

THE CULTURE OF PIRACY IN THE PHILIPPINES

Abstract

NEW ABSTRACT

This paper addresses the issue of media piracy in the Philippines from a number of perspectives. Drawing on interviews with traders of pirated media material, it looks at piracy as a means of distributing films and at how the piracy market works. It also examines the effects that access to quality movies has on the local film culture and media literacy in general and on the teaching of film in particular. Then it examines the unprecedented rise of media piracy in the last few years as one of the most prominent issues of the “digital” millenium. Building on my research into digital culture over the last ten years, the paper finally considers piracy vis-à-vis a number of other approaches towards intellectual property, which have emerged in relationship to digital “goods” and new licence policies.

The Culture of Piracy in the Philippines

“Not many people are scrupulous about smuggling when, without perjury, they can find any safe and easy opportunity of doing so. To pretend to have any scruple about buying smuggled goods... would in most countries be regarded as one of those pedantic pieces of hypocrisy...”

Adam Smith: The Wealth of Nations

”Piracy is the best distribution system.”

The Hong Kong film producer Manfred Wong, on discovering that his film “Young and Dangerous IV” was available on the black market while on his way to the premier of his movie.

When I started teaching at the Film Institute at the University of the Philippines in July 2005, I found a film collection of approximately 500 films on VHS tapes, 100 VCDs¹ and a handful of DVDs. The videos were a sound collection of the international and local film canon, although the quality of many of the tapes was admittedly poor and there was a lack of Asian films. Yet, it was entirely possible to use the collection to teach

¹ Video CDs, a digital storage format that is extremely popular in some Asian countries, such as China, Malaysia, Indonesia and the Philippines.

classes on film history, film theory, experimental film, documentary, etc.

Only one year later, the situation had drastically changed. On the shelves of the film collection there is a quickly increasing number of brand-new DVDs, and many professors have started to use top-notch DVD versions of rare and off-beat movies from their own collection in class. This not only provides a more rewarding viewing experience for the students, but also enables teachers to use more uncommon, contemporary, independent and cult films, as well as more Asian films.

Needless to say, most of these films are pirated DVDs found in stores which have sprung up all over Manila. They are therefore obtained under circumstances that are deemed illegal in the Philippines and everywhere else in the region. The growing piracy business has made the Philippines one of thirty-one countries that supposedly have a larger market for illegal software than for commercial software (International Intellectual Property Alliance 2005). Similar numbers are not available for the film industry, yet it is safe to assume that media piracy has changed the way movies in the Philippines are distributed and consumed.

My paper addresses the issue of media piracy in the Philippines from a number of different viewpoints. First of all, I look at piracy as a means of distributing films, and - drawing on my research and interviews with people involved with piracy networks - on how the piracy market works. Secondly, I will formulate some preliminary ideas on the nature of media piracy in the Philippines. The unprecedented rise of media piracy in the last couple of years is one of the most prominent issues of the digital millennium. The "Pirates of the New World Image Order" (Zimmermann 2005) are not only piggybacking on the new globalized economy that has arisen due to the worldwide deregulation and liberalization of markets in the 1980s and 1990s. They are also profiteers of a number of technological developments in the computer sciences such as the international expansion of the Internet, which has challenged traditional notions of copy right and intellectual property on a very fundamental level. Surprisingly the pirates in the Philippines seem to make little use of the means of digital distribution that are available to them, but instead o rely on more "traditional" methods, that include messengers and personal delivery, and using long distance transport and fishing boats for the delivery of illegal DVDs.

