

The P.R.C. and Piracy in the South China Sea

by


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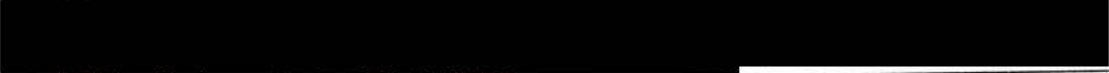
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ABSTRACT

There are two issues that have raised concerns over the South China Sea's security environment: Beijing's continuing aggressiveness and the high occurrence of piracy involving Chinese nationals. Close analysis allows for a connection to be made regarding these issues.

As experienced during early modern Europe, non-state means of violence have often been manipulated by sovereigns for the furtherance of state goals. The commissioning of pirates as privateers strategically complemented (or at times supplemented) naval capabilities in cases of unfavourable political and military conditions.

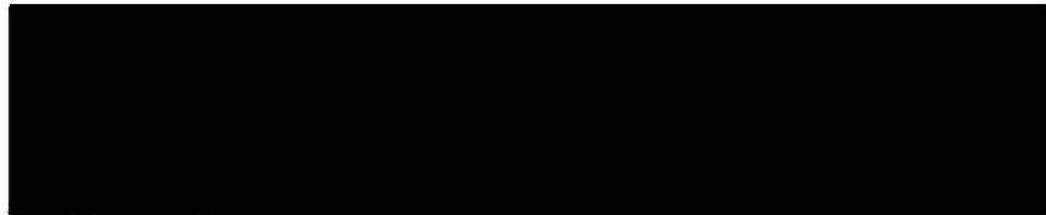
China may not be actively employing pirates to extend its maritime ambitions and policy; however, by intentionally turning a blind eye on the growth of these activities, Beijing facilitates the presence of Chinese nationals in these waters. This allows for a greater chance at securing *de-facto* jurisdiction over the South China Sea in the future.

China; maritime policy; foreign policy; Southeast Asia; South China Sea; piracy; territorial disputes.


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Dedication

To Mama, Papa, Sandy and Sandra.

Figure 1. Southeast Asia and the South China Sea

(Source: www.lib.utexas.edu/Libs/PCL/map_collection/middle_east_and_asia/SE_Asia_pol_95.jpg)

Chapter One: Introduction

Piracy has historically been a major security concern in the Asia Pacific. The region's maritime features, which are dominated by narrow channels, small islands, reefs and vast bodies of water, provide excellent conditions for such activities to flourish. For generations, many communities residing in these areas have regarded this profession as a normal part of their livelihood. Although there have been occasional attempts by states to suppress these activities, they have never been completely eradicated. Recently, a resurgence of piracy has raised concern among regional governments and shipping companies. This phenomenon is also receiving significant analysis among academics and policymakers.¹ These studies usually centre on the individual, criminal, economic and environmental aspects of piracy's security implications. However, the rising number of attacks committed by Chinese nationals in the South China Sea has also attracted a considerable amount of attention.

Occurrences of Chinese piracy are happening primarily in waters fiercely contested by a number of countries. Since the mid-1970s, efforts to control the South China Sea and its land features have been one of the major points of contention among littoral states. Some analysts have even suggested that this flashpoint could possibly cause a break out of regional conflict.² Over the last twenty years, China has

¹ Consult sources used in this study for examples of recent literature on piracy in the Asia-Pacific region.

² For example, Michael D. Wallace and Charles A. Meconis, New Powers, Old Patterns: Dangers of the Naval Buildup in the Asia Pacific Region (Working Paper No. 9) (Vancouver: Institute of International Relations, University of British Columbia, 1995); David Winterford, "Chinese Naval Planning and Maritime Interests in the South China Sea: Implications for the U.S. and Regional Security Policies", The Journal of American-East Asian Relations, 2/4 (Winter 1993), pp. 369-398.

become the main protagonist in this scramble for territory; it has used military force to incorporate islands and reefs into its maritime jurisdiction. However, China's advance faces strong resistance from other claimants, which often unite under the Association of Southeast Asian Nations (ASEAN). The Chinese base the legitimacy of their claims on historical reasoning. They seek control of the area as a means to furthering their rapidly rising regional power status. At the beginning, Beijing exerted claims only through direct military action; yet, recently it has varied its approaches by engaging in diplomacy as well as increasing the presence of Chinese nationals in disputed areas.

The concurrence of these issues raises the question of a connection between pirate activities committed by Chinese nationals and China's ambitions in the South China Sea. This study will argue that there is such a connection; one that is not surprising in a broader historical context. During the period of early modern Europe, sovereigns constantly manipulated non-state activities as a means to furthering state goals. In many cases, pirates were commissioned to attack enemy commerce and support the extension of maritime jurisdiction. When the states felt strong enough to carry these activities by themselves or when the commissioning of pirates was no longer favourable to them, the launching of counter-piracy policies served to justify naval modernisation and further extend maritime influence.

This experience certainly has not been unique to Europe. China has frequently employed non-state elements to advance state goals since the establishment of the Imperial system (circa 221 B.C.). Considering that the oceans have always been of secondary importance to the Middle Kingdom's policies, it is uncertain if the

Chinese ever engaged in maritime practices similar to those carried out by modern European states. However, other forms of non-state activities (e.g. mercenaries) have certainly been manipulated for the purpose of building, consolidating and expanding the Chinese State.

On the basis of the above arguments, contemporary Chinese piracy can be viewed as an extension of China's maritime policy in the South China Sea. To suggest that Beijing is actively recruiting pirates to exert its claims in these disputed waters would be inaccurate considering that there is no concrete proof supporting such an argument. Through inaction, however, the condoning of Chinese nationals' involvement in piracy suggests that Beijing is tacitly reaping benefits from these activities' growth. One may want to view China's action (or lack thereof) as a calculated form of passive foreign policy. Even though it is unlikely that the pirates are aware of the central government's intentions, they have unwittingly become a factor in the fulfilment of China's maritime aspirations. This is the argument that will be pursued in this thesis.

Critics of this would argue that the discussion is highly speculative. As well, they would point out that the analysis is based on events which are purely coincidental; there is no publicised official policy linking China's foreign policy and pirate activities. Such criticism is not groundless. Yet this study will try to assess the degree to which this claim has some plausibility. The trend in Chinese piracy is certainly significant. Bodies such as the International Maritime Organisation (IMO) and the International Maritime Bureau (IMB) have closely monitored the

phenomenon's growth.³ Moreover, China's claims in the South China Sea have not only been studied exhaustively by security analysts but have also been re-iterated constantly by leaders in Beijing.⁴ Therefore, the central discussion of this study will examine and elaborate on factors associating piracy and state expansion. A theory supporting this claim can be drawn from historical precedence. Once this has been achieved, one can then derive a contemporary interpretation of the theory explaining the Chinese case, even while acknowledging that the evidence for the interpretation is indeed often quite speculative.

The study will begin with a short chapter defining the concept of "piracy". This will be carried out through a survey of past studies on the subject. The chapter will then derive from this survey a definition of the phenomenon relevant to the conjecture of this study. A clear understanding of what "piracy" actually means is important as it provides the discussion with a firm reference as well as prevents confusion later on.

Once this has been established, there will be an examination of the development of pirate activities in the Asia Pacific region, especially in Southeast Asia. It will outline contemporary trends and analyse factors that help sustain the growth of such trends. Of course, in doing so, attention will be focused on describing the involvement of Chinese nationals in South China Sea piracy. This chapter's

³ Since the early 1990s, the IMB through its Regional Piracy Centre (RPC) in Kuala Lumpur has been active in providing reports of piracy in the region. It has now become one of the most authoritative bodies in the field.

⁴ For example, the 1992 Law on Territorial Waters and Adjacent Areas declares that the South China Sea is entirely part of China's maritime jurisdiction. China has the right to evict and prevent the passage of any foreign vessel in these territorial waters. Leszek Buszyński, "Southeast Asia in the Post-Cold War Era", *Asian Survey*, 32 (September 1992), p. 836-837.

discussion of Chinese piracy will mostly be expository. A more in-depth analysis of the issue will be carried out as the study develops.

The third chapter will propose a theory relating non-state activities with processes of state consolidation and expansion. Specifically, it will describe the manner by which pirate activities have been manipulated to further state goals. Such a theory will draw from accounts of historical precedents. Therefore, analysis linking the state, piracy and privateering during the early modern European era will be central to this chapter's discussion. The examination will not solely focus on China as other precedents and issues relating to state manipulation of piracy must be considered in order to understand the Chinese case's significance.

Having provided with empirical and theoretical perspectives on recent trends in Chinese piracy, the study will then proceed with a description of another main component of the discussion: the territorial disputes in the South China Sea. It will argue that the Chinese still have strong interests in controlling the South China Sea. The discussion is intended merely to introduce the extent of China's claims in the area and not meant to be an in-depth analysis of the issue.⁵ This process will be conducted through an elaboration of on China's maritime ambitions and current policies. However, concerns related to dispute resolution and conflict management will not be discussed at length.

The discussion of territorial disputes in the South China Sea provides the basis for the following chapter, which will analyse historical patterns in China's

⁵ For more in-depth analyses of the issue consult sources used in this study, especially the works of Mark J. Valencia and Marwyn S. Samuels.

expansionist practices and strategies. This chapter will specifically highlight the frequent emphasis of non-state elements within such schemes. Considering that China's history of maritime excursion is limited, the analysis will mostly derive from Chinese warfare and expansionism in general. As well, some references to classics in Chinese military strategy literature will be made in order to support the argument.

The last chapter will not only summarise the study's argument, but also further analyse it as a whole. Even though efforts will be made throughout the study to draw connections among the different chapters, the last section will ensure that this exercise is achieved. It will attempt to confirm the study's hypothesis using claims made in earlier parts of the study. Furthermore, this chapter will attend to issues and criticisms that may arise in response to the study's findings. This will include, for example, a discussion on China's possible reasoning for incorporating pirate activities into its strategy in the South China Sea. Altogether this section will offer a golden apex for the building blocks carefully constructed by the study's different chapters.

Chapter Two: Defining “Piracy”

A clear understanding of the term “piracy” is essential to providing the study with a firm reference as well as preventing confusion from rising as the discussion evolves. This study’s conceptualisation of “piracy” will be conducted through a survey of some definitions that have been developed in the past. There are several of them currently being used to identify pirate activities; unfortunately, many are either imprecise or not sufficiently comprehensive. The academic process of defining “piracy” has faced tremendous challenges. Nevertheless, such a difficulty should not deter continued efforts to analyse the problem and its consequences.

Generally, the label “pirates” is used to characterise individuals who are involved in a wide array of violent activities at sea. However, the need to avoid a generalisation of the term is important because it will allow for a more precise analysis of the problem. Past and current studies have attempted to ascertain features that set piracy apart from other forms of maritime violence. In doing so, these efforts construct the basis necessary to establish a working concept that is consistent with international law. This chapter will identify characteristics of piracy that have commonly been discussed by such studies.

One of the most used definition of piracy can be found in William Edward Hall’s A Treatise on International Law. Hall defines the phenomenon as follows:

Acts of violence done upon the ocean or unappropriated lands, or within the territory of a state through descent from the sea, by a body of men acting independently of any politically organised society.¹

This definition does not differentiate between attacks that occur in territorial waters and those on the high seas. Furthermore, holding any state responsible for these actions is both difficult and unfair considering that they are committed by private individuals. Nonetheless, Hall argues that even though piracy is usually not carried out under the authority of any “politically organised communities”, it can still have goals and repercussions that are of political nature.² An example of this is the manner in which many Mediterranean corsairs in the sixteenth and seventeenth centuries viewed their actions as a form of rebellion against the European systems of state and society.³ Political motives also underlie cases in which the state employs pirates as privateers.

Using these notions as a basis for analysis, the Harvard University Law School Research Group drew up a convention which attempted to address the issue of piracy and its consequences in a more comprehensive manner. *The 1932 Draft Convention on Piracy* defines the phenomenon as follows:

...[C]ommitted in a place not within the territorial jurisdiction of any state... any act of violence or of depredation committed with intent to rob, rape, wound, enslave, imprison or kill a person or with intent to steal or destroy property, for private ends without bona fide purpose of asserting a claim of right, provided that the act is connected with an attack on or from the sea...⁴

¹ William Edward Hall, A Treatise on International Law, 8th Edition (Oxford: Oxford University Press, 1924), p. 314.

² *ibid.*

³ Janice Thomson, Mercenaries, Pirates and Sovereigns: State-building and Extra-territorial Violence in Early Modern Europe (New Jersey: Princeton University Press, 1994), p. 46.

⁴ Harvard Law School Research on International Law, “Draft Convention on Piracy”, American Journal of International Law, 26 (1932), p. 743.

This definition further emphasises piracy's violent and non-state nature. However, the *Draft Convention's* description differs from Hall's because of its stress on the phenomenon's extra-territorial character. The drafting of the convention was a constructive approach toward piracy's conceptual development because a broader range of issues was taken into consideration. Also, it presented a view that reflected more recent conditions.

Another source of reference for maritime legal issues is the United Nations Convention on the Law of the Sea (UNCLOS II), which was signed in 1982. Article 101 of the Convention defines piracy as follows:

- a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:
 - *on the high seas*, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - against 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 an aircraft with knowledge of facts making it a pirate ship or aircraft;
- c) any act inciting or of intentionally facilitating an act as described in subparagraph (a) or (b).⁵

The application of UNCLOS' definition has not been free of opposition. First, it is criticised for over-emphasising activities that are committed "outside the jurisdiction of any State" (i.e. the high seas). Some analysts consider this to be problematic because most attacks, especially those in Pacific Asia, occur within territorial waters.⁶ Second, although the Convention has already entered into force for several years, its

⁵ United Nations. *Convention on the Law of the Sea (UNCLOS II) (1982)*. Internet source: gopher.un.org/70/00/LOS. *Italics added for emphasis.*

⁶ Russ Swinnerton, "Piracy in East Asia: Trends and Counter-Measures", pp. 3-4. Paper presented at "The Eleventh Asia Pacific Roundtable", in Kuala Lumpur, 5-8 June 1997.

credibility remains questionable as there are countries, including Great Britain and the United States, which have yet to agree with its terms.

The first criticism carries significant weight. There is a need to develop an internationally recognised definition of piracy that takes into account attacks occurring in territorial waters. This could help solve the confusion surrounding efforts to suppress this phenomenon's growth in the Asia-Pacific. However, for the purpose of this particular study, the "territorial waters-high seas" debate is not of significant relevance because most incidents in the South China Sea have occurred in areas not legally part of any state's jurisdiction. Therefore, efforts to problematise a definition of piracy that includes occurrences in territorial waters are not necessarily essential to this study's analysis.

In response to the second criticism, although a few countries have yet to become party to UNCLOS II, most that border the South China Sea have already agreed to the terms put forward by the Convention.⁷ The only exception is Thailand; however, this country's maritime interests are remote to the territorial disputes in the area. Therefore, the description of piracy provided by UNCLOS II provides yet another source of analysis for this study's conceptual foundation.

More recently, in an attempt to make up for UNCLOS' failure to recognise pirate attacks within territorial waters, the IMB defines the problem as follows:

The act of boarding any vessel with the intent to commit theft or other crime and with the capability to use force in furtherance of the act.⁸

⁷ *Brunei Darussalam, China, Indonesia, Japan, Malaysia, the Philippines, South Korea, Singapore and Vietnam.*

⁸ *Cited in: Swinnerton, "Piracy in East Asia: Trends and Counter-Measures", p. 4.*

Although parts of this definition run against the terminology developed by the Harvard Law School's *Draft Convention* and UNCLOS II, it still holds to the common notions that pirates are non-state actors, that they target personal property of others and that their actions are violent. Unfortunately, the IMB has yet to elaborate further on its definition, thus not providing a strong or comprehensive enough alternative to the descriptions given by UNCLOS II and Harvard's *Draft Convention*.

In describing the activities of pirates, perhaps the most common mistake is to equate piracy and privateering. Both types of activities are outfitted and manned by private initiatives. However, pirates are distinguished from privateers in that the latter's actions are commissioned by states. In the past, official sanction to attack enemy commerce and territory was granted to these sea raiders through issuing them "letters of marqué and reprisal".⁹ However, like most forms of non-state violence, privateering was legally outlawed in 1856 through an agreement commonly known as *the Declaration of Paris*.¹⁰ Although official commissioning of privateers is no longer allowed according to international law, it is unknown whether stealth operations have completely ceased to exist or not.

The definitions surveyed in this chapter provide common themes that characterise piracy as a unique maritime security threat. Based on this analysis, the study defines piracy as an action committed:

- a) against a vessel or persons in territorial waters and on the high seas;
- b) with the intent of stealing, destroying or taking over a vessel and/or its contents;

⁹ James G. Lydon, *Pirates, Privateers and Profits* (Upper Saddle River, N.J.: The Gregg Press, Inc., 1970), p. 25.

¹⁰ Thomson, *Mercenaries Pirates and Sovereigns*, p. 75.

- c) by non-state actors for the furtherance of goals that are private in nature;
- d) using threat, force and violent means; and
- e) independent of any political community's decisions.

This definition does not pretend to be a comprehensive description of piracy or a substitute for the descriptions provided by UNCLOS II and the Harvard's *Draft Convention*. However, it attempts to further the evolution of piracy's conceptual development. The characteristics emphasised here provide a strong basis for understanding the phenomenon that this paper will analyse.

Although piracy has often been referred to as one of the oldest professions in the world, there remains confusion regarding what it actually entails. Many people are still unsure on how to distinguish piracy from other forms of maritime violence. This chapter offers a definition of "piracy" that is based on past and current analyses of the topic. The definition does not deal with the specificity of pirate activities in different regions of the world; such a task goes beyond the scope and needs of this particular study. Discussions of the "phantom ship" phenomenon and land raids from the sea are also not relevant to the study's focus. This chapter simply provides a basic foundation and reference on which a solid construction of argument can be developed. In addition to discussing the dynamics of piracy in East Asia (the South China Sea, in particular), the study's continuations will elaborate on the impact that this phenomenon has towards regional security.

