply for a permit from the Ministry of Internal Security. In a 2006 conference paper, Capt. Noor Apandi Osnin from the Maritime Institute of Malaysia stated that so far no licenses have been issued to PSCs to operate in Malaysian waters. He further commented that armed PSC escort vessels “can be viewed as impinging on the States sovereignty” and their activities, licensed or unlicensed, may set a historical precedent

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87 PSC employees stated in interviews with the author that they generally do not see it as their role to report incidents to the authorities or assist in the arrest of culprits.
for other “foreign forces [...] to enter and control the Strait.” When asked about their operations in the Malacca Straits, PSC employees from various companies have stated in interviews with the author that in most cases the Indonesian and/or Malaysian authorities are informed about planned operations, either through a liaison officer or a personal contact. In the process money changes hands and the company receives ‘permission’ to conduct its work, even though not always in writing. Whether these tacit ‘permissions’ carry the same force and authority as official permits, such as mentioned by Datuk Othman Talib, remains open to interpretation. The open debate about the services offered and conducted by PSCs, as well as the different types of ‘permissions’ available, demonstrate the lack of clearly defined and enforced rules and regulation of the PSC industry in some Southeast Asian nations.

At the centre of the debate as to whether or not PSCs are allowed to operate within Southeast Asian countries or their respective national waters is that PSCs conduct work that sometimes requires their employees to carry firearms. Rules and regulations regarding the bearing and use of weapons by non-state security personnel, including private companies, vary from country to country. According to Kramer, domestic arms control laws have developed unevenly in the region and:

In some countries, the authorities rule by decree, while in others the legal system is well developed. The quality and quantity of arms control laws varies considerably among states within the region. As a result of overburdened law-making structures in some countries, arms control regulations may exist solely as administrative directives, proclamations, or decrees rather than as formal legislation.

It is therefore difficult to establish with certainty which laws or regulations are relevant in Southeast Asia for the often foreign-based PSCs, particularly so because the privatisation of security in its current form is a comparatively new phenomenon.

91 Interviews with PSC personnel in Europe (one interview), Asia (three interviews), and Australia (two interviews) between 2004 and 2007.
92 Alternatively, PSC employees could carry non-lethal weapons, but this seems not a viable solution at present.
The question of legal control in regard to armed anti-piracy services seems to be at present most important along the Malacca Straits. While PSCs have deployed armed escorts to protect yachts in Indonesian waters, and tuna fleets operating in the southern Philippines have relied on armed guards to ward off pirates, the majority of armed anti-piracy services currently seem to be conducted in the Malacca Straits area. As noted earlier, the main part of the Malacca Straits is governed by Indonesia and Malaysia, with its southern section bordering the territory of Singapore. The debate about the character of the official permits for PSC operations in Malaysian and Indonesian waters outlined above suggests that there are discrepancies between official requirements and the actual working practices of PSCs in the Malacca Straits. The legal framework governing the use of arms by PSC personnel in Malaysia and Indonesia is equally difficult to determine. Both countries have domestic laws that regulate the use of arms by their citizens and non-citizens, which include, particularly in Indonesia, harsh penalties for illegal possession of arms. While PSCs certainly have to comply with such domestic laws, proper channels to apply for a permit linked to national laws for arms control, if they do exist, do not appear to be used by PSCs operating in the area. In fact, operations in which PSC personnel were armed have taken place in Malaysia and Indonesia, with PSC employees indicating in interviews that they often did not bring their own weapons into these countries but obtained them there. Overall, the existence of small arms laws, and the reinforcement of these regulations are a different matter altogether, and in countries such as Indonesia, and to a lesser extent Malaysia, enforcement of gun control laws remain generally limited.

Singapore’s laws regulating the use of firearms and other weapons are, in contrast, clearly defined and stringently enforced. As the representative of the

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94 E-mail from Tom Clark, a PSC employee working in the Philippines, to the author. Received on 19 September 2004.
95 These services are designed to prevent attacks not only by pirates but also by terrorists and the label ‘anti-piracy services’ should be understood in a broader sense in this context.
96 The laws concerned with the control of weapons are too complex to be explained in this chapter, particularly as it is unclear how these laws relate to PSCs. For an overview of legal controls in relation to arms in Southeast Asia see: Kramer, ‘Legal Controls on Small Arms and Light Weapons in Southeast Asia’.
97 Author’s Interviews with PSC personnel in Asia (one interview) and Australia (one interview) between 2004 and 2007.
98 The Arms and Explosives Act and the Arms and Explosives Licensing Division are regulating the control and licensing of the manufacture, sale, use, export, storage, and possession of arms and explosives in Singapore. The Arms and Explosives Act and any new amendments to the act can be downloaded from the Singapore government website: Singapore Government, Homepage, http://www.gov.sg/, accessed 28
Singapore delegation pointed out at the General Debate of the First Committee on Disarmament meeting in October 2000:

Singapore practises total disarmament within its own borders, so to speak, among its own citizens. Our gun control laws are among the strictest in the world. This is because citizens know that they can rely on the efficiency and impartiality of the police and the judiciary to assure their security against armed lawlessness.99

Consequently, with some exceptions,100 only agencies linked directly to the Singapore government are allowed to carry and use firearms. PSCs and their personnel also have to comply with these strict regulations. It is therefore very difficult, if not impossible, for a PSC to receive permission for its employees to carry firearms in Singapore, despite the fact that some companies have their headquarters or offices based in the city-state.101 Hence, employees of *Background Asia*, for example, are required to disassemble their weapons and lock the ammunition magazines and firing pins in separate locations when in Singapore waters.102

However, apart from applying for permits to employ armed personnel in other countries of the region, there are other ways for PSCs to conduct armed services. The Perth based company *CTI*,103 for example, occasionally employs staff from local security companies when operating in Southeast Asian countries.104 The locals hired not only have the required permission to work in the country but may also have additional local knowledge.105 Nevertheless, the examples discussed above indicate a lack of clear laws and regulations, as well as weak or selective enforcement of existing laws in countries such as Indonesia and Malaysia. This indicates that, in regard to the regulation of PSCs operating in maritime Southeast Asia, there is a need for national legal

