

The Root Causes of Maritime Piracy:

Weak States and the Struggle to Implement International Law

Maritime piracy is an emerging threat to the economy and security of states all over the globe. There are 3 distinct "types" of pirates that roam the high seas wreaking havoc and causing extreme damage and danger to the vessels they come in contact with. This paper helps to fill a gap in the literature by analyzing the "root causes" of contemporary maritime piracy, and offering recommendations for a viable solution.

Introduction

Contrary to popular belief the crime of maritime piracy has never been eradicated and according to one author, "the idea of actively robbing ships under way is virtually unthinkable now."¹ The last fifteen years have seen an extreme surge in the amount of pirate attacks worldwide, and modern pirates are not the swashbuckling gents portrayed on Hollywood's silver screen.² Pirates today are causing vast amounts of damage as economists have estimated that nearly \$13-16 billion dollars in damages and losses have been incurred annually by shipping firms worldwide.³ The loss of a hijacked oil

¹ Vagg, Jon. "Rough Seas? Contemporary Piracy in South East Asia." *The British Journal of Criminology*. Vol. 35, No. 1.

² The International Maritime Bureau reported a 56% increase in pirate attacks between 1999 and 2000, and numbers of attacks have continued to rise since then.

Howland, Jonathan. "Hazardous Seas: Maritime Sector Vulnerable to Devastating Terrorist Attacks." 1 April 2004. Accessed 2 March 2008.

<<http://www.jinsa.org/articles/articles.html/function/view/categoryid/1701/documentid/2426/history/3,2360,655,1701,2426>>

³Luft, Gal and Anne Korin. "Terrorism Goes to Sea." *Foreign Affairs*. November/December 2004. Accessed 9 February 2008. <<http://www.iags.org/fa2004.html>> and

Jarvis, Robert M. "Maritime Piracy in the Modern World." *Insights on Law and Society*. Vol. 6, No. 3

tanker runs a bill upwards of \$100 million or more, and that is just to replace the missing ship.⁴ Often when ships are hijacked pirates will choose from one of several options: hold the crew hostage, set the crews adrift on rubber rafts to fend for themselves, force the crew to stay onboard and man the “phantom ship,” or just outright commit murder. Modern pirates are out to conquer their target, and will not hesitate to kill if the situation is compromised. These violent scenarios are often surprising to most people, but the reality is that these attacks happen several times a month in the waters of Southeast Asia, Eastern Africa, and the Persian Gulf.

What are the factors that have contributed to the seemingly sudden rise of contemporary maritime piracy in the past 10 years? Piracy reports that have been compiled by the International Maritime Bureau (IMB) as well as other government agencies show us that the “hot spots” of the world occur in the Middle East, off the east coast of Africa, and all through out Southeast Asia.⁵ A preliminary survey of the commonalities between each of the regions mentioned shows that geography really cannot be much of a deciding factor since other areas of the globe have similar geographical conditions, but do not

⁴ Dingding, Xin. “More oil tankers taking the sea to meet demand.” *The China Daily*. 14 June 2007. Accessed 3 April 2008. <http://www.chinadaily.com.cn/bizchina/2007-06/14/content_894071.htm>. *In this article the author notes that a “typical” crude oil carrier (VLCC) is, “300 meters long, as tall as a 10-story building, and can cost \$100 million to build.”*

⁵ Please refer to the following website to view the IMB’s Live Piracy Map to show global “hot spots” for the years 2007 and 2008: <<http://www.icc-ccs.org/extra/display.php?yr=2007>> and <<http://www.icc-ccs.org/extra/display.php?yr=2008>>.

report continuous pirate attacks in the area.⁶ One factor that is common between the regions listed is that piracy outbreaks seem to occur in areas where the nation-state is either weak, or has failed by international standards. My argument is that weak nation-states have trouble implementing both national and international laws which is why piracy, and other forms of organized crime, are so easily able to flourish. This paper looks to analyze the root causes of piracy and offer recommendations as to how the international community can work together to reduce the prevalence of contemporary maritime piracy.

Background

History of the Conventions

For as long as the modern world has existed the ocean has been considered a symbol of freedom. In the early 1600's Dutch jurist Hugo Grotius authored one of the more famous works on the laws of the sea. *Mare Liberum*, literally *Free Seas*, was written in response to the monopoly that England and Portugal held over the nautical shipping lanes of the time. Grotius theorized that, "the sea can in no way become the private property of any one, because nature not only allows but enjoins its common use."⁷ His statements served as the de facto law over the oceans for nearly 350 years until states began

⁶ Some examples of the straits that do not encounter piracy are the Bosphorous and Dardanelles Straits, the Straits of Magellan, and Panama Canal.

⁷ Crossroads. "Grotius: Mare Liberum." Vol. 5, No. 1. Accessed 13 March 2008.
<http://www.webasa.org/Pubblicazioni/Grotius_2006_1.pdf>

exploiting the oceanic resources, and encroaching on each others' territorial sovereignty during the 20th century.

On November 1, 1967 the Maltese ambassador to the United Nations, Arvid Pardo, gave a sobering speech about the state of the oceans. Not only were they becoming over fished and heavily polluted, but also nations slowly had begun to claim territory beyond the customary 3-mile limit thus creating massive disputes. The two superpowers of the time had been considering placing antiballistic missile defense systems on the seabed, and developed countries were looking to exploit the coasts of less developed states in search for diamonds, oil and other valuable materials.⁸ Recognizing the turmoil that would soon arise Pardo asked the nations to look beyond the divisions of the Cold War in order to create, "an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction."⁹ This speech stemmed a 15-year process that created several multinational committees in charge of several aspects of the oceans, and ended with the signing of the Third United Nations Convention on the Law of the Seas (UNCLOS) in 1982.

UNCLOS is fondly dubbed the, "constitution of the sea," and is truly remarkable because it is considered a, "package deal," in the sense that a state

⁸ United Nations. "United Nations Convention on the Law of the Sea: A Historical Perspective." Accessed 13 March 2008. <http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm>.

Also, the phrase, "two superpowers," refers to the United States and The Soviet Union as this speech took place during the height of the Cold War.

⁹ Ibid.

must accept all terms of the treaty, or none at all.¹⁰ The document covers every aspect of the sea ranging from territorial jurisdiction to terms of protecting the underwater environment to defining an age-old crime. The effects of UNCLOS are felt in many different industries in many states all over the globe, but for the nations in Southeast Asia the treaty gives one more guideline: a strict definition on which acts can be considered contemporary maritime piracy.

The Trouble with Definition

Part of the mystery of understanding maritime piracy is trying to define the phenomenon. Like the concept of terrorism, the overall concept of maritime piracy is very broad and has more than one definition attached to it. Most organizations follow Article 101 of UNCLOS, but other organizations have their own definitions simply because they do not feel that the UNCLOS definition encompasses enough. UNCLOS defines piracy as an aggressive act that meets the following requirements:

- (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

¹⁰ Ibid.

described in subparagraph (a) or (b).¹¹

On the other hand, the International Maritime Bureau (IMB) uses the following definition for “statistical purposes” when sending out their weekly piracy reports:

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 that act. This definition thus covers actual or attempted attacks whether the ship is berthed, at anchor or at sea. Petty thefts are excluded, unless the thieves are armed.¹²

Unlike the UNCLOS definition, this definition considers the attacks that happen against ships that are either berthed or anchored, and it allows for attacks committed within a state’s territorial waters to be considered true acts of piracy. In 2007 the ICC-IMB “Piracy and Armed-Robbery Against Ships Annual Report” showed that nearly 68% of the “actual” reported attacks were against ships that were either berthed or anchored.¹³ If the IMB were to stand by the UNCLOS definition for piracy all 127 of the attacks on berthed and/ or anchored ships would have been discredited. Unfortunately unlike UNCLOS, the IMB definition is only a working definition for an organization and not a legal treaty by which nations are held accountable.

¹¹ United Nations. “Preamble to the United Nations Convention on the Law of the Sea.” Part VII. Article 101. Accessed 29 Oct 2007. <http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm>.

¹² Vaknin, Sam. “Treasure Island Revisited - On Maritime Piracy.” Updated March 2005. Accessed 4 March 2008. <<http://samvak.tripod.com/pp161.html>>

¹³ ICC International Maritime Bureau. “Piracy and Armed Robbery Against Ships: Annual Report 1 January 2007 – 31 December 2007.” January 2008. 10-11.

Five years after UNCLOS was adopted, the international community came together in another conference to address the gaps left by the treaty. The Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation, also known as the Rome or SUA Convention, allowed for the prosecution of maritime violence that didn't fall under UNCLOS. Most importantly the SUA Convention, "covers acts occurring in territorial waters and acts motivated for political ends, as well as eliminating the two-vessel requirement [for an act to be considered piracy]."¹⁴ The adoption and ratification of this treaty would have allowed states more leeway in pursuing and prosecuting suspected pirates in the territorial waters of other states, and fostered more international cooperation on the subject.

