

# “Piracy is a Land-Based Crime”: Analysis of Definition, Drivers and Governmental Policy

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## Abstract

In this paper, the author theoretically analyses piracy drivers rooted on land which may form main obstacles for the resolution of problems at sea. Discussing the claim of Murphy that piracy is a land-based crime, this article expands the focus and examines the main drivers to understand causes of piracy existence. Furthermore, it questions the credibility of statistical data for the researchers to make reliable conclusions in this area. And, finally, the author examines weaknesses in understanding piracy which might help to reduce piracy as a maritime crime.

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## Introduction

Piracy is a global issue and it has a universal crime in nature.<sup>1</sup> The world namely Southeast Asia, East Asia, Indian Sub-Continent, Africa, and other parts are facing the same problems caused by actual and attempted attacks of pirates. Statistics of 2017 showed that Indonesia (43), the Philippines (22), Bangladesh (11), Venezuela (12), Nigeria (33) suffered from piracy existence the most. In total, there were 180 piracy attacks conducted at sea globally. Therefore, mentioned five states recorded 67% of attacks from a total number of 180 in 2017.<sup>2</sup> Besides that the overall situation of piracy in some parts of Asia has been significantly improved in comparison to previous years, however, the cognizance of states and governmental weaknesses by pirates, makes piracy fluid, better organized and equipped.<sup>3</sup> This says that the shift of the problem to the other parts of the region demands better response from the states at the governmental, national and organizational level.

Therefore, the article is broadly divided into five sections. Firstly, it discusses the critical review of Murphy's statement that piracy is a land-based crime as an introduction by providing questions for further contemplations and discussions.<sup>4</sup> Secondly, this paper provides the comprehensive definition of piracy from scientific and official perspectives. Thirdly, it examines the main drivers as causes of piracy existence based on the literature review method from geographical, economic, social, cultural, governmental, new wars contexts. Furthermore, have

<sup>1</sup>Bento Lucas, "Toward an international law piracy sui generis: how the dual nature of maritime piracy enables piracy to flourish," *Berkeley Journal of International Law* 29 (2011), 399.

<sup>2</sup>ICC. "Piracy and Armed Robbery Against Ships Annual Report." *International Maritime Bureau* (2017). Retrieved from <https://www.icc-ccs.org/reports/2017-Annual-IMB-Piracy-Report.pdf>.

<sup>3</sup>Carolin Liss, *Oceans of Crime: Maritime Piracy and Transnational Security in Southeast Asia and Bangladesh* (Singapore: Institute of Southeast Asian Studies, 2011).

<sup>4</sup>Martin Murphy, "Piracy and UNCLOS: Does International Law Help Regional States Combat Piracy?," in *Violence at Sea. Piracy in the Age of Global Terrorism* (London: Routledge, 2007), 155-182.

been identified the main roots and factors of piracy activities at sea, this research questions the credibility of statistical data collection shown in the fourth part. Finally, the article provides an extensive conclusion of different counter piracy measures.

The research has revealed the following findings: 1) according to reports, there are still piracy attacks at sea based on geographical, economic, social, cultural, governmental drivers, and nowadays, intra-state wars are new contributors to piracy development; 2) there is a question how statistical data in terms of full numbers, figures and reports from seafarers and organizations is reliable because it is unclear whether ‘light’ attacks are reported at all; 3) despite the states’ loss, the problem of piracy exists, it means that the government does not want to spend more than it loses. In other words, the cost of problem resolution is bigger than the loss of its existence, therefore, the government leaves piracy issues unresolved.

The conducted research of the paper is based on the evaluation of literature review and some statistical data. Furthermore, the limitation of a paper is that it does not provide full statistical numbers and instead it questions whether statistical data is reliable enough for the researchers to make reliable conclusions in this area. This paper does not discuss any case studies as examples of piracy activities in details, however, it develops a theoretical perspective of the problem based on the comprehensive analysis. Therefore, the topic can be researched via the quantitative method based on statistical data and/or through the case study analysis in the future.

### “Piracy is a Land-Based Crime”

Martin Murphy<sup>5</sup> (2008, 171) has claimed that piracy is a “land-based crime. Defeating it requires an honest, effective, and determined police and criminal justice system”. This statement from the article *Piracy and UNCLOS: Does International Law Help Regional States Combat Piracy?* (2007)<sup>6</sup> points out the existing gap within such maritime laws as the *United Nations Convention of the Law of the Sea* (UNCLOS)<sup>7</sup> in collaboration with states countering piracy, along the *Convention of the Suppression of Unlawful Acts* (SUA Convention) (1988) and customary international law.

