

Piracy and Its Regulation: The Filipino's Historical Response to Globalization

by Rolando B. Tolentino, University of the Philippines Film Institute

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Piracy is popularly defined as a “robbery committed at sea, or sometimes on the shore, by an agent without a commission from a sovereign nation.”¹ Pirate attacks have tripled between 1993 and 2003, with half the incidence happening in Indonesian waters in 2004, and of which, the majority occurred in the Strait of Malacca.² There is much to be feared in sea piracy as some 50,000 commercial ships ply the water routes between the Pacific and Indian Oceans, off the Somali coast, and in the Strait of Malacca and Singapore.³ These cargo ships holding tons of steel containers, after all, are the backbone of capitalist trade, allowing the transfer of bulk materials, produce, and waste. Media piracy, therefore, would fall into a related definition because it is an act of omission committed against a sovereign body, usually a business corporation holding the intellectual property right to the contested object, and thus protected by the corporation's nation-state. However, media piracy does not only happen through sea lines (but in the Philippine case, it does⁴), it also gets literally and figuratively reproduced technologically. A duplicating machine can reproduce 20,000 copies of music, film, games, and software per day. So invested are business corporations and their nation-states that there is almost a paranoia in protecting their objects of profit from any further loss—in seaborne piracy, estimated losses are US\$13-16 billion per year⁵; in media piracy, US companies lose supposedly as much as \$250 billion per year, although another estimate places it at \$60 billion.⁶

The person who actively “commits piracy by engaging in robbery, pillaging or plundering at sea is known as a pirate.”⁷ Who in this room is not a pirate—has not bought pirated music or DVD film from your friendly neighborhood Muslim vendor, has not downloaded films, television shows, and music from your internet sites, has not played pirated games in your computers powered by pirated software, and has not listened to pirated music played in bars, karaoke, and restaurants, among others? We could all get arrested for doing what we do with our media texts. But we won't. At least not yet at this time, not because we have formed an alliance similar to the call of “The Smiths” title song about shoplifters, “Pirates of the world unite!” but because it has become second-nature in contemporary Philippine society among the middle class: wanting to become middle class with all the fineries of middle-class life (alternative music, art films, cult movies, documentaries, classical films, games) yet by categorization of being middle class in the country, cannot afford these markers if it were not for pirated media, among others. What this means is that the reality of being middle class in this country means that we have to simulate the real with the imaginary, with piracy falling more in the lines of the imaginary than the real, which also means that the imaginary is as real as the real itself for a lot of wannabe middle-class citizens. Wanting in material economic standards, being middle class means making do with even nonacceptable middle-class experiences.

The Philippines' entry to globalization has always historically prefigured the pirates and its activity—piracy as inimical to legitimate claims of participation in world capitalism. This essay traces the historical response of Filipinos, specifically the Muslims, to piracy. By being designated as pirates, Moros were emplaced in an orientalist racial profiling of the “bad” colonial subject. The state's creation of the image of the Moro-as-pirate remains integral in the marginalization of this religious ethnic group or the exacerbation of the “Moro/Mindanao” problem as integral in official nation-building.⁸ Even in daily life, the consignment of the Moro pirates emplaces the middle-class-ness of modern Philippine life, i.e., providing the geopolitical bodies that make illicit yet integral the middle-class experientiation of national life—becoming middle class with the middle-class guilt—and legitimation projected unto this racialized bodies of otherness.⁹ More so, the racialization of Moros also entails the construction of legitimate seafarers, Filipino seamen who represent some 20 percent of the total seafarers in the world, but mostly consigned to lowly jobs on deck.

In more recent times, by pioneering media piracy in key cities in the country, Filipino Muslims were also excelling in their stereotypical role as their niche participation in Philippine capitalism. By being conduits to this pedestrian layer of local capitalism—the site of sale itself undertaken in the busy sidewalks and streets—Filipino Muslims are allowing the national desire to become middle class illicitly possible for most Filipinos. Businesses also engage the massive pedestrian layer through the “tingi” (small portion) system, where everything can be sold and purchased in small quantities to suit the budget. This is also known as “sachet marketing strategy” or the ability to penetrate even the most disenfranchised of market profile with goods and services available for lower price ranges.¹⁰ In officially recognized businesses, the penetration translates to an experience of conspicuous consumption even for the underclass. This has allowed in cell phone penetration, for example, the saturation from 25 percent (what was deemed the regular market) to 45 percent (to include the majority of daily wage earners) through “micro top-up or sachet solution” that enabled people earning on a daily basis to be offered text and airtime services within their income range.¹¹ The attempt to regulate piracy, therefore, is also the nation-state's attempt to regulate Moro identity and to expound on Filipino Muslim marginal citizenship. My contention is that media piracy is a creative and critical response of Filipino Muslims that allow them to maneuver into the homogenizing cultural politics of the Philippine nation-state and neoliberal globalization.

In this essay, I will first map out the historical emplacement of Moro pirates in early capitalism, including their racialization into the trade, and then discuss the reverse piracy of the state that renders itself as a disenfranchising unit of the Moro and Chinese participation in the more recent media trade. My paper focuses on the Moro participation since the historicizing of the Chinese participation entails a separate discussion. Lastly, I then turn to the key role of the informal sector—one where media piracy is an active participant—in the sustenance of the national economy. Through a class analysis that links the Moro participation in media piracy, one finds an affinity of this act with the other classes involved in the informal sector.

Moro Profiling and Racialization

There have been three trends that historicize the maritime history of the Sulu Sultanate: first, the ‘decay theory’ or the theme of the “advent of piracy in the Malay

world in the eighteenth and nineteenth centuries and the decline of indigenous maritime power” that concentrated more on the suppression of piracy than the local initiatives; second, the ‘rivalry theory’ or the earlier competition “between the Catholic Spaniards and the Muslim population of the Sultanate” that underestimated local economic activities, like raiding, and enslavement as prime objects of wealth; and third, the ‘pattern theory’ or the mapping out of a local typology of economic, political, and cultural activities as central to state formation.¹² What these studies privilege is not so much the local initiatives but a kind of sustained profiling of the Moro as integral yet marginal to state formation. The term “Moro,” after all, refers to “the piratical ethnic groups” designated by the Spaniards, whose social category was not based on religion as certain ethnic groups were not Muslims, and that the “Moro Wars” were not only wars of religion but were “forays for economic purpose.”¹³

The Sulu area was a vibrant trading power in the eighteenth century, a major port of entry for Chinese from Mainland China, and of Buginese trade, centered on Southeast Asia. The trade was conceived in a hierarchy of ethnic and economic relations, with the Sultanate of Sulu overseeing the trade. For historian James Warren, trading was as crucial as the raiding and slavery activities of Moro pirates. Iranus belonged to the Maranao group and lived in the coastal areas of Mindanao., and their integration provided more supplementary skills to the Sulu sultanate. Samals collected marine products for the Jolo market and were under the Tausug datus who had the authority to give permission for piratical raids. Tiruns conducted raids on their own even though they were also under the supervision of Tausug datus who in 1757 allied themselves with the Spaniards to retaliate against the Tiruns for the raid expeditions in other areas of the Philippines.