New Concerns

The lines that delineate when an act is one of "maritime piracy," or, "maritime terrorism," tend to cross back and forth which is why this topic is so significant to the strength and viability of the modern global system. The current literature shows that scholars are beginning to find that piracy can link to terrorism. The money earned from selling high-priced cargo can be funneled into terrorist organizations, but the most common scenario is that of the continued use of a, "phantom ship."

¹⁴ Barrios, Eric. "Casting A Wider Net: Addressing the Maritime Piracy Problem in Southeast Asia." *Boston College International and Comparative Law Review*. Vol. 28, No. 1. 149-164. Accessed 4 March 2008. <http://www.bc.edu/schools/law/lawreviews/meta-elements/journals/bciclr/28_1/03_TXT.htm>

A, "phantom ship," is a ship that has been hijacked by pirates and immediately renamed with forged documentation, and stripped of its original defining characteristics all the while continuing to sail on the open ocean. These ships can then be used to smuggle arms and other black market cargo, as well as they can be used as weapons for terrorist organizations themselves. The possibility of using a phantom ship as a, "floating bomb," in an attack similar to September 11 has long since been a concern of the intelligence community. In 1998, the *Petro Ranger* was turned into the *Wilby* and was only rescued once the captain risked his life to contact the Chinese officials who had stopped the ship for a routine paperwork check. The *Selayang* would have quietly transformed into the *Wang Yung* if it were not for international efforts working in cooperation to track and rescue the vessel.¹⁵ It was estimated by intelligence agencies that in 2004 that Al-Qaeda was already in possession of dozens of phantom ships that are allegedly used to traffic arms and terrorists around the globe.¹⁶

Regardless of the economic and potential environmental consequences that piracy can, inflict on the globe, policymakers should be concerned about its probable links to terrorism. Research is showing that organized pirate syndicates conduct many of the ship hijackings that have taken place in recent

¹⁵ Hitt, Jack. "Bandits in Global Shipping Lanes." *The New York Times*. 20 Aug 2000. Accessed 29 Jan 2008.
<<http://query.nytimes.com/gst/fullpage.html?res=9B05E3DE1E3FF933A1575BC0A9669C8B63&sec=&spon=&pagewanted=print>>. and Burnett, 271 - 283.

¹⁶ Luft and Korin, 1.

years. John Burnett found that for roughly \$300,000 USD (in the year 2000), one could literally pick out any ship in the harbor, and it would be neatly hijacked, renamed, and delivered to a mutual location within 3 days.¹⁷ Though slightly expensive, this shows that anyone with a bit of cash can grab a hold of a phantom oil tanker to use for his or her own purposes. Also, according to Banlaoi, “because piracy is frequent in Southeast Asia, terrorists have found it an attractive cover for maritime terrorism.”¹⁸ In the same article he also mentions that, “maritime terrorism in Southeast Asia is all the more serious a regional security concern because Al-Qaeda and its operatives have a keen awareness of maritime trade and understand its significance to the global economy.”¹⁹ This fact is further verified by Luft and Korin’s statement that bin Laden, “warn[ed] of attacks on economic targets in the west,” after the apparent terrorist attack on the French oil tanker *Limburg* in 2002.

Despite the contrasting report that the RAND Center for Terrorism and Risk Management Policy released in 2006 declaring that,

Many perceptions of maritime terrorism risks do not align with the reality of threats and vulnerabilities. First, there is little evidence that terrorists and piracy syndicates are

¹⁷ Burnett, John S. *Dangerous Waters*. New York: Dutton, 2002. 225-226.

¹⁸ Banlaoi, Rommel C. “Maritime Terrorism in South-East Asia: the Abu Sayyaf Threat.” *Naval War College Review*. Autumn 2005. Accessed 31 January 2008.
<http://findarticles.com/p/articles/mi_m0JIW/is_4_58/ai_n15930861/print>

¹⁹ *Ibid*, 2.

collaborating. The economic motivations for piracy... may be in direct conflict with the motivations of terrorists.²⁰

Several scholars, including myself, still feel that there is a connection between terrorism and maritime piracy that deserves more attention from global policy makers.

Review of Literature

Much of the literature about contemporary piracy seems to reenact specific attacks and events thus glorifying and romanticizing the problem. Scientists and shipping companies have poured billions of dollars into research in order to create “systems” designed to deter pirates from future attacks.²¹ While that may be helpful in making the crew feel more secure while they sail through dangerous waters, these implementations are going to do nothing to affect piracy as a whole except possibly increase the risk of fatalities of crewmen should a ship be boarded by pirates.²² Also, camps of scholars tend to lump maritime piracy with maritime terrorism when in fact there should be

²⁰ Greenberg, Michael D., and Peter Chalk, Henry H. Willis, Ivan Khilko, David S. Ortiz. “Maritime Terrorism: Risk and Liability.” Santa Monica: The RAND Corporation, 2006. Accessed 14 November 2007. <http://www.rand.org/pubs/monographs/2006/RAND_MG520.pdf>

²¹ Through out *Dangerous Waters*, Burnett refers to *ShipLoc* and *SecureShip* as reliable means for ship owners and captains to protect their crew. Also, White and Wydajewski suggest that tactics such as vigilance, ample lighting, ship maneuvering, external communication procedures, etc. as ways to deter potential attacks. Jarvis recommends that shipowners reroute their voyage to avoid dangerous chokepoints. He also mentions *ShipLoc* as well as some other “common sense” methods of prevention e.g.: spraying fire hoses to prevent anyone from climbing up the sides of the ship, vigilant lookouts 24 hours a day, etc.

²² Many authors speculate that if pirates know that tracking devices, such as *ShipLoc*, are installed on board it poses a greater risk to the crew because the pirates will torture and kill until they find the tracking device and destroy it. See: Burnett, 281.

a distinct variation.²³ Granted there is a threat of maritime terrorism that states should be aware about, but that should be a field of study all in its own.

What the Scholars Say

In terms of research about maritime piracy, many scholars choose to either: a) vividly recount pirate attacks, and then offer remedies to deter future attacks, or b) lump piracy and terrorism together in the same work.²⁴ Rarely does an article mention the political and social factors that provoke acts of piracy, and if it does (which a few do), the author briefly grazes over the topic in a paragraph or two.²⁵ This paper looks to fall within the same line as the few authors who choose to study the political and social factors that attribute to the rise in maritime piracy.

Hitt, Vaknin, and Burnett are a few authors whose works tend to focus on recounting pirate attacks. Vaknin reveals five different instances within one paper, while Burnett's novel weaves vivid accounts through out the entirety of his novel. Burnett described the story of the *Valiant Carrier* in near-first

²³ In particular, Luft and Korin's article is one that tends to blur the lines between piracy and terrorism. Also, EuroCrime. "Old and New Threats: Piracy and Maritime Terrorism." and, White, Brian L. and Kenneth J. Wydajewski. "Commercial Ship Self Defense Against Piracy and Maritime Terrorism."

²⁴ **Authors that recount attacks:** Jennifer Bulkely, Dana Dillon, Carolin Liss, John Burnett, Robert Jarvis, etc.

Authors that lump piracy and terror: Luft and Korin, EuroCrime, White and Wydajewski, Rommel Banaloi, Jeremy Engels, RAND Corporation, etc.

Authors focused on the "root causes:" John Worrall, John Vagg, John Burnett

²⁵ Johnson and Pladdet (2003) suggest in their conclusions that, "an immediate niche that academia could fill is to provide analysis of the multiple and complex causes of piracy." David Ong's book review of Adam Young's [Contemporary Maritime Piracy in Southeast Asia](#) reveals that Young's last chapter emphasizes the role that a lack of structural development plays in piracy.

person detail so the reader could literally see the, “uncommon flared design that gave the vessel an air of defiance as if to challenge any seaway.”²⁶ Similarly, Hitt’s editorial in the New York Times back in 2000 gave bone-chilling detail of the night the *Petro Ranger* was attacked in the South China Sea, along with first-person interviews from then-Captain Ken Blythe. These types of articles are great for increasing the attention, and drawing the interest of potential scholars but do not offer many thoughts towards the root causes of maritime piracy.

The second camp of authors composes the bulk of the literature available about maritime piracy. These scholars tend to discuss the commonalities between pirates and terrorists, and how terrorism can be aided by piracy. To be clear, by definition acts of terrorism can be considered acts of piracy, but not all pirate attacks are terrorist attacks. The main difference between pirates and terrorists is their motivation. Pirates are motivated purely by economical means, while the defining point of a terrorist is that they commit their crimes in order to effect political change.²⁷ Jeremy Engles epitomizes the similarities between the two,

Terrorism is a shadowy doppelganger of piracy: Both are decentralized networks of troublemakers floating across national boundaries, preying on innocents such as those aboard the *Cherry 201* or those working in the World Trade

²⁶ Burnett, 41.

Also, the story of the *Valiant Carrier* carries through out chapters 3 and 4.

²⁷ Nacos, Brigitte L. Terrorism and Counterterrorism: Understanding Threats and Responses in the Post-9/11 World. New York: Pearson Longman, 2006.