While the production hot spots of bootlegged DVDs and CDs seem to be in China, Indonesia and Malaysia, the Philippines was on the "priority watch list" of the International Intellectual Property Alliance (IIPA), another industry lobby group from the US, until very recently (International Intellectual Property Alliance 2005). While the Philippines was dropped from this list in early 2006, news reports indicate that the movie pirates have a surprising influence. According to a recent newspaper report, film producers were forced to pay 200,000 pesos to movie pirates in order to keep them from selling the entries to the Metro Manila Film Festival during the festival (San Diego 2006). The report noted that the Optical Media Board (OMB), the institution in charge of fighting piracy in the Philippines, was instrumental in brokering the deal between the producers and the pirates. The head of the OMB, former action-star Edu Manzano, told the newspaper: "I think we were just a bit more creative this time. We went back to the old dialogue. We really went deep inside [the pirates' lair]". That the head of the very institution that is supposed to go after pirates is publicly accused of cutting deals with them says much about the situation in the Philippines. Manzano never even felt obliged to deny the story.

And it is not just because the organizations in charge of fighting piracy often seem to look the other way. The piracy market for DVDs, software and music is a boon to a number of very different groups of people. One group consists of the producers, traders and distributors of bootlegged media that earn a reasonable income, important in a Third World country like the Philippines. One estimate is that more than 100.000 people in the Philippines earn a living by being part of the supply chain for pirated media (Joel 2006).page number?

Many film buffs are happy to get their films from illicit sources, because it gives them an unprecedented access to inaccessible movies. Many of the films that one can find in the pirate markets were never officially released via the legitimate distribution channels in the Philippines, which predominantly carry mainstream movie fare. For a very long time, being a film fan in the Philippines meant either having to limit oneself to the American and Filipino offerings in the cinemas and on video, or having to pay a fortune for mail-ordered videos from abroad. Or it meant having to swap and copy the latest movies on VHS tapes with friends. Those days are over, for good.

To take an example: Orson Welles' classic *Citizen Kane* was never legally available in the Philippines, and people had to go to great lengths to see the movie. . Now it is easy to find in pirate markets. While the majority of films for sale on the pirate markets are the same predictable Hollywood-blockbusters as to be found in regular stores, it is possible to find "independent" films, classic movies going back to the silent area, cult films, and even occasionally experimental and documentary films (Cang et al 2002). Examples of rare films that people have discovered on the pirate market are a complete retrospective of the works of German art house director Rainer Werner Fassbinder on three DVDs, a number of Chinese silent movies from the late 1920s and early 1930s, and one of the *Crewmaster* films by American video artist Matthew Barney, that was never officially released on DVD.

When I came to the Philippines over two years ago, the pirated movie market was one of the most fascinating phenomena I had encountered. Coming from a country where this type of piracy is virtually unknown, I was very interested in how the economy and distribution of this illegal market worked. However, obstacles to my inquiries presented themselves immediately. For obvious reasons, the people involved in this kind of

business are not interested to reveal the details of their operations to researchers. Even though pirated DVDs and CDs are sold all over Metro-Manila as well as in the provinces, it was very difficult to obtain information on the trade. Most of the traders were unwilling to talk about their trade, and those who were prepared to talk knew surprisingly little about where these disks came from, where they were manufactured, where the original films came from, etc.

Eventually, and only with the help of friends, I was able to meet people who knew more details, and were willing to share them. This paper is mostly based on three interviews with people who have significant insights in the market of pirated material. I counter-checked the details of what I was told whenever possible. I present in this paper only the matters that at least two informers confirmed.

Due to the illegal nature of the trade, most investigators encounter similar problems when pursuing the many questions that piracy raises. Most of the statistics quoted in the press come from a number of mostly American lobby groups such as the Business Software Alliance or the RIAA. Needless to say, these groups have self-serving interests, and try to paint the situation in

the darkest colours possible. Therefore their figures have to be taken with great caution.

According to the Business Software Alliance (BSA), software piracy in the Asia-Pacific region cost manufacturers about \$8 billion in 2004. Worldwide, losses due to software piracy were estimated at more than \$32 billion in that year. The BSA puts piracy rates in China at 90 percent and Russia at 87 percent. These are highly questionable numbers. These institutions are financed by the media and software industry, and therefore have a vested interest in making the losses caused by piracy seem as big as possible. From their publications it is often difficult to assess how they arrived at these numbers. It is safe to assume that their numbers are not only estimates, but probably highly exaggerated ones. Yet, even if the incidence of piracy is lower than the numbers quoted, it is still quite impressive and suggests that the problem deserves closer examination both as an economic and cultural phenomenon. Hence, it is the culture of piracy in particular that I will discuss in this paper.