Chapter Three:
**Contemporary Piracy in
the South China Sea**

As in most Southeast Asian waters, piracy has historically been endemic to the South China Sea. Although the phenomenon tends to be cyclical elsewhere, it has been a constant threat to merchant shipping in this particular area. These trends have continued despite states' occasional efforts at cracking down. Piracy jeopardises the safety of maritime trade and indirectly, the region's economic stability; yet, the problem has never been addressed with adequate thoroughness. In more recent times, however, high occurrences of attacks are attracting considerable media attention. As well, academics and policymakers within and outside the region are increasingly studying the issue.

The examination of South China Sea piracy will begin with a brief historical account followed by a general outline of contemporary trends. In addition to describing characteristics of piracy in this area, the discussion will elaborate on why this phenomenon is identified as such a significant problem. This task will be conducted through explaining the security implications of piracy at the individual, national and regional levels. Once this has been achieved, the discussion will then examine specifically incidences involving Chinese nationals. An analysis of Chinese piracy is important considering its frequent occurrence since the beginning of the decade. Altogether, the chapter provides a thorough introduction to the phenomenon that this study will attempt to explore.

A. History and Trends

During the European colonial era, piracy was often aimed at undermining Europe's monopoly over Southeast Asia. With the loss of commerce and revenue to colonial powers, local aristocracies had to rely on piracy and other sorts of marauding activities for resources.¹ For people living in coastal regions of the Malay Peninsula, Borneo, Java and Sumatra, piracy was an "honourable" profession, especially among young and needy noblemen.² By interrupting the flow of Europe's trade, local pirates posed continuous impediment towards the consolidation of colonial systems of state and commerce. An officer of the British East India Company once observed:

The grand hindrance of the extension of British trade, and the civilisation of the [Malay] archipelago, is the system of piracy which has been carried on in these seas from time immemorial.³

Unfortunately, despite local pirates' rebellious efforts, they were overwhelmed by the power of European navies, especially that of Great Britain. Nonetheless, piracy was never completely eradicated and continued to exist – although at a smaller scale – as a thorn in the side of colonial administrators.

The region's problem with piracy once again captured widespread attention at the turn of the 1980s. During this period, widespread atrocities were being committed on Vietnamese boat people in the South China Sea and waters surrounding this area. Although the United Nations (UN) and regional governments heavily condemned such activities, efforts to address the problem were mired in politics. Treating piracy as a form of deterrence against refugees, regional governments' response to the UN's

¹ Nicholas D. Tarling, Piracy and Politics in the Malay World (Canberra: F.W. Cheshire, 1963), p. 10.

anti-piracy campaign was, at best, lukewarm.⁴ Incidences finally decreased towards the end of the decade. Ironically this development occurred not because efforts to crackdown piracy strengthened, but rather because the pirates were simply running out of helpless victims to plunder and loot.

Through its Regional Piracy Centre (RPC) in Kuala Lumpur, the IMB has now become one of the most authoritative world bodies dealing with statistics and reports on pirate activities. The types of attack noted in their annual reports include incidents when merchant vessels are forcefully boarded, hijacked, and fired upon. Since the Bureau first started operations in the early 1990s, it has noted that in comparison to other places in the world, Southeast Asian waters are the most infested with pirates.⁵ The region's most dangerous areas include the Malacca Strait, the Gulf of Thailand as well as waters surrounding the Indonesian and Filipino archipelagos. In the last few years, however, these piracy hotspots have slowly shifted towards the South China Sea and its immediate waters.

In 1998, the IMB received 198 reports of pirate attacks throughout the world; 49 per cent (or 98 cases) took place in East Asian waters.⁶ A significant proportion of these attacks was specifically based in Southeast Asia. In aggregate terms, this is lower compared to 1997's statistics (105 cases). But when compared percentage-wise, 1998's figure is higher than the previous year's 46 per cent. Regional statistics

² Harry Miller, *Pirates of the Far East* (London: Robert Hale & Company, 1970), p. 16.

³ Tarling, p. 10.

⁴ Susan Robinson, "Murder and Rape on the High Seas: The World Is Not Interested...", *U.P.I.* (21 June 1982).

⁵ *Piracy and Armed Robbery Against Ships, Annual Report: 1st January - 31st December 1997* (Kuala Lumpur: ICC International Maritime Bureau, 1998), p. 2.

have not fluctuated dramatically in the last two years, yet they still indicate an overall increase since 1993 (75 cases).

These statistics indeed are cause for concern, but even more so are the increasing levels of intimidation and violence accompanying acts of piracy. During ship boarding, crewmen are usually beaten, gagged, blindfolded, tied up and sometimes murdered. Last year, 67 people were killed compared to 51 in 1997.⁷ The number of hostages has also jumped sharply over the past 5 years. While only 6 victims were taken hostage and 3 injured in 1993, 412 were taken hostage and 30 injured in 1997. Even though the majority of injuries and deaths is associated to incidents that occurred outside of Southeast Asian waters, the growing illicit small arms trade in the region indicates that the potential for greater violence is real.⁸ The IMB claims that pirates used small arms in 58 incidences in 1997; this represents a significant increase when compared to the 32 cases of armed attacks in 1996.⁹ The types of firearm used by pirates include machine guns, mortars, grenades and rockets launchers. The proliferation of small arms has provided easier access to such means of intimidation. In turn, this trend allows pirates to conduct their crimes with more ferocity and “effectiveness”.

Specifically regarding piracy in the South China Sea, the recent high rate of incidence started in 1993 when 27 attacks occurred exclusively in the Hainan-Luzon-

⁶ “Pirate Attacks up on Ships in Crisis-hit East Asia Last Year”, Deutsche Presse-Agentur (3 February 1999).

⁷ Jamie Wilson, “Rise in Number of Crew Killed by Far East Pirates”, The Guardian (London) (4 February 1999), p. 9.

⁸ Robert E. Bedeski, Andrew Andersen and Santo Darmosumarto, Small Arms Trade and Proliferation in East Asia: Southeast Asia and the Russian Far East (Working Paper No. 24) (Vancouver: Institute of International Relations, University of British Columbia, 1998).

Hong Kong (HLH) Triangle; moreover, there were 31 other attacks in surrounding waters. In total that year, piracy in the South China Sea represented over 56% of all reported occurrences worldwide.¹⁰ This is a significant statistic considering that the South China Sea makes up only a small portion of the world's oceans. Studies performed in the following years indicated fluctuating trends with the number of reports falling to 24 in 1994, yet rising again in 1995 with 54 cases. Interestingly, most of the attacks in 1995 occurred in waters near Hong Kong and Macao, only a year before Hong Kong was scheduled to return to China's control. Occurrences have decreased in the past few years (15 cases in 1996 and 16 in 1997).¹¹ Nonetheless, the South China Sea remains one of the world's most dangerous waters because of continued high level of violence during pirate attacks.

Decreasing figures could be attributed to a number of reasons. With growing awareness of the region's piracy problem, shipping companies have taken several measures to deter or repel attacks. This has mainly been conducted through using non-lethal weapons (such as water cannons) and following other precautionary instructions provided by the IMB and other maritime bodies.¹² Unfortunately, as ship boarding becomes more challenging, pirates have resorted to violence and terror. Decreasing statistics can also be credited to growing counter-piracy co-operation among Indonesia, Malaysia and Singapore.¹³ However, without China's participation, the suppression of pirate activities in the South China will remain difficult in the long

⁹ Piracy and Armed Robberies Against Ships: Annual Report, 1st January - 31st December 1997.

¹⁰ *ibid.*

¹¹ *ibid.*

¹² For example: *Marine Guidance Note No. 75: Piracy and Armed Robbery* (London: Department of the Environment, Transport and the Regions, 1998).

run. Without engaging in a close analysis, one can certainly be deceived by these statistical changes.

Moreover, it is concerning that low figures may have resulted from ship owners' reluctance to report incidents. When analysing statistics on piracy, one needs to take into account that real figures could be higher. In previous occasions, the IMB estimated that lack of reporting resulted in a half (or even a third) of the incidences becoming publicly known.¹⁴ However, having recently discovered serious discrepancies between IMB statistics and those provided by shipping companies and organisations, there is a growing belief that unreported incidences could be greater in number. Some experts on maritime issues are already claiming that actual occurrences could be up to eight times greater compared to those reported.¹⁵

Shipping companies often leave incidents unreported for several reasons. They try to avoid publicity about relatively minor losses for fear of deterring cargo owners from using their vessels. Some ship owners have already complained that the IMB is giving the region a "bad name" by publishing reports showing high incidences of piracy.¹⁶ They believe that these reports raise perceptions concerning the high risk involved in merchant shipping within and through Southeast Asia. This could potentially increase insurance rates, and in turn, elevate shipping companies' operation costs.¹⁷ There is also a fear that publicity raises the possibility of serious

¹³ "Co-operation Key to Combating Piracy", *Business Times* (Malaysia) (3 March 1999), p. 1.

¹⁴ Robert S. Redmond, "The Modern Pirate", *Contemporary Review*, 266/1553 (June 1995), p. 292.

¹⁵ P. Parameswaran, "Asia Calls for Global Code to Probe Under-reported Pirate Attacks", *Agence France Presse*, 3 February 1999.

¹⁶ Edward Ion, "Row Erupts over Asia Piracy", *Lloyds List* (9 December 1996).

¹⁷ "Marine Insurers Weigh Premium Rises for Piracy", *The Reuter Asia-Pacific Business Report* (13 January 1993).

reprisal attacks from pirates. Most importantly, however, ship owners leave pirate attacks unreported in order to avoid dealing with local police's inefficiency. Getting local security officials involved frequently results in cargo shipment falling behind schedule. Furthermore, firm action against pirates becomes difficult as investigations get tangled in bureaucracy and corruption. As a result, ship owners often believe that reporting pirate attacks can worsen matters instead of alleviating them.¹⁸

Although trends in piracy experienced a dip in 1998, this does not signify that figures will definitely be lower this year. If anything, reported cases since the beginning of the year show the usual pattern of high incidence. The piracy hotspots in Southeast Asia remain the same: the Indonesian archipelago and the South China Sea.¹⁹ Furthermore, the IMB has warned shipping companies that the region's economic woes would likely induce increasing number of attacks.²⁰ Bearing in mind the history of piracy in the region, it is not out of the ordinary that individuals affected by the economic crisis perceive these activities as an alternative solution to their problems. Presently, most governments' attention is being diverted away from efforts to fight piracy as matters concerning the economy have become more pressing.

B. Factors Influencing Sustenance and Growth of Piracy

Most Southeast Asian navies still lack appropriate equipment for carrying out *unilateral* action against pirates. Such inadequacies result from years of near-sighted planning, as regional governments have preferred to focus their armament and

¹⁸ Redmond, "The Modern Pirate", p. 292.

¹⁹ "Hijack Fears Grow as Two More Ships, Crew Vanish", South China Morning Post (10 March 1999), p. 6.

modernisation efforts on land forces. As a result, financial support for naval development programs has always been limited. Indonesia, Malaysia and the Philippines have tried to alleviate the problem through purchasing new vessels. The opening of the post-Cold War arms “bazaar” allowed them to procure weapons at rock-bottom prices.²¹ However, such shopping sprees have been held back by the economic crisis that presently clouds the region. The navies’ physical shortcomings obviously pose challenges to conducting counter-piracy operations, but countries still have the potential to perform these undertakings through regional co-operation.²² In theory, joint co-operation allows weaker navies to gain support from stronger ones; moreover, such efforts foster relations among sailors of different nationalities, in turn bolstering regional efforts to crush piracy.²³ Considering that pirates operate with the help of a trans-national support network, the success of anti-piracy measures will rely on the ability of governments to work co-operatively.

Unfortunately, efforts to increase co-ordination and commitment among Southeast Asian countries have been impeded by political issues. Historical animosities and territorial disputes continue to fuel resentment and distrust among governments. The rivalry becomes even more heated when concerns related to conflict over natural resources are factored into decision-making processes. Considering that most disputes involve maritime issues, countries are reluctant to

²⁰ Wilson, “Rise in Number of Crew Killed by Far East Pirates”, p. 9.

²¹ Bernard Cole, “Asia at Sea”, *Proceedings*, 123 (March 1997), pp. 36-39.

²² Tammy Arbuckle, “Scourge of Piracy Returns to Southeast Asia”, *Jane’s International Defense Review*, 29 (August 1996), pp. 28-29.

²³ Desmond Ball, *The Joint Patrol Vessel (JPV): A Regional Concept for Regional Cooperation* (Working Paper No. 303) (Canberra: Strategic & Defence Studies Centre, Australian National University, 1996), pp. 1-2, 11-12.

commit to any form of co-operative framework which could minimise territorial gains. Furthermore, with the absence of international courts, jurisdiction for piracy *jure gentium* has been delegated to state authorities; often, regulations dealing with pirate activities at the municipal or provincial levels are incompatible with international law.²⁴ The confusion worsens as rights of flag states are also taken into consideration. The inability to overcome such uncertainties (which is compounded by regional governments' reluctance to tackle sensitive sovereignty issues for fear of confrontation) has complicated counter-piracy action at the operational level. Pirates are quite well aware of this problem and they are quick to take advantage of the situation. After carrying out attacks, they often speed from one state's waters to another's knowing very well that patrol boats would not dare to follow them into neighbouring country's territory.²⁵

Policing trans-border activities also becomes difficult when pirates easily find support ashore for fencing loot and laundering cash. Small ports and villages scattered around the Asia-Pacific waters have historically provided hiding and networking sites for pirates.²⁶ To complicate things further, custom and security officials in China, Indonesia and the Philippines – especially those in charge of remote areas – are known to facilitate such dealings.²⁷ As one analysis notes, “in places where rich pickings are more easily realised at sea or in harbour than on land...

²⁴ Michael Pugh and Frank Gregory, “Maritime Constabulary Roles for Non-military Security”, in Michael Pugh, ed., Maritime Security and Peacekeeping: A Framework for United Nations Operations (Manchester: Manchester University Press, 1994), p. 82.

²⁵ Arbuckle, “Scourge of Piracy Returns to Southeast Asia”, p. 26.

²⁶ Miller, Pirates of the Far East, p. 14.

²⁷ “Local Officials in Southern China Linked to Piracy”, The Strait Times (Singapore) (1 February 1998), p. 4.

piracy has supplemented meagre incomes”.²⁸ With the region’s present economic difficulties, one can only imagine the effect that this situation has in further luring people into becoming involved in such activities.

Piracy’s growth can also be attributed to the region’s maritime geography. Hidden bays, coral reefs, shallow waters, narrow channels and thousands of small islands dominate the physical features of these waters. As mentioned earlier, these features provide pirates with appropriate settings for hiding, setting up traps, fencing loot and laundering cash.²⁹ The South China Sea is considerably vast, yet the abundance of coral reefs constricts the movement of large vessels and forces them to sail through shallow and narrow sea-lanes.²⁹ This is highly problematic considering that the majority of these ships are large cargo vessels and oil tankers. As the region’s economy prospers, the increasing amount of offshore oilrigs and maritime traffic will certainly further limit ship manoeuvrability in the area. As a result, merchant ships will become more vulnerable to pirate attacks, which are often carried out using small, fast speedboats.

C. Security Implications of Piracy

Piracy is often identified as a non-traditional (or unconventional) security concern because it mainly involves the activities of non-military elements. Although it is generally viewed as a nuisance instead of a genuine security threat, such a concern could potentially disturb regional tranquillity and peace.³⁰ In the short term,

²⁸ Pugh and Gregory, “Maritime Constabulary Roles for Non-military Security”, p. 81.

²⁹ Swinnerton, “Piracy in East Asia: Trends and Counter-Measures”, pp. 6-7.

³⁰ Robert E. Bedeski, Unconventional Security Threats: An Overview (NPCSD Working Paper 11) (Ottawa: NPCSD, 1992), p. 1.

piracy does not necessarily affect overall living conditions in a particular state. However, when such activities are sustained for a long period and allowed to intensify, they will pose tremendous difficulties for governments' ability to maintain peace and stability as well as enhance their peoples' livelihood.

Bearing in mind pirate activities' increasingly intricate network of support (often involving corrupt officials and people ashore), the phenomenon can no longer be treated simply as random, small-scale sea muggings. To claim that all pirate attacks involve some sort of high-level organisation is an overstatement; however, recent attacks in the South China Sea suggest that some of them may have been masterminded by trans-national crime syndicates.³¹ Piracy will continue to grow as long as there is profit to be made. The implications of these activities will certainly disrupt states' governing ability in the long run.

The rising level of violence related to pirate attacks has emphasised the need to address the problem as a threat to individual security. IMB executive director, Eric Ellen, claims that "modern piracy is violent, bloody and ruthless; it is made all the more fearsome because its victims know they are alone and defenceless".³² In the past, ship crews were simply afraid of being robbed by pirates, but now their lives are under more serious dangers. Merchant ships become more vulnerable to high seas robberies as pirates have lately increased the lethality of their means of intimidation. Any effort to deter or prevent pirates from boarding ships risks the possibility of

³¹ Damien McElroy, "Pirates in China Are Getting Away with Murder", The Scotsman (18 March 1999), p. 10.

³² "Pirates Killed more Than 50 Seafarers in 1997", AAP Newsfeed (20 January 1998).

gunfire retaliation. If trends remain unchanged, more seamen are bound to lose their lives during such attacks.

Occurrences of piracy also present serious obstructions to regular economic activities. The South China Sea is highly trafficked by ships connecting the region with the rest of the world. These sea-lanes of communication (SLOCs) are the lifelines of regional economies as well as a major channel for trade between Europe, the Middle East, Northeast Asia and the Americas. [See Figure 2] Piracy's rising figures and violence would hamper the movement of shipping vessels and increase the cost of conducting trade – for example, in the form of higher insurance cost and additional expenses for re-routing ships.³³ Some shipping companies have already begun to chart alternative routes avoiding the pirate-infested waters of Southeast Asia.³⁴ Even though the negative economic effects of piracy may not be apparent now, their long-term impact is reason enough to become involved in preventative and counter measures. Countries such as Singapore will suffer economically if shipping and trade through the South China Sea are continuously interrupted by pirate activities.

In addition to posing a threat to individual and economic security, piracy could also cause environmental disasters. During an attack, a victim ship often drifts out of control while its crewmembers are tied up; in one recorded incident, a ship was

³³ Eric Ellen, "Bringing Piracy to Account", *Jane's Navy International*, Volume 102, Number 3, April 1997, p. 29; "Insurance for Piracy on Offer", *South China Morning Post* (5 April 1999), p. 1.

