MARINE PIRACY IN SOUTHEAST ASIAN WATERS

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Abstract

Marine piracy has a very long history, and is nowadays mostly associated with swashbuckling fiction in books or films. It is believed by many to be extinct, even the word piracy having been bestowed instead on intellectual theft. But the reality is that modern piracy is flourishing, using modern technology, the latest automatic weapons and criminal business syndicates. Its methods are as audacious as ever and usually involve much brutality, including death, injury, and the taking of hostages.

Southeast Asian waters are consistently the world's worst for pirate attacks, year after year. The number of incidents continues to increase in the Malacca Straits and the Indonesian archipelago.

Governments and the United Nations agree to Conventions which will control this menace to seafarers, sea traders and insurers. But little action results from this as marine piracy seldom attracts public attention, and governments have other priorities. The problem is also complicated by confusion over definitions and the extent of law. The main agency of hope is the Piracy Reporting Centre set up in 1992 by the International Chamber of Commerce, which provides radio and internet information and warnings, and helps to trace and recover captured seamen, ships and cargoes, and to bring pirates to justice.

Introduction

These days, the word 'piracy' usually means the illegal production of counterfeit goods. But for many centuries it meant aggravated robbery, theft at sea, when waterborne robbers stole cargoes or ships. Most people today probably believe that this old-fashioned piracy is extinct, and regard it in a romantic light. However, the reality is that it is flourishing,

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and is often violent and sometimes horrific (Mortished, 2003). Especially does it flourish in Southeast Asian waters.

The subject of piracy is hardly addressed in most marine textbooks, and even if it is the topic is confined to its historical background (Chew, 1999). It is a subject on the fringe of marine insurance, yet one which is both a manifestation of human brutality and an example of humanity's better nature in an organisation which was founded in 1992 to reduce this modern version of an ancient scourge.

Southeast Asia is the hotspot for piracy, accounting each year for over half of all attacks in the world. The Malacca Straits, between Western Malaysia and the Indonesian island of Sumatra, are the world's most dangerous waters for piracy (ICC Annual Piracy Report, 2002). The Malacca Straits are heavily used by shipping, but this narrow bottleneck has to cope with an enormous sea trade from Europe and the Middle East to East Asia. The Straits link the Indian Ocean and the West Pacific Ocean. 600 vessels pass through these Straits daily (ICC website report, 12 February 2002). The area around the Malacca Straits attracts the heaviest concentration of merchant shipping in the world, which usually has to slow down to pass through the narrow channels (Hyslop, 1989). The Straits have been plagued by pirates since at least the 16th century, and still suffer from that plague. Indeed the incidence of piracy in the Malacca Straits is increasing (Thailand Foreign Affairs Newsletter, Vol 9, January-March 2001). Most attacks in the Straits occur near the Horsburgh Lighthouse 25 miles east of Singapore or in the nearby Philip Channel which is only one mile wide at its narrowest point

Piracy tends to be a coastal operation rather than on the high seas. The combination of narrow passage, availability of passing ships, and numerous hiding places mean that Malaysia and the Indonesian archipelagos have been areas of considerable piracy over the centuries, and still are. Pirates need only to wait near the Straits of Malacca for rich prizes (Peterson, 1989).

History

Piracy has existed as long as legitimate maritime trade, although its incidence varies from time to time and place to place (Peterson, 1989). The motive is personal gain. Piracy flourishes where there are plentiful sources of booty, ready markets for this plunder, and secure places where the pirates can rest between voyages.

Piracy may well be the world's third oldest profession (medicine being the second oldest) (Birnie, 1989). References are made to piracy in Justinian's Digest in 529, and in King John's Ordinance of 1202. Several papal bulls mention it, and the Bull of Pope Alexander in 1493 dividing the Atlantic Ocean between Spain and Portugal held each responsible

for controlling piracy in its area (Birnie, 1989). Britain's first Piracy Act was in 1698. There are many descriptive books about piracy in East Asia written by sailors or travellers (eg Osborn 1861, Lilius 1930, Fox 1940, Grey 1993).