Piracy as “globalization from below”

The study of piracy is timely not only because it has become so predominant in the Philippines and other countries in Asia. The type of piracy that we see developing in Southeast Asia is an obvious result of the technological and economic apparatus that has sprung up as a result of international fiscal and political globalization within the last two decades. It could not have existed in this particular form even ten years ago.

The deregulation of many national markets in the wake of the demise of the Soviet Union and their Eastern European satellite countries was one of the prerequisites that paved the way for the kind of globalized media piracy, where American movies are available on the streets of Manila, Delhi, Beijing and even in remote corners in Asia before they are premiered in the United States. In addition, the post-1978 reforms of Deng Xiaoping that allowed for private enterprise in the people's republic of China, and the economic opening of formerly socialist countries such as Vietnam and Cambodia played a part in furnishing pan-Asian piracy.

The free movement of capital and data are not only hallmarks of globalization, but also of global piracy. The process of economic "liberalization" around the world, privatisation and business deregulation

have played their part in facilitating piracy. At the same time – and also in the name of a neo-liberal curbing of the power of the state - many countries have cut back on law enforcement and reduced border patrols, which obviously have been to the advantage of the international pirates. This process worked in tandem with technological developments such as the proliferation of the Internet and comparatively cheap access to powerful computers, disk burners and scanners. While economic liberalization provided the means for distributing and paying for illicit goods, these new digital technologies supported their reproduction. These technologies include: the Internet, which is used to send movies as files around the globe; the inexpensive and fast disk burners that allow for the mass production of DVDs and VCDs; scanners; graphics software that allows for the design of the covers; and cheap printers that enable for their output on paper. The creative, Do-it-yourself-aspects of digital media, which have been hailed by many educators and computer evangelists, also allow for the mass production of illegal media.

Moisés Naím points out the importance of new communication and distribution technologies for the pirate business in his book *Illicit*:

“With communication technologies that allow such tasks as warehouse management and shipment tracking to be done remotely, the trader and the goods need never be in the same place at the same time. This flexibility is a crucial advantage that illicit trade has over governments, and is a defining aspect of the problem. (...) New technologies have placed a major part too: more efficient ships..., new loading and unloading tools, better port management, improved logistics, advances in refrigeration, new packing materials, just-in-time inventory management, satellite navigation and tracking, and more.” (Naim 2005, 19 - 21)

Other new technologies used by smugglers and pirates include the use of clandestine telecommunication systems and of encryption that are often very far ahead of what the respective governments have at their disposal.

In many respects, piracy therefore is the illicit underbelly of globalization. It is a globalization from below, where the participants are not multi-national corporations, but criminal gangs and small-time crooks. Flexible, non-hierarchical, speedy, highly efficient and organized beyond national boundaries, these illegal traders are in many respects quite representative of

globalized businesses. They gleefully take advantage of the newly deregulated foreign exchange transactions, the financial offshore havens in obscure venues such as Tuvalu, Nauru or the Cook Islands, or the benefits of the Internet – from the anonymity and convenience of free web mail accounts to running online shops.

As far as the Philippines is concerned, there are a number of law-enforcement organisations that indicate the magnitude of piracy. According to a recent newspaper article, the government's anti-piracy campaign has hauled in one billion pesos (more than 20 million American dollars) worth of counterfeit products; half of them bootlegged videos and music, in the last nine months. These numbers are from a report by the Intellectual Property Office (IPO), which was published in October 2005 and assessed the results of various raids in the first nine months of the year 2005. According to IPO Director General Adrian Cristobal Jr., included in this year's haul were 3,089,120 pieces of pirated optical media products and kits worth 537,367,550 pesos (over 10 million US-dollars). Among these items were Playstation games, MP3 CDs, VCD, and DVD movies, computer equipment, as well as other equipment used to manufacture pirated products. Needless

to say, these numbers represent only a small fraction of the pirated material that is sold in Manila and the rest of the Philippines.