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100 For these exceptions see: Kramer, 'Legal Controls on Small Arms and Light Weapons in Southeast Asia'. Singapore Government, Homepage.
101 Author’s Interview with Stephen Weatherford, Glenn Defense Marine (Asia), 28 October 2005, Singapore.
102 Boey, 'Ship Owners Using Hired Guns'. Sua, 'For Hire: Guardians of the Sea'.
103 Counter Terrorism International, Homepage.
104 In an interview with the author, Martino stressed that *CTI* hires local companies which they have worked with on previous occasions and are therefore trustworthy. Author’s Interview with Mike Martino, Counter Terrorism International, 16 September 2005, Perth, Australia.
105 Ibid
frameworks to be established which include official permits for armed PSC operations, background checks of PSC personnel, and other basic requirements, such as proof of sufficient training in the use of the weapons required by PSC staff. New regulations along these lines would make the employment of PSCs less risky for customers as well as local populations and governments of countries where PSC operations take place.

Lack of legal and governmental oversight and control over PSCs is not a problem confined to Southeast Asia. A small number of countries have begun to address this problem more effectively. Internationally, the USA, South Africa, and Great Britain have the most comprehensive regulatory regimes in place, and companies operating out of these countries are required to comply with these regulations. However, the situation becomes more complex and less clear with companies based in other countries, including Southeast Asian nations. Furthermore, given the international nature of the work conducted by PSCs, a possible means of addressing this issue would be for legal oversight and control of the privatized military and security industry to be exercised on the international level. Current international laws, however, are primarily concerned with individual mercenaries and are generally not applicable to employees of PSCs, as the structure of these companies, their role, and the work they conduct differ from mercenary operations. In acknowledgement of the problem of oversight, some steps have been taken within the privatized military industry itself to ensure that PSCs and their employees operate professionally to limit violence. Individual companies, for example, often stress on their websites that their operations are conducted within international law and companies such as Hart have their own ‘code of conduct’ or

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‘ethics code’ published on their websites. PSC operators also stress the strict oversight over their employees and often emphasise the exceptional training and discipline of their staff. Furthermore, the International Peace Operations Association (IPOA), an organisation founded by its president Doug Brooks, was established in April 2001 to:

promote high standards in the peace operations industry and inform the public and policy-makers about skilled private companies and their contributions to international peace and human security. IPOA is committed to maintaining industry-wide standards to ensure sound and ethical professional and military practices in the conduct of peacekeeping and post-conflict reconstruction activities.

Members of IPOA, among them major companies such as Blackwater, Armorgroup, and Hart, operate in accordance with the IPOA Code of Conduct. Members therefore (theoretically) adhere to “all relevant international laws and protocols on human rights”, work only for “legitimate, recognized governments, international organizations, non-governmental organizations and lawful private companies”, and follow other rules concerning transparency and accountability of their operations. However, while an organisation such as IPOA may be preferable to oversight by an individual PSC over its own operations, independent supervision by an organisation or government without a financial interest in the operations conducted by PSCs would undoubtedly be more objective in its judgement.

Furthermore, the general lack of international and national oversight of PSCs can result not only in legal, but also in moral and security related problems. This is particularly the case in regard to companies operating in places with insufficient international or national regulations and weak enforcement of existing laws, such as the

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107 For a list of relevant international laws see: Institute of International Law and Justice, 'Private Military Companies'.
maritime sphere. Indeed, the lax control of the maritime world allows PSCs to conduct their work more freely and discreetly than in other environments, and hence, creates opportunity for less reputable companies to act and operate outside the law, possibly resulting in the excessive use of violence, as demonstrated by the following example.\textsuperscript{114}

Generally speaking, the choice of which security company to employ is crucial for potential clients. A ship owner, for example, has to trust the chosen PSC to choose the right kind of people to be employed as armed guards on vessels, in order to avoid accidents and excessive use of violence. Talking about a case in which his company provided an armed escort for a yacht in Indonesian waters, a manager of a PSC stated in an interview that the instructions to his employees were clear: “Shoot first, ask questions later.” Anyone approaching the vessel without providing satisfactory identification would be shot at.\textsuperscript{115} While there have been a number of attacks on yachts in Indonesian waters which have involved the use of a high level of violence from the attackers, others have been simple hit-and-run robberies conducted by coastal inhabitants, targeting a yacht to steal food and small belongings in times of dire need.\textsuperscript{116} To shoot in these circumstances could be unnecessary, not to mention other incidents in which local fishers may simply approach a yacht out of curiosity with no malicious intent in mind. However, such extreme actions on the side of PSCs are possible and remain unaccounted for, as they will most likely occur at sea and out of sight of authorities or witnesses. Furthermore, the ‘pirates’ conducting such ‘attacks’ will most likely be fishermen or other inhabitants of small local villages. Thus, the chances are slim that any serious action will be taken in inquiring what happened to these people, or if the actions taken by the PSC employees were justified. Equally important, weapons in the hands of guards on a large commercial cargo vessel or a tanker can have devastating


\textsuperscript{114} On the other hand, these conditions may allow companies to operate unhindered and to complete their operations swiftly and effectively. Also, the striking similarities between the maritime industry and the privatised military and security industry in regard to secrecy as well as to lax controls and oversight may be beneficial for PSCs, as potential clients do not have to fear that any information about their own operations and business practices will be revealed or made public.

\textsuperscript{115} Author’s Interview, Anonymous, September 2004, Singapore.

consequences if handled in a careless or inconsiderate, over-eager fashion. While it remains unclear how much violence PSC employees use, it is understood that if PSC employees carry guns, they are also prepared to use them, or as Alex Duperouzel from Background Asia explained in a newspaper interview: “Just like a cop who has to defend his own life, our men will not shoot to kill. It’s a series of escalating events[,] If we can take out an engine, we’ll do so. We’ll also go for the knees. But if we’re forced to engage, we’ll engage to win.” This statement emphasizes that PSC employees, at least from Background Asia, are indeed prepared to engage in armed conflict when necessary. Therefore accountability, transparency, and oversight of PSC operations are important.