In the long-lasting control of most oceans and seaways by the British Navy in the 19th century and beyond, piracy virtually disappeared (Birnie, 1989). By 1925 it was possible to ask if piracy has disappeared. But even though it did decrease, it is now resurgent in many areas and has adapted to modern developments. Piracy continues to pose a great problem for all seafarers, ship-owners, cargoes, marine underwriters, P&I Clubs, and government authorities (Chew, 1999). It now takes the form of organised crime syndicates who systematically mastermind attacks on vessels as well as ordinary pirates who board vessels armed with automatic weapons, pistols and knives (Chew, 1999)

Syndicates are mostly of Chinese origins, involved in shipping, trading, banking, and even insurance. They are controlled by a number of highly experienced businessmen operating out of Hong Kong, Indonesia, Philippines and Thailand. They are well aware of action to be taken by authorities (Chew, 1999). Since the mid-1990s piracy has become a business activity for criminal organisations, thought to be linked to Chinese triads (Mortished, 2003).

Piracy Reporting Centre

The International Chamber of Commerce (ICC) is the world's largest most representative business organisation having more than 8,000 member companies in over 140 countries. In 1981 it created the International Maritime Bureau (IMB) as the ICC's first anti-crime bureau. The task of the IMB is to prevent fraud in international trade and maritime transport, reduce the risk of piracy and assist law enforcement. It tracks cargoes and their shipments and verifies their arrival at scheduled ports. It investigates pirate attacks in an endeavour to bring the culprits to justice and to recover losses.

The IMB soon received the support of the International Maritime Organisation (IMO) which urged government and law enforcement agencies to cooperate with the new agency. Governments of the worlds leading trading nations support the IMB's work. Its multidisciplinary staff and worldwide contacts gather information and respond swiftly to pirate attacks.

In 1992, the IMB, in response to outrage in the shipping industry at an alarming increase in piracy in the world's oceans, created the Piracy Reporting Centre (PRC) at its regional office in Kuala Lumpur, Malaysia (so conveniently near the piracy-prone Malacca Straits). The PRC is supported by voluntary contributions from 21 organisations, mostly shipowners, P&I Clubs and insurers, but also including some governments. It provides

its services free of charge to all vessels irrespective of ownership or flag. The Piracy Reporting Centre receives reports of suspicious or unexplained craft movements, the boarding of ships and armed robbery from ships.

Since 1992 the IMB Piracy Reporting Centre has been broadcasting daily anti-piracy situation reports. These are compiled in Kuala Lumpur, and broadcast from Singapore by satellite. The broadcasts include details of the latest attacks, giving their location and a detailed description of the number of pirates and their vessel. The warnings also list areas with a high risk of pirate activity (ICC report 2002). The broadcasts are transmitted using the Inmarsat satellite system SafetyNET. Ships can also receive these reports by contacting the Centre. These reports enable ships to be on special alert as they go through danger areas, and inform local authorities of increased pirate activities.

The Centre also collates and analyses information received, and issues consolidated reports to relevant bodies including the International Maritime Organisation. Another task is to assist owners and crews of ship that have been attacked, and to locate vessels that have been seized by pirates, so as to recover the hull and cargo.

The Piracy Reporting Centre maintains a 24-hour watch and helpline every day of the year. It issues a weekly piracy report via internet which allows shipowners and land-based authorities to access the updates. These reports contain details of the location and nature of attacks and allow companies to alert ships' masters.

The Centre also issues quarterly, annual, and special piracy reports. These are widely acknowledged as an authoritative source of information by the shipping industry, government agencies, and the United Nations.

The IMB Annual Piracy Report for the whole of 2002 again reported that Indonesia experienced the highest number of attacks, with 103 reported incidents, Bangladesh being second with 32 incidents, the total for the world being 370 (ICC website, 29 January 2003).

Piracy became worse in 2003. Piracy surged in the first half of 2003 with a record 234 reported attacks throughout the world in a statement issued by the International Maritime Bureau on 24 July. Violence against seafarers escalated in the same period, with an increasing use of guns: 16 seafarers were killed, 52 injured and 24 missing (presumably dead). The number of crew taken hostage doubled to 193. The number of attacks rose by 37% compared to the same period in 2002. The actual numbers are higher because of a time lag in reporting incidents. These statistics for the first half of 2003 are the worst since piracy statistics began to be compiled by the ICC in 1991.

The highest number of attacks for the first half of 2003 was in the waters off Indonesia, which accounts for one quarter of the world total with 64 incidents, including 43 ships boarded, 4 hijacked, and also attempted attacks on another 17 ships.