³⁴ *Japanese companies are currently figuring out the feasibility of a "Northern Route" to Europe, through Siberia.* P. Parameswaran, "Maritime Experts Set out for Talks on Battling Rising Piracy", *Agence France Presse* (2 February 1999).

left uncontrolled for nearly 70 minutes after pirates left the crew tied up.³⁵ Considering the South China Sea's aforementioned geographic features and high traffic volume, the potential is high for unmanned ships to cause serious accidents.³⁶ Groundings or collisions involving oil tankers and/or offshore oilrigs could cause a spill and, in turn, threaten the marine environment. Apart from the pollution consequences, the waters affected would have to be closed to shipping and fishing for a considerable amount of time. Such a tragedy has not yet occurred, but if measures are not taken to alleviate the problem, it is a very real possibility. These concerns have always existed, but they have become intensified lately as piracy trends increase, its security impact more felt, and economic prosperity becomes more dependent on the safety of regional waters.

D. Chinese Piracy in the South China Sea

The significance of piracy's security concerns is magnified when one observes that a considerable amount of activity involves Chinese nationals, and in particular, China's naval forces. On January 27, 1994, a Chinese patrol boat near the Hong Kong-Luzon-Hainan triangle stopped the *Alicia Star*, a Panamanian-registered freighter. The interception occurred while the merchant vessel was sailing more than 500 kilometres away from China's mainland. The freighter was forced to sail into a Chinese port where it was detained for a week and its cargo of cigarettes

³⁵ P. Parameswaran, "Surging Piracy Violence Poses Huge Oil Spill Danger, Experts Say", Agence France Presse (4 February 1999).

³⁶ "Diplomacy, Vigilance Needed as Piracy Gets More Violent", Business Times (Singapore) (28 January 1998), p. 1.

confiscated.³⁷ Beijing claimed that this had been a regular anti-smuggling routine. However, questions were raised regarding the legitimacy of this operation considering that it took place well beyond China's territorial waters, which only extend 19 kilometres from its coastline. As soon as news spread, speculations emerged within the region. Had this been part of an overzealous anti-smuggling campaign? Had rogue provincial security forces engaged in piracy to make money on the side? Or, had the hijacking of the *Alicia Star* been a deliberate Chinese exercise in extra-territorial sovereignty?

The *Alicia Star*'s interception was one of the first highly publicised cases of seizures committed by Chinese security forces in international waters; since then similar types of incident have been reported. In the following year, two other similar incidents occurred near the Gulf of Thailand on the South China Sea. On June 23, the *Hye Mieko* was nabbed by a patrol boat and escorted to the southern Chinese port of Shanwei. The vessel was detained for several weeks and its cargo also unloaded. Moreover, its crewmembers were coerced into signing documents admitting that they had been involved in a smuggling venture.³⁸ Three months earlier, another vessel of the same shipping company, the *Hye Prosperity*, had also suffered a similar fate. Shanwei port officials claimed that the two boats were intercepted after they had "veered off course and entered [Chinese] territory"³⁹; this claim is unfounded as both the *Hye Mieko* and *Hye Prosperity* were seized more than 2,000 kilometres off the Chinese coastline.

³⁷ "Gunboat Diplomacy", *Far Eastern Economic Review*, 157/24 (16 June 1994), p. 22.

³⁸ "Pirates or Police?", *Far Eastern Economic Review*, 158/28 (13 July 1995), p. 25.

The following year, the IMB received numerous reports regarding attempted hijackings by vessels resembling Chinese patrol boats. Such suspicions arose because the pirate ships were usually painted dark grey, equipped with radar systems and carried uniformed men.⁴⁰ The merchant vessels' crew was often unable to verify if the attackers were Chinese. There is indeed a possibility that the pirates were simply posing as security officials. However, in at least one case, the Panamanian carrier "Cosmobil Ace" was fired upon and boarded by Chinese security officials; they released the carrier after finding out that it was not carrying anything of significant market value.⁴¹ Like most of the other incidences, the attack on the "Cosmobil Ace" occurred in the HLH Triangle.

Similar kinds of attack also took place in 1997. While underway in the South China Sea, the Cambodian merchant vessel "Anabas" was boarded by armed men in uniform and escorted to a port in Guangdong. During detention, the vessel's cargo was unloaded before it was then allowed to sail again. The same experience happened to the Indonesian carrier "Asian Friendship", which was intercepted by Chinese security officials just outside of the HLH Triangle.⁴² However, the incidence that made media headlines and raised the loudest alarm among IMB officials was the hijacking of the Singapore flagged container ship "Vosa Carrier". On its way from Hong Kong to Haiphong, it was stopped by a fast patrol boat carrying 12 men camouflaged in battle fatigues and armed with M-16 machine guns. The ship was

³⁹ *ibid.*

⁴⁰ Piracy: Annual Report, 1st January - 31st December, 1996 (Kuala Lumpur: IMB Regional Piracy Centre, 1997).

⁴¹ *ibid.*

⁴² Piracy and Armed Robberies Against Ships: Annual Report, 1st January - 31st December 1997.

ransacked and its cargo (worth close to HK\$ 20 million) unloaded at a small port in Shantou. Similar to events during the seizure of the Hye Mieko, Vosa Carrier's crew were also beaten up and intimidated into signing a document saying that they had attempted to smuggle goods into China. The crew was released only a month later after the shipping company paid a US\$ 100,000 fine to the local police.⁴³

Last year, cases similar to those described above were lower in numbers. However, this type of attack remains one of the distinguishing features dominating piracy trends in Southeast Asia, and specifically, the South China Sea. A recent media report claims that the British government continues to put out warning against high occurrences of piracy involving corrupt military units and state officials.⁴⁴ To complicate matters, Chinese naval vessels no longer conduct this kind of piracy exclusively. Increasingly private individuals are dressing up as Chinese security officials and imitating the latter's anti-smuggling tactics in order to intercept merchant ships within and beyond China's territorial waters.⁴⁵ All things considered, Chinese nationals' involvement in piracy – as well as other activities related to it – remains considerably high.

Governments and shipping bodies have criticised heavily China's inability (or probable reluctance) to control its naval security forces and suppress pirate activities.⁴⁶ Beijing has responded by claiming that these actions had been either

⁴³ Felix Soh, "Local Officials in Southern China Linked to Piracy", The Strait Times (Singapore) (1 February 1998), p. 4.

⁴⁴ Peter Goodspeed, "Modern Buccaneers Replace Swords with Guns on High Seas", National Post (3 February 1999), p. A-11.

⁴⁵ "Chinese Coastal Province Warns Seamen Against Fake Police", Agence France Presse (28 January 1999).

⁴⁶ "Reports Claim China Ignoring Piracy", U.P.I. (9 March 1994).

overzealous (but legal) anti-smuggling operations or activities of criminals posing as Chinese security officials.⁴⁷ Re-occurring incidences seemingly indicate that the central government has not engaged in any serious measure to accommodate the region's pleas as well as to fulfil its obligation as a maritime state. More importantly, because of the distance which these patrol vessels had travelled to conduct their "anti-smuggling operations", fears were growing that China was slowly expanding its reach in the South China Sea. Such a view correlates with the increasing perception within many academic, government and media circles that China is the region's upcoming security menace.⁴⁸

Factors contributing to the growth of Chinese piracy are similar to those associated with regional piracy in general. Considering the heavy volume of merchant traffic that passes through the South China Sea, piracy is a highly profitable activity. In particular, as China's economy grows and opens to the international market, trade and shipping volumes will likely rise. This provides a greater lure for people to engage in piracy as a means to making money. As in other countries, a strong on-shore support network, which has been established through years of collusion with customs, port and security officials, abets the activities of Chinese pirates. Despite the government's continuous campaign against corruption, low wages force public servants to partake in illicit activities simply for self-sustenance purposes.

⁴⁷ *ibid.*

⁴⁸ *There are many western publications endorsing the "China threat" perspective, for example: Richard Bernstein and Ross Munro, The Coming Conflict with China (New York: Alfred A. Knopf, 1997).*

In addition to the above conditions, there are other factors particular to the Chinese case. These mostly relate to activities that are carried out using military equipment. With the PLA's growing ability to purchase weapons, the navy has enjoyed a much needed modernisation program, which in turn, has made the PLAN one of the strongest navies in the region.⁴⁹ Its power projecting potential in the South China Sea is rapidly dwarfing that of most Southeast Asian navies.⁵⁰ Chinese patrol boat captains are "becoming more bold each day because their operations are being conducted from warships and gunboats which are well equipped".⁵¹ Furthermore, the acquisition of new equipment has resulted in an inventory surplus. Considering the high levels of corruption among state officials, there is now more opportunity for private individuals to obtain military specified vessels. The increasing number of pirate boats disguised as Chinese naval vessels can logically be attributed to this condition.

With the involvement of both state and non-state actors, efforts to understand the significance of Chinese piracy's growing trends can be confounded. As well, such uncertainties have posed tremendous difficulties to regional governments addressing the problem. A more in-depth analysis of the Chinese piracy phenomenon requires that it not be identified as a homogenous phenomenon. The involvement of Chinese nationals in pirate activities can be classified into three categories:

⁴⁹ *This point will be further elaborated in Chapter Five: China and Territorial Dispute in the South China Sea.*

⁵⁰ Luz Baguioro, "Pirates Rob Cargo Ship Crew in Manila Harbour", The Strait Times (Singapore) (18 October 1997), p. 42.

⁵¹ Arthur Richards, "Chinese Warships Rule the Waves of Piracy in South China Sea", Deutsche Presse-Agentur (20 July 1995).

- a) naval vessels whose operation is sanctioned by the state (e.g. the PLAN's aggressive anti-smuggling measures;
- b) corrupt officials using state naval vessels; and
- c) private Chinese citizens, often posing as state officials.

These classifications provide a glimpse of the complexities that surround the issue. Nevertheless, they should not be treated as rigid structures. The media has frequently overlooked subtle characteristics that differentiate each category of piracy; yet, their differences are crucial for understanding and addressing the problem comprehensively. The need for these distinctions will become more apparent later in this study.

Regarding the first type of piracy, Beijing argues that its navy's anti-smuggling operations are legitimate. However, these actions occur well beyond China's territorial waters, thus raising important concerns about territorial jurisdiction. Can the Chinese be allowed to exercise their rights as a sovereign state (i.e. enforcing anti-smuggling laws) beyond their borders? Continuations of this study's discussion will offer an analysis of this question. In laying the foundation for such an analysis, the PLAN's overzealous counter-smuggling measures needs to be viewed as a form of piracy. Despite China's reasoning for intercepting these merchant vessels, the IMB frequently refutes the claim that they were involved in smuggling.⁵² The fact that shipping companies made such incidents known to the public is indicative of their innocence. No matter how the Chinese government attempts to disguise it, the confiscation of cargo still represents an act of high-seas robbery. Furthermore, it is important to note that personal violence and intimidation

often accompany these raids. According to Chapter Two's definition, robbery, violence and the high seas constitute some of maritime piracy' characteristics.

The second type of piracy also involves Chinese government agencies with the difference that such activities are not recognised by the state. Pirate attacks are often part of larger schemes by corrupt officials or patrol boat captains – they often result from the state's inadequate control of the military. Given the extensive organisational network and hierarchy within the People's Liberation Army Navy (PLAN), there is a strong possibility for piracy to be conducted by local naval units (in collusion with customs and port officials) who are beyond the centre's authority and are a law unto themselves.⁵³ Beijing recognises this possibility and distinguishes these activities from the PLAN's anti-smuggling campaign by labelling the former as actions of "rogue elements of customs and public security forces".⁵⁴ In doing so, the central government officially relinquishes responsibility for these individuals' actions. Such a claim can be easily stated; yet in reality, identifying which naval vessel operates within the centre's authority is less obvious than it appears. Furthermore, this situation does not necessarily relieve China from fulfilling its obligation as a maritime state in suppressing piracy.

Differing from the first two types of Chinese piracy, non-state actors perform the third. Beijing frequently comments that pirate attacks are often carried out by people disguising themselves as Chinese security officials.⁵⁵ With the increasing

⁵² "Petro Ranger Not Involved in Smuggling", *New Straits Times* (Malaysia) (6 November 1998), p. 16.

⁵³ Soh, "Local Officials in Southern China Linked to Piracy", p. 4.

⁵⁴ "Gunboat Diplomacy", p. 23.

⁵⁵ *ibid.*

availability of speed boats and the proliferation of small arms in the region, posing as state officials is no longer a difficult feat for these individuals. They usually imitate the Chinese navy's counter-smuggling tactics to commit their crimes.⁵⁶ Moreover, the sustenance of such activities reveals that they are supported by a strong organisational network on-shore. Several cases are on record where organised crime syndicates have masterminded attacks as part of more elaborate schemes. According to one report, these activities are often "run locally – without the money going to the centre – by entrepreneurs or warlords".⁵⁷

The involvement of Chinese individuals is not restricted to offshore activities only. Although Chinese nationals sometimes do not participate in the actual hijacking of merchant vessels, their role within the supporting network on-shore is crucial.⁵⁸ Considering that modern piracy no longer consists of individuals roaming the seas in search of victims, many South China Sea pirates effectively use southern Chinese ports as bases for their operation. Furthermore, national and international regulations against piracy are often interpreted loosely by security officials in this region. The IMB has constantly criticised the manner in which suspected pirates have often been released without facing trial. The Bureau's director even claimed that "China is the one country that lets pirates go".⁵⁹ According to one report this year, 12 Indonesians were set free although they had been caught red-handed while

⁵⁶ "Hot Pursuit", *Far Eastern Economic Review*, 157/24 (16 June 1994), pp. 26-28.

⁵⁷ "Pirates or Police?", p. 25.

⁵⁸ P. Parameswaran, "China Attacked for Paying Lip Service to Combating Sea Piracy", *Agence France Presse* (3 February 1999).

⁵⁹ Glenn Schloss, "Outcry over Releases as Piracy Suspects Held", *South China Morning Post* (21 February 1999), p. 1.

hijacking an oil tanker at machete point.⁶⁰ While in another report, a few individuals, who had been released by Chinese officials four years ago, were recently held for murdering crew members of another hijacked ship.⁶¹ Having observed trends in the last few years, it seems unlikely that these pirates will be found guilty. As part of China's anti-corruption drive, Beijing has ordered severe punishment against such illegal dealings.⁶² However, the scope and implementation of such directives have been limited; moreover, they do not address directly the problem of piracy.⁶³

Maritime piracy involving Chinese actors undoubtedly pose the same security threat as those committed by others; these activities endanger the safety of merchant shipping and jeopardise the region's economy indirectly. Yet, the fact that some of these incidences involve state elements adds another dimension to such activities' implications. Factors related to political concerns have to be taken into consideration. Unlike most occurrences of piracy around the world, the Chinese case can no longer be viewed simply as criminal activities. The phenomenon of Chinese piracy is not wholly new; however, recent high trends are happening at the same time that China is aggressively expanding its reach in the South China Sea. To conclude that these events are coincidental would be inconclusive or even somewhat naive.

Therefore, how can this situation be explained? As mentioned previously, there is a possible answer to this question; it is one that has become popular in the past few years. Through manipulating pirate activities – especially those committed

⁶⁰ *ibid.*

⁶¹ "China Arrests Gang over Murders of 23 Chinese Sailors in Ship Hijack", *Agence France Presse* (4 March 1999).

⁶² "Time to Crush Piracy", *South China Morning Post* (21 February 1999), p. 8.

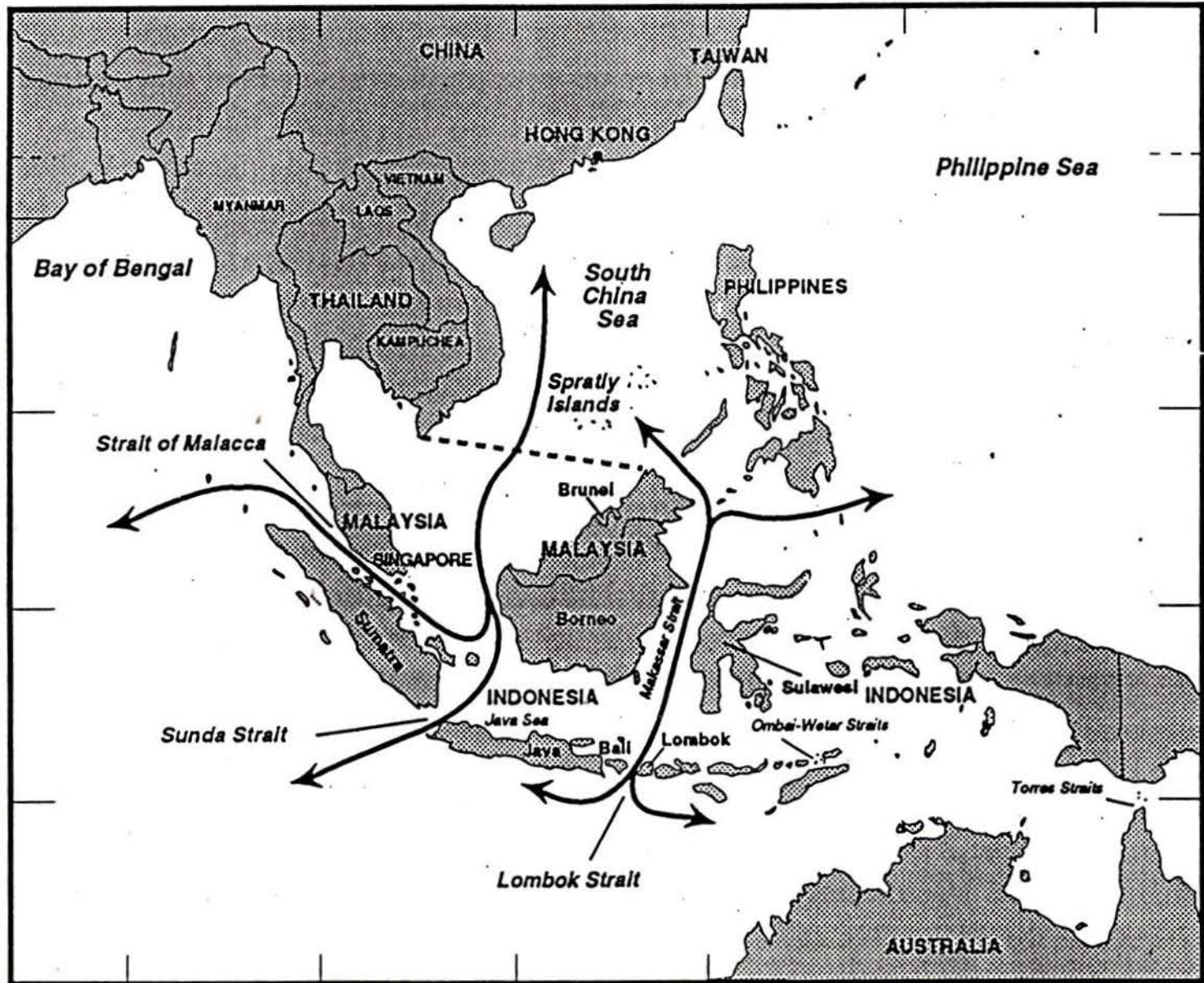
by its nationals – China is steadily extending its influence in the South China Sea. This strategy allows China to increase its presence in the disputed area, thus establishing *de facto* territoriality. Such a point of view has frequently been expressed among academic and media circles⁶⁴; however, it has neither been followed up nor strengthened with significant research and analysis. The continuations of this study will attempt to take on this task.

