

## **FUTURE CHALLENGES FOR SOUTHEAST NATIONS IN MARITIME SECURITY**

In the past decade and a half, there have been two developments in security in Southeast Asia. The first stemmed from the end of the Cold War which witnessed the end of the bipolar balance of power. The end of the bipolar balance of power reaffirmed US military hegemony in the regional seas, and reduced the prospect of full-scale inter-state conflict.

At the same time, however, the end of the Cold war coupled with developments brought about by the 1982 United Nations Convention on the Law of the Sea (UNCLOS) led to more widespread maritime disputes over marine resources and maritime boundaries. While these disputes are many, none of them have really become serious. Apart from the 1988 Sino-Vietnamese naval clash at Fiery Cross in the Spratlys, there have been no serious incidents. Indeed, given the region's current preoccupation with economic performance, and as a direct consequence, with multilateralism and regionalism, the prospect of inter-state war appears increasingly unlikely.

However, while the prospect of inter-state war is diminishing, intra-state tensions have mounted, especially after the 1997 financial crisis that hit Southeast Asia. Intra-ethnic tensions, separatist movements, a breakdown in law and order and social structures, have become the primary threats for states such as Indonesia, the southern Philippines and Cambodia.

In short, the main threats to ASEAN today are not posed by state actors, but by an increasingly wide array of non-state actors. These threats are likely to become more serious if the already weak states of Cambodia, the Philippines and in particular, Indonesia, become weaker and turn into "failing states".<sup>1</sup>

In terms of maritime security, the "failing state" situation in the southern Philippines and Indonesia have had serious spillover effects for their neighbours, especially Malaysia and to a lesser degree, Singapore. The two most serious problems are that of illegal migration and a resurgence of so-called piracy in the Malacca Strait and in the sea between Sabah and the southern Philippines. This paper will not provide detailed statistics of the two phenomena. The emphasis, instead, will be on new conceptual approaches to security and how Japan can contribute to regional stability.<sup>2</sup>

### **Non-Traditional Security**

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<sup>1</sup> A failing state is one where the centre, or seat of government, is increasingly unable to impose its will on the periphery or outer provinces. There is a gradual breakdown in law and order, with the government less and less able to administer the periphery and provide the necessary social infrastructure. In the final analysis, there is a breakdown of governance.

<sup>2</sup> One primary reason for not providing detailed breakdowns of piracy and illegal migration is that the work carried out by the author so far has involved the comparison of open source data and classified data. The research so far indicates that there is significant undercounting by both the International Maritime Bureau (IMB) and the Malaysian authorities of piracy cases. As for illegal migration, officials estimate that there are anything between 500,000 and 1.5 million illegal migrants in Malaysia.

This paper argues that in dealing with non-state actors, the traditional analytical framework used by international relations scholars is of limited utility. A richer approach towards the problems posed by piracy and illegal migration would be to develop the models used by scholars of non-traditional security which involves a number of disciplines.

Traditionally, and especially during the Cold War, the state was the focal point, or referent, of security. International relations theories invariably adopted a state-centric approach, privileging the state and treating it as the ultimate and most important actor. In the immediate years after the end of the Cold War, some analysts used the term “non-traditional security” to refer to lower-level threats (other than war) posed often by non-state actors such as fish poachers, pirates and illegal migrants. The focus, however, still remained the state, and the debate in maritime security in the late 1980s and early 1990s revolved primarily around whether to restructure maritime forces to deal with “other than war” low level threat situations. Nevertheless, the debate retained a very state-centric focus. Non-traditional security, today, however has moved beyond the state today, to include for example, trans-border ethnic groups and societies.

### **The Securitisation Discourse and Human Security**

One concept of non-traditional security is securitisation. Advocates of the concept argue that elites identify and also create the state’s enemies through the process of discourse by, for example, labelling them as enemies of the state or threats to national security.<sup>3</sup> Similarly, the elites and leaders of ethnic groups and trans-border societies also identify or create enemies through such a discourse. It is argued here that the current securitisation discourse has turned both the problems of piracy and illegal migration into purely military-security problems when different solutions, such as a socio-economic approach, could well be more effective.

In Malaysia, one is struck by the uniform response to these twin problems of illegal migration and piracy at the many government, academic and business meetings held to discuss these two problems. The standard solutions offered usually involve:

1. Stepping up maritime patrols.
2. Conducting more bilateral/multilateral operations between neighbouring states.
3. Improving the quality of maritime surveillance.
4. An overall tightening of the net, or fence, to keep illegal migrants and pirates out of Malaysian waters.