Center. To escape “justice,” terrorists go underground; pirates, on the other hand, float in oceanic liminality: they do not go underground, but between lands. If terrorism is comparable to piracy, then, it is because both float between boundaries and because both are equally difficult to manage tactically.²⁸

Like Engels, many scholars focus their work on the threat of maritime terrorism and sometimes mention the crime of piracy in doing so.

Gal Luft and Anne Korin take a different approach in comparing terrorism and piracy. Luft and Korin argue that, “since the attacks of September 11, 2001, security experts have frequently invoked a 200-year model to guide leaders contending with the threat of Islamic terrorism: the war on piracy.”²⁹ This draws new parallels that no other scholars have mentioned before in the sense that it implies that there is a model by which to combat both phenomenon. It is questionable as to how effective this model is considering both terrorist and pirates still roam the globe without ever have been eradicated.

After extensive research I have found only two scholars that I can separate into the third camp of writers. These scholars theorize about the root causes of piracy, but they do so under the umbrella of criminology. John L. Worrall of UC San Bernardino explains the root causes of piracy by using the “Routine Activities Theory” that is most familiarized in the study of criminal justice. In essence he offers that piracy can be explained, “...in the presence of

²⁸ Engels, Jeremy. “Floating Bombs Encircling our Shores: Post-9/11 Rhetorics of Piracy and Terrorism.” *Cultural Studies <-> Critical Methodologies*. Vol. 7, No. 3. 326-349.

²⁹ Luft and Korin, 1.

three factors: motivated offenders, suitable targets, and an absence of capable guardians.”³⁰ He applied the “Routine Activities Theory” after studying the ideas of Jon Vagg and W.J. Chambliss - two scholars who also offer their own theory about maritime piracy and organized crime, respectively.

Vagg claims there are root factors that foster piracy, and suggests that, “a ‘theory of piracy’ should explain the distribution of piracy over time and space, and identify why it takes particular forms at those times and places... a theory must explain the apparent historical linkage between piracy and official corruption.”³¹ An interesting aspect of Vagg’s argument is that he highlights a region’s historical relationship with maritime piracy and presents this as a factor for the surge in modern piracy. He makes mention of the, “culture of piracy,” that is inherent in Southeast Asia, as well as in other parts of the world.³² Inhabitants of the area accept piracy because it brings a higher level of prosperity to their normally impoverished villages. According to another author, Peter Gwin, “for centuries the Sumatran city [Palembang, Indonesia] thrived on booty raided from ships in the strait and brought upriver,” thus having a history of piracy within a region makes modern attacks more acceptable in the eyes of the local population.³³

³⁰ Worrall, John L. “The Routine Activities of Maritime Piracy.” *Security Journal*. Vol. 13, 2002. 35-52.

³¹ Vagg, 65.

³² *Ibid*, 67.

³³ Gwin, 141.

Essentially the gaps in the literature lie in the causes and prevention of the crime of maritime piracy. Authors have assessed the links between piracy and maritime terror, but do not necessarily offer suggestions on how avert the inevitable. The apparent connections between the symptoms of a weak state and the causes of maritime piracy are what will be discussed next.

Symptoms of Weak States

The sudden recurrence of maritime piracy combined with the elevated threat of terrorism has created a new field of study for scholars. The literature on maritime piracy grows daily as new attacks render new headlines. My argument contends that weak nation-states have trouble implementing both national and international laws which is why piracy, and other forms of organized crime, are so easily able to flourish. In order to make this assertion one has to look at the literature regarding the criteria that constitutes a weak state and determine whether those same factors are prevalent in areas conflicted with maritime piracy.

According to Robert Rotberg of the US National Intelligence Council, the term, “weak state,” refers to a state that may be, “inherently weak because of a geographical, physical, or fundamental economic constraints; or are situationally weak because of internal antagonisms, greed, or despotism.”³⁴

³⁴ Rotberg, Robert I. “Nation-State Failure: A Recurring Phenomenon?” Panel paper from the NIC 2020 project. 6 November 2003. Accessed 13 April 2008. <http://www.dni.gov/nic/PDF_GIF_2020_Support/2003_11_06_papers/panel2_nov6.pdf>.

Stewart Patrick contends that, “divergent estimates [from different institutions on the number of ‘weak states’] reflect differences in the criteria used to define state weakness,” thus making a uniform definition among international institutions difficult to accept.³⁵ *Foreign Policy Magazine* reports that, “the complex phenomenon of state failure may be much discussed, but it remains little understood.”³⁶ This lack of understanding partly stems from the fact that there is no set criterion for what deems a state as being, “weak,” or, “failed.” Though there is no clear definition, authors agree that not all weak states are in the same category of weakness. Patrick asserts that, “not all weak or failing states are equal,” while *Foreign Policy* claims that, “failing states are a diverse lot.”³⁷ The vast amount of variety in both the causes and symptoms of weak states also causes trouble for analysts.

For the most part the reasons that Rotberg has proposed are classic symptoms of impending state weakness. One of the more common causes for why a state may weaken is because of not having a stable government, or because the government is too authoritarian.³⁸ In either instance the nation usually has poor infrastructure as a result of this gap in governance, and so much of the population lives in poverty. How does political instability lead to a

Also, it should be noted that there is no agreed upon definition of a “weak state” in the international community.

³⁵ Patrick, Stewart. “Weak States and Global Threats: Fact or Fiction?” *The Washington Quarterly*. Vol. 29, No. 2. 27-53.

³⁶ The Fund for Peace, and *Foreign Policy* magazine. “The Failed States Index 2007.” *Foreign Policy*. June/July 2007.

http://www.foreignpolicy.com/story/cms.php?story_id=3865&page=0

³⁷ Patrick, 35, and *Foreign Policy*, 1.

Also, Patrick’s chart on page 30 shows a helpful chart on the “Capacity and Will as Dimensions of State Weakness” in order to show how the weak states differ from one another.

³⁸ Patrick, 32.

poor population? It is a cyclical condition that begins with an absence of, “political goods,” as result of an ill-performing government. Political goods are also difficult to define, but Rotberg offers that,

Political goods include indigenous expectations and, conceivably, state obligations; inform the local political culture; and collectively give substance to the social contract between ruler and ruled that is at the core of interactions between states and their citizenries... Political goods include citizens’ desires to be secure, to exist under a robust rule of law, to be free politically, to enjoy a stable economic environment, to have access to high quality educational and health services, and so on.³⁹

The implementation and enforcement of both national and international laws can also be considered a political good. When laws are not present a couple of things begin to happen. First, the infrastructure within the nation begins to decline, and secondly, the population dives below the poverty line if they have not done so already. Jobs are extremely scarce, and so some will do what ever it takes to bring in income for their families – including participating in organized crime (i.e. piracy). The continuing absence of effective governance and therefore political goods allows the cycle to continue.

The variance in research proves that there are multiple symptoms that lead to a state’s weakness, including: political instability, lack of political goods, a poor economy, poor social welfare, religious and/ or ethnic divides, and direct or indirect government support of organized crime. Several of these symptoms are also found in the areas that have seen a dramatic increase in

³⁹ Rotberg, Robert I. “Strengthening Governance: Ranking Countries Would Help.” *The Washington Quarterly*. Vol. 28, No. 1. 71-81.

maritime piracy in the last 25 years thus illustrating the link between weak states and the crime.

The Root Causes of Maritime Piracy

After much research I have decided that there are three 'types' of pirates that are prevalent in today's sea-lanes. The first type of pirate is, "the opportunist." The opportunist is the poor fisherman, or even the bored teenager who attacks a ship simply because it looks easy to do so. This type of pirate attacked John Burnett while he was sailing solo in the South China Sea in January of 1992.⁴⁰ Pirates attacked his ship because it was late, the ship was dark and relatively unguarded, and they needed money. The second type of pirate is, "the weekender." This type of pirate is the one who has a day job, but still chooses to participate in robbing ships in order to supplement their income, or because it is, "...fun, an adventure, like James Bond."⁴¹ It has been reported that the Indonesian Navy has a few "weekender" pirates in their ranks.⁴² The third type of pirate is, "the professional." The professional pirate is one who makes his or her living off of robbing ships by working in an organized piracy syndicate. According to one convicted-pirate he was

⁴⁰ Burnett, 1-9.

In this chapter Burnett recounts his own encounter with Southeast Asian pirates in January of 1992.

⁴¹ Gwin, 146.

⁴² Burnett, Vagg, etc. have all claimed in their works that the Indonesian navy has benefited financially from piracy. Also, in the work *Pirates Aboard!* several sources testified to being attacked by pirates in the middle of the night who claimed to be either members of the local police squad or coast guard. The bulk of these attacks occurred in bays of Caribbean islands, and off costal South America.

guaranteed \$10,000 for his role in hijacking the *Nepline Delima*.⁴³ The guarantee of money, whether it is brought in by legal or illegal means, assures one that they will be able to survive. \$10,000 dollars in an area where the average yearly income is \$3,400 dollars, and even less in the areas afflicted by piracy, means both security and prosperity, if only for a limited amount of time.⁴⁴

For my argument and research I have chosen to focus solely on the third type of pirate, “the professional.” In order to develop my own argument I made a list and isolated the independent variables that seemed to lead to an increase in maritime piracy in Southeast Asia. I then ranked the variables in terms of which were most common among the “hot spot” areas. I propose four independent variables that, when combined with a strategic geographic location, seem to unequivocally foster the rise of this type of crime: political instability, a poor economy, a historical connection, and governments that either support, or turn their heads away from acts of piracy in their waters.⁴⁵

Political Instability

Political instability has often been labeled as a root cause for countries that have seen a sharp increase in organized crime. When asked about the factors that seem to increase in global organized crime, Kip Schlegel of Indiana

⁴³ Gwin, 135.

