

# Maritime Piracy in Asia

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Along with cowboys and knights in shining armour, the pirate is a classic romantic figure in the imaginations of youngsters. Indeed, the romance of the pirate extends to a broader audience than that, as the success of the recent film *Pirates of the Caribbean* demonstrates. The contemporary reality of piracy, however, shatters the stereotype of the charming pirate rogue so wittily played by Johnny Depp. Over the past 15 years, the incidence of piracy has surged, with the busy sea lanes of Southeast Asia playing host to the largest number of attacks. Pirate attacks have become increasingly violent, and have come to represent a growing threat to maritime trade.

By Derek S. Johnson and Erika Pladdet

In response to the challenges posed by contemporary piracy in Asia, the IIAS, in collaboration with the Amsterdam-based Centre for Maritime Research (MARE), has launched a long-term initiative aimed at stimulating research on piracy.<sup>1</sup> The first step in their research programme was to convene an expert meeting as part of the conference 'People and the Sea II: Conflicts, Threats and Opportunities'.

An important outcome of the Amsterdam meetings was the provision of a baseline on the current state of knowledge on piracy, and an understanding of the activities of the key international organizational players, the International Maritime Bureau (IMB) and the International Maritime Organisation (IMO). These two organizations provide support for nations engaged in counter-piracy efforts by maintaining a database of all reported incidents of piracy, and by supporting the development of technologies and protocols to protect ships from pirate attacks. A fundamental issue for piracy research that emerged repeatedly in the presentations and discussions was the strengths and weaknesses of the divergent definitions of piracy held by the IMO and the IMB. The IMO conforms to the United Nations Law of the Sea (Art. 101) definition of piracy that restricts it to illegal acts of violence or detention acts committed on the high seas, or outside the jurisdiction of a coastal state, for private ends by private ship against another private ship. The IMO defines acts of violence or detention committed against ships that occur within the jurisdiction of a state as armed robbery at sea. All states are thus free to criminalize piracy that occurs within their waters in divergent ways. The IMB has a much broader definition of piracy: 'an act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the attempt to or capability to use force in the furtherance of that act'.

While the IMB definition is useful for its inclusiveness, the IMO differentiation between national and international acts of maritime violence and detention reflects the very different responses that are possible to acts of violence in those two different maritime areas. All states need to cooperate to the fullest extent in order to suppress pirate acts on the high seas or outside the jurisdiction of any state (Art. 100 Law of the Sea Convention). The meaning of 'fullest extent' is not, however, clearly defined (Chaikin 2003). Acts of violence or

detention against ships within national waters are subject to the national legislation of the coastal states. The enforcement and legal regimes of these states are highly varied.

One of the key challenges of international counter-piracy cooperation is thus to harmonize legal and enforcement provisions among nation-states, particularly in piracy-affected areas like Southeast Asian waters (Djalal 2003). It was apparent, even in the positions taken by representatives at the conference from India, Japan, Indonesia, and the USA, that this is far easier said than done. Sensitivities to outside incursions into national waters and strong memories of historical conflicts create an environment that is in many ways inimical to the multilateral effort required to combat piracy.

Nonetheless, urgent action is required. IMB data show that attacks have tripled in the ten years since 1993. Worse still, the violence of attacks is also growing (Ong 2003). In the first six months of 2003 alone there were 234 pirate incidents that resulted in 16 deaths, 52 injuries, 20 missing crew, and 193 hostages being taken (ICC 2003a). Even these figures do not represent the whole picture, as many incidents of piracy go unreported.

In addition to the important research that needs to be conducted on the international institutional context for the suppression of piracy in Asian waters, it is evident that too little is known about the economic, political, and social contexts of piracy. Who are pirates? What drives individuals to piracy? We can speculate that poor economic conditions lead to an upsurge in piracy, although we do not yet have studies that have examined that relationship in a careful way. We do know that there is a range of types of pirate activities, from small-scale hit-and-run attacks on boats at berth to sophisticated operations that hijack entire vessels in order to sell the cargo and the vessel, after having changed its name, using forged ownership papers. We do not, however, know much about the criminal networks that exist for the fencing of stolen goods and which are sufficiently well connected to know when to target particularly valuable vessels. Indeed, participants in the conference raised the very real concern of bar-ratry where pirates collaborate with ships' crews for mutual profit.

There was also lively debate during the panel sessions about the potential for politically motivated piracy and terrorism at sea. In view of the post-11 September environment, Gerard Ong rightly observed that 'ships can be dangerous too' as vehi-

cles for attacks on vital shipping lanes or sensitive environments. In early September, the IMB reported that a recent upsurge of piracy in the Malacca Straits may be due to attempts by Aceh rebels to fund their activities through vessel capture and hostage taking (ICC 2003b). While increasing state anti-piracy naval and coastguard capacity is important, the formulation of effective counter-piracy policies also requires that increasing research attention be directed at macro political-economic and social factors such as those we have sketched here. It is our hope that the programme of piracy research that arises from the IIAS-MARE initiative will help in this effort. <

## References

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