However, these are very standard security responses which address the symptoms, and not the causes of the problems. This is because of the current nature of the discourse which describes the two problems as security threats to the state and to national security.

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<sup>3</sup> The concept of securitisation was introduced by the “Copenhagen school” in the early 1990s. The most prominent advocate of this concept is Barry Buzan. See Willaim T. Tow, “Alternative Security Models: Implications for ASEAN” in Andrew T.H. Tan & J.D. Kenneth Boutin (eds), Non-Traditional Security Issues in Southeast Asia, Select Publishing Pte Ltd, Singapore 2001, pp. 262-263.

## **Comprehensive Security, Piracy and the Malaysian Securitisation Discourse**

The current discourse in the region as a whole and in Malaysia in particular has made piracy and illegal migration into purely security problems. Although the ASEAN concept of comprehensive security included non-traditional issues, including the notion of economic growth and development as the basis of national stability and security, these threats were ranked according to the degree of threat they posed to the regime. ASEAN comprehensive security was still fundamentally about securing state and regime, with the state as the referent point.

The lower-level (or non-traditional) threats of piracy and illegal migration were not taken too seriously by Malaysia in the early and mid-1990s because they were not regime threatening. The government appeared to be in no danger of being toppled by the increase in piracy cases, or unseated as a result of the illegal migration issue. In fact, certain parties in Malaysia in fact welcomed illegal Muslim migrants from Indonesia and the south Philippines in the 1970s and 1980s because they were seen as tipping the racial balance in favour of the Malays. Secondly, illegal migrants were also welcomed as a source of cheap labour for Malaysia's factories, plantations and construction sites. In addition, the movement of people between Sabah and the southern Philippines was a traditional, centuries-old phenomena. This movement of people accelerated when the Sabah government of the 1980s allegedly decided to provide political asylum to Filipino refugees with the assistance of the United Nations High Commission for Refugees.

Two events were to change all these. The first was the 1997 financial crisis which brought economic, social and political unrest to the region. The Malaysian government was convinced that the turmoil in Indonesia following the ouster of President Suharto would lead to a flood of economic refugees heading for Malaysia. By this time, the Malaysian government was already beginning to regard illegal migration as a security issue because of the infectious diseases and crimes associated with illegal migrants. The potential flood of migrants after the fall of Suharto threatened not only the social structure of Malaysian society, but could deprive Malaysians of jobs at a time when the economy was contracting. This would make the regime even more unpopular at a time when there was domestic unrest over the arrest of former Malaysian Deputy Prime Minister Anwar Ibrahim.

The second turning point was the kidnapping of foreign tourists and Malaysian workers from two island resorts off eastern Sabah in 2000 by members of the Abu Sayaf group. The assumption was that the Abu Sayaf group was not merely a separatist movement, but was also involved in acts of piracy in Malaysian waters. The kidnappings were bad publicity for the Malaysian government. It undermined the government's credibility at maintaining law and order within its territory, to protect foreign tourists who provide the second largest source of foreign exchange, and ultimately posed a direct challenge to Malaysia's sovereignty. The Abu Sayaf kidnappings therefore marked the point when Malaysia began to regard piracy as a serious security threat. This was seen not only in the

despatch of military reinforcements to Sabah, but in the creation of a small but elite anti-piracy strike force by the Marine Police in the Malacca Strait.

### **Desecuritising the Discourse**

However, some analysts are increasingly beginning to argue that piracy and illegal migration are not merely security problems.<sup>4</sup> Instead, the problems could be viewed either, or both, as:

1. Socio-economic problems, i.e. the cause of the problems are both poverty and social inequalities, and/or
2. Political in origins, i.e. dissatisfaction with current regimes by groups within the state who seek alternate forms of government.

There is therefore a case to be made for changing the current discourse on piracy and illegal migration from one based entirely on national security and the state, to a discourse based on the problems of disadvantaged/dissatisfied societal groups and sub-groups within a state. The paper will primarily use the study on piracy to illustrate how a desecuritisation discourse can contribute to a better understanding of the problem, and hence, towards a solution.

### **Pirates and Migrants: Non-State Actors**

Using the concept of non-traditional security as a framework for analysis, we begin to realise that while non-state actors are difficult to identify as individuals, they do constitute somewhat distinct groups or sub-groups within a state. At the same time, these groups often transcend state boundaries. Hence, the problems posed by non-state actors are complex, requiring the cooperation of not only states, but other non-state actors as well, including regional and international institutions.