Furthermore, Murphy has emphasized that it is a great result to have the law as UNCLOS, however, it is still not enough to reach the absolute goal to get rid of piracy problem, thus, state’s and human’s behavior should be accompanied respectively as well. Therefore, UNCLOS does not have a good mechanism of managing existing issue as states cannot take their responsibility to regulate and counter piracy in an adequate and a proper way.

In the law evaluation from the historical perspective, Murphy has identified that the root of piracy researched by scholars at Harvard Law School during the 1930s coincides with the current situation significantly – it is similar to “obstacles to piracy suppression” (p. 157). The main cause was *sovereign rights over piracy*. It says that when piracy “were just sleeping” or partly disappeared as a large-scale crime, state paid attention to the sovereignty problem (Harper 2013).

After the 1982 Convention emphasized on the Exclusive Economic Zone (EEZ) with the territorial water in 200 nautical miles to give states exploit their rich on resources territory, the re-emergence of piracy took a new shape – crime was conducted close to shore, that is, no more than a few miles. The expansion of EEZ, Murphy has described as a reduction of the “size of high seas” that led to less chances to counter piracy. It means that pirates are on the territory

<sup>5</sup>The analyst on Naval Affairs, Unconventional Warfare, Piracy and Maritime Security.

<sup>6</sup>Peter Lehr (ed.), *Violence at Sea: Piracy in the Age of Global Terrorism* (London: Routledge, 2006).

<sup>7</sup>The convention was concluded on December 10, 1982; and entered into force on November 16, 1994.

where the law does not have effects. Therefore, it created new conditions for piracy growth and crime acts.

According to Murphy's analysis, there are several conditions for conducting piracy such as: private ends motives; geographical position in terms of reduction and restriction of the 'size of high seas'; the "flag of convenience" factor or two-ships provisions because any ship can be under the jurisdiction of its flag state; the lack of states' respond and cooperation, law enforcement, and existing territorial dispute problems.

Along Murphy's contemplations, Peter Chalk (2009) has put some ideas regarding the main/chief land-based factors that contribute to modern-day piracy and what the best counter measures be addressed for the future research.<sup>8</sup> Furthermore, an introductory analysis reveals a main question of how to develop, improve, and implement new regulations if such actors as the government, the ships or seafarers, private military and anti-corruption agencies are involved into the creation of the uncertainties at sea?

### **Discourse of Definition: *Piracy***

According to the official definition prescribed in the Article 101 of UNCLOS document which is incorporated with the Article 3 (1) (b) of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery (ReCAAP) issued on April 28, 2005, and the Article 1 of Djibouti Code of Conduct, *piracy* is:

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

It is how international laws define *piracy*. Furthermore, it is the first recognized crime against international laws and subject to universal jurisdiction which in addition Judge Moore calls an enemy of human being who, for this reason, should be interested in capturing pirates as well.<sup>9</sup> The municipal criminal law of states expands the scope of understanding *piracy* as not actual crime at the core but as attempted crime which is enough to consider this act as piracy to take measures.<sup>10</sup>

Martin Murphy (2008) explains *piracy* as *armed robbery at sea* for the same outcome of its activities which is *crime*. Furthermore, the scholar calls pirates as self-interested "rovers".<sup>11</sup> It means that pirates have goals for crime activities driven by getting private benefits and gains from the robbed ships. This statement is not a new one because it is mentioned as a core

<sup>8</sup> Peter Chalk, *Maritime Piracy: Reasons, Dangers and Solutions* (California:RAND, 2009).

<sup>9</sup>UNCTAD. 2014. "Maritime Piracy (Part II): An Overview of the International Legal Framework and of Multilateral Cooperation to Combat Piracy." *United Nations Conference on Trade and Development*. Retrieved from [http://unctad.org/en/PublicationsLibrary/dtl1b2013d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/dtl1b2013d3_en.pdf). See also Ivan Shearer, "Piracy," *Max Planck Encyclopedia of Public International Law*, 2010. Lucas Bento, "Toward an international law of piracy sui generis: how the dual nature of maritime piracy law enables piracy to flourish," *Berkeley Journal of International Law* 29, (2011), 399.

<sup>10</sup>Shearer, *Max Plack Encyclopedia*, para 4.