Through a system of tributaries and raiding, the sultan of Sulu and its cohorts were sustained. Local subsistence agriculture was not developed until it became eminent that rice production was necessary to maintain the needs of the sultanate when the Spaniards have had some success in controlling pirate activities. The main economic activity was raiding, with figures suggesting a sizeable population size and boat fleets: “ten communities have been located representing a male population of over 4,000 and a fleet of 30 boats for each community, a total of a hundred per boat.”¹⁴ Raiding involved primarily the enslavement of the local population who were used to serve within households or were traded as much sought-after commodities for the developing plantation economy within and the growing trade of Southeast Asia. A report in 1728 cited that “25 boats attacked various places in the Visayas. They carried 500 Moros plus 800 slaves as oarsmen. They enslaved 450 persons, including three priests, one of whom was sold for 2,500 pesos.”¹⁵ The entire coastal area of the Philippines was a raid route, with the Sulu sultanate sanctioning and benefiting from the slave and produce booty. So massive was raiding that “at the end of the eighteenth century, some 500 persons a year would have been captured and enslaved.”¹⁶ Politically, “it is more than probable that some skilled pirates did become chiefs and achieved power which was later only justified by blood-ties.”¹⁷

Unable to contain piracy, “Spanish sources stigmatized the pirates as cruel because of the harsh treatment meted out to their captives, and treacherous because often they took Western ships by surprise or by the use of ploys.” Spanish colonial rule was not able to protect the Catholic-converted natives. Many natives sought refuge in the

hinterlands than go back to towns prone to raids by pirates. Historian Ghislaine Loyre makes this sweeping claim:

When the Spaniards arrived in the Philippines, there were no sultanates; instead petty chiefs engaged in piracy with their followers. The influence of Islam, the presence of an enemy, and increasing facilities for piracy enabled the inhabitants to prosper and to organize themselves into sultanates based on piracy. Missionaries gathered people into villages, not allowing them defense for fear they might rebel. Thus targets were 'offered' more easily to the pirates. Spanish sources of this period constantly complained about the raids which destroyed, sometimes more than once, almost all the villages of the central islands of the Philippines and the northern coast of Mindanao. The Spaniards had to exempt the inhabitants from paying taxes because so many people were taken away and some areas were totally devastated.¹⁸

James Warren writes of the aftermath of raids by pirates:

Some of the old towns were rebuilt on the original site, or on a new one nearby, but Iranun raids put a decisive end to many villages. The search for security and the fear of starvation and disease drove Filipinos (sic) to abandon villages that had existed for generations, after they experienced the forced harvesting and burning of their fields, and the slaughter of their plough animals. The dilemma facing stricken villages in the aftermath of a large scale raid was how to resume their original way of life without risking enslavement in the future. Some went to live in larger villages; some looked for new village sites, often on elevated ground; others abandoned the coast altogether for an equally harsh life in the mountain fastness of the interior where sometimes many were reduced to eating grass in order to survive. The Spanish labeled the fugitives *cimarrones* and *remontados*. On islands like Marinduque, Polillo, and Catanduanes, villagers could not readily flee to another area, and were forced to stand and fight. The raids knitted the inhabitants of the coastal towns of smaller islands like these together closely for mutual defense.¹⁹

The advent of piracy in the area came at the height of Spanish colonial rule although Loyre mentions that "piracy in the Philippines was not a response to colonialism for it had existed before the arrival in the area of Western empires. However, colonialism altered the rules of political and economic life in several ways."²⁰ Piracy became the local initiative to hook up with early global capitalism that was then under the shadow of colonialism. It provided the natives the opportunity and resources to be able to trade and maintain local political and economic control despite the Spanish colonial claims on the

islands. Until its decline, piracy symbolized the “shame” of Spanish colonizers’ failure to dominate, and its continuance, especially in the enslavement of captives, became the “embarrassment” to liberal values espoused during the subsequent American colonial period.

Warren states that “the Spanish were, in fact, too weak to prevent the inland seas of the central Philippines from becoming a ‘Muslim lake’.”²¹ Furthermore, raiding took its toll on colonial and Christian planning in other areas. Warren also cites that “the Bishop of Cebu stated that slave raids were the basic reason for declining parish enrolments and the continued poverty of the churches in Caraga, Iligan, and Panay.”²² The Spanish friars, after all, were instrumental in establishing over a thousand towns and cities in the Philippine lowlands by 1898; “majority of these communities had less than 2,000 inhabitants; 200 had a population of over 2,000; thirty over 5,000; nine over 10,000.”²³ The civilized native would be an appropriate object for exhibition as what the US did with the Moros in the 1904 St. Louis World’s Fair. America’s “Moroland” was the sore thumb sticking out of its liberal pie. Historian Michael Salman states, “the sultan’s ‘notoriously deficient’ income opened the possibility of forging a relationship through a monetary subsidy. In return, like Spain before it, the United States demanded a cessation of ‘piracy,’ meaning slave raiding as well as the general plundering of seaborne traffic.”²⁴ Colonial policy shifted from indirect to direct rule, and the Bates Agreement signed in 1899 where the US promised “not to interfere with the religion, law, and commerce (and to pay the sultan and his datus monthly stipends) in exchange for the sultan’s acknowledgement of United States sovereignty” was unilaterally abrogated by the US in 1905.²⁵ Datus were pitted with each other, new ones were reared through colonial education while some even became pensionados (Filipino scholars in the US).