While it is difficult to deal with non-state actors because of the problem of identification, research has shown that most Southeast Asian pirates are, nominally at least, Indonesians or Filipinos. Indonesian pirates operate mainly in the Malacca Strait and in the Riau islands south of Singapore, the pirates operating in the waters off Sabah are invariably from the southern Philippines.

Second, while full-time professional pirates do exist, most of them are only occasionally and opportunistically involved in piracy. Third, piracy in the Malacca Strait has historical and cultural roots, and piracy is regarded as an “honourable” way of life and carries no social stigma. Fourth, piracy off Sabah is highly politicised, with pirates claiming allegiance to, or ties with, the various separatist groups in the southern Philippines. Finally, piracy in the region is not a homogenous phenomena. In fact, three distinct type of piracy in the region can be identified.

- i. Shipjacking/hijacking (often referred to as “phantom ships”).
- ii. Malacca Straits sea robberies which involve little or no violence.
- i. Sabah piracies which invariably involve the use of firearms and violence, and whose perpetrators are usually Filipino political terrorists and/or secessionists.

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<sup>4</sup> Jason Abbot and Neil Renwick, “Pirates? Maritime Piracy and Societal Security in Southeast Asia”, *Pacifica Review*, Vol. 11, No. 1, Feb. 1999, pp. 7 – 24.

Most regional authorities tend to look on piracy as a policing problem requiring enhanced patrols etc. The International Maritime Bureau's reports for example, constantly cite the need for concerted action by regional states against piracy. As a consequence, the literature on piracy classifies piracy by geographical location, the degree of violence used, or various other such categories.

However, if one looks at the phenomenon through the lenses of non-traditional security, one is struck by these three distinct types of piracy that takes place in Southeast Asia.

## 1. Shipjacking

This is also known as the Phantom Ship phenomenon, where a ship is taken over, the cargo sold, the crew (if they are not collaborators) killed or sent overboard, and the vessel is re-registered with a Flag of Convenience (FOC) registry. The ship is then either sold, or used in scams to ostensibly transport legitimate cargoes. But these cargoes never reach their destinations, but are instead sold off to various unscrupulous traders. This scam can be carried on for some time, with the ship accepting cargoes and then disappearing without delivering the cargoes to their destinations. Permanent seizure is a highly organised multi-million dollar activity, with ship usually specifically targeted, ports of diversion identified, and false papers often prepared before the hijack. Shipjacking normally involves regional efforts by shipjackers, with crews from the Philippines, Myanmar and Indonesia, and the masterminds from Hong Kong and Thailand.

This type of piracy is becoming increasingly important because of the huge losses involved for ship and cargo owners. It is rather prevalent in the South China Sea area, with several notable cases including that of the *Alondra Rainbow*, the 1995 *Anna Sierra* hijacking, the 1996 *Samudra Samrat* incident, and the 1995 hijacking of the *Hye Mieko* by Chinese "customs". Shipjacking requires a high degree of organisation and funding, since hijackers on contract can demand as much as US\$500,000 per ship.

The response to such organised crime is obviously better enforcement and policing. To nip the problem, there should more intelligence exchanges between regional authorities, and better regional cooperation to ensure that phantom ships are not given safe havens in neighbouring countries where shipjackers can dispose of their loot. In addition, international action is required to ensure that hijacked ships cannot be registered under a FOC and allowed to sail under false colours.

## 2. Malacca Straits Sea Robberies

Sea robberies of the Malacca Strait variety is the form of piracy most often encountered off Peninsular Malaysia. Vessels are usually underway, and pirates board the ship from the stern by using grappling irons thrown from their small, high speed craft (motorised sampans etc). Cash and valuables are stolen from the ship's safe, or the crew members are forced to part with their valuables, with the minimum of force usually being used. In general so far, Malacca Straits pirates are usually armed only with knives and parangs. The point to note is that most of the piracy cases in the Malacca and Singapore straits usually do not involve a high degree of violence. Who are the actors?

- i. Indonesia communities living along the Coast of West Sumatra.
- ii. Riau Islanders.

What sets apart Malacca Straits piracy is the belief that most of these invoked are part-timers. Indeed, a number of writers are convinced that Malacca Straits piracy is not about organised crime, but caused by socio-economic conditions. Consequently, the 1997 financial crisis is believed to have contributed to an increase in Malacca Strait piracy, as fisherman, barter trades and others turn to piracy to supplement their incomes.<sup>5</sup> Indeed a story goes that in response to Malaysia and Singapore pressure to deal with piracy in the Malacca Strait in the early 1990s, Indonesia rounded up all likely pirates along the Sumatra coast and jailed them. The number of piracy cases fall to nearly zero the next year in the strait.

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<sup>5</sup> Abbot and Renwick, *op cit*, p. 21.