However, as discussed above, any independent oversight of the use of guns or other weapons by PSCs in the maritime sector is made difficult by the fact that operations often take place on vessels at sea and therefore far away from observers’ eyes. Some PSCs, such as CTI, attempt to overcome the problem of oversight and to prevent possible difficulties for their company by videotaping their operations. Yet, only an incident involving an alleged abuse of violence by PSC employees in the maritime sector in Southeast Asia will reveal how the victims, PSCs, their clients, and regional governments will respond. Yet, despite the lack of transparency of PSCs and the overall lack of oversight and clear laws regulating the work these firms carry out, they play today an important role in the protection of assets and have considerable impact on the perception of security in and beyond Southeast Asia.

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117 In fact, representatives of the Federation of ASEAN Shipowners’ Association, the IMO and various other maritime organizations have pointed out that armed escorts in general may escalate an already volatile situation and that a shoot-out on an oil or chemical tanker could prove disastrous. Karl Malakunas, 'Armed Escorts in High Demand on Sea', Peninsula, 2005, http://www.thepeninsulaqatar.com/features/featuredetail.asp?file=mayfeatures102005.xml, accessed 13 May 2005.
118 Boey, 'Ship Owners Using Hired Guns'.
119 Particularly so because controversies involving human rights abuses by private contractors in places such as Iraq have been reported, including the accusations that employees of CACI International and Titan Corporation participated in the abuses at Abu Ghraib prison. Peter Warren Singer, (contributed by), 'Private Military Firms', Encarta. Online, 2005, http://encarta.msn.com/encyclopedia_701702759/Private_Military_Firms.html, accessed 15 December 2005.
120 Author’s Interview with Mike Martino, Counter Terrorism International, 16 September 2005, Perth, Australia.
**PSCs: Role, impact, and controversies**

The anti-piracy services conducted by PSCs in Southeast Asia also demonstrate the impact and influence that such companies have today. Two principal points emerge: first, as discussed above, a number of companies have provided services that in the broader context belong to the realm of local law enforcement agencies – including the provision of armed escort vessels in the Malacca Straits. PSCs therefore play an important role in the protection of assets and interests in the region. Second, and maybe even more importantly, statements, reports, and risk assessments produced by PSCs have an increasing impact on decision making processes of governments and businesses, and influence the formation of opinion in the academic and business worlds, as well as the public sector.

PSC reports enter the public arena and academic debate in various ways. PSC personnel, for example, increasingly participate in conferences concerned with maritime security issues. A recent example is the Maritime Piracy 2005 conference held in October 2005 in Singapore organised by *IBC Asia (S) PTE LTD*, where representatives from *Glenn Defense Marine* and *Hart* presented papers. The outcomes of PSC reports also regularly find their way into the mainstream media and shape public perception of maritime security issues. However, these articles, which are often based on PSC (summary) reports, can be problematic as the actual reports remain mostly confidential. It is therefore often difficult, if not impossible, for outsiders to receive more detailed information about findings and assessments, to determine on which sources the reports are based, and what research methods have been employed by the PSC personnel who compiled the report.\(^\text{121}\) The extensive publicity surrounding the case of the attack on the chemical tanker *Dewi Madrim* in the Malacca Straits is one example of the misinformation and controversies that may occur when relying on summary reports ostensibly published by PSCs. Mr Chan, the Singapore based manager of the Indonesian owned vessel, recounted the attack as follows. The vessel, manned by an all Indonesian crew, had departed Singapore on 26 March 2003, carrying a cargo of caustic soda. That night, when the *Dewi Madrim* was about 10 miles off Melaka, not far from the port of Dumai, Sumatra (Map 4), in the Malacca Straits, the crew noticed pirates approaching

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and locked themselves into their cabins and the bridge. Ten pirates, armed with a machine gun and knives, climbed onboard and fired shots at the bridge. After shooting at the window, the crew realised that they had no choice but to open the door. Once inside, the pirates threatened the crew and tied up the captain, master, and a seafarer. They destroyed the communication apparatus onboard the vessel but left the navigation equipment intact. According to Mr Chan, this demonstrates that the pirates, whom the crew believed to be from Sumatra, were not only experienced in handling firearms but also had knowledge about the technical equipment onboard the ship. The pirates then asked the captain where the ship came from, where it was going, and what cargo it was carrying, and, forced him to open the safe which at that time held an unusually large amount of cash, about US $21,000. The perpetrators then forced the captain to accompany the pirates to the crew cabins, where they locked some of the crewmembers into cabins and proceeded to steal cash, cigarettes, watches, and other personal belongings. However, they showed no interest in the cargo. Mr Chan adds that the vessel was always under the control of one of the regular crew and added that the engineer was able to slow down the vessel to increase the safety of the ship. Eventually, the pirates left the vessel and the crew was able to free themselves and contacted the manager of the ship. They were told to proceed to Butterworth (Map 4), where they reported the attack to the Malaysian marine police.

The details of the attack were, however, reported differently by the international media and for months after that incident, newspapers in various parts of the globe discussed the links between terrorism and piracy, using the example of the attack on the Dewi Madrim. The alleged source of information for these articles was a commercially available, but expensive, report published by Aegis Defence Services Ltd, a London company. Most of the money belonged to the crew who had asked to be paid in cash (US $) as the exchange rate was very favourable for them at that time. According to Mr Chan, some crew had planned to exchange the US $ in Indonesia as they expected to get a better rate there. Mr Chan believes that the pirates knew in advance that the vessel carried a large amount of cash and may have targeted the Dewi Madrim for this reason. He stated that his company investigation could not establish how the pirates would have received such information but ruled out that a crewmember was involved in the attack. He commented that in the shipping industry information often leaks out accidentally. Author’s Interview with Capt. Chan Kok Leong, General Manager, GBLT Shipmanagement PTE.LTD, 13 February 2004, Singapore.