In order to pursue the claim that Beijing is taking advantage of piracy in the South China Sea, one needs to examine beforehand the relationship between maritime expansion and piracy from a historical perspective. A discussion surrounding this issue is important as it provides a precedent, from which a theory can be derived linking state conduct and non-state violence. In turn, a contemporary interpretation of the theory could produce a sound explanation for Chinese piracy in the South China Sea. Such a discussion further develops the building blocks necessary to prove this study's hypothesis.

⁶³ "Anti-piracy Body in Malaysia Slams China for Inaction over Attacks", *Deutsche Presse-Agentur* (3 February 1998).

⁶⁴ Consult references used in this chapter especially "Gunboat Diplomacy", p. 23; "Hot Pursuit", pp. 26-28; "Pirates or Police?", p. 25; Arbuckle, "Scourge of Piracy Returns to Southeast Asia", p. 26.

Figure 2. *Trading Lanes in the South China Sea and Surrounding Waters*
(Source: Noer with Gregory, *Chokepoints: Maritime Economic Concerns in Southeast Asia*.)



Chapter Four: **Piracy and Territorial Expansion**

Chinese involvement in piracy has provoked ideas linking this condition and Beijing's efforts to extend influence in the South China Sea. This view mainly derives from contemporarily interpreting historical analyses of relations between pirates and states. The activities of non-state actors, especially those related to violence, have often been subject to manipulation by the state for the latter's benefit. Such a strategy predominated state-building processes in the past. Sovereigns often legitimised non-state conduct – which had previously been considered “unlawful” – so long as it supported or concurred with state policies and ambitions. With specific regards to piracy, the state enhanced its ability to extend maritime jurisdiction through adopting strategies closely related to this phenomenon. At times, it employed pirates as privateers and commissioned them to attack enemy commerce and territory. Later on, however, as domestic and geopolitical conditions changed, the state turned its back against these pirates and adopted drastic measures to crush their activities.

This chapter will provide an analysis illustrating the above conditions. The discussion will fundamentally be based on state policies and practices during early modern Europe (between the sixteenth and nineteenth centuries). Despite relying on European cases as a major source of reference, this approach provides the basis for a more general theory linking state conduct and non-state violence. It offers a historical precedence demonstrating the manipulation of pirate activities for state building and consolidation purposes. Therefore, this exercise will certainly be relevant to

achieving a greater understanding of conditions that surround Chinese involvement in South China Sea piracy.

A. Non-state Actors and Territorial Expansion

At the turn of the thirteenth century, Great Britain officially commissioned privateers to disrupt France's maritime trade.¹ This event marked the beginning of officially commissioned non-state violence in the era of modern statehood. Since then, non-state means of violence were regularly used as a method to implement state policy. The employment of mercenaries and privateers became a common feature in European state-building and consolidation processes. Large-scale private armies dominated inter-state conflicts until the late eighteenth century. Although the phenomenon occurs less nowadays, mercenary groups and maritime privateers remain in existence throughout the world.

The employment of non-state means of violence primarily resulted from a breakdown in the "feudal system of military mobilisation".² Having just built structures of modern statehood, sovereigns were facing financial and resource difficulties in securing a permanent military power. As a result, non-state actors were viewed as suitable means to providing a temporary substitute and assisting the process of territorial consolidation. The commissioning of mercantile companies, mercenaries and privateers reflected an effort by newly developed states to overcome economic, political and military constraints on attaining such goals.³

¹ Thomson, Mercenaries, Pirates and Sovereigns, p. 41.

² ibid.

³ ibid., p. 21.

Although this strategy somewhat succeeded in enhancing state-building processes, it also generated a host of problems; the proliferation of non-state violence became excessive. Privateers often interrupted commissioning states' commerce by indiscriminately attacking merchant vessels. In Great Britain's case, trade with India – which was the sovereign's main source of finance – suffered severely from British privateers' belligerent actions.⁴ This prompted Great Britain and other concerned states to move against these people. Through a piece-meal process, privateering was de-legitimised, thus rendering any private individual involved in maritime violence as a pirate. Because of the criminality attributed to the label "pirate", efforts to crush non-state maritime violence gained significant public support. Heroic images of the "patriotic pirate", which had emerged during the glory days of privateering, were broken down. Furthermore, with the gradual elimination of piracy and privateering, state utilisation of filibusters, mercenary soldiers and mercantile companies also diminished. As one analyst points out:

The campaign against [non-state violence] was preceded by a change in the state's attitude from one which individual violence was an exploitable resource to one in which it was a practice to be eliminated.⁵

The abolition of privateering, which was then followed by increasing counter-piracy measures, shows a continuum in European states' manipulation of non-state violence as a means to consolidating power and extending territoriality. Fighting piracy was often used as a pretext for deploying naval vessels to areas in which Europe had colonial interests. These policies gave legitimacy for the state to exert

⁴ Lydon, *Pirates, Privateers and Profits*, p. ?

⁵ Thomson, *Mercenaries, Pirates and Sovereigns*, p. 108.

influence over local leaders; this, in turn, strengthened the building blocks for a successful colonisation process. The decline of mercenarism and filibustering did not take on similar reasoning, yet they happened almost in concurrence with events leading to the de-legitimising of privateering and criminalising of piracy. The trend reversal took place because states were becoming wealthy and strong enough to develop political structures and permanent means of violence (the military); they became capable of assuming duties previously performed by non-state actors. The paradoxical policy of encouraging and prohibiting non-state violence conveniently benefited state-building processes for it provided the state with an instrument to expand and consolidate territorial and political influence

Piracy, Privateering and Territoriality

As described in Chapter Two, privateers can be understood as “legally commissioned sea raiders”, who “range the seas in search of wealth, but who at the same time perform important services for the country”.⁶ Although both privateering and piracy are manned and outfitted by private initiatives, the former is distinct in that its activities are backed by a government license. Therefore, privateers theoretically do not (or to be more precise, should not) attack commissioning states’ merchant vessels. However, as the following discussion will reveal, this arrangement was frequently breached.

An analysis of early modern Europe demonstrates that a common relationship existed among the state, privateers and pirates. In the beginning, privateering was strictly a wartime practice, but it later flourished indiscriminately, especially as

colonial governors used their commissioning powers to supplement low salaries.⁷ Unable to command resources for the maintenance of a sizeable permanent navy, states depended on privately owned vessels to attack enemy commerce and territory. In some cases, privateering became the basis of state naval development. Privateers such as Francis Drake and William Raleigh helped Great Britain gain maritime superiority over the Spanish armada. In the Caribbean, Henry Morgan provided the means for British domination over Jamaica, its surrounding territory and the region's commerce in general. Based on these figures, the myth of "patriotic piracy" grew:

British pirates brought revenue to the sovereign, public officials, and private investors, weakened enemies..., [and] the most successful of [them] were knighted and/or given important posts in the Royal Navy or British Admiralty.⁸

European states needed a standing navy for the purpose of extending extra-territorial jurisdiction. They found that commissioning privateers was beneficial in providing them with the means to achieve such ambitious military goals. In addition to being financially less burdensome, such a strategy gave the state a significant amount of freedom without assuming great responsibilities in return.⁹ Despite the political motives underlying acts of privateering, sponsoring states often pretended that they had nothing to do with conflicts involving these activities. Piracy and privateering were given a wink and a nod, thereby allowing the state to claim a share in successful efforts or to deny accountability for those producing negative results.

⁶ Lydon, *Pirates, Privateers and Profits*, p. 25.

⁷ *ibid.*, p. 26.

⁸ Thomson, *Mercenaries, Pirates and Sovereigns*, pp. 107-108.

⁹ *ibid.*, p. 43.

Consequently, neither states nor people could be certain of which practices were backed by the state and which were not.¹⁰

State sponsored piracy (i.e. privateering) remained prevalent so long as states enjoyed the advantages of employing non-state means of violence. However, trends were reversed as such practices became uncontrollable and began to disrupt many states' commercial dealings. Ironically, those affected by indiscriminate attacks were often the same states that had on occasion commissioned privateers. Moreover, the development of state navies rendered the services of privateers no longer crucial for carrying out extra-territorial expansion and consolidation. The undetermined terms of relationship between the state and pirates/privateers provided the former with a simple way out of this dilemma; the state conveniently turned against its former tools of power and launched systematic efforts to eradicate non-state violence from the world's oceans.

Counter-piracy and Territoriality

By the turn of the eighteenth century, suppression of piracy became many European navies' primary *raison d'être*. Counter-piracy measures were adopted to deal not only with local pirates (e.g. Mediterranean corsairs), but also those causing problems in distant colonies. Such policies often posed a major strain on state treasuries and military capabilities, yet they were sustained (and later on, expanded) because of their ulterior importance. Beefed up of naval forces provided states with the means to securing colonies more effectively. As a result, deploying battle ships to newly acquired spheres of influence became a prevalent policy among European sovereigns.

¹⁰ *ibid.*, pp. 43-44.

While piracy and privateering had benefited European states' territorial ambitions throughout the sixteenth and seventeenth centuries, these states manipulated the suppression of such activities for similar purposes by the beginning of the eighteenth century.

The spreading of Great Britain's influence in Southeast Asia owed greatly to its counter-piracy policy.¹¹ Although the Royal Navy's presence may have been justifiable, the British manipulated the piracy issue effectively to exert influence over the Malay aristocracy. The number of piracy cases and their importance within Great Britain's national security were often exaggerated. The term "piracy" was used to define several types of criminal activities at sea and on land; thus, British authorities would frequently move against actions that were beyond the commonly understood definition of "piracy".¹² The suppression of piracy was used as "an excuse for political manoeuvres in pursuit of basically unrelated policies".¹³ Great Britain needed to establish control over Malaya and its surrounding waters for economic, political and strategic reasons. Counter-piracy policies provided the British with a morally sound pretext to achieve these goals.

In order to stress the importance of suppressing Malay pirates, Great Britain adopted the Treaty of 1824, which re-affirmed the need to protect British maritime commerce. In the following two decades, this treaty would become the basis for Great Britain's jurisdictional consolidation over the Malay world. Such intensified policies were in part attributed to the high incidence of piracy in the region.

¹¹ Tarling, *Piracy and Politics in the Malay World*, p. 19.

¹² *This claim is based on the definition provided earlier in Chapter Two: Defining "Piracy".*

However, factors related to European colonisation were considerably consequential as well. Policymakers at home continuously assumed that piracy in Southeast Asia required more attention than the local British authorities were willing to admit. The predominant view from London was that “the predatory habits of the Malays can only be eradicated by the subjection of the various tribes to the restraint of a strong internal government”¹⁴, which in turn was to be manipulated by the British. Interestingly, piracy committed by the Malays was mainly directed against Cochin-Chinese topes¹⁵, thus suggesting that threats to British commerce were often inflated in actuality.

Increased anti-piracy measures gave Great Britain additional reasons to strengthen its naval potential in Southeast Asia. Large steamer gunboats and warships were brought to the region in order to suppress Malay pirates, who mostly used sampans.¹⁶ This strategy was not seen as a waste of resources because it gave the British the means to control Malaya and its surrounding waters as well as to impede other European states’ colonising efforts in the region. Great Britain’s maritime dominance played an important role in ensuring the success of British imperialism. Its influence in the region maintained strong throughout the 1800s and was diminished only by the Japanese with the onset of the Second World War. It is interesting to observe that while the encouragement of piracy aided colonialism in the Caribbean, such activities’ prohibition benefited Great Britain similarly in Southeast Asia.

¹³ Tarling, p. 13.

¹⁴ *ibid.*, pp. 211-212.

¹⁵ *ibid.*, p. 208.

¹⁶ Miller, Pirates of the Far East, pp. 13-14.

The manipulation of counter-piracy policies is not exclusive to Great Britain and other European colonial powers. Almost four centuries earlier, China's Ming dynasty had exercised a similar strategy to establish influence over the Malacca Strait and the South China Sea.¹⁷ The high incidence of piracy around Palembang (southern Sumatra) forced the Ming's Yong Le Emperor to send his navy, led by the famous Admiral Zheng He, to the area. The admiral's fleet of large war vessels crushed the Palembang pirates with much difficulty. Although this move was mostly meant to keep China's trade routes safe, it also provided a means to exert political goals.¹⁸ Despite experiencing problems against the Mongols in Inner Asia, Ming China wanted to establish influence over regional waters. Using the pretext of suppressing piracy, the Chinese supported the Malaccan Kingdom's growth on the Malay Peninsula. In return, China secured itself a tributary state, which was expected to become the extension of its dominance in the region. Although China's maritime supremacy did not last long, its scope of reach once included important trading routes in the Indian Ocean (as far as East Africa) and the China Seas (Japan, Korea and the Malay peninsula and archipelago).¹⁹

In spite of straining state resources (money, raw materials and manpower), counter-piracy policies provided a sound reason for strengthening naval power. In

¹⁷ Louise Levathes, *When China Ruled the Seas: The Treasure Fleet of the Dragon Throne, 1405-1433* (New York: Oxford University Press, 1994), pp. 98-107.

¹⁸ *It should be noted that the motives of Ming's naval development continue to be debated by contemporary China experts. One argument claims that the Yong Le Emperor intended on opening China's trade to the world. While another claims that the Ming Armada's voyages were merely for "show" and aimed at acquiring exotic gifts for the Imperial court. In any case, the Chinese succeeded in establishing influence and respect in Southeast Asia. Evidence of this can be seen in remnants of structures (temples, statues, tablets) scattered around the region indicating their once extensive*

turn, the suppression of piracy provided states with an excuse to expand and consolidate influence beyond their immediate borders. Although most states implemented their policies openly claiming security issues, their underlying political and economic ambitions were actually the driving force for such expensive missions. These historical accounts suggest the plausibility of similar strategies being used in present day territorial politics among states.

B. Then and Now

The preceding discussion does not suggest that all past and present forms of piracy can be connected to practices of statehood. Chapter Two outlined that piracy is primarily a private activity; thus, it is theoretically free from state goals. The spoils of plundering are most often the pirates' private gains, and not those of the state. Nonetheless, this chapter argues that such a viewpoint is an oversimplification because relations between pirates and states have never been entirely obvious. In the past, the distinction between state and non-state violence was blurred (sometimes intentionally) for the advantages of both sides. Although states usually gained the most from this arrangement, the pirates were never left completely at a loss either. As privateers, European pirates terrorised the world's oceans and lived through the most glorious period of this old profession. From this historical account, one can hypothesise that states have always found ways to manipulate the activities of non-state actors for the benefit of consolidating the former's power and territoriality. In

maritime reach. Edward L. Dreyer, Early Ming China: A Political History 1355-1435 (Stanford: Stanford University Press, 1982); Levathes, pp. 107-135.

¹⁹ Levathes, p. 142.

turn, this argument can be used as a framework to analyse contemporary factors concerning relations between the state and maritime forms of non-state violence.

Even though this chapter is based mostly on the early modern European experience, its general theme remains relevant to understanding contemporary pirate activities in other parts of the world, including those involving the Chinese in the South China Sea. Considering Beijing's interests in these waters, there is a potential connection between Chinese piracy and China's expansionist ambitions. Conditions surrounding territorial disputes in these waters differ from those which encouraged the manipulation of pirate activities in the past. Yet, in conducting practices similar to those employed by colonial Great Britain, the Chinese government appears to be performing a delicate balancing act between encouraging and prohibiting piracy. In accordance with historical precedent, pirate activities are once again being used as an instrument of the state.

Before carrying on with the above argument and proceeding with the study in general, there are two important questions that need to be addressed. First, can a theory derived from historical precedent explain contemporary conditions? Second, can an analysis based on European cases be used to examine the actions of Asia-Pacific states? The latter specifically refers to manner in which this chapter suggests connections between piracy and the P.R.C.'s South China Sea policy. The issues raised here mainly concern the manner in which this chapter develops a theory linking state conduct and non-state violence. They emerge because certain factors have to be taken into account to ensure the viability of such an analytical process.

In order to provide a comprehensive answer to these questions as well as explore the issues that they raise, one must first examine the status of China's conduct and goals in the South China Sea. This will be carried out in the following chapter. Having already analysed conditions that encouraged relations between the state and non-state violence in the past, an examination of China's contemporary maritime aspirations allows for a comparison of common factors associating the European and Chinese cases. This exercise provides a basis for justifying the interpretation of present day conditions using theories derived from historical precedence.

At this stage, the study is not ready to provide an elaborate response to the two questions earlier raised. However, judging from an analysis of factors that stimulated relations between states and pirates in the past, a similar argument can be made regarding contemporary Chinese involvement in South China Sea piracy. States have always found ways to manipulate pirate activities as a means to carrying out its maritime policies. This chapter argues that such a strategy can be performed through carefully balancing the encouragement and prohibition of piracy. The following chapter will further strengthen this point of view.