<sup>11</sup>Martin Murphy, "Piracy and the Exploitation of Sanctuary," in *Armed Groups: Studies in National Security, Counterterrorism, and Counterinsurgency* (2008), 161.

component that reflects the substantive scope of the definition; (a) The private ends requirement; (b) The two ships requirement; (c) The definition of a pirate ship; (d) The offences of incitement and facilitation; (e) The distinction between private ships and government ships.<sup>12</sup>

Ellerman, B. A., Forbes, A., & Rosenberg, D. (2011) state that *piracy* and *armed robbery at sea* are distinguished according official and legal definitions proposed in such documents as UNCLOS, ReCAAP, etc.<sup>13</sup> In saying so, *piracy* is activities on the high sea with the goal of private benefits while *armed robbery* is activities on the territorial sea or internal waters.

The notion of *piracy* also differs from *terrorism* motivated by political or ideological dimensions. If pirates conduct crime as a destruction only, without any kind of robbery on the high seas, thus, it will be considered as a terrorism with the aim to undermine the ship or political ideology in behalf of the group’s ideology, etc. Contrary, if terrorists do crime or robbery to benefit from the act, therefore, they will be punished according to prescribed regulations of pirates’ punishment in the law. In other words, pirates are motivated by private ends by means of finance while terrorists – are driven by political motives to impact government’s policy (Hamilton 2011, 24).<sup>14</sup> Thus, piracy issues must be an international concern. For example, recently, in 2017, at the NATO meeting, James Stavridis, retired Navy Admiral, asked the question whether the USA could work with China and Russia against terrorism at sea as the same as they did against piracy in East Africa.<sup>15</sup>

The ‘disaster’ of well-known 9/11 terrorist act on land pushed international circles such as Luft, and Korin (2004), Burgess (2008), Hamilton (2011), among others to research *piracy* and *terrorism* at sea in more detail. Therefore, it concludes that nowadays, the nature of piracy has transformed due to the increased number of divergent attacks. Pirates are well-trained and – equipped, organized into groups people who rely on Internet and cyber applications. They cooperate with terrorists’ organizations that might lead to the next 9/11 ‘disaster’ at sea. In other words, piracy takes a shape of technology advanced organized crime. Therefore, maritime piracy as a “*global crime impacting a number of areas around the world*” such as the South-East Asia, the Far East, and the Americas, West and East Africa, etc.<sup>16</sup> The live map of the International Chamber of Commerce (ICC) shows (Live Piracy Map 2016), the most of pirate ships are concentrated in the South China Sea, therefore, Pristrom et al. (2013) argued that piracy activities are predictable which means that it is possible to calculate the probability of pirates’ attacks.

### Classification of Piracy Emergence

In the academic field, there exist a numerous number of definitions and, therefore, there is a diversity of activities along different contexts countering piracy.<sup>17</sup> It leads to the problematic question to which definition states need to refer to prevent piracy and who is responsible for that because it creates difficulties to respond it in a proper way.<sup>18</sup>

The diversity of the definition can be explained by the number of drivers of piracy activities that demand a solution. Among those are governmental, economic, geographical,

<sup>12</sup>UNCTAD, *Maritime Piracy*, 2.

<sup>13</sup>Bruce A. Ellerman, Andrew Forbes, and David Rosenberg, *Piracy and Maritime Crime: Historical and Modern Case Studies* (New Port: Naval War College Press, 2011), 20.

<sup>14</sup>Karine Hamilton, “The piracy and terrorism nexus: real or imagined?” *Journal of the Australian Institute of Professional Intelligence Officers* 19, 2 (2011), 25.

<sup>15</sup>Paul Szoldra, “A retired Navy admiral is ‘very concerned’ about terrorists attacking cruise ships.” Retrieved from <http://www.businessinsider.com/stavridis-terrorist-attacks-at-sea-2017-6/?IR=T>.

<sup>16</sup>Bento, “Toward international law”, 22.

<sup>17</sup>Keunsoo Jeong, “Diverse piracy patterns and different control mechanisms,” in *Paper for the ISA Global South Caucus Conference*, 10 (2015).

<sup>18</sup>Bento, “Toward international law”.

social, cultural,<sup>19</sup> and new wars drivers. From this point, the different results of halting piracy closely relate to the context and capacities, for example, states weak or unstable economic performances on the world stage, maritime security disputes in the South China Sea, etc.<sup>20</sup> Table 1 summarize the characteristics of main drivers which has been explored in the next sub-chapter.

