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# Contemporary piracy research in criminology: a review essay with directions for future research

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The realm of the ocean is scarcely studied by criminologists despite it being a component of the space of society. With the growth of maritime piracy in the past decade, this void has become increasingly palpable. The aim of this article is to catalyze more research in the field by providing an introduction and overview of the topic. The article starts by clarifying what piracy is, reviewing and evaluating some of its definitions and typologies. Furthermore, using the new Contemporary Maritime Piracy Database, the article charts the location of contemporary piracy. The article outlines factors that have been suggested as precursors of piracy before suggesting some key areas for future research.

**Keywords:** maritime piracy; definition; Contemporary Maritime Piracy Database; typology; global anomie theory; globalization

*The ocean is not merely a space used by society; it is one component of the space of society.*

(Philip E. Steinberg, 2001, p. 20)

On 8 April 2009, the United States flagged vessel, *Maersk Alabama*, was boarded by four armed men about 240 nautical miles (nmi) off the coast of Somalia. The container ship was carrying a cargo of food and agricultural materials from Oman to Kenya, chartered by the United Nations World Food Programme (WFP). As the pirates were boarding, the crew disabled the ship from below and locked themselves in the engine room. With the 508-foot vessel immobilized, the 20-man crew was soon able to regain control, forcing the pirates to escape in one of the *Maersk Alabama*'s covered lifeboats,<sup>1</sup> taking the captain of the container ship hostage.

This was the first attack on a US merchant vessel off the Somali coast, an area increasingly dangerous for pirate attacks. The situation was resolved only four days later when the Commander of the *USS Bainbridge* determined that the life of the hostage, Captain Richard Phillips, was in immediate danger. US Navy SEAL snipers shot three of the pirates in a simultaneous volley of shots. The fourth pirate had come onboard the *USS Bainbridge* earlier and was being treated for injuries. He was later tried for piracy in a federal court in New York and sentenced to 33 years in prison (Gaskell, 2009).

In the United States, this highly publicized incident awakened a strong but short-lived interest in the problem of piracy. The general consensus was that this crime can be dealt with swiftly, with the use of targeted military force (United States Senate, 2009). However, this was not a typical piracy case: there were no crew casualties; the incident caused only minimal delays; there were no ransom demands; and within days, the hijackers were either thwarted or brought to justice.

Successful pirate hijackings off the coast of Somalia usually take weeks if not months to resolve. Attacks begin as in the case of the *Maersk Alabama*, with pirates approaching the vessel in one or more, small, high speed, fiberglass boats fitted with up to two powerful outboard motors. As they approach, they fire at the bridge of the vessel with automatic weapons and/or rocket propelled grenades in an attempt to intimidate the crew to slow down or stop. If the ship slows down, the vessel is boarded and hijacked. Once in control, the ship is moved to a location close to the Somali shore. With this, the arduous process of negotiating the ransom begins.

The cost of a hijack is difficult to quantify; however, according to Capt. Mukundan, director of the International Chamber of Commerce's International Maritime Bureau (IMB) ransom demands have increased from around US\$35,000 in the last decade to around US\$ 4 million more recently. The highest ransom was reportedly in excess of US\$ 11 million for a loaded VLCC<sup>2</sup> (Author Interview with Capt. Mukundan, 20 June 2011). The size of ransoms varies depending on the type of vessel, the type of cargo, and even the flag of the ship. In the 2008 hijacking of the supertanker<sup>3</sup> *Sirius Star*, it was reported that the ransom demand alone was somewhere in the region of US\$10–25 million (Fornari, 2009) although the ransom finally paid was considerably less (Author Interview with Capt. Mukundan, 20 June 2011). Exact figures remain confidential. In addition, there are costs for legal representation and negotiators, the delivery of the ransom (which itself can cost up to a US\$1 million), off hire costs, expenditure for refurbishment of the vessel due to neglect whilst in captivity inactivity, and crew replacement costs. All of these can add another US\$4–5 million, bringing the total cost of hijackings close to US\$10 million for an average vessel (Author Interview with Capt. Mukundan, 2 February 2010).

Another factor that differentiates the *Maersk Alabama* as well as the *Sirius Star* incidents from the bulk of modern day piracy worldwide is the location of the attack. Although Somali piracy has increasingly spread into the high seas, piracy in other parts of the world usually stays closer to shore, either within the territorial waters of nations or in ports, harbors, and anchorages (Murphy, 2007a, 2009). This enables pirates to be close to their base and retreat quickly to hiding places (Peterson, 1989, p. 43). Finally, it is important to mention that piracy does not always result in a hijack.

As shall be explained later, the bulk of pirate attacks are petty thefts, which target the belongings of the crew, equipment, or cargo.

Despite the image portrayed by the media, piracy is not unique to Somalia. Security analysts have traditionally focused their attention on the Malacca Straits. The Straits are a stretch of water that sits between Malaysia and Indonesia. It is a shipping *highway*, a 500-mile passage that connects Europe, the Middle East, and the Indian subcontinent to Asia and the Pacific. Together with its neighbor the Singapore Straits, these are the busiest shipping lanes in the world. Eighty per cent of world trade is seaborne, of that nearly one-third passes through these Straits.

Some other congested shipping lanes that connect continents are Strait of Hormuz (between Iran and Oman), Gulf of Aden (between Somalia and Yemen), Strait of Gibraltar (between Morocco and Spain), and the Panama and Suez Canals. Interestingly, all of these chokepoints have had incidence of piracy (Burnett, 2002, p. 11). Considering the impact of piracy, in terms of its economic cost, the disruption of trade routes (particularly in the past decade in the northwest Indian Ocean because of Somali piracy), the cost of operating naval vessels to protect merchant shipping, and the human cost (as on 7 February 2013, 113 sailors and 7 vessels were still being held hostage in Somalia, see IMB, 2013), an updated study of piracy using the most comprehensive data available is necessary.

The common global classification of pirates, which originates from admiralty law, is *hostis humani generis* meaning enemy of all mankind,<sup>4</sup> *criminals* if you like. However, criminological literature on piracy is relatively scarce (with some exceptions, see Vagg, 1995 and Worrall, 2000), literature on the field has been generated mainly from the fields of history, law, international relations, investigative journalism, and freelance writing. More recently with the escalation of piracy in Somalia, literature has emerged from maritime experts looking at piracy from a security perspective, focusing primarily on piracy as an organized crime and its relation to terrorism. Worrall suggests that the main obstacles to contemporary maritime piracy research have been definitional issues, a lack of data, a lack of theoretical research, and a general lack of overall awareness of the piracy problem (2000). This article is intended at specifying what information is available, what we know, and what future research is necessary. To fulfill this endeavor, this article starts by clarifying the concept of piracy, first by looking at the available definitions of the phenomenon and then by discussing its various manifestations. The article then presents the various sources of piracy data available. Finally, in order to catalyze criminological research, the key factors that have been associated with piracy and theories applied are discussed before providing some concrete suggestions for future study.