Chapter Five: **China and the South China Sea Disputes**

Of all the potential military flashpoints in the Asia Pacific, a considerable amount of attention has focused on territorial disputes in the South China Sea.¹ The issue is not simply a matter of jurisdictional disagreement because it concerns regional peace and security as a whole. Every country in the region – as well as their extra-regional trading partners – has a stake in alleviating present tensions. This is more so considering that in the past disputants have resorted to military force to settle the problem. The main protagonist in this scramble for territory is China. Because of this country's growing regional power status, its aggressive posture in the disputed area has generated great concern not only among other claimants, but also with the rest of the region. Claiming the entire South China Sea as their historical possession, the Chinese have attempted to assert themselves through flexing military muscle as well as increasing non-military presence (e.g. fishermen, scientists and pirates) in the area. Even though Beijing has recently appeared willing to accommodate peaceful solutions such as joint development, anxieties over Chinese hegemony continue to cloud such efforts.

This chapter will outline the territorial conflict by elaborating on its history as well as describing the significance of littoral states' claims and counter-claims. The discussion will emphasise the "Chinese" factor through an analysis of Beijing's maritime ambitions and policy. It will examine the extent of China's present claims

and the manner in which it has exerted such claims. The chapter does not pretend to be a comprehensive investigation of the contest for these waters; scholars within and outside the region have already conducted a significant amount of analysis on the subject.² Instead, the discussion here will provide another point to support the argument relating piracy in the South China Sea and China's attempt to increase its sphere of influence in the area.

A. Analysing the Disputes

Of the four main island groupings under dispute in the South China Sea, the Paracels and the Spratlys raise the most concern.³ The Paracels are the only ones which constitute an archipelagic complex, while the other groupings resemble the Spratlys and are incapable of supporting human life. Moreover, a majority of these features become submerged during high tide. It is interesting that these "obscure and barely inhabitable out-croppings"⁴ are being fought over intensely by littoral states and have become one of the most crucial sources of tension in the region.

The desire to control the South China Sea has been attributed to its actual and potential natural resource base.⁵ Some of the principal islands are major nesting grounds for tortoises as well as producers of guano (bird manure). Also, the countless number of reefs, shoals and lagoons provide supplies of coral lime, gem-quality rocks and natural pearls. The surrounding waters host seven out of the top thirty fishing

¹ *Academic publications in the region usually indicate other possible inter-state flashpoints as the Indian sub-continent, the Korean Peninsula and the Senkaku/Diaoyu Islands.* Wallace and Meconis, *New Powers, Old Patterns*.

² *For further readings on the topic consult the sources referred to in this chapter.*

³ *The other two groupings are the Pratas Archipelago and the Maclesfield Bank.*

⁴ Marwyn S. Samuels, *Contest for the South China Sea* (New York: Methuen, Inc., 1982), p. 3.

nations (according to annual catch).⁶ Over-exploitation may be generating immense pressure on fish stock volumes, but the South China Sea remains one of the most important fishing zones in the world.⁷ Over the years, the fishery industry has provided littoral populations with some economic gains and a source for protein intake.

The prospective of tapping into the area's oil and gas reserves is another factor that fuels on-going disputes. While oil companies often downplay the potential size of reserves in hopes of landing lucrative deals, governments tend to be overly optimistic of the figures. Estimates on such a potential vary widely – from 1 to 17.7 billion tons – but a group of Russian geologists in 1995 predicted that there maybe at least 6 billion barrels worth of deposited oil and gas around the Spratlys.⁸ The existence of oil is possible, but some analysts believe that its production is not commercially viable.⁹

More important than the South China Sea's possible yields is its strategic location. Some of the world's busiest shipping routes pass through these waters, which access two of the region's most important ports, Hong Kong and Singapore. These trading lanes are the economic lifelines for littoral states as well as for Japan and South Korea. They connect the region with the Middle East, Europe and the

⁵ *ibid.*

⁶ Daniel Y. Coulter, "South China Sea Fisheries: Countdown to Calamity", *Contemporary Southeast Asia*, 17/4 (March 1996), p. 373.

⁷ *According to areas defined by the Food and Agriculture Organization (FAO), Zone 71 -- which in part encompasses the South China Sea -- ranks fourth in the world in terms of marine production. Moreover, it leads in the fishing of tuna and is second among producers of shrimp. ibid., p. 374.*

⁸ Mark J. Valencia, *China and the South China Sea Disputes* (Adelphi Paper 298) (Oxford: Oxford University Press, 1995), p. 10.

⁹ *ibid.*

Americas. As a result, sizeable control of the area infers an influence over the movement of goods through Pacific Asia.¹⁰ During the Second World War, Japan stressed the importance of controlling these waters as part of its military plan. Similarly, present day claimants acknowledge such strategic significance in justifying their aspirations.

Controversy over the South China Sea is not a recent trend. Surrounding countries have endeavoured ways in which they could tap into the area's vast resource potential. However, due to internal factors (e.g. lack of a strong navy) as well as external (e.g. unfavourable regional balance of power), such territorial aspirations often never materialised. During the Second World War, the Japanese Imperial Navy controlled the area as a platform to launch its "East Asian Co-prosperity Sphere". The Japanese occupation put a temporary halt on other countries' claims, but with the end of the war, the disputes resumed. At that time, the major claimants were China and Vietnam. Although these two countries' rivalry has deep historical roots, one noteworthy point was the 1887 Sino-French Convention on Boundary Delimitation, in which China was forced to relinquish control over a significant proportion of the Paracel Islands.¹¹

The unresolved post-Second World War partitioning of Japan's maritime possessions initiated present squabbles. At the end of the war, newly independent countries, including would-be-actors in current disputes¹², rapidly attempted to consolidate and extend their maritime territories. However, their gains were limited

¹⁰ Samuels, *Contest for the South China Sea*, p. 5.

¹¹ *ibid.*, pp. 52 and 66.

by the Soviet Union and the United States, who wanted to maintain a steady balance of power by imposing a territorial *status quo* in the region. It was not until the 1970s that issues related to maritime jurisdiction began to re-emerge. The *Nixon Doctrine* initiated a period of American withdrawal from the Asia-Pacific, which culminated in the removal of forces from the Philippines in 1995. Soviet influence in the region was also diminishing as its Pacific Fleet slowly migrated back from Cam Ranh Bay to Vladivostok. Importantly, this period marked the beginning of China's rise to regional power as it tried to fill the vacuum left by the two Superpowers' departure.¹³ With limited intervention from the Americans and Soviets, countries in the region – especially China – were given an opportunity to fulfil their territorial ambitions. And so, the stage for present conflict was set.

As mentioned previously, there have been incidents in which military force was used to settle disputes. In 1971, the Philippines' Navy launched an abortive attack on Nationalist Chinese troops on Itu Aba Island of the Spratly grouping. Three years later, Communist China and Vietnam (at the time, the South Vietnamese government) engaged in a brief clash over the Paracel Islands. The Chinese sank a Vietnamese vessel, captured forty-nine men and managed to evict South Vietnam from the area.¹⁴ Throughout the 1970s and 1980s, Beijing maintained a very "hard" approach toward Saigon (and later on, Hanoi). In March 1988, violent confrontation once again broke out between the Chinese and Vietnamese. This time around,

¹² *Indonesia (1949), Malaysia (1957), the Philippine (1946) and Vietnam (1945)*

¹³ Edmond D. Smith, Jr., "China's Aspiration in the Spratly Islands", *Contemporary Southeast Asia*, 16/3 (December 1994), pp. 278-9.

¹⁴ Zhan, Jun. "China Goes to the Blue Waters: The Navy, Seapower Mentality and the South China Sea", *The Journal of Strategic Studies*, 17/3 (September 1994), p. 188.

conflict over the Paracels was an extension of the Sino-Vietnam War that was occurring on land. Two Vietnamese ships were sunk, seventy-two people were killed and six more islands were added to China's growing maritime jurisdiction; thus, the Paracel archipelago became completely under Beijing's control.¹⁵ Since then, there has not been any major naval confrontation, but the potential for another looms as states increase military presence in the area. Skirmishes occur frequently and claimants manoeuvre their patrol ships in a dangerous game of brinkmanship (e.g. near-conflict between China and the Philippines over the Mischief Reef in 1995).

In addition to the potential for military conflict, there are other concerns that have increased tensions and rendered efforts to find a solution difficult. One of these is the development of UNCLOS II.¹⁶ Contrary to its initial goals, the convention has created more uncertainties over jurisdictional issues than it has solved. With the provision of rights to Exclusive Economic Zones (EEZ), which are measured as 200 nautical miles from coastal baselines, and subsequent extensions of maritime jurisdiction, the South China Sea has now become one of the most extensively claimed waters in the world.¹⁷ Although the EEZ are not considered territorial waters, countries are permitted to extract resources from the area. Possession of land features in these waters (islands, reefs and shoals) becomes crucial because it allows countries to further extend their jurisdiction by drawing a 200-nautical mile

¹⁵ Dobson and Fravel, "Red Herring Hegemon", p. 259.

¹⁶ *While all of the South China Sea states have signed the Convention only Indonesia, the Philippines and Vietnam have ratified it.*

¹⁷ Coulter, "South China Sea Fisheries", p. 378.

circumference around such features.¹⁸ As a result, these conditions have raised the importance of acquiring not only jurisdiction over the waters of the South China Sea, but also ownership of islands and reefs within it.

Defining jurisdiction is a difficult task considering that most claimants have not clarified their specific territorial demands. As explained by one analyst, “all the claims, with the possible exception of the Philippines’, are zonal in character. Save for occasional mention of some specific islet, reef or shoal, it is not at all clear where the boundaries of each claim might be drawn.”¹⁹ Possession of the Paracels remains contentious between China and Vietnam, but the former’s occupation renders *de facto* ownership. In the case of the Spratly Islands, China, the Philippines and Vietnam each claim all land features in the area and their surrounding waters. China and Vietnam base their claims on historical discovery and usage, while the Philippines argues that the area is crucial for its security and economic survival. Malaysia claims seven features lying within its continental shelves, while Brunei demands recognition of an EEZ that overlaps the Philippine’s claims.²⁰ Presently, China and the Philippines occupy eight islands each, Malaysia another four, Taiwan one and Vietnam twenty-one.

Recognising the severe implications of armed confrontations, most claimants have also adopted a variety of non-violent methods to strengthen and extend their

¹⁸ *Although most claimants of the South China Sea adhere to such a view, the Convention does not recognise EEZ that are drawn around any island that cannot sustain life (which includes most of the land features in the South China Sea). Only recognised archipelagic states (e.g. Indonesia and the Philippines) have the right to establish EEZ based on their island possessions.*

¹⁹ Samuels, *Contest for the South China Sea*, p. 7.

²⁰ Dobson and Fravel, “Red Herring Hegemon”, p. 258-9; Valencia, *China and the South China Sea Disputes*, p. 8.

jurisdiction. Submerged features are “built-up” and fortifications are often erected on top of them. The construction of non-military establishments, such as shelters for fishermen and weather/scientific posts, have allowed greater presence of non-state elements in disputed areas.²¹ This strategy is carried out in order to instigate the use of force by rival claimants, which in turn, would provide a justification for deploying naval vessels. Furthermore, to strengthen their legal jurisdictions, countries are enacting laws (e.g. anti-smuggling regulations) as well as granting oil concessions to foreign companies. Of all disputants, China has been the most aggressive with such policies – accompanied by its use of military force and intimidation.

B. China’s Ambitions and Policy

The South China Sea has provided the “Middle Kingdom” with a gateway to the world for thousands of years. The Chinese may have already regarded the area as part of its “geographical lexicon” since the period of Han Dynasty (112 - 46 B.C.), but they did not start frequenting these waters until 53 A.D.²² Although some archaeological findings confirm that Chinese sailors landed on parts of the Paracel archipelago as early as 9 – 23 A.D., there has not been any proof that such contacts were exclusively Chinese.²³ Furthermore, these expeditions do not appear to have gone beyond the Paracels. At the time, most shipping in the region was still dominated by Malay, Cambodian, Indonesian, Persian and Indian vessels. It was not until the reign of the Song and Ming Dynasties (from the tenth to fifteenth Centuries)

²¹ Frank Ching, “Philippines in China Standoff”, Far Eastern Economic Review, 160 (5 June 1997), p. 40.

²² Samuels, Contest for the South China Sea, pp. 9-10.

that the Chinese navy went through a dramatic expansion. This process virtually converted the South China Sea into a “Chinese Lake”; these waters’ southern borders delineated China’s immediate sphere of power. The Ming Navy opened relations not only with neighbouring countries, but also parts of India and eastern Africa. However, China’s maritime supremacy abruptly came to an end with the rise of the Qing dynasty.²⁴ After having experienced such a glorious period of influence, the Chinese rapidly shrunk their naval potential and isolated themselves from the oceans until the late 1800s.

In 1884, China began to re-assert its maritime influence through engaging in naval confrontations with colonial France in Vietnam over possession of the Spratlys. Although the Chinese failed that time around, their interests grew in recovering territories lost to foreign (especially Western) powers.²⁵ Unfortunately, their ambitions were limited by the weakness of its long-neglected, dormant naval capabilities. They made some gains prior to the Second World War, but the power of the Japanese Navy during this period, as well as that of the United States and Soviet Union after the war, simply outmatched theirs. China, like other claimants to the South China Sea, was unable to make significant progress in its expansion efforts until the region’s balance of power began to change in the 1970s.

There are a number of components that have contributed to Beijing’s strategic interest in the South China Sea. For example, the economic factor is both a means

²³ *ibid.*, p. 10.

²⁴ *They are a number of factors contributing to the weakening of China’s maritime power. They include increasing trade imbalance, burdening costs of fleet and growing xenophobia.* Levathes, When China Ruled the Seas, pp. 175-181.

and an end influencing China's endeavours in these waters. The benefits of development and modernisation provide support for greater defence expenditure, yet such support is justified on the grounds that it will lead to further economic advantage.²⁶ As part of his "Four Modernisation" program, Deng Xiaoping played an important role in initiating moves towards re-establishing the maritime frontier by refashioning China's ports and expanding its commercial fleet.²⁷ This ambitious agenda officially launched Beijing's aspiration to become a "maritime" state, thus putting greater emphasis on the development of strategies that would assert China's influence over the Yellow, East and South Seas.²⁸

Another factor that has frequently been mentioned is the growing nationalist tendencies among China's policymakers, especially those in the military. As China's economy liberalises, communism's slow erosion has led to a new brand of nationalism filling in the ideological vacuum.²⁹ This trend not only stresses the need to preserve China's territorial integrity but also re-claim its past maritime glories. The development of these ideas seems to concur with growing pride of China's recent economic successes. Some analysts argue that this newly found nationalism is being taken advantage by the ruling elite as a means to justifying its military programs as

²⁵ Valencia, *China and the South China Sea*, pp. 8-10; Samuels, *Contest for the South China Sea*, pp. 45-46.

²⁶ *The military factor will be discussed later in this section.*

²⁷ Samuels, *Contest for the South China Sea*, p. 5-6.

²⁸ Zhan, "China Goes to the Blue Waters", p. 189-195.

²⁹ Michael Leifer, "Chinese Economic Reform and Security Policy: The South China Sea Connection", *Survival*, 37/2 (Summer 1995), p. 44-45; Maria Hsia Chang and Xiaoyu Chen, "The Nationalist Ideology of the Chinese Military", *The Journal of Strategic Studies*, 21/1 (March 1998), pp. 44-64.

well as bolster its wilting legitimacy.³⁰ Nevertheless, these tendencies seem to have a considerable amount of support from the public.

Chinese ambitions in the South China Sea can be viewed as being framed within a policy of “Three NOs”: NO claim specification, NO multilateral negotiations and NO internationalisation.³¹ First, China does not specify its territorial claims because it would have to justify them within the context of current international law. This task is difficult considering that its demands are mainly based on history. Second, China has been disinclined to participate in multilateral discussions at the official level. Doing so will pit China alone against other claimants, which all belong to ASEAN. Although Beijing has sent delegations to track-two talks, it has timely stressed the unofficial nature of these events as well as prevented raising the level of discussion. Third, China is adamant about keeping the conflict within a regional context. Considering that territorial disputes concern other actors in the region, there have been efforts to include Japan, Russia, South Korea and the United States in the negotiations. Beijing opposes internationalisation of the disputes as it fears that such an arrangement will lessen their leverage during discussions.³²

In addition to revolving around the “Three NOs” policy, China has taken a “soft-hard” approach towards formulating a South China Sea strategy. Beijing would show interests in co-operative solutions on one day and deploy naval units on another. For example, while politicians and diplomats announce China’s intention to engage in

³⁰ Shee Poon Kim, “The South China Sea in China’s Strategic Thinking”, Contemporary Southeast Asia, 19/4 (March 1998), p. 383.

³¹ Valencia, China and the South China Sea Dispute, pp. 12-13.

³² ibid.

a regional-based joint development of resources, the PLAN continues to flex its muscle and occupies yet another land feature in the Spratlys. Such an inconsistency creates a climate of uncertainty surrounding the conflict. There is immense distrust of Beijing among neighbouring countries because there is no confidence that the former's declarations will ever materialise.³³ As a result, proposals for settlement put forward by the Chinese have often been prematurely dismissed.

China's paradoxical policy is a result of external factors with which it has to deal. Beijing's softening approach towards the Spratly issue is not prompted by shifting interests, but by an unfavourable regional political climate. ASEAN's united stance following Chinese occupation of Mischief Reef in 1995 demonstrated that Beijing's goals would be better achieved through means other than military force. Recently, however, the region's economic crisis is sapping ASEAN's strength and unity; old fault lines are being exposed and financial constraints are stretching members' defence expenditures. Taking advantage of this situation, China has re-asserted its claims in a confrontational manner by building military structures on Mischief Reef.³⁴ These events seem to follow a strategic pattern that has been employed since the 1960s in the South China Sea and the Senkaku/Diaoyu Islands (against Japan). In both cases, China strongly asserted an unwillingness to negotiate, but quickly recommended a settlement as strategic consideration changes.³⁵ The Chinese show interest in co-operative agreements whenever they feel that regional

³³ Ching, "Philippines in China Standoff", p. 40.

³⁴ "Tis the Season", *Far Eastern Economic Review*, 161 (24 December 1998).

³⁵ Eric Hyer, "The South China Sea Disputes: Implications of China's Earlier Territorial Settlements", *Pacific Affairs*, 68/1 (Spring 1995), p. 35.

political climate is disadvantageous or when they are not completely in control of the territory in dispute. However, in events where the opposite conditions exist, they have shown unwillingness to compromise.