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124 At the time the author’s research was conducted, Aegis Defence Services Ltd had four divisions including Risk Analysis (through Research and Intelligence) and Maritime Security. The maritime sector was covered by Hudson Trident, which was either wholly owned by Hudson Marine Management or a
based PSC managed by its shareholders, among them, as Chairman and CEO, Lt-Col Tim Spicer. The following excerpt from the *Economist* is a typical sample:

But according to a new study by Aegis Defence Services, a London defence and security consultancy, these attacks represent something altogether more sinister. The temporary hijacking of the Dewi Madrim was by terrorists learning to drive a ship, and the kidnapping (without any attempt to ransom the officers) was aimed at acquiring expertise to help the terrorists mount a maritime attack. In other words, attacks like that on the Dewi Madrim are the equivalent of the al-Qaeda hijackers who perpetrated the September 11th attacks going to flying school in Florida.

In contrast to this, investigations into the attack on the *Dewi Madrim* by the IMB came to the conclusion that terrorists were not involved. This matched the information from the manager of the vessel and the ship’s captain, stating that no-one was kidnapped and that the attackers made no attempt to learn how to steer the vessel. Asked in an interview about these discrepancies, Dominic Armstrong, Managing Director of *AEGIS* Research and Intelligence, stated that the *AEGIS* report was simply misquoted in regard to the kidnapping. Obviously, it is out of *AEGIS*’ control what newspapers publish and it should be the responsibility of journalists to verify their sources – even if the price of the *AEGIS* report at US $5800 makes this an expensive task. However, *AEGIS*, despite being aware of the newspaper articles, did not issue a statement or any other public clarification of the misreported information linked to its report. Additionally, in rare interviews given by *AEGIS* personnel to the media, the *Dewi Madrim* case was presented in such a fashion as to have possibly misled the public in regard to the kind of perpetrator that was involved in the attack. Mr Armstrong, for example, stated in a television interview:

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50/50 joint venture between *AEGIS* and *Hudson Marine Services*. Aegis Defence Services Ltd, Homepage, [http://www.aegisdef.com](http://www.aegisdef.com), accessed 21 June 2004. Since then, however, the structure and website of the company have changed. *AEGIS* is at present (September 2005) a specialist risk management company comprising three divisions: Research and Intelligence, providing risk analysis and assessment; Technical Services, providing risk mitigation; and Security Services, providing risk management. Information provided to the author by *AEGIS Defence Services Ltd.*, September 2005.


127 Author’s Interview with Captain Pottungal Mukundan, Director International Maritime Bureau, 21 June 2004, Barking, England.

128 Author’s Interview with Capt. Chan Kok Leong, General Manager GBLT Shipmanagement PTE.LTD, 13 February 2004, Singapore. And telephone conversation with the vessel’s captain, 13 February 2004.

129 Author’s Interview with Dominic Armstrong, Managing Director of *AEGIS* Research and Intelligence, 22 June 2004, London, England.

130 Ibid.
A ship called the DEWI MADRIM, [...] was taken by pirates, and instead of going to the safe room and just stealing the cash, they went to the bridge. They steered the ship [...] for an hour, changing speed, changing direction then [installed] [...] their own radio VHF equipment. At the end of the hour, they left. Now that is only one reported incident. Many incidents may have gone unreported, or just taking place, but that is an example of the maritime equivalent of a Florida flight training school.131

With the mentioning of ‘pirates’ as the perpetrators of the Dewi Madrim attack and simultaneously calling the attack the “maritime equivalent of a Florida flight training school” – a clear reference to the al-Qaeda pilots trained at a Florida based flying school who then used their acquired skills for the September 11 terrorist attacks132 – the statement does nothing to clarify Armstrong’s or AEGIS’ interpretation of the Dewi Madrim attack. Furthermore, Armstrong stated in an interview with the author that his company had not spoken to the manager of the vessel or anyone who was onboard the ship during the attack.133 How such personal insight into the attack was gained therefore remains a mystery, but illustrates once again the difficulties outsiders face in attempting to verify information given by PSCs.

Risk assessments conducted by PSCs also impact on the decision making processes of key operators in the maritime industry, such as insurance companies. The most prominent example in regard to piracy and anti-piracy services in the region was the decision by the Joint War Committee (JWC) – a body constituted of members of the Lloyds Market Association and the International Underwriting Association, which represents the interests of the London marine insurance community – to include the Malacca Straits in its Hull War, Strikes, Terrorism and Related Perils Listed Areas in June 2005. While such decisions have in the past been based mainly on previous insurance losses, the JWC decision to include the Malacca Straits as a high risk area was based on an assessment by AEGIS.134 In a confidential summary report,135 AEGIS Research and Intelligence explains:

133 Author’s Interview with Dominic Armstrong, Managing Director of AEGIS Research and Intelligence, 22 June 2004, London, England.
135 This report is not the full report which AEGIS submitted to the JWC, but a “Summary explanation for Listed Areas”. AEGIS Research and Intelligence, 'JWC Hull War, Strikes, Terrorism and Related Perils -
According to these criteria, a number of areas have been considered by *AEGIS* as places qualified to be included in the ‘Listed Areas’. These are in Africa: Algiers, Djibouti, the Ivory Coast, Somalia, and Nigeria and the Bakassi peninsula. In the Middle East: Bahrain, Iraq, Israel, Lebanon, Qatar, Saudi Arabia. In Asia: Pakistan; and in Southeast Asia: the southern gulf coast of Thailand, Ambon (Maluku Archipelago), Balikpapan, the north east coast of Borneo, Jakarta, Poso (Sulawesi), the Sulu archipelago including Jolo, the southern coast of Mindanao including Polloc Harbour and Mati, and the Malacca Straits and its adjacent ports.