⁴⁴ Central Intelligence Agency. “Indonesia.” The World Factbook. Updated 15 April 2008. Accessed 16 April 2008. <<https://www.cia.gov/library/publications/the-world-factbook/geos/id.html#Econ>>

⁴⁵ Please note that three of the factors I propose, (political instability, a poor economy, and supportive governments), have also been considered symptoms of weak states.

University responded, "Part of [the problem] is the globalization of the marketplace. And part of it is the growing instability that is occurring in many countries. Where there is political instability, there is great opportunity for organized crime."⁴⁶ The major clusters of attacks shown on the 2007 IMB Live Piracy Map are all grouped around states that have had a history of political instability including Somalia, Indonesia, and areas around the Persian Gulf.⁴⁷ Essentially the reason for this is that policy makers are so focused on internal issues, that they tend to look away from the illegitimate acts taking place in and around their territorial waters.

Vagg presents the idea that historically, "the numbers of pirates in the western world tended to increase after wars..." and this suggestion is applicable in the case of contemporary piracy.⁴⁸ The end of the Cold War marked a spike in the numbers of reported piracy cases each year. It was in 1992, 3 years after the fall of the Soviet Union, that the IMB established their Piracy Reporting Center because the crime had grown at an exponential rate.⁴⁹ Scholars attribute this instant rise in piracy to the fact that there were significantly less warships patrolling Southeast Asian waters, and therefore

⁴⁶ Leonard, Mike. "Organized Crime Expanding, IU Professor Says." Hoosier Times. 22 September 2002. Accessed 2 March 2008.
<<http://www.indiana.edu/~crimjust/Articles/HoosierTimes%20Organized%20crime%20expanding,%20IU%20professor%20says.htm>>

Schlegel is the Chairman of the Department of Criminal Justice at Indiana University, and was the president for the International Association for the Study of Organized Crime in 2002.

⁴⁷ International Maritime Bureau. "IMB Live Piracy Map 2007" accessed 2 March 2008.
<<http://www.icc-ccs.org/extra/display.php?yr=2007>>

⁴⁸ Vagg, 66.

⁴⁹ International Chamber of Commerce. "Piracy Reporting Centre: Overview." Accessed 3 April 2008. <<http://www.icc-ccs.org/prc/overview.php>>

people could get away with it. This assumption backs up the hypothesis that more law enforcement vessels, either international or national, should be patrolling piracy hotspots in order to deter attacks.

Lack of Available Wealth

“It is very hard for Indonesian seamen. We all need money.” The statement from this Indonesian prisoner who is currently serving a 7-year sentence for his role in the attack on the *Nepline Delima* in 2005 clearly illustrates the motives behind all three ‘types’ of pirates.⁵⁰ In Indonesia, nearly 18% of the population lives below the poverty line, and the lowest 10% of the population controls only 3.6% of the nation’s wealth.⁵¹ 494 out of 652 Airports in Indonesia are unpaved, and nearly 42% of the roadways are unpaved also, which shows the lack of infrastructure within the islands.⁵² A deficit in infrastructure is usually a strong indicator that an economy is not strong, and that resources are not being allocated to the areas where they are needed.

Piracy is appealing because it involves basic skills that many people indigenous to the region have (i.e. climbing bamboo, and steering vessels), and it offers the promise of a large amount of money so long as one doesn’t get caught. Nearly 50,000 vessels travel through the Malacca Straits each year, breaking down to about 137 vessels per day. Burnett describes the traffic in

⁵⁰ Gwin, 141.

⁵¹ The CIA World Factbook. “Indonesia.” Updated 15 April 2008. Accessed 15 April 2008. <<https://www.cia.gov/library/publications/the-world-factbook/geos/id.html#Econ>>

⁵² Ibid.

the Malacca Straits as being, “...one in an endless nightly parade of slow-moving, lumbering beasts that plodded one after the other...”⁵³ Clearly pirates have their pick of which ships to attack on a daily basis, and if the opportune pirate can snatch \$100 from an unsuspecting vessel passing by, then they make more on one night than they would normally make in one month.⁵⁴

Historical Connections

Vagg and other scholars emphasize on a factor that cannot be ignored: the ties between modern and classical piracy, and the subsequent “cultural acceptance” of the former. According to Vagg, Southeast Asia has endured, “a long history of raiding, robbing, smuggling, and extortion based around fishing communities in the area,” and the Barbary pirates terrorized the northern coast of Africa during the 14th through 17th centuries.⁵⁵ Having a history of piracy within an area ensures an acceptance by the local population, because it is seen as an alternative way to earn an income when times are hard. The reception of piracy is passed down through generations, and so after a period of time the crime becomes accepted by the local people no matter how long it has been since the last attack.

⁵³ Burnett, 55.

⁵⁴ US Department of Labor and Employment. “Comparative Wages in Selected Countries.” 10 March 2008. Accessed 16 April 2008.

<<http://www.nwpc.dole.gov.ph/pages/statistics/COMPARATIVE.pdf>>

This report shows that Indonesians make roughly, at a maximum, \$3.76 USD per day.

⁵⁵ Vagg, 67.

“Supportive” National Regimes

Piracy is a historical crime that has been making a contemporary comeback, and one of the factors that have carried through the centuries has been that of a supportive government, either directly or indirectly. Strikingly similar to the regimes controlling Southeast Asia today, during the 18th century, “...governors of colonial territories not only lacked the military force to suppress piracy, but in some cases actively supported it.”⁵⁶

This concept is illustrated by the case of the *Petro Ranger*. 10 days after the attack the Chinese government was able to rescue the ship and her crew, and then take all of the alleged pirates into custody. Interestingly enough, once the ship was recovered by the Chinese the owner of the *Petro Ranger* had to wrangle with the Chinese for weeks and fight off outlandish accusations by the local government just to get his ship back. The Chinese did, however, keep the remaining 5, 100 tons of cargo (in this case, jet fuel) as “evidence” for their investigation. According to Hitt the Chinese then, “...wait[ed] some time and then [sold] it off.”⁵⁷ And what about the pirates? Four months after the crew of the *Petro Ranger* was rescued the Chinese Government calmly let them go, and have since refused to explain their reasoning behind the situation. Burnett argues that by releasing the pirates the Chinese were violating the SUA convention though they were signatories of the treaty. Apparently the

⁵⁶ Vagg, 66.

⁵⁷ Hitt, 10. *And*, Burnett, 232-233.

Malaysians were, “dumbfounded when they learned that the Chinese had sent the pirates back home to Indonesia.”⁵⁸

For the most part there are two reasons for why governments “tolerate” acts of piracy. The most obvious reason is that they benefit financially from the pirate’s marauding - a fact that has been illustrated by the Indonesian military and local factions of the Chinese government in more than one incident. The second reason that scholars and professionals in the shipping industry offer is that there is such a diplomatic risk with persecuting foreign nationals that many governments just don’t want to deal with the situation, and thus send the pirates on their way after a period of detention.⁵⁹

Piracy, in all aspects, is organized crime and the hotbeds of piracy occur in regions where states have been deemed either weak, or failed. Indonesia, Somalia, and the nations around the Persian Gulf all rank within the top 60 weak or failed nations in the world.⁶⁰ Therefore it is not far off the mark to assume that weak states located near strategic shipping points have a higher risk of piracy attacks in and around their national waters than stronger states.

⁵⁸ Burnett, 233.

⁵⁹ Hitt, 10.

⁶⁰ The Fund for Peace, and *Foreign Policy* magazine, 8.

Also, these regions are where the IMB has seen the most pirate attacks in current years.

Utilizing the Theory:

The 4 Factors applied to costal Somalia and Indonesia

In order to test my theory, I chose to compare and analyze costal Somalia and Indonesia. The two regions have both been viciously threatened by maritime piracy, and have similar geographical, political, and economic conditions. The Bab el-Mandeb Strait is a strategic chokepoint that sees nearly 3.3 million barrels of oil pass through its waters each year.⁶¹ Consequently, this chokepoint opens up right over the Northern tip of Somalia, a country that has seen a sharp rise in piracy in the last 5 years especially.⁶² In 2007, 31 actual or attempted pirate attacks occurred off of the Somali coastline – up from only 10 actual, or attempted cases in 2006.⁶³

The Strait of Malacca is the main waterway that divides Indonesia, Malaysia and Singapore, and is the most notorious for having pirate-infested waters. Nearly 80% of Chinese and Japanese oil imports, and one-third of all global trade flows through these waters annually, thus illustrating its importance.⁶⁴ The strait is incredibly busy with nearly 600 vessels and 11 million barrels of oil motoring through each day, and it still sees upwards of 50

⁶¹ US Energy Information Administration. "World Oil Transit Chokepoints." Updated January 2008. Accessed 16 April 2008.