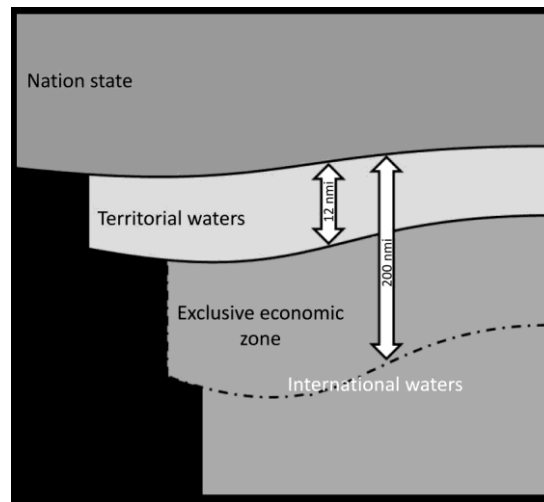
## Defining piracy

Maritime piracy is not a clearly defined phenomenon; the definition of piracy has changed over time and varies depending on context. The development of the concept has mirrored the politics of the day, illustrated by the separation of pirates from buccaneers and privateers (Konstam, 2007). At the most basic level, piracy is aggravated theft or attempted theft. This is clearly suggested by the old German word for piracy “Seeraub,” literally meaning “sea robbery.” By 1934, piracy was recognized as more than theft, the British jurist C.S. Kenny described it as “any armed violence at sea which is not a lawful act of war” (1934). Although piracy is the oldest crime over which there is universal jurisdiction (Halberstam, 1988, p. 272), the current international definition is fraught with difficulties. According to the 1958 Geneva Convention on the High Seas (Article 15) and the later 1982 United Nations Convention on the Law of the Sea (UNCLOS) (Article 101),<sup>5</sup> piracy consists of

- (1) any illegal acts of violence, 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;
- (2) 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;
- (3) any act of inciting or of intentionally facilitating an act described in the list (1) or (2) of this article.

Effectively, the convention limits acts of piracy to those *for private ends*, to incidents that occur *outside the jurisdiction of any State* and sets a requirement for a *ship-to-ship* conflict.

According to the legal scholar Joseph Bingham, who prepared the Comment to the Harvard Draft Convention on Piracy,<sup>6</sup> the public ends element of the definition excludes “all cases of wrongful attacks on persons or property for political ends, whether they are made on behalf of states or of recognized belligerent organizations, or of unorganized revolutionary bands” (as cited in Halberstam, 1988, p. 278). This limitation effectively excludes from international jurisdiction any acts of piracy that are condoned or organized by nation states as well as acts of piracy that are directed at the source state (Halberstam, 1988, p. 278). The problem created by this exclusion is that although UNCLOS focuses on the motivation of the perpetrators, it provides no guidance as to what constitutes a private motivation or how to classify an event where private and public motivations are comingled (Bento, 2011, pp. 119–120).



**Figure 1.** Jurisdictional boundaries of the oceans as per the United Nations Convention on the Law of the Sea.

UNCLOS limits piracy prosecution to acts committed on the high seas. The high sea is the area of the ocean that is outside of the territorial jurisdiction of a nation state, also known as international waters. Figure 1 illustrates that territorial waters extend 12 nautical miles (nmi) from the coast of a nation state (this 12 nmi limit was set in UNCLOS itself, extending it from the previous 3 nmi). Beyond this, each nation state has an Exclusive Economic Zone (EEZ) stretching 200 nmi from its coast. Within the EEZ, the state has exclusive exploitation rights over the natural resources therein. According to UNCLOS, ships have transit rights in the EEZ, but they have to pay regard to coastal states' rights, laws, and regulations (Art.88-115). Technically, these are international waters and according to Art. 58(2) the piracy provisions apply. That means all vessels, regardless of nationality, can arrest and arraign pirates encountered in the EEZs and bring them to justice under their own domestic law.

The focus of UNCLOS was not piracy; primarily it was concerned with redistribution of resources to the new nations that were born with the end of colonialization, whilst simultaneously ensuring freedom of navigation for more established fleets (Anderson, 1995). Of the 327 articles in UNCLOS, only seven deal with piracy. Largely, at the time of drafting, piracy was regarded as a problem of the past. The drafters of UNCLOS were concerned with issues of sovereignty *not* piracy which explains why they failed to set any requirements for nations to legislate comparable domestic legislation on piracy<sup>7</sup> and neglected to require any form of cooperation between nations when dealing with maritime predation (Murphy, 2007b).

It was not until 1995 that the act of piracy within territorial waters was defined in international law. The *Code of Practice for the Investigation for the Crime of Piracy and Armed Robbery against Ships* (Resolution A.922(22)) (International Maritime Organization (IMO) Code) distinguishes between piracy and armed robbery at sea. The definition states in Paragraph 2.2:

Armed robbery against ships means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of "piracy," directed against a ship or against persons or property on board such ship, within a State's jurisdiction over such offences.

These *identical* acts are differentiated by location of the attack or attempt (either in territorial or international waters). Armed robbery at sea happens within the jurisdiction of a State, whereas piracy happens on the high seas.

Given the shortcomings of the legal definition of piracy, an alternative, more useful definition of piracy for research purposes, has been proposed by the International Chamber of Commerce's IMB, one of the two major international organizations dealing with piracy. The IMB definition which is used for statistical purposes<sup>8</sup> is closer to Kenny's original conception and centers on the victim's experience. Maritime piracy is defined as "any act of boarding or attempting to board any ship with the apparent intent or capability to use force in the furtherance of the act" (IMB, 1992, p. 2). This definition does not make a distinction between location of attack (high seas or territorial waters) nor does it require that the act be committed from another vessel, instead it focuses on violence at sea. Furthermore, it does not distinguish between illegal acts that are committed for private ends, have a public motivation, or those that have the support of nation states.

Peter Hinchcliffe of the Secretary General of the International Chamber of Shipping explains, "If you are a victim at sea, of piracy or armed robbery, your sympathy is with the IMB definition" (Author Interview, 4 February 2010). Others in the maritime industry agree that from the perspective of the victim, location at sea is not relevant and tend to agree with the IMB definition which has a broader scope (Author Interview with International Transport Worker's Federation Assistant Secretary and Permanent Representative, John Bainbridge, 4 February 2010).

## Contemporary piracy victimization data

Reports of piracy victimization have traditionally been collected by select state organizations and non-governmental organizations. The United Nation's shipping regulator, the IMO issues monthly reports as well as quarterly and annual summaries; the United Kingdom's Defense Intelligence Staff (DIS) issues monthly reports; and the United States' National Geospatial Intelligence Agency (NGIA) keeps an Anti-Shipping Activity Message database. However, the International Chamber of Commerce's branch specializing in international maritime crime, the IMB is the only organization that receives reports directly from owners of ships that have been attacked. Although the IMB data is by no means a complete list of all piracy and armed robbery (hereinafter piracy) incidents worldwide, it is the most consistent source of piracy data providing an insight into the scale of the problem globally and provides many of the other agencies such as the IMO, DIS, and the NGIA with the bulk of their data. The NGIA however has a key distinguishing feature from the IMO and the DIS, in that the Anti-Shipping Activity Messages are collected from a wide variety of sources (Marchione & Johnson, 2013) and include a wider variety of activities which are not limited by the legal definition of piracy.

Within academia, research on piracy has been criticized as being limited and superficial largely due to the lack of synthesis of reported piracy (Ong-Webb, 2007, p. 38). Recently a new Contemporary Maritime Piracy Database (CMPD) has been created which combines the two major data collection efforts, the IMB and the NGIA (Twyman-Ghoshal, 2012). The benefit of using these two data sources is that the IMB obtains reports directly from the victims, and the NGIA data is a collection of piracy reports from a wide variety of sources, including press reports, various naval forces and coast guards around the world, and maritime agencies (including the IMO).