Again, these numbers should not be taken at face value. If you divide the assumed worth of the confiscated goods by their number, each item would be worth 174 Peso or around three dollars. Since most pirated DVDs are sold for 70 peso or 1 dollar 30 cents, one wonders on what “value” these numbers are based – on the “street price” for these goods, or on the prices charged for legitimate DVDs, software packages and CDs. Free Software activists have argued for a long time that the prices of, for example, Microsoft programs are inflated and arbitrary. And in fact the company charges very different prices for the same programs in different countries.

The economy of piracy

In Marxist terms, the price that Microsoft charges for its Office Suite is the “exchange value”, defined here for the sake of brevity as the price that Microsoft can ask for its product and get away with it. The real value of these programs - the money that Microsoft invests to produce these programs - can be very different. The peculiar nature of digital information –

either in the form of a movie on DVD or a program on a CD – therefore challenges traditional economic notions of value and price setting. Once a program is finished, the costs of reproducing and distributing Microsoft Word on a CD are comparatively low.

In this sense, digital information is very different from physical goods such as crude oil or rice, because with digital material – unlike with foodstuffs or other raw materials - there is no scarcity. A digital file can be reproduced and distributed at relatively low costs. Piracy is therefore an important case in point wherein the price of digital data is challenged.

The particular “nature” of digital data has given rise to the Free Software and the Open Source movement that aims to make computer programs available for free - “free as in freedom, not as in free beer”, as supporters of Free Software, such as Richard Stallman, have stressed time and again (Gay 2002, Williams 2002). Concepts such as Free Software or Open Source are not about giving software away for free, but about finding new ways of compensating the producers of software in a fair way, while avoiding the approach that companies such as Microsoft take, which use their monopoly on the software market to set prices as they see fit.

The approach that the pirates take is obviously the exact opposite from companies such as Microsoft. Microsoft tries to maintain an exchange value for their products that is different from the cost of its material, the physical DVD or CD disk. The tendency in the cutthroat competition of the pirate market is to eventually bring the prize down to the lowest level, where one essentially pays for the disk, not for its content. Pirated DVDs were on sale for 100 pesos 2002 (Cang et al 2002); since then the price has dropped to between 50 and 70 pesos.

One good example of the mechanisms of the pirate market is the “DVD sampler”, which many Chinese vendors have started to offer recently. This sampler contains not one single film, but rather sets of up to eight movies on one DVD. These samplers are often compiled around a specific theme, for example around an actor or an actress. They might contain only digital animation films, or films which star Nicole Kidman, or war movies, or recent horror films etc. (The films on these compilations are usually of lower technical quality than those that require one whole disk. Without having looked at the technical details, upon ocular inspection the quality of the sampler film approximates the quality of VCDs (that are in the MPEG-2

format), while the DVDs with only one film on them is typically in MPEG-3.)

These sampler disks were originally offered for 150 peso and more. But in a matter of months, their prizes dropped to 50 to 70 peso – the same prize that is charged for DVDs with single films. At the same time, the DVDs with only one film on them now seem to be on the way out. Interestingly, the illegal competition seems to have lead to dramatically falling prices of legal DVDs and VCDs in the Philippines in the recent years. While, two years ago, new movies on DVD were sold for 700 pesos (14 US dollar), more recently the prices have dropped to around 500 pesos (10 US dollar). (Of course, with prices like this, the purchase of legal DVDs is still out of reach for the majority of the Filipinos.) This can serve as an example of how the existence of a widespread piracy market can influence the rest of the (legal) economy.