The reasons given by *AEGIS* for including these areas are diverse and cannot all be repeated here. However, the summary explanation for including the Malacca Straits area is crucial in regard to the discussion in this chapter:

This waterway is the key chokepoint for East Asia’s commerce, and has historically provided rich pickings for pirates. This has been the only major threat to shipping until 2003-2004. However, recent tactics and a number of worrying incidents suggest an increased interest in attacking ships in the Straits. Increased professionalism, gaining rapid access to vessels underway by means of fast boats, and pervading presence of Islamist extremists, cause increased concern, while it is not yet clear what their eventual purpose might be. In late 2004 Usama bin Ladin explicitly spoke about the advantages of hitting ‘enemy’ countries in their economies, as an effective way of damaging them; he has touched on this theme several times before, and his statements have been disseminated widely among Islamists around the world. Sinking or damaging a major vessel in the economically strategic waterway of the Malacca Straits would risk seriously disrupting global maritime trade, while the use of a hijacked ship to damage or blockade a major regional port would have enormous political and presentational impact worldwide. The late 2004 tsunami temporarily disrupted pirate activity: a combination of a substantial multi-national Naval presence, chaos on shore and disrupted coastal navigation led to an effective pause in piracy for two months; the first post-tsunami piracy attack happened on 28 February 2005, and attack levels resumed near-normal levels by mid-2005. The strategic importance of the Straits has led to Naval co-operation agreements between


While outsiders may understand why some of the areas listed above are included, the north-east coast of Borneo may be more difficult to comprehend. The *AEGIS* report states: “Borneo, north east coast. This is the stronghold of a ruthless Philippines based kidnap-for-ransom group with Islamic tendencies which recently started using terrorist tactics including mass-casualty bombings. Jemaah Islamiyah (Bali bombing group) has a presence in coastal areas.” These facts, however, may remain questionable to some observers and those who have travelled in the area. Quote from: Ibid. p. 3.
adjacent states, but it will be some time before there is enough effective practical co-operation to deter the pirates and others. Some groups are extremely sophisticated, heavily-armed and trigger-happy with access to plentiful automatic weapons, and have used squadrons of fast boats to mount attacks. Poorly-defended ships will continue to be at threat in the Straits for the foreseeable future. Attacks by the better-organized gangs entail kidnap-for-ransom, while smaller gangs are content to steal cash and valuables. Pirates are increasingly heavily armed, well-organised, and ruthless; it is increasingly commonplace for them to fire on a vessel’s bridge or other superstructure with automatic weapons and even rocket-propelled grenades to force them to stop. While 2005 is likely to see the introduction of several new measures (including Malaysian radar coverage of Straits traffic, and co-ordinated traffic-related intelligence in Singapore), the daily threat to ships in transit will remain for some time to come.\(^{139}\)

An additional, equally confidential, *AEGIS* report adds that pirate attacks have in recent years become more sophisticated and that “pirates in the Strait are now largely indistinguishable from terrorists, in terms of tactics employed and weapons used, as well as their potential to cause significant damage to shipping.”\(^{140}\)

This hot-spot classification of the Malacca Straits has had an impact on the insurance premiums shipowners are required to pay when their vessels transit the straits and hence has significant consequences for the maritime industry.\(^{141}\) The decision was consequently challenged by representatives of the shipping sector as well as regional governments. The foreign ministers of Singapore, Malaysia, and Indonesia, for example, asked the JWC to review its assessment and pointed out that the decision was made without consulting or taking into account the maritime security efforts of the three littoral states.\(^{142}\) Industry organizations, such as the International Chamber of Shipping, the Hong Kong Shipowners Association, and the SSA also raised concerns, arguing that there were flaws in the JWC’s decision and that the *AEGIS* report did not distinguish sufficiently between distinct types of security threats, namely between piracy and terrorism. At a meeting between *AEGIS*, the JWC, and representatives of shipping organisations, the latter also “questioned the methodology employed by Aegis” and suggested that “Aegis may have confused threat assessment with vulnerability assessment”.\(^{143}\) In a separate statement, the SSA also offered the criticism that the

\(^{139}\) Ibid. pp. 3-4.


\(^{141}\) Some observers claim that the extra insurance charges for some container ships can be as high as US $5,000 per transit. Narendra Aggarwal, ‘Shippers Want Malacca Strait Risk Premiums Scrapped’.


“decision appeared to have been taken on the findings of a single report from one commercial security organisation”.144

While these statements are made by parties whose reputation has been tarnished by the inclusion of the Malacca Straits in the List – such as the governments responsible for the safety of the strait – or by parties adversely affected financially by the decision – such as ship owners – it would be premature to simply discard their arguments. Indeed, with the exception of minor GAM attacks, no maritime terrorist attack has so far been conducted in the Malacca Strait. Whether such an attack is in fact more likely to occur there than in other straits or maritime hubs remains open to speculation, as no specific evidence or indication of such an attack in the area has so far come to light. The argument that a high number of pirate attacks translates into an increased risk of a terrorist attack equally lacks substance and evidence. Indeed, as Jenkins points out, “vulnerability does not equal threat” and “[i]t is inappropriate to conflate the increasing frequency of piracy with rare incidents of maritime terrorism.”145 Also, while pirates today may indeed carry modern weapons, it remains, as discussed earlier, that their modus operandi and the nature of their attacks are different from those conducted by terrorists.

Mukundan, the director of the IMB, also commented on the JWC’s decision. While his organisation is not directly affected by the decision to classify the Malacca Straits as a high risk area, he nonetheless disagrees with the decision, stating that: “We don’t feel that [the JWC decision] is justified. At this time, when the level of attacks are coming down, we don’t see […] justifications to increase their rates. It may be appropriate when attacks were high but it is not anymore”.146 With this statement, Mukundan adds an important point, namely that there has not been an increase in pirate attacks in the Malacca Straits in recent years. In 2000 the IMB recorded 75 actual and attempted attacks in the Malacca Straits, in 2001 there were 17, in 2002 there were 16, in 2003 there were 28 and in 2004 there were 38. The number of reported attacks in 2005 – the year in which the decision was made by the JWC – is low in comparison,

with only seven actual and five attempted attacks recorded by the IMB for the Malacca Straits. However, Lloyds removed the Malacca Straits from the list of sea lanes with a war risk rating in August 2006, stating that security in the straits had improved.