The CMPD data currently covers piracy incidents from 2001 to 2010, the contemporary piracy period. Inspired by Ong-Webb's reference to three sub-periods of modern piracy in maritime Asia (Ong-Webb, 2007, p. 38), the contemporary period is of particular importance because of a 60% increase in the global incidence of piracy<sup>9</sup> and a greater spread of piracy incidence globally.

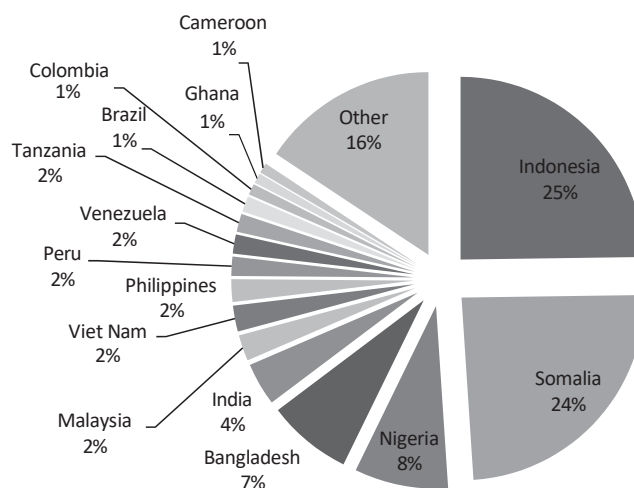
In addition to integrating the two major sources of piracy data, there are several benefits of the CMPD. First, the data is reconciled to avoid any duplication and is grouped into incidents, allowing a more accurate means of counting piracy. CMPD incidents are unique piracy events where multiple ships are attacked in a single event or where a ship is attacked multiple times. Finally, another key benefit of the comprehensive data set is that it collates information over nine major dimensions which include (1) geographic location (i.e., attack location and source of attack); (2) date of attack; (3) location at sea (e.g., high seas, coastal waters, in harbor); (4) time of attack; (5) targeted vessel characteristics; (6) pirate characteristics; (7) pirate actions; (8) pirate motivation; and (9) responses to piracy.

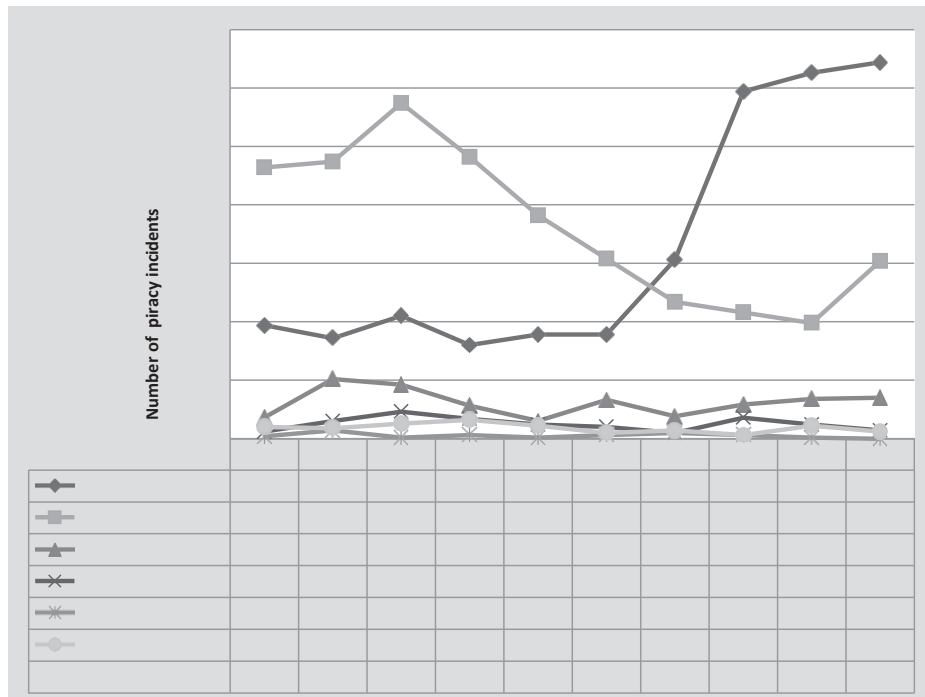
Although the choice of variables coded in the CMPD is driven by the availability of information in the case descriptions from the IMB and NGIA, the dimensions reflect suggestions made by Robert Beckman (2002, p. 320) that piracy data needs to be used to better understand the level of seriousness of an attack. His suggestions that there is a need to categorize treatment of crew, the types of weapons employed, and the nature of the property stolen are included in the dataset. Beyond these, the newly coded data set also includes the level of damage to the ship, the evasion tactics used by the victim vessel, and whether the attack was reported to any authorities.

From the CMPD, we can see that in the first decade of the new millennium, piracy occurred in 90 countries, of this 87% of incidents happened in Asian and African countries (see Chart 1). The five key countries, which account for nearly 70% of piracy in the 10-year period 2001–2010, were Indonesia, Somalia, Nigeria, Bangladesh, and India. The two countries which accounted for nearly half of all incidents worldwide were Indonesia and Somalia.

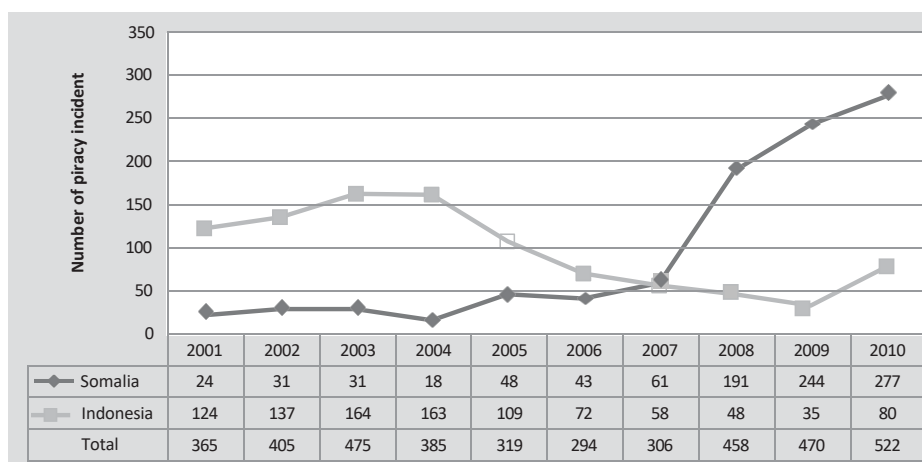
Looking at the trends regionally, we can see that the two key continents are Asia and Africa. The interesting finding here is that there has been a dramatic shift in the location of piracy. Chart 2 illustrates that from 2003 to 2009 piracy incidence in Asia has been steadily declining, whereas from 2004 piracy in Africa has been steadily increasing.

**Chart 1.** Location of piracy incidents, 2001–2010.





**Chart 2.** Regional trends in piracy, 2001–2010.



**Chart 3.** Trends in piracy for Somalia and Indonesia, 2001–2010.

The types of piracy that are manifest in Somalia and Indonesia are very different. The bulk of Indonesian incidents are located close to shore and are low-level petty thefts. Somali incidents on the other hand are more complex; they involve the seizure of a vessel, a demand for a ransom in exchange for the release of the crew, cargo, and ship.