The “soft-hard” approach cannot be attributed simply to external factors. China’s behaviour needs to be viewed also in terms of its disjointed foreign policymaking. This can be observed from the growing frictions between the Ministry of Foreign Affairs and the PLA, especially its naval branch.

The PLAN has executed unilaterally assertive actions in the region, which are perceived as aligned with its mission to defend China’s territorial integrity and build a blue-water navy. In contrast, the foreign affairs ministry aims to maintain friendly bilateral ties with neighbouring states, and has issued statements designed to dampen fears of Chinese aggression.³⁶

The complexities of China’s strategic thinking result from various (often conflicting) security, political and economic elements originating from domestic and international pressures. Moreover, the ambiguity of its South China Sea policy demonstrates the PLA’s strong influence in the country’s foreign affairs.

C. The PLA Navy Factor

As the clear emerging power in the region, China has taken advantage of its booming economy to support large-scale military modernisation which, in turn, has mostly focused on improving the People’s Liberation Army Navy (PLAN). The naval development can be seen not only in the PLAN’s enhanced weaponry, but also in the evolution of an ambitious doctrine that calls for increased power-projection. The beefed-up forces enable China to secure its interests in the South China Sea, at

³⁶ Dobson and Fravel, “Red Herring Hegemon”, p. 260.

the same time, threatening other states that have overlapping claims in the area. Indonesia, Malaysia, the Philippines and Vietnam have responded to China's seemingly aggressive posture by developing their own military potential. However, the capacity for their economy to support high defence expenditures does not rival that of China. The PLAN's capabilities still do not compare to those of France or the United States, but in comparison to the smaller regional navies, it is a force which demands reckoning.

The PLA has gradually been shedding elements of Mao Zedong's protracted guerrilla warfare from its doctrine. Through the deployment of "smaller but more balanced combined forces which are trained to operate in areas remote from the Chinese mainland", the evolving strategy enables today's PLA to take a more offensive posture.³⁷ Thus, its potential to secure China's maritime interests is enhanced by allowing for possible confrontation of attacks well before they advance into China's coastal waters.³⁸ The new doctrine, often referred to as an "active green water defence strategy", places China's entire maritime claims – approximately 1,000 nautical miles away from the P.R.C. mainland – within the scope of the PLA's defence planning.³⁹ In 1992, this military strategy was complemented at the political level when the National People's Congress passed the Law on the Territorial Sea and Contiguous Zone. The ruling not only re-affirms Beijing's claim to the entire South

³⁷ John Downing, "China's Evolving Maritime Strategy, Part 1: Restructuring Begins", *Jane's Intelligence Review*, 8/3 (March 1996), p. 129.

³⁸ David Winterford, "Chinese Naval Planning and Maritime Interests in the South China Sea", p. 378.

³⁹ *ibid.*

China Sea, but also gives the PLAN a much-needed official authorisation to use force in protecting China's maritime sovereignty.

With the aircraft carrier program presently unattainable, the strengthening of China's maritime power-projection capabilities has focused on the modernisation of the PLAN's major surface combatants and submarines. Furthermore, the development of the PLAAF (Air Force) is seen as assisting the PLAN aviation's long-range operations. Despite difficulties in acquiring and developing high-tech weapons, the navy has made significant achievements in improving its fleet. This is an important factor when considering that regular vessels mostly employ old technology.⁴⁰ Recent developments feature the acquisition of the *Luhu* class and *Sovremenny* class destroyers as well as the *Jiangwei* class frigates. Although major surface combatants remain the core of the PLAN's ocean-going force, the increasing demand for extended offshore operations in the South China Sea has also propelled modernisation of the submarine fleet. Most of the PLAN's submarine inventory consists of "old, noisy and slow" *Ming* and *Romeo* class diesels.⁴¹ The acquisition of four *Kilo* class attack submarines from Russia marks a significant addition to China's power projection.

Altogether the Chinese potential for controlling the region's maritime territories is expanding slowly (but steadily). Even though these new additions are not entirely state-of-the-art weapons, their growing presence in the South China Sea will create further uneasiness among most Southeast Asian navies. In acquiring these

⁴⁰ Downing, "China's Evolving Maritime Strategy", p. 131.

forces, the Chinese have emphasised the development of high-tech electronic communication and weapon systems.⁴² The use of such technologies will result in the entire South China Sea becoming more accessible to Chinese warships; thus, a majority of Southeast Asia may soon fall within China's striking distance. The PLAN's modernisation may have been intended for the purpose of protecting China's maritime territories, yet its increasing presence in the South China Sea will undoubtedly cause major concerns in the near future.

Nonetheless, the PLAN still faces tremendous challenges incorporating its new weapons into the force structure. Although technological improvements have occurred at the unit level and within certain "pockets-of-excellence", the military in general continues to suffer technical and co-ordination difficulties in efforts to sustain long-term missions. This is crucial considering that areas such as the Spratly Islands are more than a thousand miles away from the Chinese mainland. Furthermore, except for the brief conflict with Vietnam in 1988, the PLAN's capabilities (with its recently acquired weapons) in the face of effective resistance have yet to be demonstrated. For example, the 1995 occupation of Mischief Reef instigated diplomatic outcries from other claimants, but none of them responded by facing up to the Chinese directly. China still needs time before it can successfully muscle its way into controlling the entire South China Sea through military supremacy. Nonetheless, the navy's continued development and other countries' shrinking military expenditure create conditions that are sufficient for China to achieve its maritime aspirations.

⁴¹ David Shambaugh, "China's Military in Transition: Politics, Professionalism, Procurement and Power Projection", *The China Quarterly*, 146 (June 1996), p. 291.

Force modernisation does not necessarily mean that the Chinese will use force to occupy more islands, but rather that they seek to bolster physical presence in the disputed area, which in turn, will boost their bargaining leverage in future negotiations.⁴³

D. Assessing China's Conduct in the South China Sea

China's maritime policy changes according to economic, political and security conditions directly affecting the South China Sea disputes as well as those shaping the region's balance of power. China affirms its claims whenever it perceives a favourable regional political climate, but softens its actions in circumstances where challenges from rival claimants are strong. The PLAN's recent assertive moves in the Spratlys demonstrate that China believes it has the upper hand at establishing control of the South China Sea. This is mostly attributed to the perception that the region's economic woes have relatively weakened rival claimants.

Shifting approaches to the South China Sea dispute does not reflect a wavering of China's interests. Establishing jurisdiction over these waters remains an official goal of its foreign and security policies as well as a means towards fulfilling its ambitions for regional supremacy. The PLAN's modernisation program and the popularity of irredentist tendencies demonstrate support among policymakers and the public for a re-birth of China as a maritime power. As the PLAN enhances its capabilities and frequently engages in skirmishes with rival claimants' navies, the

⁴² *ibid.*

⁴³ Hyer, "The South China Sea Disputes", p. 34.

Chinese appear determined to secure, and probably expand, their maritime jurisdiction through developing an intimidating and robust naval force.

Nevertheless, in spite of becoming stronger in certain areas, the PLAN still suffers from general strategic and organisational limitations. The military has yet to demonstrate its possible superiority in the face of regional challenges. While the navy undergoes this ambitious modernisation program, China seems to maintain its maritime policy and goals with strategies that do not depend on military force. For example, Beijing is encouraging increased presence of Chinese nationals (e.g. fishermen and scientists) in disputed areas. Furthermore, it has enacted laws allowing the PLAN to catch foreign fishing vessels and suspected smugglers. The largest concern over such attempts to expand non-state presence is Beijing's disregard for increasing trends in Chinese piracy.

An argument can be made regarding the encouragement of non-state activities in the South China Sea. Although the extraction of natural resources provide a great incentive for controlling these disputed waters, Beijing's interests lie mainly in the area's strategic location. Greater influence infers control over the movement of goods along the world's most extensive network of trade lanes. Control of this would strengthen China's bid for regional supremacy. Physical possession of land features is certainly enticing, but conditions are often not conducive to pursuing such an approach. Chinese efforts to occupy reefs and islands have encountered strong challenges and could potentially embroil the whole region in a major conflict. As a result, the expansion of China's maritime claims has been conducted through other means, which are mostly of non-military and non-state nature.

Preference for the non-state approach also results from the fact that the establishment of maritime jurisdiction is different from that of land borders. Considering that waters cannot be carved up easily and exact boundaries can never be drawn, the ability to exert hegemonic influence – even if this is mostly intangible – matters more than physical control of particular islands or reefs. Judging from their recent conduct, the Chinese government seems to believe that such an influence can be developed through enhancing its presence in the South China Sea. Realising that regional anxieties could grow if China deploys more naval vessels to the contested area, Beijing appears to have adopted an alternative strategy; it is attempting to expand jurisdiction through manipulating the activities of non-state actors.

Recalling the previous chapter's analysis of relations between the state and non-state activities, the extension of state policy using non-state actors occurs mostly when conditions are not conducive to involvement from the military (the state's main instrument of power). This approach may be attributed to concerns that the military is not strong enough to engage in these activities or simply because it is politically less risky to make non-state actors perform the state's "dirty work". This approach may be due to the military's inability to engage in such activities for lack of physical capabilities or simply because of the need to appear politically neutral. In the past, states frequently took advantage of non-state violence in an attempt to sustain policies extending maritime spheres of influence. This strategy helped overcome naval deficiencies caused by financial and structural limitations. As well, the employment of non-state actors allowed sovereigns to gain significant jurisdictional influence without necessarily having to assume official responsibilities.

In spite of engaging in frequently shifting policies, the Chinese have shown a clear determination to establish control over these waters. However, the achievement of this goal is complicated by two factors. First, despite spending considerable effort modernising its navy, the military still faces tremendous difficulties deploying forces in the South China Sea within a long-term strategy. In order to buy time while it is building up the navy's strength, Beijing realises that alternative approaches have to be developed. Second, the region's political climate has frequently not been conducive to carrying out assertive maritime policies that are based purely on military strategy. This is more relevant today considering the growing "China threat" perception within and outside the region as well as the demonstrated ability of rival claimants to unite as a group in response to China's aggressive moves. By involving non-state actors in its maritime strategy, the central government would be able to implement its maritime policy indirectly without necessarily assuming official responsibilities. Such a strategy allows Beijing to reap benefits from these individuals activities while, in the same time, deny any association to those that may be unfavourable to the achievement of its goals.

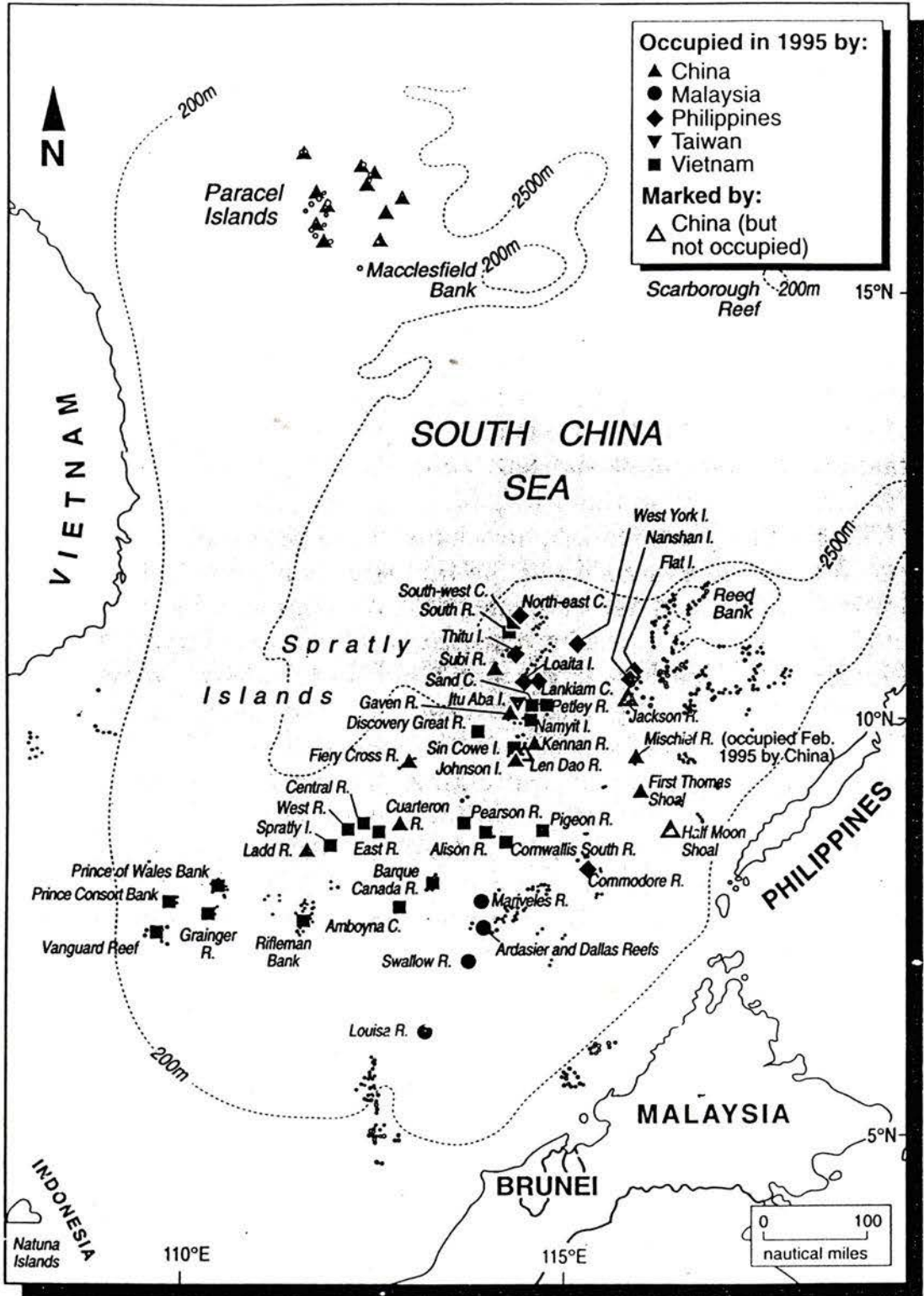
There is evidence that piracy in the South China Sea (especially those involving Chinese nationals) remains a major security threat to regional shipping. Moreover, China is still adamant about securing and if possible extending its claims in the area. Although the Chinese have been noted mostly for using military means to carry out such a policy, they have also manipulated the non-state, non-military actors

for the same purpose.⁴⁴ Historical accounts demonstrate that sovereigns have frequently taken advantage of non-state activities to complement or supplement state consolidation and expansion efforts. If these factors are put together, they suggest that occurrences of piracy in the South China Sea can be connected to China's policy and ambitions in the area.

Nonetheless, settling with the above argument would be somewhat inconclusive as there are still other factors that need to be considered. To strengthen the study's argument, an analysis of China's attitude towards maritime expansion is needed. This task may prove to be difficult considering that the oceans have only recently re-appeared as a major concern of Chinese foreign and security policies. However, patterns within China's history generally support this argument. Ideas and notions that have timely guided strategic thinking among past and present Chinese leaders seem to re-emerge in the contemporary scenario. Although it may be true that past experiences do not necessarily dictate present policy preferences, they certainly provide lessons for contemporary policymaking. Only then will one be able to put China's conduct in the South China Sea into better perspective.

⁴⁴ *The basis for this claim will be further elaborated in the next chapter.*

Figure 3. *Disputed Islands of the South China Sea*
 (Source: Valencia, *China and the South China Sea Disputes*)



Chapter Six: China's Strategy of Maritime Expansion

A comprehensive analysis of China's maritime strategy entails many complexities. Scholars have analysed the PLAN's war doctrine through an observation of its present interests and capabilities.¹ However, most of these assessments lack the examination of historical factors contributing its doctrinal development. The scarcity of references to past maritime strategies is one of the reasons for this. In general, the importance of the maritime realm in Chinese history has always been secondary to its mainland ambitions.² The consolidation of the Middle Kingdom's economic, social and political structures favoured an expansion of "continental" influence.³ Apart from the Ming and Song eras and up until recent decades, China was absent from the oceans. Moreover, even as the Chinese started to re-develop naval capabilities, their maritime vision was limited by Mao Zedong's protracted guerrilla warfare strategy, which reduced the navy's role to merely that of coastal defence.⁴

Although China's maritime strategy is not wholly based on accounts of its history, this paper argues that such an approach enhances efforts to understand present

¹ For example J.N. Mak, "The Chinese Navy and the South China Sea: A Malaysian Assessment", *Pacific Review*, 4/2 (1991); Elizabeth Speed, *Chinese Naval Power and East Asian Security* (Institute of International Relations Working Paper No.11) (Vancouver: The University of British Columbia, 1995); David Winterford, "Naval Planning and Maritime Interests in the South China Sea", pp. 369-398; You Ji and You Xu, "In Search of Blue Water Power: The PLA Navy's Maritime Strategy in the 1990s", *Pacific Review*, 4/2 (1991), pp. 137-149; Zhan, "China Goes to the Blue Waters", pp. 180-208.

² John E. Wills, Jr., "Maritime China from Wang Chih to Shih Lang: Themes in Peripheral History", in Jonathan D. Spence and John E. Wills, Jr., eds., *From Ming to Ch'ing: Conquest, Region and Continuity in Seventeenth-Century China* (New Haven: Yale University Press, 1979, p. 204.

³ Owen Lattimore, *Inner Asian Frontiers of China* (Boston: Beacon Press, 1940), p. 4.

Chinese activity in the South China Sea. Accounts of Chinese territorial expansion provide some background for this chapter's analysis. Although most of these campaigns occurred on land, lessons can be drawn from this experience to explain China's expansionist tendencies. The chapter will also discuss dominant themes in Chinese strategic thinking. In addition to employing brute military force, the Chinese have pursued efforts to extend their influence through "unconventional" means. The notion of "not fighting and subduing the enemy" and the importance of non-military elements in such schemes will be emphasised. The incorporation of these points into the study provides a greater understanding of the basis upon which contemporary Chinese strategy in the South China Sea may be developed. Furthermore, this exercise will further demonstrate the significance of piracy in efforts to realise China's maritime ambitions.