**Table 1. The Characteristics of Main Drivers Lead to Piracy Emergence/Existence**

<b>Governmental Driver</b>	<b>The role of wars</b>	<b>Economic Driver</b>	<b>Geographical Driver</b>	<b>Social Driver</b>	<b>Cultural Driver</b>
1. The lack of regulation and management on land;	1. Internal conflicts based on ethno-confessional contradictions;	1. Appearance of economic giants on the international stage;	1. Geographical situation: rich, poor, failed states;	1. Historical roots created by wars and conflicts;	1. The nature of culture: to become a pirate is culturally prestigious;
2. Corruption of agencies, government, organizations, etc.;	2. The role of external actors.	2. Demand of the trade;	2. Territorial disputes and the lack of co-operation;	2. Existing poverty and a high rate of unemployment.	2. The impact of Internet and Social Media.
3. Weak anti-piracy measurements;		3. Globalization factor;	3. Expansion of EEZ, long coastline, weak borders, the lack of guards.		
4. Weak collaboration between the government and seafarers;		4. Weak, unstable and poor economic states;			
5. The lack of agreed jurisdiction;		5. Cargoes as a business/market;			
6. Unwillingness of seafarers and organizations to follow standards;		6. Financial support of piracy.			
7. Privatization of port cargo-handling services;					
8. Illegal trade.					

Source: This table is developed by the author based on the literature review analysis.

<sup>19</sup>Ellerman, et.al., *Piracy and Maritime Crime*, 81. See also Santiago Iglesias Baniela, "Piracy at sea: Somalia an area of great concern," *The Journal of Navigation* 63, 2 (2010), 191-206.

<sup>20</sup>Jeong, "Diverse piracy", 15.

Before to start, there should be a clarification while talking about the governmental driver. I would point out this root in terms of weak law enforcements while Bueger (2013) refers this factor to the economic one by arguing that piracy is about money and benefits. For sure that it is an acceptable classification, but it depends on which priorities it is important to stress on – weak law enforcement that demands regulations from the state or government; or personal – that is, pirates’ gains lead to states’ economic loss. In reality, those factors – weak management and economic loss – are very important and interconnected because the lack of regulations sparks pirates’ activities at sea and leads to an economic loss as the outcome.

Analyzing economic driver, there are also some distinctions in ideas of Bueger (2015), “Enforcing the Law” (2017), Ellerman et al. (2011), others who refer weak law enforcements under this section by applying economic rationales. Furthermore, Marley (2011) agrees that piracy is an economically-driven phenomenon.<sup>21</sup> However, I would not label piracy to the only one prevailing driver as all of them are interchangeable and not exclusive that, in the result, influence a piracy existence.

### ***Governmental Driver***

Above the all, pirates, seafarers, or whoever – they belong to ‘on land’. It is impossible that all activities conducted at sea remain at sea. Therefore, it inevitably gives a rise to the other issue – *If* sea actors such as terrorists or pirates, etc. come to the port illegally, so there is a big corruption of the agencies, government, other organizations which do not pay a lot of attention to checking documentation properly. Furthermore, if there is a corruption, so anti-corruption agencies do not do their work well according to the law authorities. It might mean that there is a collaboration between official and administrations.<sup>22</sup> The *Corruption Perceptions Index 2016* issued by Transparency International (2017) shows that Somalia takes the lowest position (176) as a highly corrupted country, then Vietnam (113), the Philippines (101), Indonesia (90), and, finally, China (79).

Nowadays, there exist *Maritime Anti-Corruption Network* which provides platform that enables organizations to adopt the policy and to collaborate. Shipping is the most corrupted industry than any other due to the lack of anti-corruption compliance culture or mentality.<sup>23</sup> Shipping is a global industry because approximately 90% of world trade is transported by ships, therefore, it requires to adopt best practices to shift from opaque to transparency industry. For example, in 2015, there was a case of illegal payments to marine surveyors to enter an oil terminal or in West Africa, the government connives with the pirates.