<http://www.eia.doe.gov/cabs/World_Oil_Transit_Chokepoints/Full.html>

⁶² A, "chokepoint," can be defined as a, "narrow channel around widely used global sea lanes." From: US Energy Information Administration. "World Oil Transit Chokepoints."

Accessed 12 May 2008.

<http://www.eia.doe.gov/cabs/World_Oil_Transit_Chokepoints/Background.html>

⁶³ ICC - IMB Piracy Report, 6.

⁶⁴ Keady Maryann. "US-China and a New Cold War." 14 January 2007. Accessed 2 December 2007. <<http://www.zmag.org/content/showarticle.cfm?ItemID=11864>>

or more actual and/ or attempted pirate attacks each year.⁶⁵ Clearly, due to the amount of shipping and recreational vessel traffic both regions are equally susceptible to attacks by pirates.

Somalia and the Bab el-Mandeb Strait

Before applying the strategy that I have proposed, it is important to understand the history and some background factors on the Somali state. The nation was originally two separate protectorates of the English and Italian states that fused on July 1, 1960 with the announcement of an independent Somali nation.⁶⁶ Since the 1960's Somalia has endured a tumultuous political history and years of fighting between rival clans as result of integrating the two separate territories. A constitution was created at the time of independence, but was replaced by the First Charter of the Revolution in 1969 once Muhammad Siad Barre had taken power through a military coup d' etat.

Under Barre's control Somalia began the transformation to a socialist state, and, "spent much of his reign trying to rid his country of tribalism and ethnic segregation... in the 1980's Barre cracked down on opposing factions, killing thousands and creating hundreds of thousands of refugees."⁶⁷ He

⁶⁵ Gatsiounis, Ioannis. "Malacca Strait: Target for Terror." *Asia Times Online*. 11 August 2004. Accessed 18 April 2008. <http://atimes.com/atimes/Southeast_Asia/FH11Ae02.html>. Also an, "actual pirate attack," is an attack where pirates successfully board a ship. An, "attempted pirate attack," is where pirates attempt to board or even fire upon a ship, but are overall unsuccessful.

⁶⁶ Arab German Consulting. "Somalia - History." Accessed 16 April 2008. <<http://www.arab.de/arabinfo/somalihis.htm>>

⁶⁷ PBS. "Somalia's Struggle for Stability." *The Online News Hour*. Updated 26 January 2006. Accessed 18 April 2008.

sparked border conflicts with both Ethiopia and Kenya because he wanted to incorporate all ethnic Somalis living in their national territory within his, “greater Somalia,” dream.⁶⁸ The refugee problem, the droughts, and the constant fighting still plagues the Somali people today. Barre fell from his reign in 1991 as the Somali National Movement stripped power away from his administration. Almost immediately intra-clan fighting began, and quickly escalated into a civil war. From 1991 – 2004 Somalia had no formal constitution, and though one has been drafted by its current interim government, it still has yet to be ratified.⁶⁹

Factor I: Somalia’s Political Instability

In terms of identifying with the aforementioned factors, it is clear that Somalia has been the subject of political instability since its inception in 1960. For 9 years the nation had no functioning civil government, and though a, “transitional,” government currently meets in Mogadishu, the country is still run by tribal warlords. Instability of this caliber is considered a symptom of what scholars consider as a, “weak state.” Essentially the warlords make the local laws, and people can either choose to comply, or die. International laws are often not recognized for a couple of reasons. The first being that the warlords are not recognized by the international community as a legitimate

<http://www.pbs.org/newshour/indepth_coverage/africa/somalia/timeline/index.html>

⁶⁸ Somaliland Net. “Somaliland.” Accessed 18 April 2008.

<<http://www.somalilandnet.com/history.shtml>>

⁶⁹ Institute for Security Studies. “Somalia: History and Politics.” Updated March 2005.

Accessed 16 April 2008. <<http://www.iss.co.za/AF/profiles/Somalia/Politics.html>>

government, and therefore get no international support, so why should they be compelled to enforce international law? Secondly, there is also the chance that international laws are not enforced simply because they do not have the monetary resources and capabilities to capture and prosecute violators.

Somalia did see a mild drop in pirate attacks during the summer and fall of 2006 when the Islamic Courts Union (ICU) began to crackdown heavily on piracy.⁷⁰ In order to do this, the ICU made the act of piracy illegal, and then sent fighters to the north to occupy the Puntland region where pirates were known to be operating.⁷¹ The ICU collapsed in December of 2006 because it was an extremely oppressive regime, and almost immediately after its demise piracy attacks seemed to surface again.⁷²

Factor II: The Somali Economic Situation

Part of the difficulty of being subject to a weak government usually means one will be subject to an extremely weak economy – the second factor identified with rising piracy rates. According to the CIA World Factbook the GDP per capita in Somalia rests at a mere \$600 per year, which means that on the average residents are living on \$1.64 per day.⁷³ The fertility rate in the

⁷⁰ The ICU was the political “leadership” that controlled Somalia from May – December 2006.

⁷¹ West, Sugunta. “Somalia’s Islamists Attempt to Reign in Pirates.” *Jamestown Foundation*. Vol. 3, No. 33. Accessed 18 April 2008. <<http://www.jamestown.org/terrorism/news/article.php?articleid=2370113>>

⁷² According to the IMB Piracy Report there were only 10 reported attacks off the Somali coast in 2006, but 31 attacks were reported the following year.

⁷³ Central Intelligence Agency. “Somalia.” *The World Factbook*. Updated 15 April 2008. Accessed 18 April 2008. <<https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>>

country is very high, as the CIA estimates that 6.6 children are born per woman.⁷⁴ How does one afford to feed a family of that size on such little income? Recently, the owners of a French luxury yacht paid a, “well-organised maritime militia,” comprised of Somali pirates nearly \$2 million dollars ransom for the yacht and her crew.⁷⁵ Granted much of the money will more than likely be spent on weapons, training for future attacks, and illegal indulgences some of it will make its way back through the local economy. Somalia is strategically situated right under the Red Sea, and ultimately the Suez Canal. Many wealthy, luxurious vessels sail by their shores on pleasure cruises through out all times of the year, and these vessels are what the crime gangs prey on in order to maintain their lifestyles, and show loyalty to their tribal leader.

The *Jamestown Foundation* reports that, “piracy in Somalia is a lucrative business, centered in drugs, weapons and human smuggling, primarily across the Gulf of Aden and back. Warlords had used piracy to fund their militias...” which shows how important money is to these gangs.⁷⁶ Currently there are 4 major pirate syndicates operating off the coast of Somalia with the most powerful, and organized being the Somali Marines.⁷⁷ The Somali Marines are said to have, “almost military structure and training,” and use

⁷⁴ Ibid.

⁷⁵ Reuters. “Somali pirates face French judge over yacht attack.” 18 April 2008. Accessed 18 April 2008. <<http://africa.reuters.com/world/news/usnL18643712.html>>

⁷⁶ West, “Somalia’s Islamists Attempt to Reign in Pirates,” 7.

⁷⁷ AFP. “Sarkozy hosts hostage families as pirates await ransom.” 8 April 2008. Accessed 18 April 2008. <<http://afp.google.com/article/ALeqM5il-oFy20-CcNwRjkhvhnTwC8duJaQ>>

modern weapons and communications devices to coordinate attacks.⁷⁸ This syndicate is responsible for the recent hijacking of the *Le Ponant* luxury yacht, as well as multiple other attacks throughout the past few years.

Factor III: The History of African Piracy

Having a history of piracy, and therefore a cultural acceptance of the crime, is the third factor. Unlike Indonesia, Somalia does not have a long history of piracy in its territorial waters. It is said that the bulk of Somali piracy began after the fall of Barre's regime when warlords began to dominate particular regions of the country.⁷⁹ Warlords created these small, "militias," to make sure that only authorized fishing was taking place off of Somali shores, but these militias soon evolved into pirate syndicates once the warlords realized that a substantial profit could be made.