Postcolonial profiling would be aggravated by the institutionalized practice of distributing lands to new settlers from Luzon and the Visayas, mostly Christians. Agricultural corporations were also allowed to redevelop rich arable lands of Mindanao into plantation economy geared for export. On the one hand, national policies were also “designed to ‘integrate’” Muslims into “national life” by providing an elite few access to postsecondary education.²⁶ On the other hand, Marcos would intensify the Moro/Muslim/Mindanao conflict by resorting to the militarization of the island beginning with the “Jabidah Massacre” where some 14-28 of the 180 Muslim trainees recruited in 1967 were executed without investigation. The conflation of these two historical junctures provided for the rise of Moro nationalism whose effect until the present time still continues to shape Mindanao and national politics.

The disjuncture in the signifying practices of colonial rule as brought about by the experience of piracy can be used to illuminate contemporary issues where the Moro media pirates continue to undermine the practices of the nation-state. Postcolonial national politics would further propel an internal orientalizing of the Moro figure—unintegratable in their propensity then to become ethnically at par with national citizenship or to become autonomous subjects in their struggle for self-determination now. Even in this rhetoric of the nation-state, the Moro pirate becomes the fluid subject able to weave through national politicking, the Moro struggle for sovereignty, and global neoliberalism. It is within the shadows of global neoliberalism that hinges on the protection of intellectual property rights of the innovator-entrepreneur—a similar reworking of the laissez-faire philosophy of early capitalism—that the pirate is able to

intrude and insert him or herself, at least, in Philippine modernism, as the filter to imagine the nation-state and its citizens as having achieved the simulacrum of middle-class-ness.

Philippine State Formation and the “Middle-Class” Affect

“Dividi,” pronounced in a low almost sinister-like whisper, becomes the popular way both to reify and parody the Moro vendors of the pirated media trade. Dividi becomes the translator of the acronym, which, for its seeming technological entwinement does not have currency in popular culture. Dividi is played on a pirated DVD player—pirated because the buyer will be asked by the seller what brand name he or she prefers to have glued on the generic player. This player is oftentimes more powerful than regular players as it can play all regional formats. Dividi—the pirated version—is technologically and commercially supported by other modes of piracy, including the preferred VCD format for most underclass users. An IIPA report even states, “unlike in some other Southeast Asian countries, the VCD format has not yet supplanted VHS videocassettes; but VCD piracy is extending the life of the pirate market in the older format.”²⁷ In fact, dividi, though encompassing of all media forms, is more basically attuned to the music CD and movie VCD forms, which are cheaper than DVD. Dividi, therefore, translates for the under class prior to technological developments (VCD) and middle class, the present technological innovations.

Said in a whisper, dividi foregrounds what is unsaid or could not be said in the discourse of the nation-state: pirated media as basis for non-inclusion or partial exclusion in global neoliberalism. Hovering in the sidelights, the seller—the pirate body no less, selling pirated goods—seduces buyers with the latest markers of middle-class media. It tempts buyers into their own unsaid desires—to become participants in piracy, and therefore, to have illicit markers of middle-class-ness yet deemed not acceptable at all in present global capitalism. For the wannabe middle class, these products signify both the parallel direction and the disjuncture into actual middle-class-ness. Middle class contestation on this quasi-middle-class act is rationalized by limited access to genuine goods (where else to buy classics of world cinema?), principled participation (would buy only foreign and not local pirated films), or a ‘genuine’ manifestation of consumerism, and not by acceptance of the act as part of ‘genuine’ example of piracy. Positivized, the middle-class angst for piracy is negated.

In most places, dividi has been publicly displayed in stalls for prospective buyers. These stalls are within and on the fringes of legitimate local capitalism—Greenhills, Divisoria Mall, Philcoa, Makati Cinema Square, Metro Walk, and the various sidewalks in Baguio, Laoag, Davao, and other major cities in the country. Within the belly of the Moro enclave in Quiapo, old buildings were refurbished to cater to new stalls for the aggressive dividi trade. The dividi trade and jeepneys compete for constrictive access along Quiapo’s thoroughfares. Not only were infrastructures reconceptualized for the trade but so too were behaviors and decorum of the trade. During the introduction of a lot of the classics of cinema and even operas, devoted clients would wait early in the morning when new titles were released. For pornographic films, for example, a range of new practices surfaced: whispers from sellers of pornographic films to people walking on the street, prospective clients being brought into more illicit spaces, practice of not opening the package bought in the site, and of course, being duped into buying something

other than the pornographic films ordered. Sellers would coalesce on a minimum price per dividi, and would impose a tough attitude to those not acceding to the price; even as elsewhere in Quiapo's various enclaves, prices vary depending on the location of the stall. The more commercialized the space—brand new stalls, air-conditioning, availability of a television to test the dividi—the more expensive the minimum price set.

It is not so much that Moro identity dictates the newer capitalist experience in dividi production and sales but it is the historical construction of the sinister figure of the Moro pirate that somehow foregrounds any actual contact and exchange with Moro ethnicity. Christian and state chauvinism have minoritized the position of Moro ethnicity, creating it as the other of the national self, an othering based on ethnicity and religion rather than on class, as compared, for example, with the assertion by the New People's Army of working class issues and differences. In asserting the three million Muslims in the country or just some five percent of the population of predominantly Christian Filipinos,²⁸ national politics emplaces the Muslim conflict as something induced by the Muslims themselves, for not wanting to integrate into the body of national politics that purports cultural and religious tolerance. In obfuscating class from Moro ethnicity, Christian and state chauvinism have washed off their own crucial role in minoritizing the Moro. Difference is posed in terms of religion and ethnicity, all redeemable within the nation-state's developmental objectives.

This chauvinism furthers the middle-class affect or the gentrified feeling of belongingness, and in Filipino colloquial use, "feeling" means to be in the privileged yet in the inappropriate place of the other—*pa-feeling*, *feelingera*, *feeling rich*, *feeling pretty*. So we add the new feeling, feeling middle class, a class affinity that contradicts actual class affiliation— aspiring to become part of this uppity group even with dismal historical class positionings. Middle-class affect becomes the simulacrum to actualized forms of actual social mobility, with dividi forming an integral part of the substantiation of the affect. The contradiction of middle-class affect and actual historical class position becomes the tension in the everyday interrogation of national politics and global neoliberalism.