Cases involving the capture of a complete ship have increased. The hijacking of an entire ship and the resale of its cargo needs huge resources and detailed planning. It usually involves a mother ship from which the attack is launched, a supply of automatic weapons, false identity papers for the pirate crew, fake cargo documents, and a broker network to sell the goods illegally. This means that organised criminal networks are moving into piracy, according to the ICC (ICC website,20 March 2000, 4 February 2002, 29 January 2003).

Captain Abhyankar of the IMB Piracy Reporting Centre in Kuala Lumpur said that it is impossible for those ashore to appreciate the trauma which pirate attacks cause, both physically and mentally to the crew. There is also the danger to shipping and seaways, for pirates endanger navigation by leaving vessels, including fully laden tankers, underway and not in command this dramatically increasing the risk of collision or grounding and the environmental implications of pollution (ICC website report, 24 January 2000).

Some Cases of Piracy

Bulk carriers have long been targets for pirates. But a new type of piracy emerged in mid-2003 when oil tankers were targeted in the Malacca Straits. There were three attempts in July when pirates fired automatic weapons at an LPG tanker, a gas tanker, and an oil tanker. On 2 September a small oil tanker was attacked in the Straits off Sumatra by gangs of heavily armed men from fishing boats and speed boats. Then a Malaysian-registered tanker *Penrider*, en route from Singapore to Penang, carrying 1,000 tonnes of fuel was attacked and boarded only 12 miles off Port Klang, Malaysia. The pirates were armed with AK-47 and M-16 assault rifles and grenade launchers. After robbing the crew they took hostage the Master, Chief Engineer and a crewman, releasing them unharmed after ransom negotiations for $100,000. The pirates wore uniform and claimed to be rebel soldiers from Aceh, but they may have been opportunists copying the methods used by rebels in similar attacks in the Straits of Malacca.

In February 2003, the *Suhaila*, a Malaysian chemical tanker was attacked by eight pirates armed with machine guns, wounding the chief engineer. In July 2003 ten pirates successfully attacked the *Leviathan*, a bulk carrier, in the Straits of Malacca In August 2003 another chemical tanker was boarded in the same area by nine pirates armed with guns and knives, took hostage the Master, Chief Engineer and several crewmen, and stole cash and other personal possessions.

Pirates have begun stealing tugboats, because in the past trading ships have ignored these little vessels and let them come close. The pirates presumably hope to exploit this with the stolen tugboats, and indeed this happened in August 2003 (Bradsher, 2003).

In 2002 there was another new trend in Indonesian waters, off Sumatra: tugs towing barges laden with expensive cars were hijacked. The IMB believes that a gang is preying on valuable palm oil cargoes: in one incident, armed pirates boarded a tug and threw its 18 crewmen overboard (ICC website, 29 January 2003).

Also in 2002 a Taiwanese-owned, Honduras-registered tanker, *Han Wei*, with ten million litres of diesel fuel oil, en route from Singapore to Yangon (Burma), was hijacked off Sumatra, the crew being set adrift. The ship was later found anchored off Si Racha, Thailand (80 miles from Bangkok). The Thai authorities responded swiftly to the IMB request for help, the Royal Thai Marine Police, supported by a naval helicopter, quickly boarding the stolen ship, and were congratulated by the Director of the ICC International Maritime Bureau as being a perfect example of cooperation between local authorities and the IMB. The ship had been repainted, and was flying the Belize flag, and most of the cargo unloaded.at an unknown destination, reported to have been sold for $250,000. Thai police arrested three Thai men and charged them with sea piracy. The men said the leader was a Taiwanese, and others in the group of 25 heavily armed men included naval officers from Burma..

In 2002 pirates stopped a Malaysian tanker, *Nautica Kluang* in the Straits of Malacca and stole its diesel cargo worth $600,000 by pumping it into a vessel they had brought with them. Diesel oil is highly resaleable. In October 2002 there were two incidents involving the theft of palm oil worth $1.18 million from vessels in Indonesian waters.

There is also the phenomenon of Phantom Vessels involved in piracy. A phantom vessel is one with a phantom, fictitious, identity. These phantoms are facilitated by FOC registries (eg Honduras, Belize, St. Vincent), often corruptly run which make no effort to verify the information given to them. So ships are registered under false names, tonnage, dimensions and ownership. Thus investigations into a pirate vessel are frustrated (Chew, 1999). Phantom ships are stolen ships repainted, renamed, chartered at cheap rates to gullible shippers (Mortished, 2003).