Another factor describes piracy as on-land crime is arrest of pirates which also requires law enforcement from authorities on land. The existence of piracy proves that states are interested in regulating other types of crime, for example, smuggling or illegal imports. The disorder in the West African oil industry that determined high oil prices encouraged black market trade for petroleum products (Nigeria), kind-for-ransom attacks, oil and cargo theft in the Malacca Strait show that attacks are no longer just piracy related. The implementation of necessary regulations and policies is characterized by the lack of co-operation in halting piracy as well. For example, Lee (2018) announces that the location is fluid and there is the increase in incidents in such regions as Bangladesh (11), the Philippines (22), the South China Sea (12) in

<sup>21</sup>David F. Marley, *Modern Piracy: A Reference Handbook*, Oxford: ABC-Clio, 2011. See also Jeong, “Diverse piracy,” 1.

<sup>22</sup>Christian Bueger, “Practice, Pirates, and Coast Guards: The grand narrative of Somali piracy,” *Third World Quarterly* 34, 10 (2013), 1813.

<sup>23</sup>Port Technology. 2015. “Shipping is ‘Most Corrupt Industry,’” retrieved from [https://www.porttechnology.org/news/shipping\\_is\\_most\\_corrupt\\_industry](https://www.porttechnology.org/news/shipping_is_most_corrupt_industry).

2017 due to lower surveillance by authorities, complacency of crew, and there is not improvement after incident has occurred.<sup>24</sup>

The threat of pirates' imprisonment is a less effective solution, therefore, the government needs to put "coordinated naval patrols, the use of industry best management practices, and the use of private armed security" while that deterrence of arrest and prosecution is a good option. Security is also seen as a protection against crime in terms of "prevention of attacks, sabotage or theft through passive and active measures" while *safety* is a protection against physical and other types of consequences obtained from accidents or disasters.<sup>25</sup>

The policy factor matters as well. It is important for states to comprehend the multidimensional nature of issues in maritime domain, therefore, piracy and other forms of crime should be addressed in all their forms by investing, collaborating and developing new declarations and, at the same time, to use domestic/inner policies to promote global peace and security on land and at sea. Furthermore, there should be a significant recognition of costs of crime activities, piracy exactly, not only financially but in terms of people's insecurity. The most considerable is an adequate and long-term infusion of money into halting pirates that would lead to weakening other groups supporting and financing pirates' activities. Fragility exists on land and at sea, it is one system which is under the erosion and which demands a development of better financing strategies for these conflictual contexts.

Pirates are predictable. It, thus, points on unwillingness or blindness of states to put more efforts to develop and sponsor new programs, policies, strategies to reduce the problem of piracy at sea. Piracy became technologically advanced, therefore, there is a demand from the government to educate more people who can be responsible for regulating this technological development of problems. It inevitably leads to the gap in higher education to graduate more students willing to address the issue. The other side of it is naval power who should be involved in a problem resolution as well. There should be a policy re-orientation as well as transformation of navies in terms of new capabilities due to the influence of technology and Internet.

Pirates are taking this environment into advantage to conduct crime at sea due to their understanding that the regulation of attacks at sea demands more sophisticated and serious preparation and expenses rather than on land. For example, after the 9/11 terrorist attacks, all states try to collaborate to prevent a terrorism because it is simpler to restrict an attack against a church, etc. Security at sea needs to have good equipped facilities, navy army, weapons, collaboration between the government and private sector, and so on. It relates to Illegal, Unreported and Unregulated (IUU) fishing because workers sometimes do not want to report about piracy attacks to avoid extra payments for their insurance.

Unwillingness to follow the standards – the "flags of convenience" or the free registration to avoid extra costs; the corruption of regional government; privatization of port cargo-handling services<sup>26</sup> led to the difficulties of regulating and distincting legal and illegal trade and, therefore, it increases piracy. More so, states behave according their benefits and self-interests, thus, it tells about the lack of agreed jurisdiction.<sup>27</sup> Then, the willingness to protect only states' sovereign territories and EEZ's resources by neglecting commonly shared zones at the same time. The conclusion is that the weak anti-piracy measurement is determined by the unwillingness of the government to make an infusion of money into the issue because it is not worth.<sup>28</sup>

<sup>24</sup>Lee, "Situation Update of Piracy & Armed Robbery Against Ships in Asia 2017," *ReCAAP* retrieved from <http://www.recaap.org>.

<sup>25</sup>Baniela, "Piracy at sea: Somalia", 19.

<sup>26</sup>Ellerman et al., *Piracy and Maritime Crime*, 81.

<sup>27</sup>Ellerman et al., *Piracy and Maritime Crime*, 89.

<sup>28</sup>Ellerman et al., *Piracy and Maritime Crime*, 83.