### 3. Sabah Piracy and Political Separatists

The third type of piracy is altogether different. The “pirates” off the Sabah Coast are linked closely to the various secessionist groups of the Southern Philippines.<sup>6</sup> Piracies off Sabah usually involve predations against local fishing and trading craft. The robbers are usually heavily armed and a high degree of violence is often used. This is because these pirates are either members of the various liberation front movements of the Southern Philippines, or have close links with them. In short, piracy takes on socio-political overtones in Sabah. Apart from violence used, it is this socio-political dimension which distinguishes piracy off the Sabah Coast from the other two types of piracy.

#### One Size Doesn't Fit All

Given these three very different types of piracy, it is obvious that the usual security response of more anti-piracy patrols, more state-to-state anti-piracy cooperation and more anti-piracy conferences are not going to solve the problem overall. This is because while shipjacking is a highly organised business, Malacca Straits piracy primarily involve marginal fishing and trading communities living along the western coast of Sumatra, and in the Riau Islands south of Singapore. Malacca Strait piracy is therefore caused by a number of factors, including:

- Poverty. This has been made worse after the 1997 crisis.
- Loss of governance by Jakarta. The outlying provinces of Indonesia after the fall of Suharto are becoming more autonomous. More than that, the loss of governance has also brought about an increasing lack of public order and security.
- Historical and cultural legacy. It has been argued that piracy has always been regarded not only as an economic necessity, but an honourable profession by the sea-going Malays of the Malacca Strait and the Riau islands.

In addition to the historical and cultural legacy, the third type of piracy, which involves violence and terrorism, off the Sabah Coast has a religious and political dimension to it involving the Moros of Mindanao, who are seeking autonomy from Manila. These Muslim separatists/pirates have set on a path of violence because of:<sup>7</sup>

- Poor socio-economic conditions.
- The inability of Manila to impose order in the southern Philippines.
- The unresponsiveness of the Manila administration to the problems of Mindanao Muslims.
- The government's insensitivity to the needs and aspirations of the Muslims.

These three different types of piracy obviously require very different responses. One can argue that Malacca Straits piracy can only be solved by a programme of poverty eradication, which should involve NGOs, and regional and international institutions and organisations. The situation however, is being made more complex by the involvement of Gerakan Aceh Merdeka, the Aceh freedom movement, in piracy and shipjacking. This brings a new political dimension to the Malacca Strait sea robberies, as in the case of the southern Philippines. In Sabah, piracy is closely involved with the culture, and identity of the Moros, who see the Sulu Sea as traditionally belonging to them. As such, attempting to solve piracy in Sabah through purely punitive means, as the Malaysian government is trying to do, will not solve the problem. The Moros see themselves as a potential nation, and piracy as a legitimate way of financing their secessionist movement. Fundamentally, the problem there is that of centre-periphery relations between Manila and the

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<sup>6</sup> Abbot and Renwick, *op cit*, p. 22.

<sup>7</sup> Maria Concepcion Clamor, “Terrorism in the Philippines and its Impact on Regional Security”, in Carolina G. Hernandez and Gina R. Pattugalan (eds), Transnational Crime and Regional Security in the Asia Pacific, Inst. For Strategic and Development Studies, Manila, 1999, p. 212.

separatists of the south. The problem was again highlighted by the second Nur Misuari rebellion in November, 2001.

Thus, in the final analysis, there must be an attempt to deal with the root causes of piracy – ranging from the social to the political to the economic, instead of looking on it merely as a policing problem. The difficulty of dealing with non-state actors is illustrated by the WTC attacks of September 11, 2001. In dealing with non-state actors who are diffused geographically but are united by shared norms, and beliefs, and ideology, it is vital to deal with the root causes of their dissatisfaction. A military response can contain the problem but will not solve it in the long term. Hence, the security approach must be supplemented by a basket of other socio-economic measures.

### **Japan's Potential Role**

It is widely acknowledged that Japan as a potential military actor is highly constrained. While Tokyo has launched several important initiatives to combat piracy in Southeast Asia, not all of them have been received with unalloyed enthusiasm. The suggestion that the MSDF should take point in joint or coordinated anti-piracy patrols has received a cool response from Malaysia and Indonesia who do not wish to see foreign warships operating in their territorial waters.

But as this paper has implied, there are other equally important means of dealing with the piracy and illegal migration problem in Southeast Asia. A laundry list of “things Japan should do” is a trap I wish to avoid. Nevertheless, there are potential opportunities in two critical areas.