### Categories of contemporary piracy

It is clear that contemporary piracy has various manifestations. The IMB definition sweeps a large array of phenomena under the umbrella term of piracy and shies away from clearly explaining what is meant by “the act.” It is therefore important to address the type of acts that fall within the concept of piracy. Within the social sciences, typologies are created to help clarify the various manifestation of a phenomenon. They are tools to better understand and address an issue. In the past, they have been used to help identify crimes and assist law enforcement (McDevitt, Levin, & Bennet, 2002, p. 305). Typologies are also invaluable in conducting etiological research, which requires an understanding of the types that exist and their variations in order analyze the various conditions that enable them (Gibbons, 1975). Piracy in particular is in need of classification, “the lack of distinction in defining the problem complicates targeting resources and disperses efforts to unrelated and inconsequential issues” (Dillon, 2005, p. 155). There have been several attempts to create typologies of piracy and the following is an overview of the various classifications available.

The most well-known classification system is the one used by the IMO. The IMO is a specialized organization of the United Nations mandated with developing international standards for safe and environmentally sound shipping activities. The IMO divides piracy into three categories: low-level armed robbery, medium-level armed assault and

robbery, and major criminal hijack (IMO, 1993). Low-level armed robberies are attacks that are opportunistic and are close to land. Medium-level armed assaults and robberies are attacks that are further from shore which tend to involve violence. Major criminal hijacks are acts that often involve violence and require a superior level of organization. These hijacks can entail discharging an entire cargo and may even involve the theft of the ship itself.

Although this is a parsimonious analytical typology for piracy, it oversimplifies the range of acts that are considered piracy. Moreover it fails to distill the categories sufficiently. Murphy criticized the IMO classification as one based on a risk perspective focused on methods and immediate consequences at sea (2007a, p. 31). The IMO classification does not provide any insight into the context for piracy attacks. Speaking on patrolling the area around Somalia, Lt. Nathan Christensen, a United States Navy Fifth Fleet spokesperson, said in a statement to the New York Times, “We patrol an area of more than one million square miles. The simple fact of the matter is that we can’t be everywhere at one time” (Mazzetti & Otterman, 2009). The need for classifying piracy in broader terms is established simply by the sheer size of the ocean, which remains too large for a policing only approach.

Adam Young explains the problem of this approach aptly:

the multilateral and international efforts that are trying to address piracy are focusing on short- term solutions such as cooperative patrols, which are important and useful, but ultimately are like trimming the leaves of a particularly invasive weed rather than pulling it out by its roots. (2007, p. 3)

Young (2007), an Asian Studies scholar, suggests a fluid scale of piracy that also reflects the proportion of incidents that fall into various categories of piracy.

Most piracy incidents are of the lower-end variety (robbery, hit and run, sneak thieves); despite this fact, “international attention is . . . predominantly focused on high-end piracy attacks orchestrated by organized criminal networks, particularly as they are conflated with terrorism, ignoring the vast majority of lower-end piracy, which is motivated by issues of poverty and disenfranchisement” (Young, 2007, p. 3). Young’s typology differentiates common piracy from organized piracy on a continuum; he states that in addition to increased levels of violence and higher gains, it is also distinct in its motivation. Young places the piracy types along a spectrum from petty theft to short-term seizures to full-blown hijacks that involve ship theft and cargo discharge (2007, p. 12). This classification however still seems too simplistic and insufficiently specified. For instance, Justin Hastings (2009), a scholar of international affairs, explains that there are different types of hijackings which vary in sophistication. The less sophisticated types of hijackings involve diverting a vessel to solicit ransom (Hastings, 2009).<sup>10</sup> This form of organized crime is not concerned with stealing cargo and usually involves a lower level of violence because it is only a temporary appropriation of the vessel and its contents. Both of which are usually<sup>11</sup> returned once ransom monies have been delivered. In contrast, hijackings that involve the diversion of the ship to unload the cargo or to steal the vessel itself require a sophisticated land-based network of markets, infrastructure, and accommodating authorities. Moreover, this type of piracy has often exhibited higher levels of violence, such as throwing crew overboard.

Hua-Lun Huang (2010), one of the few sociologists writing on the subject, has suggested a complete typology, including both past and present piracy. Huang’s typology is deduced from a selection of piracy literature. These include Little (2007) and Anderson (1995) which classified historical piracy; that of So (1975) which classified a unique variety of Japanese pirates in the sixteenth century; and Huang’s (2007) own work which differentiates two forms of contemporary piracy in Southeast Asia and East Asia.<sup>12</sup> Huang’s typology distinguishes piracy based on three dimensions, the role of the state (he calls this “*state managers*”), *ideology* of the pirates and *continuity* of pirate activity. Each of these dimensions is presented as a dichotomy.

Although this classification is a major advance in understanding piracy and its contexts, it still has its drawbacks. Huang’s classification is comprehensive and aims to include all piracy through the ages. This approach has the potential of losing details that may be particular to the different eras of piracy. What needs to be considered is whether historical piracy and modern piracy can be collapsed into a single typology. Ong-Webb argues that despite some enduring factors and drivers of modern and historical piracy, “modern piracy possesses a set of distinctions important enough for security and criminological analyses to jettison any undue reference to the past” (2007, p. 37). Therefore to provide a typology for all piracy it would be advisable to first identify types of piracies in various eras separately and then combine them if identical patterns emerge.

There are also issues with the dimensions chosen for Huang’s typology (2010). For the category of *state managers*, Huang (2010) pools piracy that is supported by the state with those where the state has tolerated it passively and where the state has actively encouraged it. These are three different situations which when pooled together could distort reality. Having pirates act on behalf of the state (direct state sponsorship of piracy) and actively support piracy (a state benefiting from piracy but not commissioning the act) require different levels of governmental involvement than a state that tolerates piracy passively.<sup>13</sup>

Similarly, the distinction between amateur and professional piracy (for *continuity*) may be a problem. Huang explains that those pirates that are organized, such as part of an insurgency, are considered professional, whereas those that function independently are amateur. There is no distinction between different types of organization such a terrorist

organizations or organized crime rings. Hastings (2009) makes an important point that requires consideration; he argues that state weakness and failed states trigger different forms of pirate hijacking, which are two different types of organized piracy. Furthermore, Huang fails to explain how these two categories (amateur and professional) reflect the concept of *continuity* in piracy (the variable under which these two are grouped). It is possible for amateur piracy to flourish for decades without being a form of organized crime (such as the petty piracy that has been common in the Malacca Straits).

Finally, Huang distinguishes pirates between ones that are “supporters of certain beliefs, dogmas, ideals, principles, religious teachings, or values; or they are pure fortune seekers” (2010, p. 283). It is questionable whether there is such a clear distinction between expressive and instrumental. Although such clear cut distinctions are helpful for research, often times such discrete phyla are not realistic (see Nordstrom, 2007, pp. 20–21). In the past, cases of piracy have shown evidence of being expressive and yet still acquiring material gain. For instance, in Nigeria, the tanker *Golden Lucy* was detonated shortly after discharging fuel in Port Harcourt, as the vessel drifted up river the remaining cargo and equipment was stolen and then set alight again (Murphy, 2009, p. 120).