North Africa, however, does have a long history of piracy dating back to the early 1500's. The Barbary Coast, as it was called, was the coastal territory stretching from the Atlantic Ocean to the eastern edge of Egypt. Beginning in 1587 Islamic pirates off the coasts of Morocco, Algeria, and Tunisia pillaged merchant vessels, captured ships, and held the crew for absurd amounts

⁷⁸ Lichfield, John. "Yacht raid reveals hi-tech Somali pirate network." *The Independent*. 10 April 2008. Accessed 18 April 2008. <<http://www.independent.co.uk/news/world/africa/yacht-raid-reveals-hitech-somali-pirate-network-807022.html>>

⁷⁹ "Africa's Buccaneers." *Peace Reporter*. 14 May 2007. Accessed 20 April 2008. <http://www.peacereporter.net/dettaglio_articolo.php?idc=0&idart=7944?>

ransom (for the time).⁸⁰ Earlier accounts of piracy dated back to 1518 showed that Islamic admirals began capturing European shipping vessels and sold the Christians into slavery at the behest of their Sultans.⁸¹

Piracy along the Barbary Coast got so bad that the English, French, and Spanish governments began paying off the wealthy Sultans in order to ensure the safety of their vessels. After the Revolutionary War and the subsequent Declaration of Independence, America was on her own against the North African corsairs. According to Gerard W. Gawalt, "as early as 1784 Congress followed the tradition of European shipping powers and appropriated \$80,000 as a tribute to the Barbary states..."⁸² Ultimately a war against the pirates ensued, and piracy off of the North African coastline seemed to disappear once France conquered Algeria in 1830.

The history of piracy in North Africa has many parallels with the modern threat of piracy in Somali waters. In both instances piracy began because of a major political shift. In North Africa it started because the Moors were suddenly exiled by the Spanish, and in Somalia piracy surfaced after the outbreak of the civil war. Secondly, in both cases organized groups of pirates are sent out by local rulers to capture ships and crews in order to collect

⁸⁰ Gawalt, Gerard W. "America and the Barbary Pirates: An International Battle Against an Unconventional Foe." The US Library of Congress. Accessed 20 April 2008.
<http://memory.loc.gov/ammem/collections/jefferson_papers/mtjprece.html>.
"Barbary Pirates." Encyclopaedia Britannica - 1911. Accessed 20 April 2008.
<http://penelope.uchicago.edu/Thayer/E/Gazetteer/Topics/history/American_and_Military/Barbary_Pirates/Britannica_1911*.html>

⁸¹ "Barbary Pirates."

⁸² Gawalt.

wealth for their region. Once a vessel has been captured, a large ransom is set, and the groups only release the hostages upon payment. Lastly, similar to the extermination of the Barbary pirates, it will take a major effort by an international coalition, as well as a steady flow of income to the nation, before piracy off the coast of Somalia is suppressed.

Factor IV: Direct and Indirect Support from the Somali Government

The last factor that leads to an increase in maritime piracy is when the government of the home nation is supportive, either directly or indirectly, of piracy. In the case of Somalia, the current Transitional Federal Government (TFG) is indirectly supportive of piracy because it lacks the military power to actively oppose it. Conversely the regional governmental warlords that function below the TFG are directly supportive of acts of piracy because they take profit from the results of the attacks. West's article reveals,

A Somali source who requested anonymity says pirates do not do business themselves, but share out part of the ransom with warlords and businessmen. The warlords offer protection to the pirates from their own clans, who would expose them, while the businessmen are the ones who negotiate and receive the ransom on behalf of the pirates. The source adds that the pirates use their share to buy drugs, cars and generally indulge themselves, activities which end in about six months when the money runs out. At that point they go back to the sea to hijack a ship for ransom.⁸³

It is difficult to publicly renounce a crime when elements of the government actively participate.

⁸³ West, Sugunta. "Piracy Revenues Financing Warlords in Somali Insurgency." *The Jamestown Foundation*. Vol. 4, No. 42. Accessed 20 April 2008.
<<http://www.jamestown.org/terrorism/news/article.php?articleid=2373863>>.

Ultimately all four of the elements that support a rise in maritime piracy are prevalent in the case of Somalia. The political situation is extremely unstable and it is clear that tribal warlords actively promote piracy within their own regions. Somalia's economic situation is dire, at best, and so piracy is a lucrative opportunity for those physically able to participate. Though Somalia itself does not have a close historical connection with piracy, Northern Africa does, and there are parallels between the Barbary pirates of the late 16th and early 17th centuries, and the pirates who operate off of the Horn of Africa today.

Indonesia and the Strait of Malacca

In contrast to Somalia, Indonesia is an island nation situated in Southeast Asia that boasts the largest Muslim population, and it is the largest archipelagic state on the planet with 17,508 islands in its territory.⁸⁴ The 550-mile long Malacca Strait divides Indonesia and Malaysia, and is one of the single-most important shipping chokepoints in the world.⁸⁵ Aside from being very long, and very busy, the Malacca Strait is narrow (10 miles wide at its narrowest) and is dotted with hundreds of tiny, swampy islands that are known to be hideouts for pirates.⁸⁶ Essentially this means that vessels must travel at very slow speeds in order to maneuver around each other, and

⁸⁴ Central Intelligence Agency. "Indonesia." The World Factbook. Updated 15 April 2008. Accessed 18 April 2008. <<https://www.cia.gov/library/publications/the-world-factbook/geos/id.html>>

⁸⁵ Gwin, 132.

⁸⁶ Gwin, 133.

between the islands, and shallow reefs that obscure their path thus becoming a paradise for local pirate syndicates.

Factor I: Indonesia's Local Instability

Politically Indonesia has been relatively stable since the fall of President Suharto in 1998, except for the fact that their politics are still marked by corruption despite the current administration's efforts. Joel Hellman of the World Bank says that, "corruption is often said to be ingrained at all levels of the system in Indonesia."⁸⁷ The trickle-down effect of this means that local leaders will turn their heads to what is illegal, so long as they are compensated, because it is what leaders at the national level do as well. This works out well for pirates because as Vagg notes, "... anything more than systematic than small-scale, 'subsistence-level' piracy tends to imply the presence of official corruption," and clearly piracy in the Malacca Strait is anything but "subsistence-level".⁸⁸

All three types of pirates operate in the Malacca Strait, but the area is notorious for syndicates who aim to hijack ships and their cargoes for large sums of money. The pirates who attacked the *Nepline Delima* in 2005 had aimed to transfer the 7,000 tons of diesel fuel to an awaiting vessel before

⁸⁷ The World Bank. "Tackling Corruption in Indonesia." 8 April 2004. Accessed 20 April 2008.

<
<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20190200~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html>>

⁸⁸ Vagg, 68.

abandoning the ship on the open ocean.⁸⁹ The goal for the syndicate who hijacked the *Petro Ranger* was to transform it into a phantom ship, and then siphon off the cargo to another carrier.⁹⁰ Both of these attacks took place at various points in the Malacca Straits nearly 8 years apart, but the tactics used were very similar to one another, which shows that ship security has not come much farther than the eradication of political corruption.

Factor II: The Indonesian Economic Situation

Indonesia has an economic situation typical of developing states in that the country is relatively wealthy in its urban regions, but extremely impoverished in its outlying and rural areas. According to the World Bank 17.8% of Indonesians live below the poverty line, which rounds out to be nearly 40 million people with the majority making no more than \$4.00 USD per day.⁹¹ Though agriculture only constitutes 12.4% of the Indonesian GDP, 43.3% of the labor force works in agricultural occupations thus illustrating the vast economic gap.⁹²

The poorest Indonesian regions have been home to the more recent pirate attacks. These attacks have primarily occurred off of the Aceh Province

⁸⁹ Gwin, 132, 135.

⁹⁰ Burnett, 227-233.

⁹¹ The World Bank. "Indonesia: Country Brief." 12 August 2007. Accessed 9 May 2008. <<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/INDONESIAEXTN/0,,menuPK:287081~pagePK:141132~piPK:141107~theSitePK:226309,00.html>> and

US Department of Labor and Employment. "Comparative Wages in Selected Countries." 10 March 2008. Accessed 16 April 2008.

<<http://www.nwpc.dole.gov.ph/pages/statistics/COMPARATIVE.pdf>>

⁹² The Central Intelligence Agency World Factbook. "Indonesia."

of Sumatra Island, and the Riau Archipelago that lies near the wealthier Singapore coast.⁹³ Pre-1997, Batam Island was depicted as a lawless, lustful city where black market occupations thrived.⁹⁴ According to Gwin Batam Island, "... quickly became a haven for an exotic assortment of gangsters, smugglers, prostitutes, and pirates," because of its lethal combination of intense poverty and geographical proximity to Singapore.⁹⁵ Once the Asian financial crisis transpired, the necessary investment funds seemed to disappear from the island leaving it, "littered with abandoned construction sites," and other remnants of its earlier prosperity.⁹⁶ Unemployment, and therefore poverty, surged leaving people little means to generate income. During the economic crisis many women were, "forced into prostitution as the only means of survival."⁹⁷ Granted the economic situation of urban Indonesia has increased, Batam Island is still considered the, "pleasure island," and the aforementioned black market occupations are still a way of life in many areas.⁹⁸

The Aceh Province has also had its battle with poverty. After the devastating tsunami in December of 2004 poverty in the province rose to 32.6%, and though it has dropped to, "pre-tsunami levels," poverty still rests at

⁹³ Gwin, 134, 135.

⁹⁴ Batam Island is part of the Riau Archipelago lying in near the middle of the Singapore Strait.

⁹⁵ Gwin, 137-138.

⁹⁶ Gwin, 138.

⁹⁷ The Factbook on Global Sexual Exploitation. "Indonesia." Accessed 9 May 2008.