### ***The Role of Wars***

The role of wars as historical roots for emerging piracy by means of refugees and poverty would be discussed in the social factor sector as well. Nowadays, the situation looks similar but with the different reasons for that.

The changing nature of wars – a transition from inter- to intra-conflicts – is mostly based on ethno-confessional contradictions. Dr. P. Belcher during the *Piracy and Sea Robbery Conference 2017* emphasized that negative spill-over affects from war zones impacts the incidence of piracy. It is worth to agree that these conflicts in which external actors play a very significant role to benefit from the situation rather than to resolve the problem lead to weakening the state economically, politically, socially at the global and regional levels. The conflictual environment directly connected with the existence of piracy as states are focused on the internal land conflict resolution by neglecting the situation at sea.

Current world situation is rather about conflicts. It means that the main agenda is how to reduce intra-state wars, confessional conflicts, religious extremism, separatism, etc. to ensure people’s safety and security. Despite the improvement of the situation of piracy against ships in Asia due to the effectiveness of the information sharing mechanism of ReCAAP in 2016,<sup>29</sup> “Asia has the highest incidence of armed conflicts” on land with the lowest reported rate because conflict emerges in countries with low economic development and weak institutions of governance. According the *Global Peace Index 2015*, Asia-Pacific Region is still in the ranking due to the South China Sea disputes. Somalia takes the 7<sup>th</sup> position and India is at the 8<sup>th</sup> place in the list of countries most impacted by terrorism on land in 2016.<sup>30</sup> The case of Somalia is characterized by 359 incidents with a focus on private citizens while India witnessed 929 incidents. In general, in Asia-Pacific Region there is an increased number of terrorist activities on land from 106 in 2002 to 879 in 2016, the Philippines (the Moro Islamic Liberation Front (MILF), China (Xinjiang case), Thailand (separatist groups) and Myanmar (the Rohingya minority) have suffered the most with the different reasons connected to religion, politics and territory/sovereignty disputes. Some of conflicts in these countries are long-lasting, so the intensity of them are underestimated, and if the conflict ends, it does not mean that a violence does not exist anymore. For example, the case of Indonesia and its Aceh and Papua regions.

The same problem remains at sea, for example, the weak system of security in ports in Indonesia, Vietnam and the Indian Sub-Continent.<sup>31</sup> According the *Annual Report (2015)* provided by the Piracy Reporting Centre (PRC), the International Maritime Bureau (IMB) shows that actual and attempted attacks of pirates are in Indonesia (108), Vietnam (27), India (13), the Philippines (11) in 2015.<sup>32</sup> The data of the latest report by the International Chamber of Commerce’s (ICC), International Maritime Bureau (IMB) proves that the situation in South-East Asia is becoming serious in comparison to the period in 2016. Thus, in 2017, in total, there were 116 attacks witnessed, among them – 92 were boarded, 13 – were fired, and 11 are as attempted acts of robbery.<sup>33</sup>

<sup>29</sup>ReCAAP ISC, “Annual Report 2016: Piracy and Armed Robbery Against Ships in Asia.” Retrieved from ReCAAP 2016, 3.

<sup>30</sup>Global Terrorism Index 2017 “Measuring and Understanding the Impact of Terrorism.” *Institute for Economics & Peace*. Retrieved from <http://visionofhumanity.org/app/uploads/2017/11/Global-Terrorism-Index-2017.pdf>, accessed on January 14, 2018.

<sup>31</sup>Sam Bateman, “The true story of piracy in Asia,” *policyforum.net*, retrieved from <https://www.policyforum.net/the-true-story-of-piracy-in-asia/>.

<sup>32</sup>ReCAAP ISC, “Annual Report 2016.”

<sup>33</sup>ICC. 2017. “4 Take a ways from the IMB’s Latest Global Piracy Report.” *International Chamber of Commerce*. Retrieved from <https://iccwbo.org/media-wall/news-speeches/4-takeaways-imbs-latest-global-piracy-report>.