The profile of phantom ships include the following features: small bulk carriers or twin-deckers; Burmese Thai or Filipino crew; the crew do not go ashore and receive no mail at the load port; high commission (often 12.5%) of the freight is paid to ship brokers; freight is paid into a personal not corporate account (Chew, 1999).

The desired cargoes are of high value, in high demand, homogeneous and easily disposable, including frozen prawns, timber, plywood, palm oil, rice, sugar, textiles, resin, rubber, steel and copper concentrates. Cargoes are often offloaded from the phantom vessel into a legally registered vessel in international waters. Stolen goods are sold by a fictitious company, often to companies in China (Chew, 1999).

Definitions of Piracy

Controversy surrounds the definition of piracy and the extent of international maritime law in controlling it. Trials take place in municipal courts, and national laws vary in their wording and enforcement. A short definition is 'sea robbery', and indeed the German word for piracy is Seeraub, which literally means 'sea robber'.

The 'Oxford Companion To Ships & The Sea' defines piracy as "the act of taking a ship on the high seas from the possession or control of those lawfully entitled to it"
The Marine Insurance Act (1906) includes as piracy mutiny by passengers and rioters who attack the ship from the shore (Chew, 1999).

The IMB, for statistical purposes, defines piracy and armed robbery as: "An act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of the act" (ICC Weekly :Piracy Report, 19-25 March 2002). This definition thus covers actual or attempted attacks whether the ship is berthed, anchored, or at sea.

There is often a difference between the place where the piracy happens and the place where the pirates care arrested. Most attacks take place not on the high seas but within territorial waters. The doctrine of hot pursuit by one nation into another's nation's territory is firmly resisted as an invasion of sovereignty, and even the suggestion of joint patrols of piratical waters is treated with caution. Japan's request to participate in joint patrols in the Malacca Straits was rejected. Such cooperation would raise difficult political and diplomatic questions (Clingan, 1989).

It is the very antiquity of piracy and its international dimension that has given rise to definitional difficulties (Ignarski, 1989). The problem is that of jurisdiction: which country has this and should exercise it in any case of piracy. The problem of definition, of jurisdiction, has been controversial from the middle ages onwards. The League of Nations in 1927 dropped its attempt to codify the law, because of insufficient support. The 1958 United Nations High Seas Convention deals with piracy in Articles 14 to 21, and repeats the wording in the United Nations Convention on the Law of the Sea, articles 100 to 107. There must be a pirate ship, a victim ship, and it must happen on the high seas.

However, these United Nations Conventions are considered by some to have introduced more confusion as its definitions are narrow ones and are expressed in ambiguous terms (Birnie, 1989).

The question of definition is essential because until terminology is standardised the international cooperation so essential cannot begin (Ellen, 1989). Well, the law has been standardised, by the United Nations, but nations are very slow to ratify the Convention and pass their own compliance law, and slower still to enforce it.

Law and its Enforcement

Although customary law limited a state's marine jurisdiction to a narrow coastal belt, piracy was seen to be a universal threat. It was accepted that the vessel of any state could intervene in a piratical attack, and that any state into whose jurisdiction the pirates were brought or found could try them under its laws even though the act had been perpetrated beyond its territorial waters (Birnie, 1989).

Any piracy in territorial waters is for the municipal authorities to deal with according to their national law. The United Nation's 1958 and 1982 Conventions confer jurisdiction on sovereign states to combat piracy and punish offenders even where they are found on the high seas and not in territorial waters.

Governments have been urged by the International Maritime Organisation to ratify its 1988 Rome Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Ratification then makes it easier for governments to prosecute pirates because it allows sovereign governments to prosecute pirates operating in their territorial waters (ICC website, 20 March 2000).

Piracy is an international crime under the (Red Cross) Geneva Convention on the High Seas, but this applies to the high seas and not territorial waters (Clingan, 1989).

There is an absence in many countries of law enforcement, and an unwillingness to prosecute pirates caught in their own territorial waters for piracy committed in another country's jurisdiction. This is why the Rome Convention of 1988 is so important because it aims at removing the problem of jurisdiction, and pirates will then not be able to seek sanctuary in countries which have not armed their courts with powers to prosecute.