These examples demonstrate that PSCs are today important players in the maritime sector and influence the perception of security threats in maritime Southeast Asia. They also show that the work conducted by PSCs can provoke criticism from other interested parties and independent observers. Furthermore, these examples highlight existing problems inherent in the privatised security industry, such as a lack of transparency and possibly even bias in their reports, because the higher the perceived security risk, the more business opportunities emerge for PSCs. The examples emphasise that, generally speaking, customers of PSCs, academics, the public, and other observers should be cautious when relying on information from PSCs. Indeed, by relying on summary reports from PSCs, one relies on selective information provided in many cases by the very companies that sell solutions to security threats. It is therefore important to bear in mind that PSCs are primarily commercial enterprises, aiming at making financial profits for their companies and shareholders.

In summary, PSCs play an increasingly important role in maritime Southeast Asia and provide a range of different services. There are, however, a number of problems and controversies surrounding the work conducted by such companies. In order for PSCs to offer a valuable addition to government services, better regulation and oversight of these companies is needed. In fact, if it cannot be ensured that PSCs conduct their operation responsibly, their involvement in Southeast Asia may adversely impact upon security. Armed guards on vessels who are not properly trained may, for example, injure or kill fishers approaching their vessel, or cause an accident when

149 The degree of bias obviously depends on the integrity of the company and therefore varies between individual PSCs. Also, a PSC which repeatedly highly over-dramatises the threat to security may lose customers in the long run.
150 On the other hand, certain customers, such as insurance companies, may hire a PSC specifically because they may assume that the analysis provided is more likely to exaggerate, rather than downplay, security threats. Insurance companies, for example, can then collect higher insurance rates and the insurance company benefits financially.
employed on a ship carrying flammable goods. Furthermore, potentially biased reports which exaggerate the threat to security in a particular country may cause unnecessary fear among the population or discourage tourists from visiting the country or businesses from investing in the local economy. This, in turn may contribute to poverty and a lack of development in certain areas, adversely affecting local populations.

**Conclusion**

Today, a rising number of PSCs offer and conduct anti-piracy services in the maritime sector in Southeast Asia. This development is part of the worldwide phenomenon of increasing privatisation of security. The deployment of PSCs to secure vessels, ports, and other maritime installations shows that international and regional companies operating in Southeast Asia believe that additional security is necessary to protect their assets and employees. This indicates that local militaries and law enforcement agencies are not able to effectively address security threats such as piracy and maritime terrorism and/or that the local authorities are not trusted to provide adequate security. Examinations of the manner in which PSCs promote and conduct their anti-piracy services have also highlighted some crucial problems and controversial issues inherent in the private maritime security industry. It is apparent that if the employment of PSCs in this sector is to increase then improved regulation of these companies is needed. This is particularly so, because controversial PSC operations in places such as the Malacca Straits, where armed PSC employees guard vessels and energy installations, are already a reality. The current system where PSCs employing armed personnel operate in some instances in an ambiguous legal grey-zone may allow less reputable companies and insufficiently trained guards to also work in the region. Furthermore, by looking at piracy and the anti-piracy services conducted by PSCs in Southeast Asia it also becomes clear that PSCs are playing an important and influential role both within and beyond the region in influencing the public perception of piracy and other maritime security issues. The examples discussed in this chapter point to a need for greater transparency and accountability in public reporting of security issues by PSCs or at the very least for the public to maintain a certain amount of scepticism when relying on information published, or allegedly published, by PSCs.

As to the PSCs themselves, some of the services advertised and some of the companies are still in the formative stages of development. Given the increased security
awareness in the maritime sector and the overall trend of outsourcing in the military and security fields, and, the comparative lack of security in the maritime sector, the likelihood is strong that PSCs will grow and prosper in Southeast Asia. However, only time will tell if this commercial alternative for providing maritime security solutions, including anti-piracy services, will be accepted in the future. In regard to piracy, it is important to keep in mind that while PSCs may assist in preventing individual pirate attacks and help victims in dealing with the aftermath of an attack, they do not address the underlying root causes of modern day piracy.
Conclusion

This thesis has provided a range of insights into the nature of modern piracy in Southeast Asia and Bangladesh and offered explanations for why piracy still exists today. It has also demonstrated that piracy can be understood as both a symptom and a sign of a number of geo-political and socio-economic problems and security concerns. The Historic Preface offered a brief overview of piracy in Southeast Asia, with particular focus on the 18th and 19th centuries, when piracy mainly involved slave raids and attacks on vessels and villages by sponsored marauders such as the Iranun and Balangingi. The examination of the past showed that even though there are certain similarities, there are also significant differences between the activities of pirates in the past and present. Indeed, while pirates in both eras have targeted vessels engaged in regional or international trade, contemporary piracy in Southeast Asia is different in scope, character, and nature from the long-distance maritime raids of the 18th and 19th centuries. For example, in the past, the booty sought by the perpetrators was primarily slaves, while modern pirates attack vessels to steal cash, valuables, the cargo, or the ship itself. Most important, however, is that piracy is at present an act of either opportunistic pirates or organised criminal gangs, conducted for private ends. Unlike in the past, contemporary piracy is therefore not a political or diplomatic instrument to strengthen or support the structure of states.

The first Part of the thesis, consisting of Chapters 1 and 2, presented an overview of contemporary pirate attacks targeting merchant vessels and small craft, including fishing boats, in Southeast Asia and Bangladesh, with particular focus on attacks occurring between 1992 and 2006. The first chapter focused on attacks on merchant vessels and discussed the different types of pirate attacks taking place in Southeast Asia and Bangladesh, identified regional piracy hot-spots, and discussed the various types of pirates active today. It showed that even though hijackings of vessels and kidnapping of crew are occurring in Southeast Asia and Bangladesh, the vast majority of pirate attacks on merchant vessels are simple hit-and-run robberies at sea or in ports. The second chapter was concerned with attacks on and by fishers. Focusing on a number of hot-spots of attacks, from Bangladesh to the waters between Sabah and the southern Philippines, it highlighted that piracy is a real concern for fishers in the areas discussed. Indeed, fishers are arguably most affected by piracy, and attacks of a serious
nature, including kidnapping of fishers, are regular occurrences in some coastal and riverine areas in Southeast Asia and Bangladesh. Overall, attacks on fishers can have very different consequences and impact compared to attacks on merchant vessels, as sea-robbers inevitably confront the fishers directly and can destroy a fisherman’s livelihood by taking his vessel, equipment, or catch. However, fishers are not only the victims of pirate attacks. In many places in Southeast Asia and Bangladesh, fishermen themselves are the perpetrators, attacking their counterparts or participating in attacks on merchant vessels.