Another international affairs scholar, Dana Dillon, suggests that in order to provide policy-makers with an adequate tool, “the IMO and the IMB should revise existing definitions of piracy to include four categories of maritime crimes: corruption, sea robbery, piracy and maritime terrorism” (2005, p. 155). Although he does not provide a classification of piracy as such, his work is insightful because it illuminates the different forms of maritime crimes that need to be considered as piracy.

Dillon explains that corruption refers to acts of extortion or collusion against marine vessels (2005). This category implicates the role of government officials and port authorities in the criminal act. Dillon suggests that sea robbery are petty thefts that occur in port, when a vessel is berthed or anchored, whereas piracy occurs when the vessel is underway, either in territorial waters, the straits or the high seas (therefore broader than the international legal definition of piracy within the 1982 United Nations Convention on the Law of the Sea). Finally, he defines maritime terrorism as any act that is identified as being perpetrated by a terrorist organization.

What is evident from the above discussion of the classifications of piracy is that they have generally been incomplete. Perhaps the key problem is that existing typologies have largely been speculative or impressionistic (Gibbons, 1975; Jones & Harris, 1999). It is clear that different forms of piracy require different resources and different methods to combat them (Dillon, 2005); therefore, an adequate descriptive typology would be a vital tool for research and policy. A descriptive typology would ideally have an empirical foundation, based on recorded piracy incidents, such as those synthesized in the CMPD.

Such a descriptive typology would also pave the way for an etiological typology, perhaps along the lines of J.L. Anderson’s typology of historical piracy. Anderson typology is based on the phenomenon’s underlying causes (1995, p. 181). He differentiates between three types of piracy. *Episodic* piracy emerges due to the weakening of state power that leads to the loss of the source of income in a community; *intrinsic* piracy refers to piracy that is integral to the community’s culture; and *parasitic* piracy is a response-based activity, feeding of the opportunity brought by the extent of maritime trade. Anderson’s typology cries out for criminological theorizing; any discerning criminologist can see differential association theory, social control theories, and anomie theory rearing their heads in his definitions of the categories. Although there is research which identifies various factors that enable piracy, there have been few attempts to systematically analyze piracy events or theorize on the origins of piracy from a criminological perspective.<sup>14</sup>

### **Conditions favorable to contemporary piracy**

Attempts at establishing a theory of piracy, including Chambliss’ theory of state organized crime (1989), Vagg’s general theory of piracy in the Far East (1995), and Worrall’s routine activities theory (2000), were written before the radical shift in the location and type of piracy was observed and did not have the benefit of comprehensive, integrated data sources such as the CMPD. To provide a foundation for subsequent research, this section introduces the key factors that have been identified in the literature on contemporary maritime piracy as precursors of piracy. These can be grouped into four broad categories which are discussed here: opportunity, policing, economic and social conditions, and governance issues. It is important to remember that these categories often overlap and distinctions are hazy.

When referring to opportunity as a cause of piracy, analysts such as Martin Murphy (2007a, 2009) and Peter Chalk (2008) talk of *favorable* geography as well as legal and jurisdictional weaknesses. Favorable geography includes both the geophysical attributes, such as narrow waterways and an abundance of islands and inlets that afford ideal hiding places, and the presence of potential targets in high traffic areas (Caplan, Moreto, & Kennedy, 2011, p. 97). With an overall increase in commercial maritime traffic, the scale of the opportunity for maritime predation has grown exponentially. At any one time, nearly 15 million containers and around 6 million metric tons of oil and bulk commodities are estimated to be on the world’s oceans; in addition, there are over 6500 terminals that handle these cargoes (Chalk, 2008, p. 10). When this is coupled with other factors such as “insufficient coastal/port surveillance, corruption, a lack of adequate marine policing resources and ready access to weaponry” (Chalk, 2008, p. 8), it creates a perfect storm for piracy.



Research on such proximal causes of piracy have identified that high traffic maritime routes enable piracy attacks by motivated offenders in the absence of naval forces and coast guards (Worrall, 2000). Furthermore, when a vessel is attacked, the location of attack presents an elevated risk of future victimization for a short period of time (Marchione & Johnson, 2013). Although these factors adequately describe the practical conditions that are necessary for this crime to flourish, they do not explain the context that enables piracy. Inadequate policing and maritime security provided by coastal states has been a recurrent theme in piracy literature (Young, 2007). The problem that many coastal states face in terms of adequate policing is twofold, political priority and funding. Generally, piracy has been of low priority on policy agendas. In Indonesia, there have been more pressing issues<sup>15</sup> that have required government attention and this in turn directly affects the allocation of funds. Moreover, piracy as such does less harm to the economy of the state from which it emanates. The targets tend to be merchant vessels from foreign countries that ply the oceans. However, even events that happen thousands of miles away may have an impact on prioritizing national anti-piracy policy. For instance, since 9–11, there has been an increased focus on terrorism, which has been coupled with demands on certain nations to implement land-based homeland security systems (Chalk, 2008, p. 12). These demands have impinged directly on already limited resources that were originally earmarked for anti-piracy monitoring systems in several countries, such as the Philippines, Indonesia, Kenya, Turkey and Eritrea (Chalk, 2008, p. 12). This together with the sheer expanse of the area that requires policing means that it is insufficient as the sole method in curbing piracy. Young explains that

the multilateral and international efforts that are trying to address piracy are focusing on short-term solutions such as cooperative patrols, which are important and useful, but ultimately are like trimming the leaves of a particularly invasive weed rather than pulling it out by its roots. (2007, p. 3)

A related problem is the difficulty of arrest and prosecution of piracy. Piracy presents unique obstacles in collection of evidence. From a scene of crime perspective, in piracy cases the place of crime is a vessel, that may have moved on from the scene (and jurisdiction) of the crime, and witnesses are sailors who can be hard to track – working on different ships, under different flags, to sail different parts of the world (Author Interview with Capt. Mukundan, 20 June 2011). In addition, the legal status of piracy and armed robbery against ships creates problems of establishing jurisdiction which inhibits prosecution not to mention that the cost of prosecution and imprisonment of foreign pirates dissuades nations from pursuing justice (Kontorovich, 2010, p. 243; Mo, 2002, p. 351).

Piracy, perhaps more than other transnational crimes, presents unique challenges to cooperation between nations. Although UNCLOS states that all States need to “cooperate to the fullest possible extent in the repression of piracy on the high seas and in any other place outside the jurisdiction of the any State” (Article 100), it does not penalize a failure to cooperate, it does not explain what form such cooperation should take, nor does it require cooperation between nations in territorial waters. Quite simply, the

UNCLOS regime is a product of the past intended for a world whose geopolitics and technology have since dramatically changed. As a consequence, the development of piracy law in the international realm has been handicapped by a treaty that was never, ab initio, intended to combat international piracy in its current form. (Bento, 2011, pp. 125–126)

The Malacca Straits provides a good example of the problems faced by sovereign states when dealing with maritime security cooperation. The Straits have the customary international legal status of high seas, this is despite the fact that at the southern end it is only 7.8 nmi wide (near Kukup, Malaysia), technically falling within the 12 nmi limit of territorial waters. Maritime nations (countries with large merchant navies and whose interests are transnational such as China, United States, and India) have been vocal in protecting their right of transit and freedom of navigation, whereas coastal nations (countries with long coastlines that depend on sea resources, in the case of the Straits – Malaysia and Indonesia) have been concerned with maintaining their sovereignty and object to any foreign naval presence in the Straits. In addition, there is tension between coastal nations themselves, such as between Malaysia and Indonesia. To date, these countries have not agreed on some of their respective maritime boundaries (Mak, 2006, 2007; Murphy, 2007b; Valencia, 2006).