So far, the entertainment industry has shied away from looking into more creative ways of marketing their products in the age of digital reproduction. The rise of file-sharing and peer-to-peer services, that has made music, movies and other files easily available over the Internet have been greeted

with law suits by the music and film industry. Instead of looking at services such as Napster, Kazaa, Limewire or Bittorrent as new opportunities to distribute the material they offer, the media industry has tried to criminalize the use of these technologies. Thousands of users of these services have been sued in the United States, Europe and a number of Asian countries.

That was the situation I was familiar with before I arrived in the Philippines. The debate around piracy in Germany centred mainly on file sharing in the Internet, where digital data flows from computer to computer. In the Philippines, however, I encountered a quite different kind of piracy. Not only was the data that was being distributed contained in physical objects such as CDs, VCDs and DVDs but the pirate distributors made a profit which was not passed on to the creators of this material. While I obviously do not subscribe to this model, I nevertheless had to accept that it existed and, moreover, provided access to software, music and movies for a great number of people. I will discuss the defining characteristics of this type of piracy in greater detail later.

Recently a number of books and academic essays have started to address the issue of media piracy. While some of the publications are popular and often

sensationalistic accounts from the United States (Lascia 2005, Naim 2005, Phillips 2005), other studies have addressed the different “national cultures of piracy” in various countries (Husted 2000, Condry 2004, Hu 2004, Larkin 2004, Pang 2006). In addition, the conferences *Contested Commons/Trespassing Publics*, that took place at the Sarai Centre for the Study of Developing Societies last year, addressed questions of Intellectual Property and Piracy from a distinctive South Asian perspective (Sarai Media Centre 2006).

“Asian piracy”

Before I look into the mechanics of this trade in greater detail, let me flesh out some of the differences in the piracy that I observed in the Philippines as opposed to the Internet piracy that I was familiar with. Lawrence Lessig, an American lawyer and law professor who has made major contributions to the discussion of Intellectual Property in the US, has described what he labels “Asian piracy” in his book *Free Culture*:

“All across the world, but especially in Asia and Eastern Europe, there are businesses that do nothing but take others people’s copyrighted content, copy it, and sell it—all without the permission of a copyright

owner. The recording industry estimates that it loses about \$4.6 billion every year to physical piracy (that works out to one in three CDs sold worldwide). The MPAA estimates that it loses \$3 billion annually worldwide to piracy. This is piracy plain and simple. Nothing in the argument of this book, nor in the argument that most people make when talking about the subject of this book, should draw into doubt this simple point: This piracy is wrong.” (Lessig, 63)

Lessig is an advocate of the freedom to use copyrighted material for artistic and educational purposes. In legal terms, this kind of use is called “fair use”. Lessig is trying to ensure that the concept of fair use will not be taken away in the digital age. At the same time, his Creative Commons rights management scheme was conceived to provide an alternative copyright system for all kinds of media. Creative Commons is an important antidote to the overbearing copyright claims that especially American media companies have put forward in the last couple of years. These claims have made the production of independent documentaries or found footage films increasingly difficult, since the use of copyrighted songs or movies has to be cleared and paid for, which can be too costly for independent filmmakers (for some examples how copyright was used to prevent documentaries films

and CD-Roms from being made, see Lessig 95 – 107; Lascia 67 - 85). Lessig is trying to maintain some flexibility for filmmakers and other artists whose work relies on the use of other creator' intellectual property.

Lessig and other lawyers usually draw the line, when media material is used and reproduced without “transformative authorship”, a legal term that denotes a use of other author's material without substantial changes. This is just what the media pirates of the Philippines do. They simply make copies of movies, CDs, software and sell them for profit. Lessig sets this apart from what many users of file sharing services do. Because these users provide playing lists, additional information or they mix the music they share, they are adding content to the public domain. The “Asian piracy”, on the other hand adds no value and contributes nothing.