The remaining three Parts of the thesis were concerned with a number of factors which have contributed towards the shaping of contemporary piracy in Southeast Asia and Bangladesh. Issues examined in this regard included the impact of ecological degradation and over-fishing on the occurrence of piracy; loop-holes and shortcomings in maritime laws and regulations that are conducive to the operations of pirates; the involvement of transnational crime syndicates and radical politically motivated groups in piracy; as well as the problems with state and private responses to pirate attacks. Furthermore, by examining these factors responsible for shaping piracy, a range of security concerns and political and social developments which adversely affect security were exposed. The last three Parts of the thesis therefore demonstrate that piracy offers a singular framework to cast a critical gaze at a range of political, social, and ecological developments, as well as security risks, and how they impact the lives and circumstances of people in Southeast Asia, Bangladesh, and the wider international community. This examination is akin to sending piracy through a prism, revealing the different root causes and aspects of security of which piracy is comprised. Indeed, it has been shown that piracy and the various responses to it both reflect political and social developments within countries, and co-operation, tension and friction between states. Additionally, it has been argued that the occurrence of pirate attacks in a region, or a country, indicates the existence of a wide range of traditional and non-traditional security risks in the area, which can have far reaching repercussions for individuals, nations, or the international community. Through an examination of maritime piracy in Southeast Asia and Bangladesh, and the responses it triggers, important new trends and practices in the security sector have also been identified, including the increasing privatisation of security and protection services around the globe. In essence, many of the issues pertaining to maritime piracy in Southeast Asia and Bangladesh mirror those
associated with other political developments and security threats evident at local, regional, and international levels.

The thesis clearly demonstrates that piracy in Southeast Asia and Bangladesh should be taken seriously as a security concern and that it needs to be addressed. Both the examination of piracy in Southeast Asia and Bangladesh and the discussion of its wider security implications are useful in suggesting ways to successfully combat piracy. The thesis has shown that the underlying factors abetting piracy in the region are manifold and include lax control of the maritime environment, poverty within Southeast Asia and Bangladesh, and corruption within local militaries and law enforcement agencies. In order to be successful, responses to piracy therefore have to address most, if not all, of the problems discussed in this thesis. Combating piracy is consequently a difficult task, requiring more than merely patrolling piracy-prone waters. Indeed, in order to significantly reduce the number of pirate attacks in Southeast Asia and Bangladesh, maritime rules and regulations have to be tightened and their implementation assured. In this regard, it is of particular importance to address the shortcomings in the FOC system and to support initiatives of international bodies that aim to increase security and safety standards of vessels, ports, and crews, including the ITF, the IMO, and the ILO. Furthermore, to prevent fishers from turning to piracy or falling victim to pirates when fishing illegally in foreign country’s waters, efforts have to be made to protect the marine environment and combat illegal fishing activities. Further steps have to be taken to reduce the scale of operations, power, and influence of organised crime syndicates and radical politically motivated groups. Here, more than continuous military force or operations by law enforcement agencies are needed to successfully combat organised crime and to ‘pacify’ and integrate areas in which separatists, guerrillas, or terrorists operate. In fact, it is crucial to address the root causes of such violence, which include poverty, the marginalisation of certain geographic areas or ethnic groups, and government efforts in the form of military violence that exacerbate, rather than solve, existing problems and tensions. Furthermore, problems within local militaries and law enforcement agencies have to be addressed, with the eradication of rampant corruption being of crucial importance. Sufficient equipment suitable for combating non-traditional security threats such as piracy is also needed in order for militaries and law enforcement agencies to succeed. Finally, laws and
regulations regarding the operations of PSCs in Southeast Asia have to be crafted to minimize problems resulting from the privatisation of maritime security.

Overall, combating piracy can therefore not be achieved in isolation but has to be linked to a wider security strategy and framework. However, it has to be acknowledged that it is a daunting task to address these issues discussed above in a coherent manner, and will require local, national, and international efforts to be successful. Yet, even though these problems are difficult to address, the potential benefits for individuals, nations, and the international community are immense. For example, better maritime laws and regulations could improve both the working conditions of seafarers and the environment by preventing substandard vessels from operating. The maritime environment would also benefit from measures to combat the continued overexploitation of the oceans and illegal fishing activities. Furthermore, reducing the influence and activities of transnational crime syndicates would be advantageous for the legal economy and violence and intimidation would decrease. By effectively addressing politically motivated violence in Southeast Asia, Bangladesh, and beyond, the number of terrorist attacks could be reduced and fewer people may join or support such organisations. Clearly, by providing sufficient equipment and salaries to personnel of government forces, and by reducing their direct involvement in politics, corruption may cease to be a major concern in countries such as Indonesia. This could not only reduce the involvement of government personnel in illegal activities but may also increase the confidence of the population in these institutions. To successfully address issues such as non-traditional security threats, governments from different countries and regions will have to cooperate more closely than in the past. This intergovernmental (as well as military) cooperation, in turn, could build trust between governments and reduce the risk of armed conflict between states. Additionally, by introducing and enforcing clear laws and regulations regarding the operations of PSCs, the services provided by these companies could be a valuable supplement to government efforts to increase security on land and at sea.

