

# **Attacks on Ships: Emerging Problems for the Shipping Industry**

**Dr Michael White QC**  
Centre for Maritime Law, UQ

## Michael White

---

Michael White was born in Brisbane Queensland and joined the Royal Australian Navy. He served as a seaman officer in the RAN for about ten years in the Asian, Pacific and European waters and resigned as Lieutenant-Commander in the RAN in 1969 to study law. He has since obtained degrees in Commerce and Law and he was awarded a Doctorate of Philosophy (in law) with his research thesis on the conventions and laws of marine pollution from ships.

He practised at the Bar from 1974 to 1999, Queen's Counsel since 1988. Since 1999 he has been a full time academic at the T.C. Beirne School of Law, as Reader in Law and Executive Director of the Centre for Maritime Law. Dr White is the author or editor of a number of books and legal articles including *Marine Pollution in the Australasian Region* and *Australian Maritime Law*. He is General Editor of the MLAANZ Journal.



THE UNIVERSITY OF QUEENSLAND  
AUSTRALIA  
T C BEIRNE SCHOOL OF LAW  
**CENTRE FOR MARITIME LAW**

---

# Attacks on Ships: Emerging Problems for the Shipping Industry

Michael White

## Traditional Crimes at Sea

---

### Traditional Crimes at Sea:

- Piracy: crimes from outside the ship for private gain. Internat. & State laws apply
- Domestic crimes: committed within the ship. Flag State law applies unless Master or Flag State request assistance etc



## Frequency & Type of Attacks

### Piracy Attacks 2004:

- 2004 1<sup>st</sup> 6 months:
- Total attacks – 183
- Total crew killed 30
- Most dangerous areas – Indonesian waters generally (50), Malacca Straits (20); Singapore Straits (7).

(Source ICC Reports. ICC Web site)

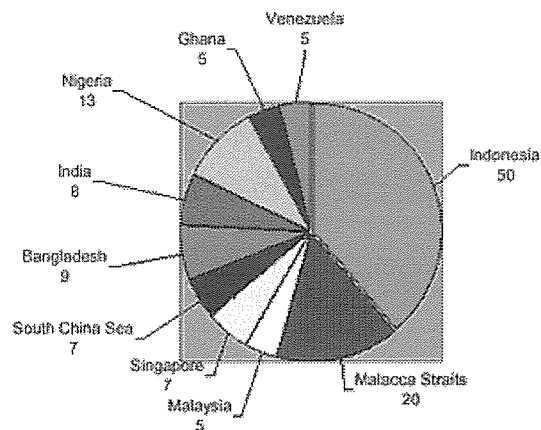
Centre for Maritime Law  
T.C. Beirne School of Law, University of Queensland



## Frequency & Type of Attacks

10 areas total 129 from 182 incidents world wide 1<sup>st</sup> 6 months 2004

Source: ICC web site. ICC Commercial Crime Sources

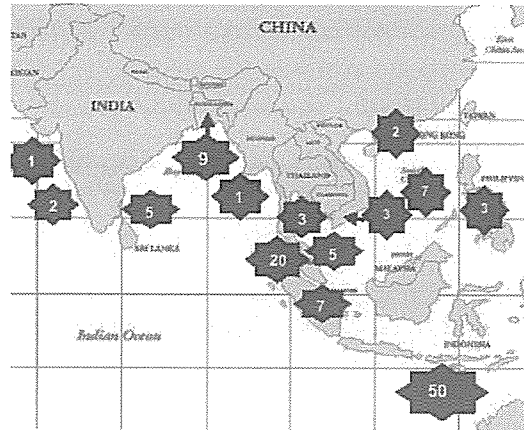


Centre for Maritime Law  
T.C. Beirne School of Law, University of Queensland



## Regional Piracy Attacks 2004 1<sup>st</sup> 6 months

Source: ICC Web site

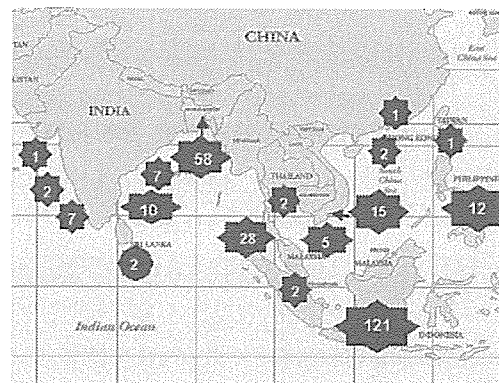


Centre for Maritime Law

T.C. Beirne School of Law, University of Queensland

## SE Asian Piracy Attacks 2003

Source: ICC Web Site. 2003 Annual Report



Centre for Maritime Law

T.C. Beirne School of Law, University of Queensland

## International Conventions

---

### Piracy:

- Convention on the High Seas 1958 - Articles 14-21
- UN Convention on the Law of the Sea (UNCLOS) 1982  
Articles 100-107 – Piracy (private ends; high seas; another ship; outside jurisdiction of any State)  
Article 111 - Hot Pursuit
- Slavery Convention 1926  
Supplementary Slavery Convention 1956
- International convention Against the Taking of Hostages 1979