### ***Economic Driver***

The impact of China's capitalism expansion, emerging of giants such as Singapore and Hong Kong have economically reached a maritime domain. Similarly, trade became more international and interconnected states' common interests for their further development.<sup>34</sup> From the one hand, the acceleration of trade and energy, etc. created by globalization factor provokes the shipping traffic specifically in the Indian Ocean, the South China Sea, and the Malacca Strait. From the other hand, this development paved the road to an increased number of pirates, and, additionally, such problems as delay, collisions, and other crimes.<sup>35</sup> Piracy is economically-driven acts as well because they flourish at the weak and poor economic territories, for example, the failed state of Somalia or the state with unstable economy and ethnical internal conflicts, Aceh, in Indonesia.<sup>36</sup> Therefore, Jeong (2015) views piracy as a regional problem rather than an international one.<sup>37</sup>

Nowadays, pirates create "social" networks in terms of aids, supporters, etc. as on land as at sea by developing a business model for individuals and groups to exchange, purchase, trade, and share.<sup>38</sup> This collaboration identifies pirates as organized criminal groups with trained people and good capacities with cargoes as a lucrative market.<sup>39</sup>

### ***Geographical Driver***

Geographical situation of states of South-East Asia such as Indonesia, the Philippines, etc. is a good soil for pirates' activities. The region itself consists of rich states like China, poor, and failed states like Somalia, with the lack of collaborations over the entire territories, moreover, with existing territorial disputes at the South China Sea.<sup>40</sup> Furthermore, there are not practical ways of regulations to deal with pirates at sea. As was revealed, an expansion of EEZ or inclusion them into territorial water by the law provided more chances for pirates to feel free and conduct robbery. It means that there are not coast patrol or guards who can track pirates such far from the coast.<sup>41</sup> Therefore, geographical driver is a good condition by means of archipelago characters, long coastline, and weak borders<sup>42</sup> for pirates' activities. Thus, the recommendation for ships is to sail closer to coast, if possible, and avoid anchor outside of a port.<sup>43</sup>

### ***Social Driver***

The roots of social factor that pushed people to join pirates' activities have mostly historical perspectives created by wars. The period of wars conditioned refugees and people suffering from the poverty and unemployment to conduct a piracy crime, for example, during the Sino-Vietnamese conflict in the early 1979s. The last two points such as poverty and unemployment are still relevant for Asian region, therefore, piracy will exist till these factors are not totally resolved.

<sup>34</sup>Gabriel Szuma, "Analysis of Modern Maritime Piracy with a Case Study of Somalia," *Modern Africa: Politics, History and Society* 3, 1(2015) 39.

<sup>35</sup>Jeong, "Diverse piracy," 15.

<sup>36</sup>Ellerman et al., *Piracy and Maritime Crime*, 1-4.

<sup>37</sup>Jeong, "Diverse piracy," 19

<sup>38</sup>"Enforcing the Law: An Economic Approach to Maritime Piracy and its Control," 2017, retrieved from <https://www.marineinsight.com/marine-piracy-marine/enforcing-law-economic-approach-maritime-piracycontrol>, accessed January 14, 2018.

<sup>39</sup>Baniela, "Piracy at sea", 195.

<sup>40</sup>Szuma, "Analysis of modern", 41.

<sup>41</sup>Marley, *Modern Piracy*.

<sup>42</sup>Jeong, "Diverse piracy," 3.

<sup>43</sup>Lee, "Situation Update of Piracy & Armed Robbery".

### ***Cultural Driver***

Cultural aspect relates to the countries, for example, Russia, Ukraine, where to become pirates has a heroic image and reputation of brevity. It means that piracy is promoted as something cool for people with a trust in the nature of culture. Generally speaking, in books and literature such as Robert Louis Stevenson’s *Treasure Island* (1882) or G.G. Byron’s *The Corsair* (1814) pirates are too much romanticized. Moreover, the Internet provides a majority of articles with the information about the most successful pirate captains, top the richest and famous pirates, even with the list of the highest-earning *high seas* pirates published by *Forbes* in 2008 (Forbes 2008).<sup>44</sup> It means that there are many conditions that push people to become pirates, specifically in poor countries.

### **The Reliance of Statistics**

Today, there are bureaus and centers that provide statistical information about attacks of pirates and armed robbery activities. It is possible to report about those attacks to ReCAAP Information Sharing Center (ISC) and the International Maritime Bureau (IMB). The existence of piracy is actual and, in some cases, with big outcomes, but, there is a question whether provided figures are reliable enough to follow them while doing a research.