Dividi becomes the marker of the contradiction, poised in the racialization and class depoliticization of the Moro figure that illegally reproduces and sells it as a modality of class subjectivity within the gentrified codification of global neoliberalism. Within national politics, the most infamous case that comes into mind is former President Joseph Estrada's celebration, in a devastated mosque, of his victorious reclaim of an MILF (Moro Islamic Liberation Front) camp: "Erap waged total war against the Abu Sayyaf and the MILF in Mindanao, celebrating his troops' victory by giving away jeeploads of lechon and beer, in a deliberate affront to Muslim sensibilities (about pork and alcohol)."²⁹ The pirate's turf, Mindanao, is posited as either land of (Christian) opportunity, war-ravaged, and newer site of terrorism, the latter as a result of the larger minoritization of Moros in the global war on terror. Former US charge d'affaires in Cambodia Joseph Mussomeli has warned that Mindanao "could become the next Afghanistan," and that "Metro Manila could become the next Baghdad."³⁰ The Autonomous Region of Muslim Mindanao (ARMM) is the most poverty-stricken region in the country³¹—being on top of the list of provinces with the highest poverty incidence. Also included in the top ten are Muslim provinces of Tawi-tawi, Maguindanao, and Sultan Kudarat.³²

Moro involvement in the dividi trade revolved around the ghettoization of the ethnic groups in national identity formation and national development. What Moros undertook in their infrastructuring of the nation for the dividi trade was a reproduction of their headquarters ghetto of sorts—their redevelopment of the Muslim side of Quiapo as the antithesis to Manila Mayor Lito Atienza’s own urban renewal of historical and touristic sites in the capitol—in other sidewalk ghettos in key cities. In the first place, Moro enclaves in the official city have been designated in Maharlika Village, Taguig and Culiat, Tandang Sora areas, prone to periodic raids and ‘sona’ (forced submission of suspects for inspection) by the police. Other informal sites include Baclaran, the island that was part of the reclamation project in Manila Bay, and crosswalks where Badjaos and other ethnic groups brought from Mindanao are made to beg by syndicates or of their own will. The state’s own Clark Special Economic Zone was used as a factory site to produce pirated media until it was raided in 2000.³³

The attempt of the nation-state to weaken Moro ethnicities exhibits the state’s own propensity for corruption and its upholding of larger interests, i.e., it underwrites, if not supervises, the economic flow of goods and trade by Moros on the one hand, and the social engineering or the minoritization of the Moros on the other hand. The Philippine state also functions to discipline and punish the Moros through continuous surveillance and self-vigilance. An uncanny example of such policing activity of the state that is specifically directed to Moros is its media piracy raids. In a reversal of roles, the state through its police apparatus now undertakes the raiding of pirated media, a piratical act against pirated goods and pirates themselves. The state’s performance of a double-take on piracy, even in its coercive nature, is legitimate. And this coercive nature of state function becomes the corrupting impetus for the use of Moros and their trade then and now to signify the state’s acquiescence to both the normality of its racializing operation—in the name of protecting the more legitimate individual and corporate claims—and its own corruptible enterprise via individualized or hierarchical interests through pay-offs, cuts, percentages, and illegal claims in exchange for “protection.” In a report on raids, the racialization of piracy is once again pronounced:

[US Assistant Secretary of State William] Lash said the Philippines has yet to convict a single person for piracy, even though 280 arrests were made [in 2002]. Almost at the same time as Lash’s visit, VRB [Video Regulatory Board] operatives confiscated five truckloads of pirated audio and video tapes and arrested eight people, including a ranking police official from Mindanao, during a raid in Maharlika Village in Taguig. Senior Supt. Laud Sari, Lanao del Sur provincial director, was arrested in one of the houses where the illegal piracy activity was being done. He was immediately relieved by Philippine National Police Director General Hermogenes Ebdane Jr. for ignorance of the law.

Combined teams from VRB, PNP [Philippine National Police], Presidential Security Group, Special Weapons and Tactics of the Southern Police District, Philippine Air Force and film stuntmen, joined in the anti-

piracy operation on Mindanao Avenue, Maharlika Village. Lawyer Carlo Uminga, VRB chief for legal affairs, said the raid on nine Muslim houses along Mindanao Avenue also yielded 150 units of CD burners, desk computers and master copies of audio and video CDs.

Uminga describe the raid as the biggest “in terms of the number of CD burners and the volume of fake CD and VCD materials.” “This is unique in the sense that Maharlika is the biggest supplier of pirated materials to barter centers in Quiapo,” he said. Officials said the illegal piracy activity in Maharlika, dubbed Quiapo Dos, has become a cottage industry in the area, serving as main sources of livelihood for jobless residents as well as their relatives in Quiapo.³⁴

Unlike in usual reportage of crimes, the religious and ethnic backgrounds of the perpetrators are clearly mentioned in the report, and tied to the crime of piracy. Uminga draws the link of Quiapo and Maharlika Village, as well as livelihood for those in the area and their relatives in Quiapo, homogenizing the notion that all Muslims are the same, or at least, in support of their kind. The report spectacularizes the raid, involving even movie personnel as providing the authentic dissent to the crime committed against their industry. A vendor of pirated CDs succinctly puts the reversal at play, again poised in racialized terms, “But they have no right to confiscate what we are selling[...] the police are just like the Abu Sayyaff (a kidnap terrorist group in Southern Philippines), they come and confiscate everything we sell... while some of them choose the (pornographic) films and some of the good music CDs and just take (those) away!”³⁵

The ebb and flow of raids and raid patterns becomes normalized too with the traders’ forewarned knowledge of what to do, why, and how. Raids are staged performances, after all, of the state’s display of efficiency to deliver trading practices at par with neoliberal standards. The Chair of the Optical Regulatory Board (ORB) will always be present in these raids denoting the “quite safe” conduct of these police activities. Shops would just pull down their shutters, and street vendors would run with their goods. Actor Ramon Revilla, Jr., a Chair of the VRB, would find national political acclaim in these raids, allowing him to run and win a Senate seat. Pirated goods are then seized, and another spectacle will ensue, the bulldozing of the illegal goods. Quantities of the goods destroyed are stated but can never be verified. Viewers are made to assume of the righteousness of the quantity, and therefore, the moral ground to destroy these. This becomes the moral locus, however, for individual holders of pirated media to justify their collection—the amount they have can never equal the amount produced by pirates that is and seized and destroyed by the state. The middle-class reaction mimics the state’s own self-preservation agendum—to ensure some compliance to dictates of global capitalism on the one hand, and to ensure that it reaps its share in the illegal trade on the other hand.