Future research

The thesis has demonstrated just how important an examination of piracy and related traditional and non-traditional security issues is today. Even though this thesis has made a contribution to filling some of the existing gaps in the literature on contemporary
piracy, further research is needed to gain a more detailed understanding of different aspects and root causes of maritime piracy. Of particular importance in this regard would be long-term grassroots research conducted in villages or communities in Southeast Asia and Bangladesh, where either victims of pirate attacks or pirates are based. Descriptions from victims of attacks could further our understanding of the nature and impact of attacks, while information about individual (or gangs of) pirates could answer questions about their identity and motivation. Moreover, it may allow us to draw conclusions about whether or not certain ethnic groups are more involved in piracy than others. Additional studies focusing on attacks on merchant vessels would also be valuable. Indeed, research focusing on the experiences of seafarers with pirates or psychological studies concerned with the effect of pirate attacks on the mental health of seamen would allow further insights into modern day piracy and its impact. Further research also needs to be conducted into the involvement of transnational crime syndicates in piracy and the criminalisation of radical politically motivated groups. The comparatively recent phenomenon of the involvement of PSCs in combating piracy is also an area that warrants further investigation. Last but not least, further insights into piracy could be gained by comparing piracy in different parts of the world. Indeed, in the waters of east Africa, particularly Somalia, an increasing number of attacks have been reported in recent years. A comparison, where past and present converge, between piracy in Southeast Asia and Africa could therefore be of great interest. Moreover, the insights gained from an examination of piracy and its root causes in one region of the world can potentially be of use in understanding, and combating, piracy in other places around the globe. In fact, even though the focus of this thesis has been restricted to Southeast Asia and Bangladesh, the outcome of this analysis may be applicable in certain respects to the occurrence of pirate attacks in other parts of the world.
### Appendix 1

**Table: Hijackings by Year, Location, and Type of Vessel**

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Source: ICC, Piracy and Armed Robbery against Ships. Annual Reports 1995-2006. (Hijackings include missing vessels)
Appendix 2

In November 1998, while on route from Shanghai to Port Klang in Malaysia, the Hong Kong registered cargo-ship Cheung Son was approached west of Kaohsiun, off the coast of southern Taiwan, by a small boat which appeared to be a Chinese customs vessel. Left with little choice, the captain allowed the officers on board his ship, which carried a cargo of furnace slag. Once onboard the Cheung Son, the Chinese ‘officers’, dressed in uniforms and armed with guns, threatened the crew and took control of the vessel. After being held hostage for ten days all 23 Chinese crew of the Cheung Son were bludgeoned to death and their weighted bodies thrown into the sea. After the killings, the pirated vessel was sold within China. The new owner hired a new crew and reportedly sold the vessel to an unknown Singaporean party for US $300,000.

The pirates, however, did not get away with their crime. In an interview granted to the foreign media, Chinese police officials recounted that investigation into the Cheung Son’s disappearance had begun as soon as the owner of the vessel reported to have lost contact with the ship. As the first bodies of the murdered crewmembers were found by fishermen, police learned that a man from Shanwei “went to sea and came back with a lot of money and a dented boat”. The police officers eventually located the boat and its owner who was hiding in a fishing village. He told the police that he had lent his vessel to two men who could be found in Shenzen. Acting on this information, 300 officers raided a Karaoke bar, where the alleged members of the pirate gang were celebrating. In the course of further investigation, the Chinese authorities discovered that some of the gang members had been involved in at least two other serious pirate attacks between August and November 1998. This information and the discovery of a celebratory photograph, taken by the pirates on board the Cheung Son, led to further arrests. In total, more than 50 alleged pirates, aged between 21 and 60, were arrested. Among them was the alleged leader of the gang, Sony Wei, an Indonesian who had previously been involved in inspection work contracted out by the Chinese customs authorities. All other gang members captured were Chinese.

In mid December 1999, the arrested pirates were brought to trial in the Intermediate People’s Court of Shanwei, Guangdong Province, where they were charged with robbery, mass murder, the illegal possession of firearms, and handling stolen property. Most of the defendants, among them Lu Xu, an unemployed man from
Shanxi, and Cai Mutong, a fishermen from Lufeng, claimed that they were hired to participate in a legitimate anti-smuggling mission. According to their statements they only later discovered the true nature of the voyage, but were too afraid to act against the ‘pirates’. Zhang Fenshen, a 42 year old mechanic, told the court that the boat had in fact sailed from an official border defence pier, and added that he was not aware of any attack, as he was working in the ‘custom vessel’s’ engine room. The court also heard that the Indonesian Sony Wei had been commissioned by Liem Sioe Liong, an ethnic Chinese Indonesian tycoon, to hire a pirate gang to attack the Cheung Son. Despite such evidence, the court established that Weng Siliang, a businessman from Shanwei, and not Sony Wei, was the ringleader of the gang. According to the interrogation statements, Weng co-ordinated the attack from mainland China. He remained in Shanwei when the Cheung Son was hijacked and was sent a sample of the furnace slag on board which he forwarded to Singapore, inquiring if it could be sold there for a good price. Sony Wei told the court that the order to kill the crew also came directly from Weng. In regard to the killings, the prosecutor told the court that each gang member was asked to kill at least one member of the crew and those who refused to obey were threatened to be thrown overboard.

38 of the defendants were eventually convicted of hijacking the Cheung Son and the court sentenced 13 of the accused, among them Wei Suoni and Weng Siliang, to death. One other pirate was sentenced to life in prison, while 18 other gang-members received sentences ranging from one to 12 years. Six further suspects did not receive jail time, because they had earlier assisted the police with their inquiries. The court also ruled that those convicted pay compensation to the families of the murdered crewmembers.

In late January 1999 the death sentences for the 13 pirates were confirmed. Before being led to the execution grounds, however, the convicts were locked in the courtroom with relatives, some food, and a large quantity of rice wine. Shortly after, the pirates emerged, visibly intoxicated by the liquor, shouting and singing a rendition of Ricky Martin’s 1998 Soccer World Cup theme song La Copa de la Vita – The Cup of Life. One of the pirates, Yang Jingtao, who reportedly led the singing, jumped up and down in his shackles, singing “Go, go go, olé, olé, olé” as he was led to one of the trucks that was to bring him and his companions to the execution grounds. Turning from the truck to speak to journalists waiting in front of the courtroom, he yelled: “I want to
thank all the Communist Party’s judicial system and thank my defending council for giving me a fair chance.”

The 13 pirates were shot by a firing squad a short time later.

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