It means that statistical data might not show the total numbers and data. For example, attacks and their nature/degree could not be reported by ships, therefore, it can mislead the situation.<sup>45</sup> From the one hand, bureaus/agencies also might hide the information not to make insurance costly and, from the other hand, not to undermine its reputation and working duties. The other reason is the level or intensity of attacks, it is unclear whether ‘light’ attempts of pirate activities are reported at all or what level/degree of attack should be, so seafarers or others could report about it. ReCAAP ISC provides a methodology in classifying incidents of piracy and armed robbery and evaluates the data according to *violence factor* and *economic factor*. The violence factor refers to the intensity of violence: type of weapons used, treatment of the crew, number of pirates/robbers. The economic factor refers to the type of property stolen: very significant (CAT 1), moderately (CAT 2), less (CAT 3), minimum (Petty Theft). Surveys as a method also might have big limitations as it is quite time-consuming process.

If to assume that statistical data is not reliable enough to research and it is true that there may be some under-reporting piracy incidents, however, there is a need to have some statistics to work with. Therefore, the solution can be a collaboration. Better information sharing and coordination among governmental agencies would help to have statistical numbers. Concrete reports about location, degree of attacks, etc. along the easily shared and free accessed information, research, reports which would help to reduce the common global issue.

Touching upon statistical reports that show figures of attacks or attempts of pirates’ acts, so it also leads to the question whether figures are reliable enough as there is a big gap in the working organizations which might hide some reports from seafarers, or even those seafarers do not report about attempts or attacks from pirates to avoid extra payments. The existing and flourishing piracy activities say that the government pays attention to something different, and

<sup>44</sup>“Top 10 Richest Pirates in History: Blackbeard, Drake & Others Worth Millions.” n.d. *Financesonline*, retrieved from <https://financesonline.com/top-10-richest-pirates-in-history-blackbeard-drake-others-worth-millions/>, accessed on January 14, 2018. See also “Top-Earning Pirates,” *Forbes*, 2018, retrieved from [https://www.forbes.com/2008/09/18/top-earning-pirates-biz-logistics-cx\\_mw\\_0919piracy.html#195a986a7263](https://www.forbes.com/2008/09/18/top-earning-pirates-biz-logistics-cx_mw_0919piracy.html#195a986a7263).

<sup>45</sup>Bateman, “The True Story of Piracy”.

that 'something' is determined by efforts and money. It means that the government underestimates costs and loss of piracy at sea. At the same time, it says that resolution of piracy is much costly than the existence of the problem. In arguing so, the state can even gain from the issue as it is better to leave as it is rather than to spend much money for its resolution.

### **Concluding Remarks**

Theoretically was revealed that along the official definition of *piracy* provided by UNCLOS, ReCAAP, there are many of explanations developed by scholars and analysts. The core of term *piracy* can differ from variety of sources that depends on problems are addressed to be resolved. From the one hand, a narrowly defined term targets to reduce the concrete issue through specific approaches, but, from the other hand, it misleads to what definition states should refer in general. Therefore, the universal definition must be re-defined by international maritime law.

Nowadays, the new shape of piracy is better trained people, well-equipped ships, financially sponsored by different groups, terrorism organizations, or cooperated with official state organization which get benefits and money from piracy activities. It proves that corruption exists as well as weak management and regulations at the governmental level. This evolution of the nature of piracy determined by the number of factors which drive pirates to develop their 'business' and conduct robbery activities. Among those are governmental, economic, geographical, social, cultural. Today, there is one more factor that plays a significant role in the maritime context, that is, new wars which have a shift from inter- to intra-state conflict and violence. The importance of this driver might be characterized by those conflicts on land which become obstacles for states to co-operate. Moreover, they involve external actors that trying to get benefits from the conflict rather than to help to resolve it. In some sense, it can be called as 'piracy on land' as activities are done for private gains. Free and easy access and sharing information, that is, reporting about the degree, location of attacks, statistical data, common research, etc. should be one of the key points to decrease/halt piracy.

In conclusion, it is needed to say that piracy as a problem exists. It automatically leads to the recognition of problems on land and the weakness of the government. Piracy is connected to other problems at sea such as illegal finishing or human trafficking, and the response should be more complex and multidimensional rather than separate and dimensional. Short-term response must be replaced by long-term to address the root causes on land respectively.

There is a list of recommendation that would help to reduce piracy as a maritime problem. (1) Timely reporting to coastal state; (2) Step up enforcement by littoral state; (3) More enhanced security at ports; (4) Close monitoring and surveillance; (5) Better information sharing and coordination among governmental agencies; (6) Ships to sail closer to coast (if possible); (7) Crew to be vigilant in hour of darkness; (8) Avoid anchor outside port; (9) Shipping industry to adopt best practices; (10) Arrest and prosecution-deterrence; (11) Ability to develop and interpret the maritime picture.

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