Neoliberalism, Informal Sector, and Its World of Piracy

Quiapo derives its name from “kiyapo” or *pistia stratiotes* (scientific name), a floating water plant, “whose leaves are densely clothed on both surfaces with short

depressed hairs, (such that) any water falling on the inclined leaf is speedily repelled and the epidermis never wetted. The air layer effectively prevents the plant (from) becoming submerged.”³⁶ The plant has evolved to survive in the murky and muddy waters of the area. Its qualities parallel Quiapo’s own evolution as still a cultural center of modern and postmodern national life.³⁷ Its first underpass was built by Mayor Arsenio Lacson in the 1950s, was the shopping and leisure district in the pre-mall era until the 1970s, the site where Marcos built the golden mosque in a gestural attempt to display Muslim recognition, the site of the first 24/7 Mercury Drug Store branch, the site first redeveloped into Atienza’s grand city in the 2000s, and remains as the major hub of the present dividi trade. Quiapo’s survival rests on its symbolic premodern value to the country’s religious and cultural life. But it is Quiapo’s present enclave of piracy that is most illuminating of the plant’s similar characteristic, as a “direct mechanical hindrance to navigation, entangling boat propellers; also leads to loss of crops, flooding.”³⁸ In other words, Quiapo always already foregrounds the continuance of piracy or a double-act, simultaneously showcasing national modernity and its undercurrent, the informal economy that sustains this modernity.

Such informal economy is crucial as it allows for the cultural maneuvering that postures modernity and its version of Third World cosmopolitanism that sustains it. From the annual procession of the Black Nazarene, Atienza’s grand renovation of the Plaza Miranda, to the eclecticism of the space of folk medicine, religiosity and consumerism, to the in-mixing of Christian and Muslim domains, old houses in San Miguel, or decaying art nouveau buildings in Espana, Quiapo’s habitat is unique yet reproducible in the age of neoliberalism. Neoliberalism seeks to allow the free flow and penetration of global capital, goods, and people through a system where government creates the business and political conditions to ensure this free flow through laws that support privatization, commercialization, and liberalization of goods and services. Primary to neoliberalism’s reproduction of capital via finance markets is its perpetuation of physical and service infrastructures to guarantee capital’s smooth flow. Services are franchised to tailor fit the newer mode of capitalism and Quiapo retrofits newer modes with an almost premodern variety of services. These services were first negotiated and standardized in Quiapo and other related sites prior to the circulation of these as usual norms of middle-class national experience.

The informal sector that brings about the culture of modern-premodern artifice sustains the national economy. It is by locating the Moro pirate figure within class, and even underclass politics, that another visibilizing trope of identity formation is rendered possible. Indeed, Quiapo’s informal sector in general and media piracy in particular accounts for a juncture of the flow of the economic backdoor, the illegal bringing in of goods and produce, or the marketing of illegal goods and produce. The informal sector projects a double-piracy: the selling of goods brought in illegally, and the selling of illegal goods. Thus, the bringing in and selling of the goods represent the illegal operation in this informal sector. The local movie industry is quick to react to media piracy, given its prominent stature in the culture industry, as some P30 million of its total sales succumb to piracy or 30-35 percent of its entire sales monthly.³⁹

The Philippine population profile, a sizeable portion of which is made up of very young people (45.53 percent is from ages 18 and below or a total of 38.8 million and 0-4 years old is the age group with the largest population), is served by the informal sector,

particularly media piracy.⁴⁰ The informal sector in Quiapo and elsewhere eat up on the US\$23 billion Hollywood profits, \$33.6 billion recording industry in the US, and the \$189 billion worldwide software industry.⁴¹ Quiapo and the likes were able to bite into the sales of US companies the amount of \$116 million in 2002.⁴² In 2004, the estimated loss by US companies was \$160 million.⁴³ Even as early as 1997, \$177.7 million was already lost in the Philippines due to piracy, \$107.7 million of which from media piracy.⁴⁴ Specific to software, the piracy rate was a high 71% in 2005, and industry losses amounted to \$76 million in 2005.⁴⁵ So massive is the influence of this sector that the Philippine government has failed for five years to get the country out of the very important priority watch list of the US. “Special 301 is the part of the US trade law that requires US Trade Representative to identify countries that deny adequate and effective protection for IPR or that deny fair and equitable market access for US persons who rely on IPR. Once ‘identified,’ the country could face bilateral US trade sanctions if changes are not made to address US concerns.”⁴⁶ It was in February 2006 that the Philippines was upgraded of sorts to the “Watch List” after having been on the “Priority Watch List” for five consecutive years, but nonetheless still under close watch by the US.⁴⁷ The inclusion in the list represent the premodern stigma of non-inclusion in the newer global trade, a kind of underclass in the more recent big league capitalist game, which according to Emma Francisco, IPO director general, states, “*Pangit ang implication no ’n* (the implications are bad), because there is a tendency for people to stay away.”⁴⁸ The US is blunt in declaring: “The Philippines has been relatively ineffective in protecting intellectual property rights.”⁴⁹ Media piracy becomes the pronounced sores in the national leper geobody politics.

By 2001, it was clear that Quiapo was becoming part of the media piracy network globally. “The Philippines ranked number three in Asia in manufacturing and selling pirated media materials”⁵⁰; and the “seventh worst Intellectual Property Rights violator.”⁵¹ From being a distributor, the Philippines was becoming a supplier of media piracy. However, the ownership of the means of piracy was racialized through the “Chinese” (Singapore, Macau, Hong Kong, Taiwan and China) and “Muslim” (Malaysia) connections. This means that the informal sector of media piracy in the country still owed much to illegal foreign capital for funding, signifying that even in the illegal trade, the Philippines was poised low globally. Nonetheless, the country remains crucial—“taking advantage of the country’s porous borders, the CD pirates relocated in the Philippines where IPR enforcement is worn to escape tighter enforcement in their own countries. The pirated optical media are sold to Southeast Asian and other global markets, including Latin America.”⁵²

The porousness is experienced twice—in the archipelagic geography that posits the national experience as already open to global ideas and products on the one hand, and in the quasi-effectiveness of governance in law enforcement and in the nature of the informal sector, where in its very anachronistic use of technology—like hand delivering the master dividi copy, folded paper ledgers for *jueteng* kubradores (gambling agents), or marked stones to hide sachets of *shabu* (crystal meth)—the culpability of the illegal perpetrator is limited. Yet the porousness is socially allowed, too, because of the sizeable contribution of the informal sector, supplying 40-70 percent, to the official gross domestic product.⁵³ The informal sector also constitutes 63 percent of the total labor force or some 15-19 million workers.⁵⁴ The informal sector does not only supplement the

government and private sector's initiatives on employment and individual income, it provides for the majority of these components.