China, Australia and Japan have ratified the Convention. All the ASEAN states took part in the Tokyo Conference called in 2002 at the Japanese Prime Minister's initiative to try to formulate a regional cooperation agreement for dealing with piracy. 50% of the world's oil supply, and 80% of Japan's oil supply pass through the Straits of Malacca.

The Chinese authorities, long criticised for inaction, began cracking down on pirates in 1999, with death sentences for the 13 hijackers of the *Cheung Son* in which 23 Chinese seamen were brutally murdered: gagged, machine-gunned, and dumped overboard. The cargo was worthless furnace slag, but the hull was the target and was never recovered. (ICC website, 20 March 2000). In 2003 Chinese courts sentenced pirates to between 10 and 15 years in prison for their attack on the *Siam Xanxia*.

The Convention came into force in India on 15 January 2000 and has been enforced. In February 2003 an Indian court sentenced 14 Indonesian pirates to 7 years in prison for hijacking off the coast of Sumatra in October 1999 a Japanese owned ship *Alondra Rainbow*, on its way to Japan with its cargo of aluminium worth $10 million. When discovered the cargo had gone and the crew were missing, presumed dead. These prison sentences are in contrast to Indonesia where few gangs have ever been caught, and those which have receive minimal sentences (ICC website, 2 April 2003).

The IMB does sometimes have the cooperation of the Indonesian authorities, as in 2001 when their joint efforts led to the recovery of the Malaysian tanker *Selayang* and also, in another incident, to the extradition of the pirates who had captured an Indonesian ship *Inabukwa* (ICC website, 4 February 2002).

Marine Insurance

Insurance has two definite effects on piracy: it spreads the financial risks so that a trader will not be bankrupted by a successful pirate attack; and thus it facilitates maritime trade because without insurance many potential traders could not afford such a risk and would not trade. If piracy is at a low level, a government usually ignores it, and insurers are not unduly bothered. But where the risk is high then insurers usually put pressure on governments to do something. "Insurers have always been important in their efforts to secure government action against pirates, both indirectly through increases in rates that led shippers and ship owners to protest, an directly through representation to government" (Peterson, 1989, p. 43).

It is not surprising that traders have long sought insurance protection against the financial consequences. Piracy is a peril on the sea. Over the years the peril of piracy in a marine policy has shuttled back and forth, as an insured peril and as a war risk It was an insured peril under the old SG policy but was then excluded by an exclusion clause "warranted free of capture and seizure". However, the Institute of London Underwriters modern classification clauses reversed this, and piracy is now included as a standard peril (Ignarski, 1989). It is included in Institute Cargo Clause A ('all risks', but not under clauses B and C), which came into effect in 1982, and in Institute Hull Clauses ITCH and IVCH which came into effect in 1983 (and to prevent overlap, is specifically excluded from IWSC(H).

Terrorism is still excluded, and piracy is specifically excluded from the War Exclusion Clause (but not when the principal cover is Institute Cargo Clauses B or C as it is unnecessary to do so). If cargo is insured under ICC B or C, and the Insured wants piracy to be covered he would have to request the Institute Theft, Pilferage and Non-Delivery Clause and the Institute Malicious Damage Clause. Such a request would probably be regarded as adverse selection, and would either be declined or special rates and terms imposed.

Marine insurance in many countries follows that of London and also recognises many clauses of the UK Marine Insurance Act of 1906 which was an excellent piece of legislation defining so many issues. The earliest common law decision on piracy affecting marine insurance in England is *Nesbitt v. Lushington* in 1792. A keystone case in 1909 was *Republic of Bolivia v. Indemnity Mutual Marine Assurance* which interpreted 'piracy' as an insured peril as meaning 'piracy in a popular or business sense'.

A very important legal case was decided in 1978 by Mr. Justice Slaughton. This amicable case involving the *Andreas Lemos* was brought so that the definition of piracy could be again be clarified in an insurance context. The judge's decision, [*Andreas Lemos* 1978, 2 Lloyds Rep 483], included some interesting new legal propositions affecting marine insurers. A distinction was made by the judge between piracy described by international law and piracy in the context of a marine insurance policy. Piracy has to take place at sea (a wider definition than 'high seas'), but if an attack on a ship could be described as "a maritime offence", or the ship could be considered "in the ordinary meaning of the phrase as 'at sea' ", then it could be considered that the attack happened "in a place where piracy can be committed" and the policy would cover the attack (Ignarski, 1989).