The December 2004 Tsunami brought about a marked decline in piracy in Southeast Asia even in areas unaffected by the catastrophe (Raymond, 2009). However, the decline continued beyond this event and is attributed at least in part to maritime security initiatives that were implemented from 2004. This included the coordinated navy patrols (MALSINDO, launched in July 2004) and joint air patrols (Eyes in the Sky, launched in September 2005) by Malaysia, Indonesia, and Singapore (Young, 2007). This was followed in 2006 by the Regional Cooperation Agreement on Anti-Piracy (ReCAAP) which includes information sharing, capacity building, and cooperative agreements between 18 countries including members of the Association of Southeast Asian Nations (ASEAN), other Asian countries (such as Japan, China, and India), and maritime nations (including Norway, Netherland, and the United Kingdom) (ReCAAP ISC, 2013). Note however that neither Malaysia nor Indonesia have signed the ReCAAP agreement.

The 1997 Asian economic crisis is often cited as affecting the level of piracy in Southeast Asia (Chalk, 2008, p. 11;

Valencia, 2006, p. 87). Generally, it can be appreciated that falling wages, increased food prices, and job losses add to the pool of would-be pirates. However, it is also important to remember that the same pool of people provides victims of piracy, namely the fisher folk who are easy targets and which remain largely outside the ambit of the recorded piracy events.

Although poverty in littoral states has been implicated in the rise of piracy (Burnett, 2002, p. 117), the general consensus has been that poverty is only part of a more complex explanation (Chalk, 2008, p. 11; Mo, 2002, p. 350; Sakhuja, 2010, p. 3; Valencia, 2006, p. 87). Young (2007) suggests that the problem is based on a form of social breakdown, that the roots of modern piracy in Southeast Asia lies

in the cultural, economic and political environment of states in the region, and their inability to effectively control or regulate this environment . . . economic growth without concomitant political development, poverty and ineffective distribution of wealth, and fragmented or challenged political hegemony, are some of the roots of piracy. (Young, 2007, p. 3).

According to Young, poverty amongst the maritime-oriented population in this region is endemic, which coupled with uneven economic and weak political development has exacerbated the situation. Measuring in terms of gross domestic product (GDP) and other industrial output measures, there is evidence of considerable economic growth in this region, but Young points out that the problem is that the effects of this growth have *not* been universal. Young explains, “these problems which have manifested themselves during years of economic growth suggest weak state development or simply economic development that has outpaced the capacity of the state to redistribute the profits effectively” (Young, 2007, p. 59).

Anyu and Moki (2009) list poverty, failed states/poor governance, and flaws in maritime-transport treaties as the three salient factors that have made Africa a “piracy hot spot.” The broader idea of governance is also evidenced in other works that mention issues such as a permissive political environment (Murphy, 2007a, p. 13), cultural tolerance for this type of activity (Caplan et al., 2011; Murphy, 2009; Vagg, 1995), the presence of conflict and disorder (Murphy, 2007a, p. 13), economic dislocation (Vagg, 1995), as well as insufficient/inadequate marine policing and corruption (Chalk, 2008, p. 8). Murphy also refers to the importance of governance when he lists the following key factors as enablers of piracy: legal and jurisdictional weaknesses, conflict and disorder, and a permissive political environment (2007a, p. 13). According to Peterson, “Piracy like all other forms of crime, flourishes during times of disorder. Disorder may result from war, civil strife, local riot, or a breakdown of law enforcement institutions” (1989, pp. 58–59). This is echoed by Liss (2003), who suggests that weak or weakening state and institutional structures are contributors to the incidence of piracy because this inhibits the implementation of local laws. Indeed the reduction of piracy in Southeast Asia since 2004 has also been attributed to a changing political situation in Aceh, Indonesia, believed to be the base for many pirates (Raymond, 2009). After the 2004 Tsunami, the Free Aceh Movement and Indonesian authorities began negotiations for the first time after a 26-year conflict. Initially, these were about disaster relief operations but by August 2005 the parties had signed a peace deal (Raymond, 2009). Discussing Somali piracy, Hansen and von Hoesslin state, “Maritime security in waters surrounding Somalia is fully correlated with the internal situation . . . Besides the economic decline and the political chaos, the lack of effective control over the coast is the primary reason for the surge in piracy” (2009, p. 18). Chalk, talking of piracy more generally, describes how “corruption and dysfunctional systems of national criminal justice have encouraged official complicity in high-level pirate rings” (2008, p. 13). Similarly Brian Fort talks of the “corruptibility of officials,” focusing on high-end organized piracy, he explains that such groups “have looked for and have found weak states that they have then exploited for their systemic weaknesses such as having a history of corruption” (2006, p. 26).

According to Mak, a maritime policy analyst, the root of piracy in the Malacca Straits is a combination of ineffective governance and a lack of legitimate economic opportunities:

If poor governance has allowed the maritime predation problem to persist for more than 30 years, including the participation of rogue officials, then the present emphasis on more efficient and better coordinated patrols at sea is addressing only part of the problem . . . economic development and effective administration and governance are key factors in addressing piracy in the Malacca Strait. (2007, p. 201)

Although there is some literature which has identified the relationship between some of the factors mentioned above with the emergence of piracy (see Hastings, 2009; Liss, 2003; Murphy, 2009; Vagg, 1995; Worrall, 2000), systematic criminological research on the subject is still relatively scarce (Figliomeni, 2009; Huang, 2010; Worrell, 2000). Theories need to be updated and incorporate the dramatic shifts observed in the first decade of the 2000s. Questions remain are the following: Are these factors equally relevant to piracy in different parts of the world? Is there a factor that is more relevant than others? Is there a difference in the motivating factors between different types of piracy?

## Direction for future research on maritime piracy

In conclusion to this review of contemporary maritime piracy research, this article presents some suggestions for the direction of future research in this area. To start, data on piracy needs to continue to be collected and synthesized across key dimensions, such as in the CMPD. Second, there is need for the creation of a diagnostic typology of this crime based on recorded incidents which will need to be updated periodically. Finally, there is a need for theorizing on the causes of piracy using the knowledge available to our discipline.

Throughout the history, we have seen that piracy morphs over time and place. Piracy has been seen in ancient Greece and Rome, the Caribbean, Europe, Asia, and the Barbary Coast of North Africa. More recently, we have seen that contemporary piracy has shifted from hotspots in Southeast Asia, to the east and west coasts of Africa. Having a synthesized contemporary maritime piracy data set, such as the CMPD, enables the monitoring of the nature and trends of piracy over time. In the past decade, the CMPD has demonstrated that the dominant form of piracy has changed. Without a consistent, empirical data collection effort and analysis infrastructure, the subtle changes of piracy tactics, nature, and trends remain incomplete. Although some research suggests that contemporary piracy is just another iteration of historical precedents in a cycle of piracy that has never been eradicated just temporarily suppressed (Puchala, 2005), there are also strong arguments that the current manifestations of piracy are very different from its historical predecessors (Liss, 2003; Ong-Webb, 2007; Young, 2007). Therefore, it is suggested that together with empirical analysis of the CMPD, there is a need for the continued collection and cataloguing of piracy data.