The history of the informal sector is generated by three major episodes in the national development drive.⁵⁵ Even prior to these national drives, the Philippines “is among the most enthusiastic of global players, lowering its tariffs faster than its neighbors and opening its entire economy, including land ownership and retail trade without caution—as if the lesson from “parity rights” and “free trade” during the American colonial rule have not been learned.”⁵⁶ In the postwar period, import substitution restricted imported consumer goods, allowing for monopolies in the manufacture of various basic food and agricultural products. The introduction of machines displaced manual labor and urban migration intensified. The Marcos period stressed on export-oriented economy, with the labor force supplying the needs of multinational corporations in manufacturing and agriculture in the homeland, and the export of Filipino contractual labor in foreign lands. The 1980s up to the present emphasized economic liberalization with government assets and services being privatized (electricity, water, and corporations, among others) leading to mass layoffs, greater contractualization, and reskilling of workers.

Media piracy comes in the aftermath of national development, marking both its failure to fully progress as a nation and its illicit translation of global standards of leisure. Piracy of textbooks was justified by the tenets of import substitution, and the availability of various media products—including pirated versions—in the 1990s was spurred by economic liberalization and the official drive for global competitiveness. In 1976, the International Labor Organization (ILO) gave the criteria for defining the informal sector, which still applies today, particularly on media piracy:

- 1) family workers in a business (usually paid), 2) less than 10 people are employed in a business, 3) there are no legal regulations or existing regulations are not observed, 4) there are no regular working times, 5) the work is seasonal, and 6) there is no dependency on regular loans.⁵⁷

In 1998, ILO defined the informal sector as “a small-scale self-employed activities (with or without hired workers) distributing goods and services at a low level of organization, skills and technology with the primary objectives of generating employment and incomes. The activities are usually conducted without proper recognition from authorities and escape the attention of the administrative machinery responsible for enforcing laws and regulations.”⁵⁸ What the ILO does is to legitimize the contribution of the informal sector, especially in the developing economies, as a struggle for livelihood and the standards of living.

What it also does is to highlight a form of primitive accumulation of capital in the intensification of neoliberalism—capital has penetrated the lives of individuals that even the disenfranchised are made subservient to higher positions of legal and illegal authority to generate vestiges of capital. Think of the scene in *Kubrador* (Jeffrey Jetturian, director, 2006) where coins placed as gambling bets are shoveled into containers. Even the most marginalized sectors are further disenfranchised in finding individual immediate relief from abject reality and access to social mobility. Even as jueteng, the numbers game, for example, gives a 1:400 chance of winning, so enticing is the appeal that annual revenues from this small-town lottery amounts to P30 billion annually.⁵⁹ According to

Isagani Yuzon, the informal sector is “the first casualty of globalization” for the following reasons:

First, informal sector products have no way of competing in the global market, due to their low-input, low-technology, low capital content[...] [s]econdly, the informal sector bears the brunt of the harsh structural adjustment programs, such as the liberalization of banks and the gobbling up by unibanks and multinational corporations (MNCs) of small banks and rural banks[...] [t]hirdly, the informal sector carries a substantial burden of the country’s regressive taxation system[...] [f]ourthly, the informal sector suffers from the absence of social protection being outside the regulatory coverage of the government[...]⁶⁰

While the informal sector may not be able to compete head-on with legitimate business entities, it is able to form alternative engagement practices in the service of the consuming public, fulfilling a function both in aid and in contention with government interests. Yuzon writes of the ability of the informal sector to sustain the national economy amidst globalization:

[T]he informal sector absorbs all the victims of globalization—displaced workers, forced retirees, educated, unemployed, etc. [...]

[T]he informal sector cushions the impact of globalization on the surviving formal sector [...]

[T]he informal sector expands the domestic market, spreads the purchasing power among the poor, and brings the products of the formal sector into the poorest segments of society, thus contributing to the health of the formal sector [...]

[T]he informal sector covers up what government has failed to provide in terms of basic services [...]⁶¹

What the informal sector does is to make employment available even as some 25 percent of the youths in the country are unemployed, and as the youth labor force is expected to expand by 17 percent from 2005 to 2015.⁶² It gives alternatives or sustaining options even when the nation-state disenfranchises this massive sector.

On the one hand, the state enforces global IPR dictates of developed nations, showcasing the spectacle of law and order in raiding piracy lairs. On the other hand, the state condones biopiracy, especially those coming from corporations of developed nations. Together with Brazil, the Philippines ranks fifth among the world’s biological ‘hotspots,’ with an estimated 9,000 species of flora, a third of which is considered endemic.⁶³ “At least one tree [Philippine yew] with cancer-curing potential, four native vegetables [ampalaya, talong], one snail [Conus Magnus] which produces the most effective painkiller, an antibiotic soil fungus, one tree and several rice varieties, have been stolen, and are now owned by foreign pharmaceutical firms.”⁶⁴ Biopiracy is said to be not new in the country. As early as 1949, Dr. Abelardo Aguilar, working for a pharmaceutical firm, Eli Lilly Co., sent samples of an antibiotic isolated from soil in

Iloilo. “Ilosone,” named after the place where the sample was found, was the “first successful macrolide antibiotic introduced in the US in 1952,” allowing an alternative to patients with allergic reactions to penicillin.⁶⁵ The drug has earned billions for Eli Lilly, but Aguilar has not received any royalty. Another celebrated piracy case that comes to mind is Roberto del Rosario’s invention of the sing-a-long system, the precursor of the karaoke, for which he has not received any royalty.

What the issue of piracy undertakes is to render the state and the higher interests of developed nations and their multinational corporations as officiating gatekeepers that legitimize corporate claims and disenfranchise perpetrators of illegal reproduction. The state straddles on the legitimation of the antithetical contest of authentic and illegally reproduceable claims, even as the state seeks to legitimate its own status as an efficient machine that implements global stakes as well as effective local governance. It is not so much as a weak state but a state designed to be weak in order to remain porous in “swinging it both ways,” so to speak, to legitimate its own machinery of corruption and politicking—allowing the informal sector to bridge the gap of public service, and therefore, periodic breaths of tolerance in between raids and pillage of pirated goods, and allowing capitalist interests to be protected and be expanded nationally.