The judge in this case justified his wider interpretation of piracy for insurance purposes by referring to Rule 8 of the 1st schedule to the Marine Insurance Act of 1906 which has a broad definition of pirates, even including as pirates those passengers who mutiny and rioters who attack a ship from the shore. Thus, by the *Andreas Lemos* decision, a criminal lawyer's piracy is different from a marine lawyer's piracy: the latter being wider and thus allowing a wider range of insurance claims based on this policy peril.

For marine underwriters, piracy is a low to medium level criminal nuisance (Ignarski, 1989). The losses from piracy are not substantial enough in comparison to total values to affect the premium rate for marine insurance (Mortished, 2003).

Control

Control of piracy should be aimed at those factors which encourage it: easy availability of loot, ready market for hostages or stolen goods, and secure places for rest and resupply

(Peterson, 1989). Keeping piracy suppressed needs constant vigilance, and considerable involvement by willing governments: many governments are unwilling. In addition to governmental action there is the fortunate existence of the Piracy reporting Centre with its warnings and recovery assistance, plus communications technology

A new satellite tracking system (SHIPLOC) was set up in 1999 capable of instantly locating a vessel through a tiny transmitter on the ship. This sends a discrete alert from ship to shore, not noticeable by anyone on the ship or nearby ships. Shiploc is contained in a small discrete waterproof unit which contains an Argos transmitter, a GPS receiver, a battery pack in case of mains power failure, and a flat antenna. The shipowner can also access the ship's position up to 15 times a day by logging on to the service provider's website. It can thus be used not only to locate the ship in case of piracy or hijack, but also as a management tool to monitor the ship's progress (ICC Annual Report, 2002). Shiploc was involved in the hunt for the *Selayang* hijacked in June 2001, which enables IMB to give the Indonesian navy precise positions which led to their seizure of the ship.

The International Maritime Organisation (IMO), which is a permanent international body concerned with safety at sea, set up by the United Nations in 1959, issues regulations for Safety of Life at Sea (SOLAS Regulations). The IMO Regulation SOLAS XI-2/6 adopted during a diplomatic conference in December 2002, requires all ships over 500 gross tonnage to be equipped with a Ship Safety Alert System (SSAS). The Shiploc system meets the specifications of Regulation SOLAS XI-2/6. This regulation will become effective in July 2004, but its actual enforcement is the responsibility of Governments, and some are less willing or able than others.

Another initiative is the tagging of ships. A new SOLAS Regulation, based on a proposal from China and Hong Kong, requires that ships have a unique number embossed on a visible part of the hull, making it easy to establish the origins of the ship from a directory of numbers. Thus anyone in illegal possession of a ship cannot hide its true identity (ICC website, 25 March 2002).

Merchant ships do not carry guns, and to do so would endanger the crew unless properly trained, and guns themselves attract pirates. Instead, the IMB recommends Secure-Ship, another anti-piracy device. It is a non-lethal electrifying fence surrounding the whole ship, especially adapted for maritime use. The fence has a force of 9,000 volts to deter boarding attempts, because it delivers a painful electric shock. When grappled with, it sets off an alarm which activates floodlights and a very loud siren. This device also deters stowaways, illegal immigrants, and possibly would-be terrorists. Because of electricity and the possibility of sparks, the device cannot be used on tankers or other ships with inflammable cargoes (www.secure-ship.com).

There are joint patrols in the Malacca Straits by Indonesia/Singapore/Malaysia, the weakest part of this being the Indonesian participation (ICC Annual report, 2002). In 2002 a Malaysian official called for help in patrolling the Straits of Malacca, suggesting that major trading nations should contribute according to their usage of the Straits. Prospects for a large scale international ocean peacekeeping force, an initiative supported by Japan, are seen as overly ambitious (Srivoranart, 2001). Twenty Asia-Pacific rim countries agreed in 2000 to fight transnational crime in support of a United Nations Convention (Ashayagachat, 2000), but it is extremely doubtful if this will be applied to piracy, even though it has been argued that ASEAN and APEC should put piracy at the top of their agendas (Srivoranart, 2001). The political will needs to be there, and piracy never seems to be an issue that captures public attention or campaigning.