1. *Tackling Malacca Strait piracy through socio-economic poverty-eradication programmes.* This will be a gradual and expensive process. However, this initiative will be highly politically acceptable. The point to note is that under the Suharto New Order government, Indonesia's outlying provinces tended to be neglected. This is particularly true of the western Sumatran coast, which has little to offer Jakarta economically. Indeed, it has been implied that Jakarta is not interested in developing this area since it prefers international shipping to use the Sunda and Lombok straits. In Batam in the Riau province, migrants from other provinces of Indonesia attracted by tales of the good life there, apparently resort to piracy because of high living costs and lack of job opportunities.<sup>8</sup>
2. Restoring governance and the legitimacy of Manila and Jakarta. Japan might be able to play the role of mediator between the two central governments and the separatists. Another critical initiative would be to help both Manila and Jakarta regain legitimacy. This does not imply giving strengthening both regimes so that they become strong, repressive regimes. The issue is making Indonesia and the Philippines into strong states, with good administrative structures and responsive governments.

### **Conclusion**

Instead of dealing with illegal migration and piracy as purely policing or security problems, this paper suggests that the concept of societal security could help authorities better understand the nature of the problem. The desecuritisation discourse does not imply that states should discontinue or cut down on maritime patrols and surveillance. These latter instruments are essential for containing the problems, or tackling the symptoms. But long term solutions would require a mix of security and socio-economic and political measures. Again, the phenomenon of piracy is not uniform. There are three somewhat distinct types of piracies in Southeast Asia. Each of them would require different approaches, and different solutions. As for illegal migrants, most of them appear to be driven by the search for a better life. While there are political refugees, for instance the Moros in Sabah and the Acehnese in Peninsular Malaysia, the majority are economic refugees.

Overall, illegal migration and piracy is complicated by:

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<sup>8</sup> Abbot and Renwick, *op cit*, p. 20.

1. Problem of identification
2. Who do you negotiate with?
3. The fact that they are transnational crimes involving the citizens of another ASEAN country. As such, no ASEAN member can intervene directly in another country even though it can pinpoint the precise locations of pirates and people smugglers.
4. Bilateral/multilateral cooperation to solve the problems is limited/constricted by the failing state phenomenon. The loss of governance/legitimacy by Manila and Jakarta means that these two centres cannot easily resolve the situation.
  - 4.1 The problems are also exacerbated by secessionist movements in the southern Philippines and in Aceh in north Sumatra. Where do you draw the line between the pirate, the terrorist, the secessionist, or the freedom fighter?

Piracy became securitised by Malaysia after the kidnapping of Malaysians and foreigners from two Sabah tourist resorts by groups linked to the Abu Sayaf. Pirates or terrorists were henceforth seen as a threat to the state because:

1. It showed that the government was unable to secure its own borders and protect citizens and foreigners within Malaysia.
2. It was an economic blow, a direct threat to tourism, Malaysia's second largest foreign exchange earner.
3. It challenged state sovereignty and the sanctity of state borders.

Malaysia's response was to step up patrols in Sabah and to purchase more ships for anti-piracy patrols. Army, navy, air force and marine police reinforcement were despatched to Sabah to strengthen the line against incursions. At the same time, there were crackdowns on illegal migrants in Sabah. (Ops Nyah, Ops Bersih, Ops Tempel). The result was that piracy fell to a handful of incidents in Sabah in 2001. But how long will this state of affairs last?

The issue is whether Malaysia has addressed the root cause/causes of piracy in Sabah and the Malacca Strait. There appears to be a need for a fundamental reappraisal to neutralise the challenge posed by these groups of non-state actors through socio-economic, and political programmes. This is the fundamental challenge facing not only Malaysia, but the region. The state is still the most important security actor, but it needs to take cognizance of the needs and aspirations of trans-border communities and societies in this globalising world. Thus, some key issues facing states and international organisations would be:

1. Restoring good governance and legitimacy in the southern Philippines, Sumatra, Riau Islands.
2. Eradicating poverty in these areas.
3. Meeting the economic and political aspirations of disaffected groups without undermining the cohesion of Indonesia and the Philippines.

Given the sensitivity of ASEAN states with regard to external interference and sovereignty, there are no easy answers. In the final analysis, piracy and illegal migration by sea are NOT a maritime problem. They are problems that originate on land, but manifest themselves at sea. The sea is but a medium.

### Estimates for Illegal Migrants

<b>Year</b>	<b>Number</b>	<b>Remarks</b>
1994	886,000	
1997	1,000,000	
1999	800,000	After amnesty programme
December 2000	402,000	After Ops Nyah I & II, Ops Bersih, Ops Tempel