A. Expanding the Maritime Frontier

As described in the previous chapter, Chinese penetration into the South China Sea is one means to establish regional influence. China's long-term goal is not necessarily a re-drawing of its *de jure* boundaries through identification of specific maritime claims. Although the area's natural resource base is of significant value, the push to become a stronger naval power actually originates from China's desire to take advantage of these waters' strategic location. Jurisdiction over the area can certainly be established through forcefully driving out all the other claimants; however, presently China lacks the military power and political leverage for this. An

⁴ Zhan, "China Goes to the Blue Waters", p. 184.

alternative scheme involving the concept of “frontier” territory needed to be created. By establishing the South China Sea as part of its maritime frontier, these waters are considered a “zone of territory that [is] always an essential part of China yet never quite homogenous with China”.⁵ In theory, although control will be indirect, the area would become incorporated into Beijing’s hegemonic influence.

The history of expansion using a “frontier” strategy can be dated to the Qin Dynasty (221-207 B.C.). The Chinese State had not yet been fully consolidated and was still vulnerable to foreign encroachment. Having mostly relied on the tribute system and gradual enlargement of territory to expand southward, Qin rulers were discovering that the same approach could not be applied to areas in Inner Asia. According to one historian, movement beyond the Great Wall was limited by:

The amount of and kind of surplus power that China could mobilise, the depth to which it could penetrate an un-Chinese terrain, and the extent to which it could conquer, or administer, or indirectly control societies that could not be converted to the Chinese norm.⁶

To overcome these limitations, a “frontier-style” expansion was adopted and it was mainly conducted through non-military means such as extending diplomacy, transport routes, trade activities and agricultural settlements. The push into Inner Asia was a state effort, but the involvement of private and unofficial enterprise was crucial.⁷ There were not many attempts at subduing the area and its population through coercion. The military launched occasional campaigns, but these were mainly for pre-emptive defence purposes and lasted only a short while each time.⁸ Realising the

⁵ Lattimore, *Inner Asian Frontiers of China*, p. 422.

⁶ *ibid.*, p. 473.

⁷ Morris Rossabi, *China and Inner Asia* (London: Thames and Hudson, 1975), pp. 65, 69.

⁸ Lattimore, p. 473.

Qin's weak military position, such a strategy mainly served the function of gaining time and deceiving the opposition while calculations of strengths and weaknesses as well as militarisation efforts were being carried out.

Currently, the P.R.C.'s expansion scheme seemingly emulates that of the Qin Dynasty. The main difference is that the present strategy is being used to spread Chinese influence in the seas. Nevertheless, a couple of factors allow for this comparison. In all occasions, China was/is determined to expand its influence extra-territorially. Inner Asia and the South China Sea are both strategically located to provide platforms for expanding Chinese hegemonic influence and trade. However, this goal was/is complicated by the fact that China had/has neither the political leverage (relative to its surrounding neighbours) nor the absolute military power to engage in such a policy. Of course, the levels of statehood in China during these two periods are different; the same can be said about the conduct of international relations then and now. Nevertheless, the similarities ensure a justification for such a comparison to demonstrate a pattern demonstrating China's resolve in situations of military weakness. This argument will be further developed in the next chapter.

Parallels can also be drawn regarding Chinese interest in the disputed area. In the past, Chinese rulers wanted to expand into Inner Asia partly because the area's strategic location along the "silk route", which served as a major trade link between China and Europe.⁹ They did not necessarily aspire for control of the area's physical features consisting mainly of rugged, inhabitable terrain, but to make it part of their

⁹ John King Fairbank, China: A New History (Cambridge: Harvard University Press, 1992), pp. 60-62.

frontier zone. Hegemony ensures control over the movement of goods along this route. The same can be said about the South China Sea where most of its land features are uninhabitable. China's interest in occupying these features mainly lies in the ability to establish an Exclusive Economic Zone (EEZ) surrounding each island or reef. In spite of the basin's resources (e.g. fish, oil and minerals), China's interest is based on the area's strategic location.¹⁰ The establishment of Chinese hegemony (even through indirect control) will infer domination over these trading lanes as well as allow for potential to expand influence further into the region. To achieve this goal, the "frontier-style" strategy would appear to be the most appropriate.

Presently, the preference for a "frontier-style" expansion is reflected in Beijing's reluctance to specify claims in the South China Sea.¹¹ This ambiguity prevents China from limiting itself to gaining only a particular island or reef. By identifying these waters as part of its maritime frontier, the Chinese appear determined to extend their jurisdiction over the whole area. The low probability of total control of all physical features in the short-run does not deter long-run ambitions. The most important consideration is the potential for China's influential dominance to become prevalent enough that it could hold sway over most activities within the disputed area. For this, China cannot simply rely on its military might – doing so would not only impose excessive stress on its limited capabilities, but also cause region-wide alarm. As a result, the increased presence of non-military Chinese nationals and the employment of "unconventional" strategies are invaluable.

¹⁰ Valencia, *China and the South China Sea Disputes*, p. 10.

¹¹ Samuels, *Contest for the South China Sea*, p. 7

Beijing has not been silent in taking advantage of private citizens' activities for the purpose of establishing hegemony; it has occasionally assisted these private individuals' actions in some capacity. For example, in order to encourage a higher presence of Chinese fishermen around the Spratlys, the PLAN has built shelters for them on land features that China currently occupies.¹² The PLAN has also constructed stations that are supposed to be used for scientific purposes. The most alarming concern, however, is the perception that China is allowing pirate activities to flourish in the area. Through establishing a "reign of terror", Chinese pirates are indirectly exerting Chinese influence over the disputed territory. It remains doubtful that the pirates conduct their activities with the calculated intention of extending China's maritime jurisdiction; however, the fact that the central government is not doing anything to deter these activities poses a strong cause for concern. If these accusations are true, the P.R.C. would not be the first to engage in such a strategy of expansion; as mentioned in Chapter Four, European colonial powers frequently took advantage of pirate activities for similar purposes.

Non-military factors such as diplomacy and private activities have historically been manipulated as a means to implementing China's grand strategy. Although building up military forces plays an important part in consolidating and sustaining state goals, Chinese strategic thinking has also valued the notion that non-military means may be employed to overcome an enemy without engaging in battle.¹³ Normally credited to a sixth century Chinese strategist, Sun Zi, this concept has been

¹² Ching, "Philippines in China Standoff", p. 40.

very popular with past and contemporary East Asian state and military leaders (i.e. Chinese, Japanese and Vietnamese); however, only recently in the West has it gained broad attention.¹⁴ It would not be a surprise if China's present leadership is formulating a South China Sea policy that is influenced by Sun Zi's strategies and earlier dynasties' "frontier-style" expansion. An elaboration on the philosophy behind pursuing an unconventional, non-military course is needed before explaining the present reality.

B. "Not Fighting and Subduing the Enemy"

Students of Chinese history and politics frequently note the uniqueness of China's military strategy in comparison to that of Western powers.¹⁵ The Chinese have demonstrated a tendency to regard violent military action as the last resort in solving conflicts. When the use of force perceivably becomes unavoidable, its employment is mainly for deterrent and defensive purposes. The importance of pursuing clearly defined political goals stresses the notion of limited warfare. This is distinguished from "unlimited warfare" in that the state exercises tight control on factors that may contribute to conflict escalation. Certainly these characteristics are across-the-board generalisations of China's strategic thought. Nonetheless, this

¹³ Kim Arm-San, "A Note on Sun Zi's Art of War and Limited War: A Modern Interpretation", The Korean Journal of Defense Analysis, VI/1 (Summer 1994), p. 248.

¹⁴ Sterling Seagrave, Lords of the Rim: The Invisible Empire of the Overseas Chinese (New York: Putnam's Sons, 1995), p. 46-47.

¹⁵ John K. Fairbank, "Varieties of the Chinese Military Experience", in Frank A. Kierman, Jr. and John K. Fairbank, eds., Chinese Ways in Warfare (Cambridge: Harvard University Press, 1974), pp. 1-26; Alastair Iain Johnston, Cultural Realism: Strategic Culture and Grand Strategy in Chinese History (New Jersey: Princeton University Press, 1995), pp. 1, 64-66.

perspective is derived from a reading of Chinese history and thus, provides significant reference to understanding China's contemporary strategic behaviour.

As mentioned earlier, the above view is usually accredited to Sun Zi's Art of War, the highly revered and most influential text on Chinese military strategy.¹⁶ The text contains a comprehensive analysis of military tactics, ranging from grand strategies to the unit levels, yet the single most frequently emphasised concept is that of "not fighting and subduing the enemy".¹⁷ According to Sun Zi, the state should strive for victory through diplomatic and non-military means whenever possible because in the end preservation of enemy resources is more advantageous than their complete destruction. Such non-military means would be employed as part of a strategy to deceive and manipulate the enemy into lowering its guard and making costly mistakes. Military force should be used in a limited fashion: if the enemy threatens attack, or if it is unwilling to comply without submission by force. Following common perceptions of Chinese strategic thinking, such a reading of the Art of War strongly suggests that China's military strategy is generally accommodationist and it will tend to pursue offensive actions only when all non-military means have been exhausted.

Sun Zi also stressed that deception and manipulation should not be regarded as ends in themselves, but instead as means towards attaining military gains. Non-military or non-violent strategies do not provide an alternative to military force –

¹⁶ Johnston, Cultural Realism, pp. 41. *In his study, Johnston explains that there are six other military texts from which Chinese strategists have learned. However, he recognises that Sun Zi's text remains the one that is most referred to by past and present Chinese leaderships.*

¹⁷ Ralph D. Sawyer, trans., Sun Tzu Art of War (Boulder: Westview Press, 1994), p. 177.

rather, they create conditions that are more conducive to the utilisation of military strength. In other words, these strategies are “instrumental in serving the purposes of violent, usually offensive and pre-emptive uses of force”.¹⁸ Either way, one still anticipates the likelihood of having to engage in battle. Deceit, manipulation and other non-military course of action simply allows a chance for the military to build up strength. They are also essential components while waiting for balance of power to change, or for the enemy to shoot itself in the foot. With time, the enemy will hopefully reveal its intentions, strengths and weaknesses, thus allowing one’s military to rapidly exploit any opportunities that may arise. As Sun Zi declared, “one who knows when he can fight and when he cannot, will be victorious”.¹⁹

The minimal use of violence is still an idealised strategy. The Art of War, without doubt, provides lessons on how to achieve military gains through exerting the least amount of force. However, non-military stratagems that are not reinforced by adequate military potential will unlikely yield significant achievements. A thorough reading of the text reveals that the previous eight chapters emphasise the importance of mobile warfare through methods of attacking and invading. Furthermore, it is only the first and third chapters which actually stress the acclaimed notion of “not fighting and subduing the enemy”.²⁰ The emphasise on violent tactics is logical considering that historically, whenever China was engaged in conflict, it acted in a confrontational manner and was inclined towards employing military force as its capabilities – be

¹⁸ Johnston, Cultural Realism, p. 151.

¹⁹ Sawyer, Sun Tzu Art of War, p. 134.

²⁰ Alastair Iain Johnston, “China’s Militarized Interstate Dispute Behaviour 1949-1992: A First Cut at the Data”, The China Quarterly, 153 (March 1998), pp. 1-30; Johnston, Cultural Realism, p. 101-102.

they military or political – grow in comparison to the enemy’s.²¹ Non-military stratagems act only as a prelude – albeit an important one – to consolidating state goals through military power.

The application of Sun Zi’s strategy benefits states that are politically or militarily at a relative disadvantage. The Art of War emphasises the use of stratagems as a means to overpowering direct brute force. If adopted systematically at different levels, stratagems can weaken the enemy’s force so one’s military will achieve a comparatively more advantageous position. Throughout its history, Chinese leaders have pursued strategies that are based on this notion.²² Today’s China appears to be in such a position as well. Although its military power and political influence are growing, it is not yet strong enough to be considered as the undisputed regional hegemon. The United States has not completely withdrawn from Pacific Asia and Japan remains an influential economic giant. Additionally, in the South China Sea disputes, China’s opponents often unite under the banner of ASEAN. The Chinese do not have the ability to overcome such opposition alone nor through direct military force. The Chinese military has to position itself well defensively, while always watching for any opportunity that may emerge from changes in the region’s political and security environments. This would be in accordance with Sun Zi’s teachings.

²¹ Hyer, “The South China Sea Disputes”, p. 35; Johnston, p. 257; Michael Loewe, “The Campaigns of Han Wu-ti”, in Frank A. Kierman, Jr. and John K. Fairbank, eds. Chinese Ways in Warfare (Cambridge: Harvard University Press, 1974), p. 78.

²² *Examples can be taken from events during the rule of Han, Song and Ming dynasties.* Wang Gungwu, “The Rhetoric of a Lesser Empire: Early Song Relations with Its Neighbors”, in Morris Rossabi, ed., China Among Equals: The Middle Kingdom and Its Neighbors, 10th-14th Centuries (Berkeley: University of California Press, 1983), pp. 47-65; Yu Ying-Shih, Trade and Expansion in Han China (Berkeley: University of California Press, 1967).

The PLAN's power-projecting potential is obviously growing, yet years of inactivity and lack of central government attention have left a large development gap that is slowly being closed by recent weapons acquisitions and doctrinal changes. The PLAN needs time to build up its forces, but in the interim, alternative (non-military) strategies are being implemented in order to sustain and consolidate territorial gains that have already been attained. By suggesting non-military and "unconventional" methods to create conditions that are conducive to achieving military goals, Sun Zi's Art of War provides a great reference for contemporary policymaking efforts. The PLAN's recent development trajectory shows it has great potential to become one of the strongest (if not the strongest) navies in the region. Yet for the moment, the best that China can do is adopt stratagems ensuring such development is being given enough time to occur without necessarily faltering on its overall maritime ambition.

C. Lessons from The Past

Having addressed the South China Sea's present conditions in previous parts of the study, this chapter aims to identify sources of China's maritime policy. Examining China's history of expansionism and military conflict as a means to understanding current circumstances may be questioned as these past events do not necessarily have a direct impact on present day decisions. Nevertheless, with significant reasoning, a reading of China's past foreign relations as well as patterns from its strategic thinking are valuable in making sense of its present conduct in the South China Sea. This is more so when taking into account the continued emphasis

on historical references and Sun Zi's ideas in today's policymaking processes in Beijing.²³

From accounts of China's expansionist history as well as the strategic thinking of Sun Zi (which was also based on events during the Chinese state's early development period) parallels can be drawn between factors attributed to events during these periods and China's present conduct in the South China Sea.²⁴ In all cases mentioned, the Chinese have neither the political leverage (relative to its neighbours) nor the military certainty to fulfil its expansionist ambitions. In such conditions, the state tries to overcome its weaknesses through the manipulation of non-state and non-military activities. The extra-territorial conduct of these individuals complement or even supplement the military's role as the state's instrument of power. Such an analytical approach does not take into great consideration the changes in policymaking processes that may have occurred throughout the Middle Kingdom's state development; however, recent studies reveal that regardless of this, China has continued to pursue expansionist policies well into

²³ This information is provided by Dr. Robert E. Bedeski who recently participated in the Chinese government-sponsored "1999 Fourth International Symposium on Sun Zi" in Beijing. According to Dr. Bedeski, the event was attended by several military officers who stressed the continued importance of Sun Zi's ideas in formulating contemporary Chinese military strategy.

In addition to this, John Wilson Lewis and Xue Litai pointed out in their study that many PLA strategists continue to turn to ancient Chinese military treatises (especially Sun Zi's teachings) for an authentic approach on battle tactics and force deployment. John Wilson Lewis and Xue Litai, China's Strategic Seapower: The Politics of Force Modernization in the Nuclear Age (Stanford: Stanford University Press, 1994), p. 231.

²⁴ It has to be recognised that a considerable amount of analysis regarding relations between China and Inner Asia has not been covered by this study. However, such an exercise goes beyond the scope of this study's needs. The Qin and Han cases serve as historical examples of China's use of non-military actors and unconventional strategies in territorial expansion. There were many events during the rules of Song and Ming dynasties (according to the writings of John K. Fairbank, Morris Rossabi, Wang Gungwu and John E. Wills, Jr.) demonstrating that similar tactics were used to fulfil territorial ambitions. The Qin and Han cases merely attempt to show that there is precedence for China's contemporary approach to maritime expansion.

this century.²⁵ The importance of appearing powerful (through means that are not always within the state's official power structure) has been a recurring theme in Chinese foreign policy strategy during periods of perceived military and political inferiority.

Would European or other Asian countries not pursue similar expansionist strategies in times of military and/or political weaknesses? As per Chapter Four, this author agrees with this; however, not the present chapter's discussion was not meant to point out that China's approaches to territorial expansion and military conflict are entirely unique. This chapter merely stresses that patterns of "frontier-style" expansion and state manipulation of non-military, non-state actors existed in China's past and remains in existence today. Drawing lessons from such an historical approach will help efforts to understand contemporary Chinese activity in the South China Sea.

In the past, the Chinese realised that efforts to absorb neighbouring territories could not be carried out solely using military tactics. China wanted to ensure control over the movement of goods along the "silk road". Thus, the establishment of hegemony was primary, while physical control remained secondary. It was believed that through incorporating the area into its frontier realm – through extending transport routes, trade activities and agricultural settlements as well as employing Chinese and non-Chinese mercenaries – direct physical control would follow naturally. Now, this sort of thinking can also be observed in China's view of regional

²⁵ Johnston, "China's Militarized Interstate Dispute Behaviour 1949-1992", pp. 1-30; Hyer, "The South China Sea Disputes", p. 35.

waters. Physical control of the whole South China Sea is certainly desired, but for the time being, China seems satisfied with aspiring to establish a strong presence through the employment of “unconventional” and non-military strategies.

The condoning of pirate activities can be regarded as part of the above scheme. Occurrences of Chinese piracy in the South China Sea increase China’s indirect presence in disputed areas. Although the pirates may be unwittingly establishing a “reign of terror” in the area, they are indirectly wielding Chinese influence through coercion. Beijing has repeatedly denied accusations of involvement in such a stratagem, yet it has not made serious efforts to counter pirate activities. The central government has been less than enthusiastic to respond to calls from neighbouring countries and regional maritime organisations to step up actions against pirates. Such an inaction seems rather peculiar when considering that the PLAN is presently developing means to crush pirate activities. There does not appear to be any other reason for China’s passive posture save the possibility that it benefits from allowing these activities to perpetuate.