While the middle-class affect emplaces the national citizen in some nexus of gentrified social being, the informal sector could very well challenge the order of civil society. On the one hand, in the drive against piracy, the government seeks to protect legitimate business and take up the cause of artists in their struggle for economic artistic rights. In this case, the government disenfranchises counterclaims to citizenship, especially the case of media pirates. On the other hand, in the continuance of media piracy, the informal sector asserts its own claims to citizenship, reminding the government and businesses it protects of the uneven distribution of wealth and the experience of national life. Poised in issues of social legitimacy and massive poverty, the informal sector, especially the figure of the Moro pirate, trespasses the lines of hegemonic consignment and relegation. Coerced into being minoritized, the informal sector strives to assert its survival on a daily basis. The arrogance of power is to create pejoratives of underclass practices to soothe middle-class identity formation: will not choose charity because beggars will just gamble their money, or buy drugs; or that the underclass itself should just choose to buy rice and other basic commodities rather than buy pirated DVDs. The underclass is discursively denied access to middle-class lifestyle yet the intermittent position of the middle class is allowed access to approximate the middle-class experience. There is tolerance for the middle class in downloading media from the internet as some 400,000-600,000 films were illegally downloaded everyday in 2003, even as the box-office and home video sales soared in 2004.⁶⁶ However, the homogenizing effect of global popular culture and neoliberalism has allowed the gentrified social imaginaries to be out here and there, even to the underclass that have also began to dream of “feeling rich.” Pirated media becomes the trace that simulates not the real but the imaginary of the real, “feeling rich” because that is all that it could get at this time.

I am grateful to Professor Tilman Baumgartel for inviting me to share my ideas on media piracy in the Philippines. I am also thankful to Merce Planta for helping me locate sources on sea piracy in the Philippines.

¹ Wikipedia, "Piracy," <http://en.wikipedia.org/wiki/Piracy/> (accessed 6 Nov 2006).

² Ibid.

³ Ibid.

⁴ See Tilman Baumgartel, "The Culture of Piracy in the Philippines" (manuscript, 2006). The essay has a primary source discussing the "Muslim connection," including the use of the sea lanes that bring pirated movie sources from Kota Kinabalu, Borneo to Manila. Upon reaching Mindanao territory, the "RoRo" scheme (Roll on, roll off) is used, "where long-distance busses leave Mindanao via ferries, that take them to other islands, in this case the main island of Luzon, where the capital Manila is located."

⁵ Wikipedia, *ibid.*

⁶ Richard Menta, "Movie and Record Industry Piracy Figures Incendiary, But Not Fact," 15 June 2006, <http://www.mp3newswire.net/stories/6002/250billion.html> (accessed 6 Nov 2006). The \$60 billion figure is cited in Julie Javellana-Santos, "Optical Media Act penalizes film piracy," 18 Feb 2004, <http://www.philippinenews.com/> (accessed 6 Nov 2006).

⁷ Wikipedia, *ibid.*

⁸ In elite culture, Mindanao is transposed from its ravaged history to a location replete with natural beauty and wonder. See for example the coffee-table book *Mindanao: A Portrait* (Manila: Bookmark, Inc, n.d.) that renders an almost invisible history of war and piracy in the island grouping.

⁹ The characteristic and quality of reproducibility of media in piracy is discussed in Scott R. Garceau, "Truth in advertising," 30 Aug 2006, <http://www.philstar.com/philstar/LIFESTYLE200505093706.htm>, emailed in plaridel_papers@yahoo.com (accessed 21 Sept 2006); Conrado de Quiros, "Out of the box," Aug 30, 2006, http://opinion.inq7.net/inquireropinion/columns.view_article.php?article_id=17953 (accessed 21 Sept 2006), and "Fighting pirates," 26 Dec 2003, http://www.asianjournal.com/cgi-bin/view_info.cgi?code=00002599 (accessed 21 Sept 2006).

¹⁰ Leo Magno, "RP mobile phone penetration growth can be replicated—Smart," 17 Oct 2006, http://technology.inq7.net/infotech/infotech/view_article.php?article_id=27221 (accessed 18 Oct 2006).

¹¹ Ibid.

¹² The decay and rivalry theories are drawn from James Francis Warren, *The Sulu Zone 1768-1898* (Singapore: Singapore U P, 1981), xiv-xv. To my mind, what Warren undertakes in his study marks off a third theory of historiography of Sulu and piracy, "revolving around the interrelated themes of external trade, slave raiding, and state formation as the key to the general history of the zone" (xv). Subsequent studies include Ghislaine Loyre, "Living and Working Conditions in Philippine Pirate Communities, 1750-1850," *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries* (Devon: U of Exeter P, 1997), 69-86, and Thomas M. McKenna, *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines* (Berkeley: U of California P, 1998). Also see Warren, *The Sulu Zone: The World Capitalist Economy and the Historical Imagination* (Amsterdam: VU U P, 1998), and Peter G. Gowing and Robert D. McAmis, eds, *The Muslim Filipinos* (Manila: Solidaridad Publishing House, 1974). Local historiography of the Moro can also be seen in Samuel K. Tan, *The Filipino Muslim Armed Struggle, 1900-1972* (Philippines: Filipinas Foundation, Inc., 1977), and Kenneth E. Bauzon, *Liberalism and the Quest for Islamic Identity in the Philippines* (Quezon City: Ateneo de Manila U P, 1991).

¹³ Loyre, 72.

¹⁴ J. Hunt, cited in Loyre, 77.

¹⁵ Loyre, 80.

¹⁶ Montero y Vidal, cited in Loyre, 83.

¹⁷ Loyre, 76.

¹⁸ Ibid, 81.

¹⁹ Warren, 169.

²⁰ Loyre, 81.

²¹ Warren, 170.

²² Parish documents (1779), cited in Warren, 171.

²³ Robert Reed, cited in Warren, 177.