Centre for Maritime Law

T.C. Beirne School of Law, University of Queensland



## Crimes at Sea

---

### Conventions on Crimes at Sea:

- *Achille Lauro* Hijacking 1985
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1988
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf

Centre for Maritime Law

T.C. Beirne School of Law, University of Queensland



## Crimes at Sea: Cth Legislation

---

*Crimes At Sea Act 2000*: Product of the Offshore Constitutional Settlement 1979. States & NT criminal laws apply to offences committed in the the Territorial Sea and the Cth Act extends it to 200 nm and Australian ships or Australian citizens anywhere

*Crimes (Ships and Fixed Platforms) Act 1992*: Enacts the 2 international conventions (Safety of Mar.Nav. & Safety of Fixed Platforms). Applies when criminal acts affect safety of platform

*Crimes Act 1914*: Part IV, Piracy. Applies to piracy on high seas or in Australian waters

Centre for Maritime Law

T C Beirne School of Law, University of Queensland



## Crimes at Sea: State & NT Legislation

---

### Piracy

*Criminal Code (Qld)*- ss.79-83.

*Criminal Code (WA)* - ss.76-80.

*Crimes Act 1958 (Vic.)* - ss. 70A-D.

*Criminal Law Consolidation Act 1935 (SA)* ss. 206-11.

*Piracy Punishment Act 1902 (NSW)*.

*Criminal Code Act 1983 (NT)* ss.72-5.

Centre for Maritime Law

T C Beirne School of Law, University of Queensland



## Crimes at Sea: State & NT Legislation

### Jurisdiction

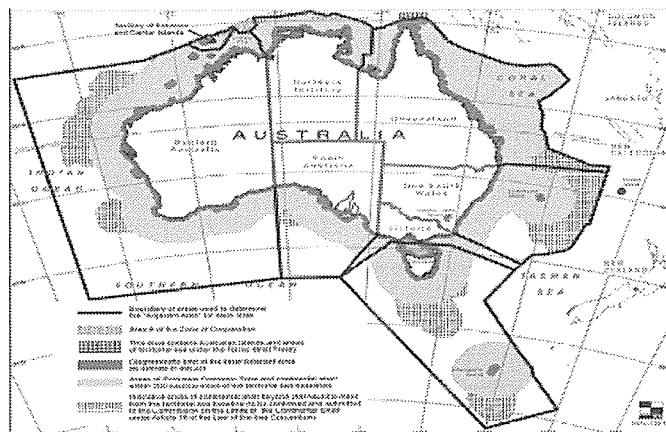
*Crimes (Offences at sea) Act 1978* (Vic.)  
*Crimes (Offences at sea) Act 1980* (NSW, WA, SA)  
*Crimes at Sea Act 2001* (Qld)  
*Criminal Law (Offences at Sea) Act* (NT)  
*Offshore Waters (Application of Territory Laws) Act* (NT)  
*R v Disun* (2003) 27 WAR 146; [2003] WASCA 47: people smugglers on *Tampa* validly arrested onboard *Tampa*.

Centre for Maritime Law

T C Beirne School of Law, University of Queensland



## Crimes at Sea Act - Jurisdictions





## Crimes at Sea: Cth Terrorist Legislation

---

- *Maritime Transport Security Act 2004* (Cth)
  - Major new Act relates to ship and port security. Appeals from decisions to the AAT
- *Anti-terrorism Act & Anti-terrorism Acts (No.2) & (No.3)*-all in 2004 (Cth)
  - amend the Cth *Crimes Act 1914*, *Criminal Code Act 1995*, *Proceeds of Crime Act 2002* etc.
  - Cover foreign incursions & recruitment, terrorism offences, proceeds of crime, associating with terrorists, passports and ASIO questioning

Centre for Maritime Law

T C Beirne School of Law, University of Queensland



## Attacks on Ships: Ship Defences

---

- SOLAS, new Chap.XI-2 & ISPS Code
- Merchant ships have small crews and untrained in arms
- IMO guidelines point to lighting up ship, securing doorways to bridge, etc
- Not recommended that crews resist (and definitely not recommended that untrained crews use firearms)
- In essence, the merchant ships cannot protect themselves against armed, aggressive attackers
- Basically, the task lies with the Navy at sea and police shore enforcement
- US Navy recently proposed that its ships patrol the Malacca Straits – strongly resisted by coastal States

Centre for Maritime Law

T C Beirne School of Law, University of Queensland



## Attacks on Ships: Conclusions

---

- Attacks on ships are not decreasing
- The most dangerous world seas lie near unlawful coastal States
- The persons being attacked are not able to defend themselves
- It is a world problem that needs more determined pressure on the offending coastal States

Centre for Maritime Law

T. C. Blair School of Law, University of Queensland



## The End

---