<<http://www.uri.edu/artsci/wms/hughes/indones.htm>>

⁹⁸ This quote came from a blog of a theological traveler who had visited Bantam Island in 2006. Accessed 13 May 2008. <http://www.shermankuek.net/photos/batam_island_indonesia/>

26.5% as of the end of 2006.⁹⁹ Research by the World Bank shows that poverty in the Aceh is, “significantly higher than in the rest of Indonesia,” and that poverty is, “predominately a rural phenomenon.”¹⁰⁰ Several pirate attacks have occurred off this coastline including one attempted attack that happened on May 10, 2008. In this instance the IMB reports that pirates wearing, “military camouflage,” attempted to board a chemical tanker that was steaming off of the Northern Sumatra coastline.¹⁰¹

Gwin’s closing sentence perfectly describes the allure of piracy in a region from the perspective of an Indonesian sailor that was interviewed. He says, “... if there were more money to be made working another angle, I could hear him [Johnny Batam] say, one must be true to the pirate’s golden mean. After all, Johnny Batam is a gentleman of opportunity.”¹⁰²

Factor III: The History of Indonesian Piracy

Piracy in and around the Indonesian archipelago has been a threat to the shipping industry since European powers began to dominate the waterways in the late 1500’s. Several pirate gangs haunted the waters of South East Asia from this period in time all the way through the mid-1800’s, and the two most feared groups were the *Iranun*, who pirated off the coast of

⁹⁹ The World Bank. “Aceh Poverty Assessment 2008.” 01 January 2008. Accessed 9 May 2008. <http://siteresources.worldbank.org/INTINDONESIA/Resources/Publication/280016-1200376036925/acehpoverity2008_en.pdf>

¹⁰⁰ Ibid.

¹⁰¹ ICC-IMB. “Weekly Piracy Report.” 6-12 May 2008. Accessed 13 May 2008. <<http://www.icc-ccs.org/prc/piracyreport.php>>

¹⁰² Gwin, 149.

the Philippines, and the *Bugis* who operated off the Indonesian island of Sulawesi.¹⁰³ Both of these groups had a great deal of influence on the cultures and economies of the area.

The *Iranun* were a group of pirates who worked the seas off the southwestern side of the Philippines, closest to Malaysia. According to Warren, the *Iranun*, “burst quite suddenly into Southeast Asian history,” and were able to solidify their power and prey on ships in waters as far away as the Straits of Malacca.¹⁰⁴ Eventually the word, “iranun,” gave way to the more common, “lanun,” and though there is no literal translation for the word in English, anyone in Southeast Asia will attest that it means, “pirate.”¹⁰⁵ Gwin’s research revealed that, “...it [lanun] is a word freighted with many layers of culture and history,” which further emphasizes the historical connection between current and classical pirates.¹⁰⁶

The *Bugis* people were also a serious threat as they marauded off the Sulawesi coastline during the same time period as the *Iranun*, and it is a derivation of their name that gives us the modern word, “boogey-man.”¹⁰⁷ The Bugis attacked vessels owned by the Dutch East India Trading Company, and

¹⁰³ Warren, James F. “A Tale of Two Centuries: The Globalisation of Maritime Raiding and Piracy in Southeast Asia at the End of the Eighteenth and Twentieth Centuries.” *Asia Research Institute*. June 2003. Accessed 5 May 2008.
<http://www.ari.nus.edu.sg/docs/wps/wps03_002.pdf>

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Gwin, 128.

¹⁰⁷ Anderson, Tim. “The Lepalepa: Bugis Outrigger Sailing Canoe of Sulawesi.” *Massachusetts Institute of Technology*. Accessed 5 May 2008.
<<http://www.mit.edu/people/robot/lepalepa/index.html>>

the English East India Trading Company in order to obtain pepper and other valuable materials for their communities. Piracy got so bad in the area that the Dutch considered, “[t]he presence of ‘pirates’ was one of the main justifications cited for the maritime expansion of the colonial state.”¹⁰⁸ Spices and metals were not the only goods that the pirates stole, as, “[r]aiders conducted kidnappings every year... the largest such case, 130 people were captured in one attack.”¹⁰⁹ Often times those captured were sold into slavery in several areas on the archipelago.

As further evidence, Velthoen says, “[r]aiding was not a sporadic random activity but was closely related to the formation and functioning of strategic spheres of influence and polities,” and Warren contributes that, “...it should be understood that the maritime raiding and slaving activities... were a traditional means of consolidating the economic base and political power of the Sultan.”¹¹⁰ These spheres of influence allowed the local tribes to control the seas in order to earn revenue for the local Sultanate as, “[r]aiding was a way of levying tribute [and] increasing wealth...”¹¹¹ Clearly it has been reiterated through out Southeast Asian history that maritime piracy is an acceptable way to exert influence over a span of water and thereby profit from

¹⁰⁸ Velthoen, Ester. “Sailing in Dangerous Waters: Piracy and Raiding in Historical Context.” *IIAS Newsletter*. Issue 36, March 2005. Accessed 5 May 2008.
<http://www.iias.nl/nl/36/IIAS_NL36_08.pdf>

¹⁰⁹ Atsushi, Ota. “From Piracy to Inter-Regional Trade: the Sundra Straits Zone c. 1750-1800.” *IIAS Newsletter*. Issue 36, March 2005. Accessed 6 May 2008.
<http://www.iias.nl/nl/36/IIAS_NL36_09.pdf>

¹¹⁰ Velthoen.

¹¹¹ Ibid.

it. People were, “cultivated for slave-trafficking, [and] the procurement of exotic marine products,” by their local leaders who strongly encouraged acts of piracy.¹¹² This cultural acceptance has been passed down through the generations of people living in rural Indonesia, Malaysia, and Singapore – the same areas where piracy thrives today.

Factor IV: Direct and Indirect Support by the Indonesian Government

In terms of the fourth factor it has been widely speculated that Indonesian piracy is heavily cushioned from the brunt of government prosecution. The Indonesian government indirectly offers most of the support for piracy because, they too, do not have the financial resources to chase, and prosecute pirates. Unfortunately Burnett illustrates the type of direct support that they do offer pirates in the last chapter of his novel. He shows the reader exactly how much pressure was put on the Indonesian government before they finally agreed to rescue the *Selayang* and her crew from pirates. The Indonesian Navy was not going to capture the pirates, and provided a variety of excuses to then-IMB Director Captain P.K. Mukundan as to why they couldn't catch a fully laden oil tanker:

- *We are looking but we can't find it.*
- *The weather is bad, the visibility is poor.* (A phone call shows the weather to be good with some showers in the area)
- *The seas are too high.*

¹¹² Warren, 4.

- *The ship is going ten knots and [we] don't have any ships in the area that can go faster than eight knots.*¹¹³

Luckily for the IMB the *Selayang* was equipped with a small transmitting unit similar to that of the ShipLoc system, so they were able to follow the pirate's every move on a computer screen. It is because of this transmitting unit that they were finally able to force the Indonesians to react, or face humiliation at a regional anti-piracy conference, "I [Captain P.K. Mukundan] expect you will tell the conference that you have captured the ship. If you do not announce you have arrested the ship I will go public and ask why not."¹¹⁴ Unfortunately Indonesia has consistently had a bad reputation for being in alliance with pirates, and this attack from 2001 was not the beginning. While researching for his article Vagg makes the point that, "...every individual [he] interviewed in the shipping industry, together with a number of other sources, was privately convinced that there was some Indonesian armed forces involvement in piracy."¹¹⁵

Somalia vs. Indonesia: An Analysis of the Phenomenon

Despite being so very different both of my case studies are relatively similar. Somalia and Indonesia both carry the characteristics of a weak state, and those characteristics combined with their strategic geographies (near major shipping chokepoints) have led to the increase in maritime piracy in and

¹¹³ Burnett, 278-279

¹¹⁴ Captain Mukundan's ultimatum to then-chief of the Indonesian navy's Command and Control Center, Lieutenant Commander M. Zaenal. Burnett, 281. Also, see ShipLoc's 27 June 2001 newsletter regarding the *Selayang* incident: <
http://www.shiploc.com/documents/Shiploc_Newsletter1.pdf>

¹¹⁵ Vagg, 75.

around their territorial waters.¹¹⁶ Both of their governments have ineffective in reducing the amount of piracy in their waters. The lack of money to be able to train anti-piracy forces and obtain the necessary vessels is a huge factor, and at the same time research has shown that the local governments in each region have taken profit from pirates as well. In a historical context, Somalia has many parallels with the Barbary Pirates, while Indonesia has had a culture of piracy since the days of the Dutch East India Trading Company. The economic situations of both nations are fairly weak. Somali people live on \$600 a year, while people living in rural Indonesia make about the same.¹¹⁷ Granted Indonesia is in a better position overall than Somalia is, most of their wealth remains in the hands of the political elite that are located in the bustling cities like Jakarta. Very small amounts of money ever transcend to the rural areas. Lastly both Somalia and Indonesia rank in the top 60 of the most weak, or failed states in the world thus further solidifying the link between maritime piracy and weak states.¹¹⁸

New Developments

Recently seven Somali pirates were sentenced to life in prison by the standing government in the Puntland region of Somalia.¹¹⁹ This is an

¹¹⁶ Characteristics of a weak state being: political instability, a poor economy, and direct or indirect government support of organized crime.