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- ²⁴ Michael Salman, *The Embarrassment of Slavery: Controversies over Bondage and Nationalism in the American Colonial Philippines* (Berkeley: U of California P, 2001), 68.
- ²⁵ McKeena, 90.
- ²⁶ Ibid, 140.
- ²⁷ International Intellectual Property Alliance, "2001 Special 301 Report Philippines," <http://www.iipa.com/rbc/2001/2001SPEC301PHILIPPINES.pdf> (accessed 6 Nov 2006), 177,
- ²⁸ Ibid, 2.
- ²⁹ Antonio Abaya, "The US loves Erap?" *Manila Standard Today*, 27 Mar 2005, <http://www.manilastandardtoday.com/> (accessed 27 Sept 2005).
- ³⁰ Joseph Mussomeli, cited in Abaya, *ibid*.
- ³¹ www.nscb.gov.ph/ (2004), cited in Pamintuan, 9.
- ³² Ibid, 16.
- ³³ International Intellectual Property Alliance, 178.
- ³⁴ "Piracy watchdog backs bill regulating optical media," *Poblaw Newsletter* 3:24 (Apr 2003), <http://www.poblaw.com/April2003.html> (accessed 8 Nov 2006). US support versus US sanction renders the piracy issue as economically and politically contestable. Even in sea piracy, in the Associated Press, "US lauds S-E Asia's anti-piracy measures," *The Strait Times* (4 Nov 2006), 30, US approval premeditates national course of actions among various Southeast Asian nations.
- ³⁵ Cited in Jonas Baes, "Towards a political economy of the 'real': Music piracy and the Philippine cultural imaginary" (manuscript, 2002), 4. For another account of media piracy raid in Baguio City, see Harley Palangchao, "Raid of pirated CDs, VCDs nearly ends in violence," *Sun Star Baguio*, 5 May 2003, <http://www.sunstar.com.ph/> (accessed 8 Nov 2006).
- ³⁶ C.P. Sculthorpe, *The Biology of Aquatic Vascular Plants* (1967), quoted in Jema M. Pamintuan, "Pagmamapa ng Pagbabagong Heograpikal, Historikal at Kultural ng Quiapo" (manuscript, 2005).
- ³⁷ For a discussion of the spatialization of Quiapo and media piracy in it, see Pamintuan's essay that astutely examines the site in terms of elixir, capital obsolescence, rise of the informal sector, backdoor policy, and territorialization.
- ³⁸ Sculthorpe, *ibid*.
- ³⁹ Florence F. Hibionada and Maricar M. Calubiran, "Pirates go slow on movies, 'get even' on music," *News Today*, 23 Dec 2005, <http://www.thenewstoday.info/20051223/pirates.go.slow.on.movies.get.even.on.music.html> (accessed 8 Nov 2006).
- ⁴⁰ "Figure it out," 5 Nov 2006, http://showbizandstyle.inq7.net/sim/sim/view_article.php?article_id=30587 (accessed 8 Nov 2006).
- ⁴¹ Menta, *ibid*.
- ⁴² "Piracy watchdog backs bill regulating optical media," <http://www.poblaw.com/April2003.html>.
- ⁴³ "Philippines," <http://www.state.gov/e/eb/afd/2005/42102.htm> (accessed 6 Nov 2006).
- ⁴⁴ International Intellectual Property Association (1997), cited in Baes, 3.
- ⁴⁵ "Software Piracy Rate in the Philippines Remains at 71%," <http://www.bsa.org/> (accessed 6 Nov 2006).
- ⁴⁶ "Gov't moves to have RP delisted as IPR violator," <http://www.poblaw.com/April2003.html>.
- ⁴⁷ "Philippines," http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/2006_NTE_Report/asset_upload_file.223_9202.pdf (accessed 6 Nov 2006).
- ⁴⁸ Iris Cecilia C. Gonzales, "RP still in priority list of IPR violators," *Business World*, 15 May 2003.
- ⁴⁹ <http://www.state.gov/e/eb/afd/2005/42102.htm>, *ibid*.
- ⁵⁰ Rep. Imee Marcos, cited in Gonzalez, *ibid*.
- ⁵¹ T. Arceo Dumlao, cited in Baes, 3.
- ⁵² "Foreign pirates find RP a lucrative haven," *ibid*.
- ⁵³ Ma. Rosario K. Garcia, "Hidden No Longer: Beyond Property Rights, The Philippine Informal Sector from a Rights-Based Perspective," manuscript (2005), 4. Estellita V. Domingo in "Measuring the Non-Observed Economy (NOE): The Philippine Experience," (ms., 2004) estimates the informal sector as 44 percent of GDP.
- ⁵⁴ Cited from a study done by the Bureau of Labor and Employment Services of the National Statistics Office, cited in *ibid*. (specify na lang ang author instead of *ibid*. Sino bas a kanila sa taas? Dalawa ang citation mo.)

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- ⁵⁵ This history of the economic development drives is based on *ibid.* (see comment above)
- ⁵⁶ Isagani F. Yuzon, "The Human Resource Development of the Philippine Informal Labor Sector Amidst Globalization and Its Applicability to Developing Economies," (UMP-Asia Occasional Paper, Mar 2004), 1. His estimate of the informal sector is between 45-55 percent of the labor force.
- ⁵⁷ ILO, cited in Garcia.
- ⁵⁸ *Ibid.*
- ⁵⁹ Cited in Emil Jurado, "Destroying people's reputations," *Manila Standard Today*, 01 June 05, http://www.manilastandardtoday.com/?page=emilJurado_june01_2005 (accessed 22 Nov 2006).
- ⁶⁰ *Ibid.*, 2-3.
- ⁶¹ *Ibid.*, 2.
- ⁶² ILO cited in Alastair McIndoe, "Asia faces tough job finding work for its young," *The Strait Times*, 7 Nov 2006, 2.
- ⁶³ Charkravarthi Raghavan, "Philippines Government Clamps Down on Biopirates," 27 Jan 2003, email forwarded by Joseph Anthony Lim to plaridel_papers@yahoogleroups.com (accessed 27 Jan 03).
- ⁶⁴ Antonio Cerilles, quoted in *ibid.*
- ⁶⁵ See *ibid* for Dr. Abelardo Aguilar's disenfranchisement in biopiracy.
- ⁶⁶ Jie Zhou, "The Economics of Movie Downloads," *Yale Economic Review*, <http://www.yaleeconomicreview.com/issues/fall2005/downloads> (accessed 6 Nov 2006).