Although China is rapidly modernising its naval forces, it still lacks the potential to take control of the South China Sea through a purely military approach. Moreover, engaging in a forceful expansion policy is foolish when the opposition is in a relatively more advantageous position. By allowing the growth of piracy to continue unabated, Beijing is virtually adopting an “unconventional” scheme to increase its presence in the contested waters. The attaining of state goals through encouraging non-military means like piracy is a reflection of the “*tao* (way) of

deception”, which continues to be dominant within Chinese strategic thinking. The approach allows time for military forces to build up as well as waiting for the right moment to pounce on favourable shifts in the region’s political and security climate.

Chapter Seven:
China, Piracy and Maritime Ambitions

The aggressiveness of China's recent maritime conduct indicates that its interest in controlling the South China Sea remains strong. Although Beijing has indicated a willingness to co-operate with other claimants in resource management efforts, such diplomatic moves should not be interpreted as a permanent policy shift. Historical patterns demonstrate that in situations of inter-state conflict, China tends to adopt strategies that emphasise the use of non-military, "unconventional" elements whenever there is a perception that it is in a relatively disadvantageous position. Yet, when opposite conditions exist, brute force has commonly been used in efforts to achieve state goals. It is important to note that despite offering an attractive and effective means to conduct state-craft, the former approach's success remains contingent on the ability to employ military force. "Unconventional" stratagems merely offer a method of overcoming unfavourable conditions; they act as a prelude to attaining state goals through a military course.

The continued involvement of Chinese nationals in South China Sea piracy and Beijing's undying aspirations for control over this area suggest a strong connection between these two phenomena. Analysis of China's expansionist thinking and history as well as that of relations between the state and non-state actors – particularly pirates – in the past support such a view. As an instrument of the state, pirate activities have frequently been part of efforts to extend maritime influence and territory. Although the P.R.C. denies any accusation of participating in expansionist

strategies involving piracy, it has not taken any action to substantiate its position. Despite continuously increasing its naval power, the Chinese government has not paid attention to regional calls for the PLAN to strengthen counter-piracy measures. Considering the possible benefits of allowing the activities of Chinese pirates to grow uninhibited, it is plausible to interpret Beijing's reluctance to act against these individuals as some form of passive foreign policy.

Although earlier chapters have provided strong points addressing and analysing the topic, a more in-depth and comprehensive examination of the previous paragraph's claim will be established only through viewing the research paper as a whole. Despite being the study's last chapter, the discussion here will not simply summarise earlier sections' contents. It will delve further into how the theoretical framework linking piracy and maritime expansion can be used appropriately to explain the Chinese case. Moreover, an assessment will be conducted on factors that may have influenced the incorporation of piracy into efforts to expand China's influence in the South China Sea. Engaging in these tasks will allow for an encompassing conclusion to the study.

A. China and the South China Sea: A Brief Review

When addressing territorial disputes in the South China Sea, most analysts tend to overemphasise the prospect of tapping into rich fish stocks as well as oil and mineral reserves as a factor fuelling conflict. However, more important than this body of water's possible yields is its strategic location. This claim raises a couple of issues. First, considering the large transit of merchant trade, sizeable control of the

area infers influence not only over the movement of goods, but also, indirectly, the region's economy. Second, direct possession of land features is not a necessary condition for extending maritime influence because states can achieve this equally as effectively by increasing their citizens' presence in disputed areas.

China's maritime ambitions are driven by three principle motives. First, the waning of communism's ideological dominance has resulted in growing enthusiasm for nationalist and irredentist ideas.¹ This trend stresses the need to preserve China's territorial integrity as well as re-claim its past maritime glories. Furthermore, having re-patriated Hong Kong – and soon Macao – the mainland government would improve its chances of reunification with Taiwan by dominating waters that surround this island. Second, in order to prevent the re-occurring humiliation of sea borne invasions, China needs to secure a maritime frontier that would act as a buffer zone. From the Chinese perspective, the China Seas remain a gaping hole in its defence, from which it has been, and can still be, threatened. Three, China's interests in these waters evolve in conjunction to its rising status. Maritime influence will boost China's profile not only as a regional hegemon, but also as an aspiring Great power. Obviously there remains other motives driving China's aspirations in the South China Sea; however, the above three are exceptionally significant as they are frequently referred to by analysts in the field of study.

Beijing's South China Sea policy is characterised by a "soft-hard" approach. This paradoxical policy does not reflect shifting interests, but instead, results from

¹ Erica Strecker Downs and Philip C. Saunders, "Legitimacy and the Limits of Nationalism: China and the Diaoyu Islands", *International Security*, 23/3 (Winter 1998/99), pp. 115-117.

efforts to balance domestic and external factors with which China must consider. Internally, the PLAN's role in determining maritime policy has often collided with the Foreign Ministry's diplomatic moves. While the latter aims to dampen fears of Chinese aggression by encouraging friendly relations with neighbouring states, the former unilaterally conducts assertive actions with the purpose of defending China's territory and increasing its maritime power. Externally, unfavourable regional conditions force China to soften its stance in the South China Sea. Presently, the Chinese have neither the political clout nor the military capabilities to confront single-handedly other claimants, who often unite as ASEAN. However, as conditions change, and such a unity shows fractures, China would shed any reluctance in using force to assert its maritime claims.

Considering the above argument, the adoption of alternative strategies thus becomes crucial. In overcoming periods like these, early modern European states often resorted to manipulating non-state means of violence. Between the sixteenth and eighteenth centuries, pirates were frequently employed to attack enemy commerce and territory, thus establishing a sphere of influence for commissioning states. In cases where piracy was not officially sanctioned, sovereigns turned a blind eye on these activities so long as they served to further state goals. This historical precedence provides a model by which one can try to make sense of contemporary Chinese piracy. In an attempt to dominate the South China Sea, the Chinese government seemingly condones pirates to establish a "reign of terror" in the area. This approach is not an end in itself, but instead a means towards establishing hegemony through military force in the long run.

B. Theorising the Chinese Case

The study's approach becomes complicated when considering that some pirate activities are actually conducted by state elements. High-seas robbery by Chinese security vessels does not fit the theoretical framework constructed in Chapters Two and Four. According to those chapters' discussion, pirate ships and weaponry belong to either the pirates themselves or business people who treat piracy and privateering as commercial ventures. In the past, state involvement occurred only when it took advantage of such activities by providing these individuals with letters of *marqué*. Hence, although acting supposedly on behalf of commissioning states, the instruments of violence remained privately owned. The Chinese case is exceptional because piracy is sometimes committed using state-owned equipment. In this case, the Chinese government – not only private citizens – should also be held accountable for occurrences of piracy in the South China Sea.

One can certainly view the Chinese case as an anomaly considering relations between non-state violence and state-building practices have always been undetermined.² However, to settle with such an explanation is somewhat inconclusive because a closer analysis reveals that most acts of Chinese piracy can still be analysed within the context of this study's theoretical foundation. In order to achieve this, there needs to be recognition of the three categories of Chinese piracy introduced in Chapter Three. The first two of these categories are the most relevant. In the first category, piracy is *officially* carried out by state naval vessels (e.g. anti-smuggling operations). In the second, piracy is conducted *unofficially* by corrupt

elements of state security forces. While the central government continues to encourage pirate activities of the first category, it is supposedly prepared to exercise regulations limiting those of the second category – Beijing considers rogue military officials as criminals.

The P.R.C.'s anti-smuggling strategy is somewhat comparable to colonial Great Britain's counter-piracy campaigns in Southeast Asia. Of course, these practices are not entirely the same; while the latter was meant to eradicate piracy, the former can be considered a form of piracy. Nonetheless, similarities do exist. These policies are used as a pretext to increase influence in disputed areas, thus establishing *de-facto* territoriality. As well, both governments adopt policies encouraging these activities. The British sovereign gave medals and wage bonuses to the ship captains – and their crew – who successfully suppressed pirate activities.³ The P.R.C. government allows officials to keep 50% of proceeds from confiscated goods⁴; this policy has encouraged anti-smuggling operations to be conducted with more zeal. In order to garner popular support, the states justify their actions as efforts to combat criminal elements that could potentially harm national security.⁵ China's and colonial Great Britain's policies may not be identical, yet the motives behind them are similar. Both governments have required sound excuses for extending influence into territories well beyond their immediate borders.

² Thomson, *Mercenaries, Pirates and Sovereigns*, p. 19.

³ Tarling, *Piracy and Politics in the Malay World*, pp. 12-13.

⁴ "Hot Pursuit", p. 26.

⁵ "Gunboat Diplomacy", pp. 22-26; Tarling, pp. 18-20.

In the case of piracy committed by rogue Chinese naval units, although the equipment used is owned by the state, their actions are primarily driven by private motivations. Patrol boat captains often engage in piracy as a means to supplementing their unit's income. Theoretically, a sovereign state is responsible for controlling every aspect of its military operations⁶; however, considering the size of the Chinese military, such a task is dauntingly demanding for the central government. This type of piracy cannot be compared to privateering cases in early modern Europe because the Chinese pirates' conduct is *officially* separated from state ambitions. Even though Beijing may benefit from allowing the growth of these activities uninhibited, it does not have control over how the phenomenon actually evolves. China is simply turning a blind eye on piracy committed by its private citizens. By doing so, it appears to be carrying out a passive – yet effective – foreign policy. Without deploying military units to physically take over islands and reefs, the Chinese are still inching closer towards achieving hegemony in the South China Sea.

This study recognises that Beijing cannot be held wholly responsible for its citizens' private doings. China should not be accused immediately of issuing letters of *marqué* to pirates as European states used to do. Nevertheless, complaints directed at its inaction are understandable considering that there are mechanisms through which the central government can prevent or limit piracy. For example, China can implement the regulating provisions found in the *1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, of which it is a signatory. The Convention allows China to take measures necessary – in

⁶ Thomson, *Mercenaries, Pirates and Sovereigns*, pp. 143-146.

accordance to its laws – for prosecuting these offenders. The Convention’s Articles 6 and 7 declare that every party state “shall take measures as are necessary to establish jurisdiction over the offences... when they are committed... *in the territory of that state [and/or] by a national of that state*”.⁷ Thus, more than just having the right to crackdown on piracy, China is legally obliged to do so even if the incidence occurs beyond its territorial waters. What remains absent is Beijing’s willingness to systematically implement such policies.

In further dealing with state officials’ involvement in pirate activities, Beijing can adopt harsher anti-corruption laws as well as review its overly aggressive anti-smuggling practices. Premier Zhu Rongji’s anti-corruption drive may provide some solution⁸; however, its effectiveness in dealing with activities in peripheral areas remains to be seen. Evidence of Chinese officials’ collusion with South China Sea pirates has already been discussed in-length in Chapter Three. Moreover, a recent study allege that Chinese officials secretly continue to sympathise with the involvement of criminal bands (those based in China as well as those comprising multi-national members) in organising pirate attacks.⁹ This issue becomes more concerning when high-ranked officials claim that Hong Kong’s Triad are “patriotic”.¹⁰ When these arguments are taken into consideration, it should not come as a surprise that countries in the region perceive the Chinese central government’s actions (or lack thereof) to be intentional.

⁷ *ibid.*, p. 34. *Italics added for emphasis.*

⁸ “Reality Check”, *Far Eastern Economic Review* (March 18, 1999).

⁹ Jason Abbot and Neil Renwick, “Pirates? Maritime Piracy and Societal Security in Southeast Asia”, *Pacifica Review*, 11/1 (February 1999), p. 14.

¹⁰ *ibid.*

C. Why Piracy?

The discussion here has provided arguments supporting the view that China is consciously taking advantage of its nationals' involvement in piracy as a means to establishing influence in the South China Sea. However, efforts to build a more comprehensive study will also benefit from an examination of factors that underlie Beijing's course of action. Considering the innumerable ways to expand one's maritime jurisdiction, why has China adopted a strategy specifically involving the manipulation of non-state means of violence such as piracy? Although earlier parts of the study have attempted to answer this question in some capacity or another, an exhaustive analysis will be better accomplished through a summary and further elaboration of these points.

Determining jurisdiction over maritime territories is complicated by the fact that precise borders cannot be drawn as they would on land. Physical control of islands and reefs does not immediately translate into jurisdiction over adjacent waters. UNCLOS III has attempted to resolve the problem by proposing the creation of EEZs, which are based on possession of land features. However, this effort has caused more confusion than it has actually solved; the management of overlapping claims remains contested in many parts of the world. Realising that international laws governing maritime affairs remain undermined by many states, China may have perceived that this situation allows it the opportunity to expand its maritime jurisdiction through absorption and occupation. Subtlety is essential in carrying out such an expansionist

approach if it is to avoid raising regional alarm. As a result, non-military and non-state means become an important factor determining success.

In the 1970s and 1980s, the Chinese were successful in incorporating islands and reefs into its jurisdiction because the PLAN was capable of overpowering the small Vietnamese Navy. Earlier this decade, however, China faced strong confrontation from ASEAN – especially the Philippines – when it tried to occupy Mischief Reef in the Spratly archipelago. This event demonstrated the limitations of China's navy and forced Beijing to consider alternative approaches to extending influence in the area. Accounts of China's expansionist history as well as continued references to Sun Zi's teachings in contemporary Chinese strategic thinking may have suggested that the manipulation of non-state actors' activities can benefit the furtherance of state goals. Chinese pirates, along with fishermen and scientists, are made protagonists in this scheme – most likely without their own knowledge. By establishing a high presence of Chinese nationals in the contested waters, Beijing is laying the basis for future claims of *de-facto* jurisdiction.

The Chinese government's condoning of piracy simultaneously serves as part of an effort to buy time for the PLAN to bolster its firepower as well as for regional security and political environments to turn in China's favor. Through increasing China's presence in disputed areas, the activities of Chinese pirates ensure that other claimants do not move in and consolidate territoriality while the Chinese are occupied with re-arming and modernising their navy. Over the last decade or so, the PLAN has developed into one of the strongest navies in the region; however, it is not powerful yet to sustain long-term operations in the South China Sea (a necessary

Arguments against this study's perspective would claim that China has nothing to gain by encouraging piracy.¹² Pirate activities hurt trade in general; therefore, as a growing maritime trading nation, China would suffer from the negative implications of piracy's growth. However, as a regional analyst observed:

At issue is whether the economic nexus in China's regional relationships serve as a sufficient constraint on its long-standing nationalist purpose. China's record is not encouraging in this respect, particularly as its [South China Sea] policy is driven by a strong sense of frustrated territorial entitlement.¹³

Beijing is aware of piracy's impact on trade, yet it may also believe that the existence of Chinese pirates in the South China Sea can be manipulated for the benefit of China's maritime ambitions. Incidences of piracy in the region have historically been high. It is still uncertain that the central government is actively endorsing more attacks. However, lack of action against these pirates – in spite of having the means to do so – obviously indicates its complicity in allowing piracy trends to remain high.

Critics could stress that instead of being a central government directive, China's involvement in piracy is a consequence of the centre's inability to control the activities of corrupt provincial officials, especially those in southern China.¹⁴ Although such circumstances do exist, they do not render Beijing entirely blameless. As described above, China's manipulation of pirate activities ironically focuses on its lack of action. If there is a willingness to engage in concerted efforts to address the issue adequately, it is very likely that success can be achieved. The ongoing campaign to withdraw the PLA from business activities demonstrate that the central

¹² *Claim made by John Martin, Manager of RPC Far East*, in Chalk, "Contemporary Maritime Piracy in Southeast Asia", p. 92.

¹³ Leifer, "Chinese Economic Reform and Security Policy", p. 58.

government can – if it really wants to – instigate changes even in areas distant from Beijing.¹⁵ For the time being, however, it appears as though allowing pirates to roam the South China Sea still bears some sort of benefit: the extension of China's maritime ambitions.

D. Concluding Remarks

A comprehensive analysis of China's maritime policy and intentions is a challenging task to accomplish. The matter becomes more complicated when one attempts to understand the thinking behind Beijing's actions, or in the case of piracy in the South China Sea, its continuous inaction. Like most countries, China shrouds its policymaking processes in immense secrecy. This is understandable considering that transparency is often viewed as providing others with knowledge of their weaknesses. There have been numerous attempts at alleviating the region's uncertain security environment by encouraging transparency and increasing confidence-building measures (CBMs). However, the Chinese have been one of the most vocal opponents to such approaches as they are reluctant to share information regarding its military and diplomatic intentions.¹⁶ Considering these factors, a conclusion can be made that only those close to the *zhongnanhai* are able to provide an accurate understanding of Beijing's view of the South China Sea.

This study's discussion is largely speculative because it is an attempt to comprehend Chinese ambitions and policy through an interpretation of sources

¹⁴ Chalk, "Contemporary Maritime Piracy in Southeast Asia", p. 92.

¹⁵ "Bitter Harvest", Far Eastern Economic Review (29 April 1999).

available outside of China. There is no concrete proof linking pirate activities with a concerted effort by China to expand its maritime hegemony. Nevertheless, the study's discussion has presented a strong argument validating this possibility. Chinese nationals' involvement in pirate activities is factual and China's claims in the South China Sea have been examined by scholars in numerous academic publications and re-iterated constantly by Chinese government officials. This study has attempted to describe the possibility that the two issues are connected. Based on relations between the state and non-state actors as well as China's traditional expansionist strategies and experiences in the South China Sea, there is sufficient evidence to defend claims that Beijing is tacitly incorporating piracy into a hegemonic scheme for these waters. The central government is not actively encouraging the growth of Chinese piracy; however, it is reaping the benefits of these activities simply by allowing them to grow uninhibited.

This study is not intended to perpetuate the growing North American trend of "China threat" literature. Rather, it is an attempt to recognise China's potential not only as a regional power but also as an international player. In establishing hegemony in the South China Sea, the Chinese are merely re-claiming territories perceived as historically theirs. Obviously there has been region-wide alarm against China's expansionist tendencies; however, it is also important to note that Beijing would not act irrationally and destroy its trading relations with neighbouring states and the industrialised world. Hegemony over these waters should not be seen as a

¹⁶ Yuan Jing-Dong, *Sino-Russian Confidence Building Measures: A Preliminary Analysis* (Working Paper No. 20) (Vancouver: Institute of International Relations, University of British Columbia, 1998).

platform towards physical expansion into the rest of Pacific Asia. It is because of this specific reason that the Chinese are devising a maritime extension scheme that uses subtlety and is seemingly less threatening than direct military force. In coping with various (often conflicting) factors determining its foreign policy, the condoning of piracy conducted by Chinese nationals appears to be an effective policy for expanding China's political and economic influence in the South China Sea.

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