# J I G Y A S A

## AN INTERDISCIPLINARY PEER REVIEWED REFEREED RESEARCH JOURNAL

Chief Editor :  *Indukant Dixit*

Executive Editor : *Shashi Bhushan Poddar*

Editor
*Reeta Yadav*

Volume 12　　　　　February  2019　　　　　No. 2

# Maritime Piracy: A Remerging Crisis in Southeast Asia

*Dr. Vimal Kumar Kashyap**

Maritime piracy has been identified by the international security analyst and policy makers as one of the major threats, not only the national security, but to the international peace (IMB 2009).Piracy is as old as the history of seafaring itself. In the Roman Empire period, pirates controlled the waters of important trading routes. From the 16th to the 19th century's European countries extended their territories to other contingents. Due to the growth of maritime trade, piracy became a real profession. Though in spite of the negative effects, in time of war, piracy was seen as a solution for their problem of defence. Governments permitted ship owners to plunder ships from other nationalities. Famous and fearful pirates were Barbarossa (Redbeard), Edward Teach (Blackbeard) and Henry Morgan (Engels, 2007).

Despite the fact that piracy has a common global classification as *hostis humani generis* meaning enemy of all mankind criminals. It is the oldest crime over which there is universal jurisdiction (Halberstam, 1988: 272). The most of the testimony of Piracy are accessible in the Chinese old books, records, travel notes, imperial notes and manuscript. Notwithstanding, the genuine work was firstly made by the colonial scholar Nicholas Tarling, who insisted the British counter piracy mission in the early 19th century.

The definition of maritime piracy has changed over time and varies depending on context. The development of the concept, illustrated by the separation of pirates from buccaneers and privateers in the past (Konstam, 2007). Piracy is basically Latin word pirate is derived from transire, a transeundo mare, which signified a maritime knight or an admiral or commander at sea. Pirata means "to attempt" or "to attack". There are many words which historical genesis come from word pirate – peril, experience, expert, empire and of course, pirate (Kraska, 2011:6).

Piracy is, very simply, unlawful depredation at sea. While not politically motivated in itself, it has invariably been associated to prevailing political conditions and the expression of state power or,

---

* Research Assistant, Jammu Kashmir Study Centre, New Delhi

more commonly, state weakness. This connection has meant that general notions of piracy have rarely been applied uniformly or unambiguously, as activities that are called piracy in one place at one time perform 'legitimate' functions for states at others, as in the case of privateering. For the British jurist C.S. Kenny, piracy was 'any armed violence at sea that is not a lawful act of war. Kenny's definition was echoed by J.L. Anderson, who characterised piracy as a 'subset of violent maritime predation in that it is not part of a declared or widely recognized war (Murphy, 2007: 11).

**Piracy in the Southeast Asia in the post-cold war era:** Shipping is the largest industry of the Southeast Asia region essential to the efficient functioning of this region's economy. It also has potential threats to both the marine environment and social security through the consequences of major shipping accidents, or the furtherance of illegal activity at sea, including piracy and armed robbery against ships. It is a largely self-regulated activity controlled at the global level through the International Maritime Organization (IMO) by flag States and ship owning interests (IMO 2008).

In the post-cold war era (1991), increase in the incidents of "piracy" across all sea route of the world was a matter of great importance (Catherine, 2005: 3). There is a vital economic cost and danger included in the piracy. The severe circumstance drastically obstructed the free navigation in the ocean. During the time of 1997-2012, more than 3,800 actual or attempted acts of "piracy" took place around the world (International Maritime Organization 2012). On the basis of the above facts, no doubt, maritime piracy is a major maritime security issue in the *Indo-Pacific* region. Nowadays, the two main maritime piracy hot spots, the Malacca straits and the Gulf of Aden, both have these favorable conditions. Malaccan piracy was more intense in the late 90s, whereas Somali piracy plays the leading role today. These two hot spots of maritime piracy are located on the trade routes linking Asia to Europe. The situation in Southeast and South Asia has improved overall, but there has been a worrying increase in the number of attacks in the southern part of the South China Sea (Chow 2009).