¹¹⁷ Central Intelligence Agency. "Somalia." *The World Factbook*. Updated 15 April 2008. Accessed 18 April 2008. <<https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>>

¹¹⁸ The Fund for Peace, and *Foreign Policy* magazine, 8.

¹¹⁹ Hassan, Mohamed Olad. "7 Somali Pirates Sentenced to Life in Jail." *The Associated Press*. 28 April 2008. 13 May 2008.

interesting precedent considering no other Somali government besides the Islamic Courts Union had ever convicted pirates. The sentencing took place 24 days after the very public hijacking of the French vessel, *Le Ponant*, thus illustrating the power that the international community holds over weakened states. I firmly believe that the only reason these pirates were tried and convicted was because of the enormous pressure that the French had put on the local government. The Puntland region had to prove it was doing something to try and curb piracy that exists in its waters, and this sentencing was the exact proof that was required. Another precedent was also recently set: the Somali government approved the extradition of the *Le Ponant* hijackers to France where they will face trial in the coming months.¹²⁰ It will be interesting to see how international law and treaties will be called upon to determine the resolution of this particular case, as well as other future instances.

Recommendations and Conclusion

Evidence shows that maritime piracy has been making a startling comeback since the mid-1980's, more so than what has been reflected in Western media. The 2005 attempted-hijacking of the *Seabourn Spirit* brought piracy back into the eyes of the media for a short time, and the April 4, 2008 hijacking of the *Le Ponant* did the same. When the *Le Ponant* was reported as

<<http://www.wtopnews.com/?nid=105&sid=1282465>>

Note: To be clear, these pirates were not the men responsible for the *Le Ponant* hijacking.

¹²⁰ Ibid.

being hijacked by Somali pirates, people literally could not believe that pirates still existed.

The governments of Indonesia, Malaysia, Japan, Singapore, Philippines, China, Nigeria, Somalia, Sri Lanka, and Bangladesh are aware of the thriving pirate syndicates that exist in and around their waters. It is a threat that they have to deal with on a daily basis. Vessels carrying 300 million barrels of oil or liquid natural gas disappear in broad daylight. Crews go missing and often times are never found. Many of these countries are too poor to be able to control the piracy that occurs in their territorial seas, and others simply choose not to. Though the SUA Convention was adopted in 1988 and has been signed by 126 nations, as of 2005 the Philippines, Malaysia, and Indonesia have not yet signed the convention though they would be among the few states to greatly benefit from the provisions.¹²¹ Scholars imply that this, “unwillingness of the region’s large insular states to join the Rome [SUA] Convention can be explained in large part by the characteristic jealousy with which Southeast Asian states guard their political and territorial sovereignty.”¹²² In the years following the September 11 terrorist attacks Japan has offered to send some of their ships to protect the Southeast Asian straits mostly because 80% of their oil flows through those particular waterways. I highly doubt this arrangement will ever materialize because, as Burnett accurately says, “in Asia memories

¹²¹ Barrios, 3.
Sakhuja, Vijay. “Reinforcing SUA Convention: Towards a Safer Maritime Navigation.”
Society for the Study of Peace and Conflict. 7 November 2005. Accessed 11 March 2008.
<http://www.sspconline.org/article_details.asp?artid=art64>

¹²² Barrios, 3.

are long, history is short,” and the local people would fear the threat of occupation all over again.¹²³ Ultimately a compromise should be reached because a Japanese presence in the strait would help to curb future attacks.

The United States must acknowledge the threat of piracy, as it too occurs in its backyard. Not only have Americans been affected by Southeast Asian piracy, but also the increase of piracy in Latin and South America could lend itself to be a large problem:

Piracy in South America is a major concern. There, ‘attackers often [threaten] violence and will steal everything that is not well secured. The incidence of maritime piracy in South America is growing, and has caught the attention of officials. The waters of the following nations have seen a number of attacks: Columbia, Peru, Jamaica, Uruguay, Brazil, Ecuador, the Dominican Republic, Guyana, and Venezuela. Piracy in the Americas ‘hits closer to home’, and these attacks are particularly worrisome to the US both because of their violent nature and because of the fact that many American tourists sail their private vessels in the area.¹²⁴

Tourists are often threatened when sailing through more violent areas in Latin and South America. Also it is important to remember that one-third of the globe’s entire trade passes through the Strait of Malacca each year, so the USA would be subject to an economic disaster should the strait ever be shut down.¹²⁵ In the past 3 years piracy has also risen off the coasts of Iraq and Iran, where much of the US oil imports come from.¹²⁶ If the Bab el-Mandeb

¹²³ Burnett, 179.

¹²⁴ Worrall, 41.

¹²⁵ Keady.

¹²⁶ ICC-IMB Piracy Report, 6. Also 22% of US Oil Imports come from nations in the Persian Gulf, and 15 million barrels of oil transit through the Strait of Hormuz each day. One online

strait, or the Strait of Hormuz were to be closed as a result of a pirate attack, global oil prices would rise tremendously.¹²⁷ Policy makers say that the reason why the US Government hasn't taken a very active role in suppressing maritime piracy is because piracy hasn't, "been driven up the political flagpole."¹²⁸ One would hope that it does not take the closure of a strategic chokepoint before the United States, as well as other leading nations, react to this threat.

Above all, in order to combat maritime piracy all nations must be involved and willing to participate. Weaker nations do not have the financial resources or proper training to send forces out to patrol their seas. If their governments are corrupt, which many are, then there is no guarantee that money will be used in the way that it was intended. The most effective way would be to have an international coalition of forces patrolling the strategic straits. One of the reasons why piracy boomed following the end of the Cold War was because there were less US and Russian vessels patrolling the

author notes that if the Strait of Hormuz were to be closed, there would be an oil shortage of 10 million barrels per day as the East-West pipeline of Saudi Arabia can only move 5 million barrels per day. He goes on to say that if, "access to the gulf were denied, assuming pipelines were to flow at maximum capacity, the world would lose 17% of its oil supply." Source: Coates, Peter. "Oil Importance of the Strait of Hormuz." 20 January 2008. Accessed 13 May 2008.

<<http://spyingbadthings.blogspot.com/2008/01/oil-importance-of-strait-of-hormuz.html>>

¹²⁷ Supposedly it was only a 4-5% deficiency in global oil supply during the Arab Oil Embargo of 1973, which caused US gasoline prices to quadruple, and the price of each barrel of oil to double. Source: Coates.

Williams, James L. "Oil Price History and Analysis." Accessed 13 May 2008.

<<http://www.wtrg.com/prices.htm>>

¹²⁸ Hitt, 4.

waters.¹²⁹ Currently the Royal Malaysia Police Force tries to patrol the Strait of Malacca, but their force is small, slow, and underfinanced in comparison to the amount of water that they need to cover. Also, the Malaysians cannot take action in international waters or in the territorial waters of other states, which is why an international effort is needed.

For decades developed nations have invoked the policy of interacting with periphery states only for the purpose of exploitation. This is not a viable policy in the modern system because transnational crimes seem to spawn from weak states, and cross borders into stronger states. Leaders in the international community must make an effort to stabilize these nations for the sake of the safety of their own country. The United States recently increased its, "Notice of Arrival," period from 24 hours to 96 hours in order to give local authorities time to perform background checks on the crew members that would be pulling into a US port.¹³⁰ The rationale behind this is that the US Government could identify a would-be terrorist before they were able to commit their intended crime.

This policy provides a good measure of protection to the local population, but does not do much for preventing a similar type of attack in another part of the world. In order to avoid feeling threatened by any one

¹²⁹ The Cargo Letter. "Modern High Seas Piracy." 20 November 2000. Accessed 14 April 2008. <http://www.cargolaw.com/presentations_pirates.html#rise>

¹³⁰ Wydajewski and White, 1239. Also, this requirement is applied to all foreign-flagged vessels weighing over 300 gross tons. The ship captains are required to send information about their cargo, crew, and vessel to the US Coast Guard.

particular nation, it must be a *multinational coalition* that patrols and enforces the security of the high seas. This coalition must be professionally trained, commanded equally by all states cooperating, and have the power to make real-time decisions.¹³¹

Piracy has been shown to be a global threat that has strong links to terrorism and organized crime. There are factors that, when in the presence of a weak state near a strategic shipping lane, can foster the rise of maritime piracy. The scientific and technological industries have worked to create successful deterrents against pirates, but these methods will not rid us of the complex syndicates. In order to lower the rate of global maritime piracy all nations must work together to strengthen the factors that are symptomatic of state weakness, and ultimately, maritime piracy.

¹³¹ I would imagine this coalition to be similar to a UN peacekeeping operation that is carried out aboard a ship. Different than a traditional peacekeeping operation, the members of this venture would be authorized to use force, and arrest pirates if necessary.