In addition, there is a need for a contemporary maritime piracy typology which is based on recorded incidents. Despite some attempts at piracy typologies, there has been no typology of contemporary piracy that is based on concrete piracy incident data. Such a typology is essential for targeted response measures based on empirical evidence. Any such typology will require periodic updating to maintain its relevance and value as a tool to assist counter piracy responses in light of temporal changes in piracy.

Criminological theorizing of piracy is important not only to contextualize the contemporary form in the history of piracy, but also to understand the context that makes piracy possible and to comprehend the normative dilemmas. "At a basic level, piracy (like all crimes) is caused by illicit opportunity structures, motivations to take advantage of such opportunities and social control weaknesses, all of which are affected by the globalization processes" (Passas & Twyman-Ghoshal, 2012, p. 62). Theories such as global anomie theory (Passas, 1999, 2000) may provide a good starting point for studying contemporary piracy. Incorporating ideas from other disciplines including political science and international relations, global anomie theory provides an outline of the social processes that explain the broader impact of globalization and how it serves to promote the emergence and continuation of deviance.

Lehr (2007) describes how globalization and neo-liberalization have increased the volume of international trade creating more potential targets for piracy (see also Worrall, 2000). However, these macro-forces also have a broader impact on the economy, politics, law, and culture of many developing societies. Global anomie theory posits that these changes have affected the more traditional opportunities of some members in societies in such a manner that it increases the likelihood of some turning to illegitimate activities, such as piracy.

The form of globalization that has been dominant over the past few decades is one that is fueled by neo-liberal ideology. Neo-liberalism refers to a school of thought that advocates minimal or no state interference in the market, encouraging free trade between nations (Passas, 2000, p. 21). Neo-liberal globalization stresses the importance of material goals. Passas explains that, "market economies cannot perform without lofty aspirations, consumerism, emphasis on material/monetary goals, and competition" (2000, p. 19). Perhaps more salient is that it has prioritized the accumulation of wealth over all other objectives (such as reducing poverty, increasing education, and protecting local agriculture). This has required countries to realign their national strategies in order to accommodate this prime purpose. This has had a twofold effect; on the one hand, diverse populations have been exposed and conditioned to the value of material gain, of alternative priorities, of other forms of happiness, of freedom, of social mobility; whilst simultaneously creating awareness of inequalities and injustices as the structural contradictions are revealed. The outcome is an enlightening experience that has been the source of anxiety, frustration, and misery as the constraints of one's environment are fully appreciated.

Therefore, globalization with the overarching ideology of neo-liberalism has not only changed global economic and financial organizations, but it has also stimulated among individuals an awareness of alternative needs, goals and created widespread consciousness of others in the world and how they live. Individuals are now aware of the goals of both those that are in their physical vicinity and those living far. As a result, globalization has restructured the way in which we live (Giddens, 2003). This change is something that has affected societies from "top down" whilst simultaneously working from the "bottom up" (Franko Aas, 2007, p. 5). That is global interconnections create local transformations (Robertson, 1995), taking on real meaning in the lives of individuals. The local transformations however vary according to location and the conditions in the affected society (Sheptycki, 2005).

Discussing piracy Sakhuja explains:

While globalization may have acted as a catalyst for the growth of international commerce, it has also unleashed and aggravated disparity among regions, societies and people. In some cases, inequalities induced by globalization have created conditions for the rise of violent non-state actors that possess significant capabilities to challenge the emergent economic order. (2010, p. 3)

In a similar manner, Sheptycki (2005, pp. 79–83) explains that the effect of globalization is not uniform across the globe, and that the impact of transnational practices varies from place to place. Reference group theory provides an explanation for this variation, that each society is faced with its own unique cocktail of globalization. Therefore, although it affects all, the effect is not consistent. Reference-group theory helps explain how the broader, distal forces of globalization play out in different ways for various persons and places. An individual's attitudes and behavior are influenced by "both membership and non-membership groups and individuals who are selected as points of reference and comparison" (Passas, 1997, p. 64). Therefore an individual will shape their values and norms according to their reference group. A reference group, within the context of globalization, is a combination of local membership groups, local non-membership groups (for instance, expatriates and wealthy fellow citizens) as well as distant non-membership groups. To truly understand the effect of globalization, individual cases need to be studied since the selection of referents is shaped and patterned by this unique context, a blend of both local and distant realities.

This combination of reference groups is the mechanism that generates incentives and demands for material goals as interpreted within local contexts. It also creates a sense of deprivation, which may be a real, absolute form or a relative form. The former would imply that something is demonstrably lacking, whereas the latter is founded on the comparison with referents or comparisons between the past and the present (Passas, 1997, p. 67). What is crucial is that this process creates awareness of asymmetries, an awareness of unjustified inequalities.

Young (2007) identifies the impact of reference groups in Southeast Asian piracy. He suggests that the asymmetries in development have left maritime folk without a stake in the national economy and identity, these segments of society are acutely aware of the discrepancies and their location at the "very bottom of the social-political hierarchy" (Young, 2007, p. 62). This context allows piracy to be "morally rationalized and even ethically justified"; where have and have-nots are in close proximity (Young, 2007, p. 66). In Somalia, we see a similar effect; the lack of a central state has meant the country has been exposed to neo-liberalization without any constraint (Marchal, Mubarak, Del Buono, & Manzollilo, 2000). "The traveler to present-day Somalia cannot avoid being impressed by the "booming" businesses such a trade of goods, telecommunications, airlines, money remittance systems, transport and real estate construction. Somali business entrepreneurs have direct global commercial links." (Osman Farah, Muchie, & Gundel, 2007, p. xi). In the absence of a central state, law enforcement mechanisms, and a coast guard, the country was also exposed to exploitation, particularly important for the genesis of piracy, was illegal fishing and toxic waste dumping off the coast of Somalia by foreign fleets (UNEP, 2005). These predatory activities provided rationalizations for individuals living in coastal regions to engage in piracy to protect their coastal waters from exploitation and also served to garner public tolerance for piracy. Evidence suggests that Somalis perceived relative deprivation and injustices from being exploited by foreign trawlers and ships dumping toxic waste on their coasts (Twyman-Ghoshal, 2012). Piracy initially emerged here as an adaptation based on rationalizations of protecting coastal waters from foreign encroachment.

To the extent that globalization leads to an awareness of inequalities and asymmetries along with accompanying frustrations, it also helps initiate the search for solutions by individuals, organizations, and nations. Solutions may come in a variety of forms (Merton, 1938), including conforming, retreating, ritual, innovating new means to achieve goals or rebelling by creating new norms and standards. Piracy in its different forms can be seen as innovation or rebellion.

Finally, when the solution to the problem is successful (in that it enables the individual to reach their desired goals, perhaps through piracy), it has a normative effect not only on the individual but also on those in the individual's group (remembering that this group could be a membership group but also more distant non-membership groups). Normative referents are ones that provide the individual with values and outlooks who provide the regularizing environment. In contrast, comparative referents evoke assessments and evaluations, which have the potential of leading to frustrations.