On 2 Oct 2001 BIMCO, the world's largest association of shipping companies, sent a letter to the Secretary General of the United Nations asking for action on piracy because of the marked increase in the number of reports of armed attacks and piracy, which are becoming more violent and frequent, take place in ports, in the roads, and on the open seas. The frequency and ferocity of such attacks is worsening, as many coastal states are unable or ill-equipped to counter this menace. BIMCO suggested four preventive measures (ICC International Maritime Bureau, 2002)):

* Sufficient law enforcement personnel, empowered and equipped.
* National legislation against these crimes, and enforcement of the laws.
* Partnerships between coastal states, flag states and the shipping industry.
* Robust security measures around terminals and port installations.

After the release of the ICC's Annual Piracy Report for 2001, the Indonesian Navy sent six warships to the Malacca Straits, and stated that a fleet of 26 ships and 10, aircraft were conducting daily patrols throughout the nation's waters including the piracy-prone zone; 3 of the warships active off Aceh to deter arms smuggling to the rebels (ICC website report, 12 February 2002).

In 2002 Indonesia said it would set up a third anti-piracy centre, in Bangka (Sumatra), its other two being in Medan (Sumatra) and on the island of Batam near Singapore. It would need far more ships and aircraft to patrol its 13,000 islands effectively and had less than half those numbers.

To be effective, coastal states need to accept their legal responsibilities and act against piracy, and need to cooperate with neighboring coastal states. The only people who can effectively take enforcement action are the relevant coastal states: navies will not act outside their coastal waters against pirate ships of another country (Ignarski, 1989).

Conclusion

Modern piracy is violent, bloody and ruthless. It is all the more fearsome because inevitably its victims are defenceless and far from protection of the law (ICC website, 20 March 2000). Piracy represents an ancient and continuing story of man's inhumanity to man. But in the IMB's Piracy Reporting Centre it also has produced one of the noble expressions of the human spirit where man helps man. The work of the Centre, as part of the ICC's war against commercial criminals, does not receive the publicity it should have for its work which is not only concerned with finding stolen ships and cargoes and bringing pirates to justice but by its very presence prevents many attacks and minimises the effects of many others.

Piracy is costing the world's economy over $25 billion a year, as modern buccaneers equip themselves with the latest technology (Macartney, 2002). However, the financial impact of piracy is small in the context of worldwide shipping, and the number of attacks is also relatively infrequent (Mortished, 2003). The killing of a British racing yachtsman, Sir Peter Blake, in the Amazon in 2001, for a time brought the growing problem of piracy some attention in the Western press (Kluwer, 2002).

The scarcity of policing, and signs of official collusion in Southeast Asia has enabled this violent trade to expand, spurred by China's surging economy which provides a market for the stolen goods and also a source of some of the organised crime which perpetrates piracy (Macartney, 2002)

Before 1989 piracy in the Malacca Straits was rare: only about seven cases a year. That and every year since then has seen dramatic increases (Macartney, 2002). The threat of pollution is alarming. In 1992 pirates boarded a supertanker, tied up the 24 crew leaving the huge vessel to drift among dangerous reefs and shoals. Vessels can drift for hours during an attack, and a tanker carrying petrol or butane gas is nothing less than a floating bomb (Mortished, 2003).

The crackdown by China has failed to halt the increase, the Chinese pirates now selling their goods in India and Iran instead. (Macartney, 2002). Pirates are also advocates of globalisation! Indeed the escalation since 1989 mirrors that in the 18th century, also caused by a surge in international trading. Pirates then were brought under control by fast steam gunboats. Today's pirates have faster boats than the authorities (Macartney, 2002).

Despite international conventions and conferences there is usually little practical response and calls for action are lost in apathy or unwillingness (Parritt, 1989). Near-anarchy prevails in Southeast Asian waters. Official patrol boats often find themselves

outmanoeuvred and outgunned by the pirates, who use radar to locate vessels, intelligence by radio transmissions and from informers, and carry out attacks with fast boats armed with the latest automatic weapons. Tougher action, increased surveillance, and smarter intelligence are needed to foil these modern pirates.

Southeast Asia is particularly at risk from sea-borne militant attacks because of the narrowness of its waterways and its susceptibility to piracy. Navies in the area have been increasing their surveillance and response tactics to marine terrorism (Eaton, 2002). This allocation of substantial resources to fighting terrorism could have an effect on piracy, but as yet that seems not to have happened. Maybe it will take an actual marine atrocity to raise awareness of the interconnectedness between militant terrorism and pirate terrorism.

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