Since the 1990s, Southeast Asia has been particularly hard hit by piracy. As it was assumed that the Asian financial crisis of 1998 may have contributed to a rise in piracy, in Southeast Asia, and the global "great recession" that engulfed the world economy in 2008 has also been a factor in drawing more seafarers into a life of maritime crime (Chalk, 1998:3).The International Piracy Reporting

Center has summarized total 131 attacks of piracy in the Southeast Asian waters only in 2013 (IMB 2013). There are multidimensional danger associated in the piracy; it affects the social lives, economy and security of any country. In the Southeast Asia, the Malacca strait is the most unsafe to the piracy movements. Concurring to the Piracy Reporting center, directly Tanjung Priok–Jakarta, Dumai, Belawan, Balikpapan, Taboneo, Muara Jawa, Samarinda, Nipah Anchorage waters are the severely under the menace of piracy. Piracy has numerous outcomes, many other transnational crimes i.e. drug trafficking, illegal arms, and illegal fishing and terrorism inseparably associated with the difficulty of piracy. Terrorism has endangered the foundations of safety but also poses jeopardy on environmental sustainability (Young, 2007, Ong-Webb, 2007 and Liss, 2003).

Contemporary maritime piracy in Southeast Asia history, causes and remedies, divides the causative factors for piracy into three categories: (1) the marginalization of maritime peoples, (2) gaps in the political hegemony of states, and (3) tools, intelligence, tactics, and complimentary technology (Young, 2007: 57). The first has to do with the effects of the uneven distribution of economic wealth in Southeast Asia and the Asian economic crisis in creating a pool of poor and disaffected people to serve as a labor force in support of piracy (Ibid). The second is based on the gaps in government control and the potential for government corruption and complicity. The third relates to the availability of improved weapons, vehicles, and intelligence. There are a number of the reasons to the increase in the incidents of *piracy*. The reasons are varying from regions particular social, economic and political conditions. The Peter Chalk has classified six causes in consequence of the fact that the increase of "piracy" in the current time (Chalk and Jarle 2012: 501-504).

- Advancement in maritime navigation technology
- Security threat after the post-9/11 era.
- Lawlessness, turmoil, and lack of economic opportunity on-land.
- Willingness of owner-operators to pay ever-larger ransoms.
- Bribing for the fast transaction of the ships
- Global proliferation of arms.

**Conditions Favoring Piracy :** The causes of piracy are better described as conditions, which if they exist, will increase the probability of piracy occurring. For the purpose of analysis the conditions which lead to piracy will be divided into the three categories: economic, social, and political. Social, political, and

economic conditions are conclusively intertwined and almost always changes in one will affect the other. The division of the causes of piracy along the lines chosen is not in any way meant to imply that the individual categories are closed systems.

This fact that the conditions are interrelated be used to advantage, as some actions in the counter-piracy strategy could indirectly effect one aspect by correcting another. But, is also a disadvantage in that a detriment to one condition will cause harm to another. In this case attempting to correct the affected condition is only treating the symptom and not the cause.

The economic conditions that affect piracy can again be broken down into two characteristics. These characteristics are not exclusive of each other and in most cases are actually complementary. The first characteristic is the same as any other theft crime, that one can obtain goods without paying for them and then sell them for a price. The selling price, minus operating cost, will show a much larger profit margin than realized by legal production. The measure of this condition is the ratio of the profit associated with illegal action to the risk associated with committing the illegal action. The higher the profit and the lower the risk the more likely a person will be inspired to commit the illegal action. The second economic factor is that of poverty or the inability in either means or desire to make a living by what would be considered a lawful profession. This condition is indirectly proportional to the level of prosperity in a locality or region. Therefore the lower the level of prosperity the more likely one will be unable to find gainful employment. This will then result in a larger number of personal available for employment in illegal activity. Example of this would be the loss of livelihood experienced by Somalia fishermen with the collapse of the Somalia state and their subsequent entry into the business of piracy, and the economic crisis in the Far East that led to the increase in piracy in the 1990s (Shie 2006, 173).

The social factor affecting piracy is its acceptability within the local culture. One example of the social acceptance of piracy is the "Pirate kingdoms" of the 8th century in Southeast Asia (Young 2007, 26). Another example would be the pirate community that existed on the Caribbean island of Port Royal in the 17th century (Frick 2008). Somalia is an example of a current area in which piracy has become an acceptable profession. These are all examples of instances where piracy was and is able to flourish on the fringe of the civilizations that exist at the time.

The political factors are a measure of governance. The area in which piracy is to occur and/or the area the pirates are to operate from needs to be out of the reach of the instruments of legitimate state power. A lack of governance will occur because the government is complicit in the piracy, is too weak to effectively provide security in the area, or is not concerned with the problem. For analytical purposes the ability to provide security will be a measure of the ability to provide control/oversight over a given area. The areas will be divided into the landward side of the littoral (ashore) and the seaward side if the littoral (maritime). The separation of maritime environment into territorial sea and international sea will be addressed with regards to enforcement as affected by international law.