Globalization triggers comparisons between various reference groups, which have an anomic effect when the resultant adaptation (such as piracy) becomes part of the normative culture. The awareness of the structural contradictions provides the individual the initial rationalization and justification required to make the criminal act a viable solution (see also Matza, 1992). As the behavior is continued successfully it becomes normative for others faced with the same problem but also for those who observe this behavior as part of accepted social conduct, that is individuals who do not perceive any strain. It is here that the potential of anomie is raised, a "withdrawal of allegiance from conventional norms and weakening of those norms' guiding power on behavior" (Passas, 2000, p. 20).

This has been seen in Southeast Asia where over time raiding ships has become culturally "thinkable" (Vagg, 1995, p. 68). In Somalia, since the first recorded piracy incident in 1991, the piracy subculture became increasingly visible and normative. Young men who grew up in an environment of diverse and conflicting traditions and practices, lacked

educational and legitimate employment opportunities, identified piracy as a promising career choice due to the social standing of pioneer pirates of the 1990s who had effectively become role models (Twyman-Ghoshal, 2012).

Finally, neo-liberal globalization may have an indirect effect on the emergence of piracy through the impact of these policies on the ability of nations to govern. This may be particularly important during periods of economic and social upheaval. At such times, societies require the “shield of state” in order to cushion the effects of change. Over the last several decades, however, quite the opposite has happened where

welfare programs, safety nets, and other assistance to the poor (individuals, companies, and states alike) forcibly declined or disappeared. Thus, global neoliberalism systematically causes relative deprivation as well as absolute immiseration of masses of people. In effect, it has generated new sources of criminogenesis and removed existing antidotes to it. (Passas, 2000, p. 27)

With the reference to “shield of the state,” Passas (2000) identifies the importance of the state as an arbiter of the effects of globalization and neo-liberalization on its more fragile citizens whilst simultaneously promoting development. This is more than establishing social control; it is about establishing legitimacy of the governing force.

With piracy specifically, Sakhuja has described this “lack of governance and an effective social security apparatus . . . [as] . . . having created favorable conditions for illegal activities” (2010, p. 4). Deficient governance has been implicated in the rise of organized crime, drug trafficking, money laundering and corruption (Williams & Baudin O’Hayon, 2002, p. 130), and as a cause for piracy (Anyu & Moki, 2009; Hastings, 2009; Murphy, 2009; Sakhuja, 2010; Young, 2007). Moreover, good governance has been advocated as the key to crime prevention (United Nations Human Settlements Program, 2007, p. 96; Waller & Sansfacon, 2000, p. 15) and has been associated with the reduction of crime rates (Neumayer, 2003).

More recently, since 2012, piracy off the coast of Somalia has been declining. It is argued that the main factor that contributed to this was the increasingly forceful counter-piracy tactics employed by the international coalition forces, which included the first European Union aerial offensive that destroyed speed boats, fuel depots, and arms stores allegedly belonging to pirate gangs in Handulle, northern Somalia (Bridger, 2012; Guled & Lekic, 2012). However another important factor which is often overlooked are the developments in Somali governance.

From late 2010, Somalia has begun a more hopeful process toward a democratic central government. By August 2012, Somalia had a new constitution and a new bicameral federal parliament. The drafting of the new Somali constitution was done in collaboration with an independent constitutional commission which included clerics, constitutional lawyers, and other local experts. Unlike previous efforts to constitute a central government, the new government is representative not only of a fictitious union of Somalia but includes the active participation of the semi-autonomous states of Puntland and Galmuduug (which were formed in the years after civil war erupted). Rather than the top-down approach of installing a foreign imposed Somali government, the current effort is not only garnering international support, but more importantly, it is also showing local, Somali support.

It is hoped that this article will stimulate criminologists to look at maritime piracy as a transnational crime of the twenty-first century that requires their attention. The article presented a foundation for subsequent research and has suggested three key areas which require the attention of criminologists, areas which Worrall (2000) identified as obstacles to contemporary maritime piracy research. Having an array of unique theories of deviance and methods tools at our disposal, criminologists can help define the construct of piracy, create a typology based on new and improved piracy data, and theorize the problem. This article has presented one criminological theory which could be used to understand this global phenomenon, but there are others which could be applied. The potential of making an important contributing to anti-piracy efforts that can make policy decisions more effective and productive is great. It is hoped that this review provides some impetus to develop research agendas in contemporary maritime piracy.

## Notes

1. During the boarding of the container ship, the pirates’ speedboat was overturned, leaving them without a mode of transportation.
2. Very large Crude Carrier.
3. An informal term used to denote the largest ocean-going ships in the world.
4. “*Hostis humani generis*” is a legal term that originates from admiralty law and refers to the unique status of maritime pirates since the eighteenth century. It has its source in the understanding that the high seas are common property of all nations and that every nation has the right to trespass through it. Pirates violate this universal right and therefore represent a crime against all nations; therefore jurisdiction over pirates in the high seas is universal.
5. UNCLOS replicated the piracy clause of the Geneva Convention verbatim.
6. The Harvard Research in International Law prepared the Draft Convention on Piracy and the accompanying Comment to the Draft. Both these documents formed the basis for the Geneva Convention. UNCLOS replicated the clause in the Geneva Convention verbatim. Therefore, both of these documents are relied on in the interpretation of the clauses in the Convention.
7. To date, not all nations have piracy legislation. To see which countries do have national legislation on piracy and what the

content of these laws is, visit [http://www.un.org/Depts/los/piracy/piracy\\_national\\_legislation.htm](http://www.un.org/Depts/los/piracy/piracy_national_legislation.htm).

8. More recently, the IMB has used the phrase “piracy and armed robbery” referencing the combined UNCLOS and the IMO Code designations. The transition from the statistical definition occurred after the IMO Code definition began to be more widely applied and understood. The IMO Code definition was formally recognized by an international legal document in the 2004 Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).
9. Based on data collected by the International Maritime Bureau, in the period 1991–2000, there were 2050 actual and attempted piracies, whereas from 2001 to 2010, there were 3318 such reports, that is a 61.85% growth rate.
10. Hastings (2009) raises an important issue in his research, the effect of governance on piracy. However, he does not examine the potential effect of small state formations or at governance beyond the function of central state is his research, missing some of the finer distinctions between state failure and state weakness (see Twyman-Ghoshal & Pierce, 2013).
11. The few cases where the vessels have not been returned are due to vessel disrepair or because it has become a total loss over the time of its seizure. The intention of the pirates is however to return the ship once ransom monies are received.
12. These are expressive (ideological) and instrumental (economically motivated) piracy.
13. Tolerating piracy passively may be due to a benefit being gained from the act but falling short of openly advocating piracy or alternatively because the state has other more pressing issues on its agenda and chooses to ignore piracy because it does not victimize its own people.
14. The notable exceptions have been Chambliss’ theory of state organized crime (1989), Vagg’s general theory of piracy in the Far East (1995), and Worrall’s routine activities theory (2000).
15. Rosenberg (2009, p. 51) puts piracy in perspective by comparing its incidence in Indonesia to other crime. In 2002, there were 103 incidents of piracy, 1687 murders, 9000 cases of violent thefts, and 11,000 serious assaults on land.

### Notes on contributor

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