The initial efforts were partially successful to make piracy as a global menace. On October 7, 1985, the hijacking of Italian ship, '*SS Achille Laura* 'proved that, it is still inefficient to rationalize the state action against a person who is involved sea (Bohn, 2004: 6). The UNCLOS and IMB, mere legitimized the action of any country to tackle the problem of "piracy." The IMO has started a prudent step as the Convention on the "*Suppression of Unlawful Activities against the Safety of Maritime Navigation" (SUA)* 10 March 1988 (UN: 2013).The treaty finally came into existence in the march 1, 1992. According to its article 3 as follows:

- Seizure of a ship by force or threat or intimidation
- Acts of violence against the persons on board ships if that action is likely to endanger the safe navigation of the ship.
- Destroying a ship, causing damage to a ship or its cargo that is likely to endanger the safe navigation ship.
- Placing a device that is likely to destroy or damage maritime navigational facilities or interface with the operations.
- Injure or kill any person in connection with the commission or attempts to commit the above offenses.

There was a grim situation of piracy between the periods of 1990-1996. In April 1992, a Cyprus based fuel tanker, Valliant Carrier, was the first target of "piracy." The nature of "Piracy" inextricably linked with the economic and geographical confinements of the Malacca Strait. The complicated topography of the littoral states helps to a productive soil to the growth "piracy." The responsibility of governments to diminish or eliminate the piracy in recent years is showing a decent result. There was a significant change in the spotted area, and the incidents of piracy have shifted in

the away from the Malacca Strait towards the South China Sea, Hong Kong and Macau (Young 2007). This domain is defined as 'Hong Kong, Luzon and the Hainan Island,' and viewed as HLH "terror triangle. An entirety of 122 attacks renders 51.7 percent of total strikes recorded spot in the triangle (Chalk, 1998:7).

There was a vital increase of piracy after the Asian financial crisis in 1997. The crisis worsened the economic crash in Southeast Asia and the bizarre escalation of socio-economic conditions, which eventually drove to developing of large-scale poverty. It considerably hinders the growth of the unemployed and poor people. Eventually, this is needed to become entangled in the pursuit of "piracy" for their subsistence (Young, A: 2005)

Ironically, plenty of established perpetrators, terrorist organizations and rebellious groups were viewing it as most profitable business during the time of growth. The countries of the Malacca strait Malaysia, Singapore and especially Indonesia neglected to obtain any social security system to preserve such a persons (Young 2005).

**References :**
- IMB (2005) International Maritime Bureau, "piracy and armed robbery against annual report, 31december, URL: http://www.ics-ccs.org.
- IMB (2010) The Economic Cost of Maritime Piracy One Earth Future Working Paper December 2010, One Earth Foundation Colorado, USA, 24 spetember, URL http://oceansbeyondpiracy.org/cost-of-piracy/human-cost-somali-piracy.pdf.
- IMB (2011) "Piracy & Armed Robbery Prone Areas and Warnings." [Online web] Accessed 25 October 2012 URL.http://www.icc-ccs.org/home/piracy-reporting-centre/prone-areas-and-warnings.html.
- IMO (2005), "MSC, 80/24, report of the Maritime Safety Committee on its 80th Session, item 17: Piracy and Armed Robbery against Ships IMO, London.
- IMO(2004), World maritime day: Focus on maritime security," *Background Paper*, IMO London.
- International Maritime Bureau (1992), Special report: piracy IMB, London, United Nations conventions law of the sea: 20th anniversary, 1982-2002, 8.

- International Maritime Bureau (2005), MSC, 80/24 Report of the Maritime safety Committee on its 80th session, Item, Piracy and Armed robbery against ships, IMO London.
- International Maritime Organization (2010) "Reports on Acts of Piracy and Armed Robbery against Ships, Second Quarterly Report," MSC.4/Circ162, November.
- Jason Abbot & Neil Renwick (1999), "Pirates? Maritime piracy and societal security in Southeast Asia, *Pacific Review*, 11 (1): 7-24.
- Jason, Alderwick & Bastian, Giegerich (2010) "Navigating Troubled Waters: NATO's Maritime Strategy, *Survival*, 52 (4): 13-20.
- Junker, Laura Lee. (1999) *Raiding, Trading, and Feasting: The Political Economy of Philippine Chiefdoms*. Honolulu: University of Hawaii Press.
- Kevin, X. Li (2008), "Maritime logistics in Asia" *Maritime Policy & Management*, 9, 35 (1): 1-3
- Khurana, G.S, (2007), "The Maritime Dimension of India's Energy Security" *Strategic Analysis*, 31 (4): 583-601.
- Khurana, G.S. (2004), "Maritime security in the Indian Ocean: Convergence plus cooperation equals resonance" *Strategic Analysis,* 28 (3): 411-426.

\*\*\*