Lessig's perception of “Asian piracy” is supported by a number of publications that deal with Asian concepts of intellectual property, or their lack. The best example of this is William Alford's *To steal a book is an elegant offense* (1995). In this study of Chinese intellectual property law throughout its history, Alford argues that the very concept of intellectual property is alien to Chinese traditions and Confucian ethics. According to

Alford, Chinese intellectuals and artists for centuries considered it an honor if their works were copied. Art and general education incessantly stressed “learning from the master” by painstakingly reproducing his works rather than creating their own. Alford writes: “Such copying (e.g. paintings and literature), in effect, bore witness to the quality of the work copied and to its creator’s degree of understanding and civility.” (Alford 1995, 29)

It remains questionable to essentialize such historic practices into a “national character” that is particularly prone to piracy. Other scholars have argued that it is the general lack of a legal tradition in China that is the main reason for its high level of piracy. According to them, China’s huge territory and its diverse population, which entail the problem of so-called regional protectionism (the protection of local infringers against claims of non-local right owners), further aggravate the implementation of a legal framework against piracy that does exist (Ganae 2005). This claim in turn raises questions about the law-enforcement capacities of a country that seems to have little problems in enforcing a rigid Internet censorship and is able to mercilessly crack down on political activists that it considers subversives. However, in any case these observations about China would not account for

a general “Asian piracy”, and most certainly do not apply in the Philippines with its completely different legal history.

For the purposes of this paper however, the question of legality and morals is immaterial. What I want to do is not to judge or assess what the Philippine pirates are and do, but how they do it and how this constitutes a particular culture of piracy that is different from the culture of piracy in other countries. I note that piracy has greatly affected the availability of movies in the Philippines that were previously impossible to obtain and hence has had a positive impact on the media literacy of the country. I also acknowledge that piracy provides many people with income that they otherwise would not have. But that is not the point of this paper. I am more interested in the mechanics of the trade, and what they say about the Philippines as a social culture. So who does piracy work in the Philippines?

The “Chinese” and “Muslim” Connections”

According to one of my sources (Joel 2006), the trade with illegal goods is organized along two main trajectories, which he called the “Muslim Connection” and the “Chinese Connection”. The “Muslim Connection”

operates mainly from the Southern Philippine island of Mindanao. Mindanao is characterized by its Muslim population and the close connections that the island has with Malaysia and Indonesia. According to this source, the movies that come from this region into the rest of Philippines are predominantly from these two countries – an account that rings true considering the large number of DVDs that have subtitles in Bahasa Indonesia or Malay available in the Philippines.

This source says that the movies from this region are brought into the country by the most inconspicuous, humble means. Often in the boats of fishermen that travel the Mindanao Sea, the Sulu Sea and the Moro Gulf, the area between the Philippines and Borneo. It seems that most of the Malaysian pirate movies come from the city of Kota Kinabalu on Borneo (Joel 2006). This area is very difficult to patrol because it has hundreds of small islands, many of which are under the effective control of the Moro National Liberation Front, a Muslim guerrilla organization.

When these fishermen smuggle illicit movies into the country, it is usually on single disks. Often these disks are hidden in the belly of tuna fish or in barrels of shrimp to prevent their discovery by customs or other law

enforcement agencies. After such a precious disk has arrived in Mindanao, two copies are made, generally in the city of Davao. One stays in Mindanao as master disk for other copies distributed there. Another copy goes to Cebu to for distribution in the Visayas region. The “original” goes to Manila. From these three “master disks” thousands of copies that are eventually sold all over the Philippines are made.

Joel says that the distributors of these disks use public transport to deliver their goods, most commonly the long-distance busses that cross the Philippines. They make use of the “RoRo” scheme (“RoRo” stands for “Roll on roll off”), where long-distance buses leave Mindanao via ferries that take them to other islands, in this case typically the main island of Luzon, where the capital Manila is located. These trips take around 24 hours from Davao to Manila. That means that disks that have been delivered to Mindanao in the early morning will be in Manila the following day. The disks are usually hidden in coat pockets, backpacks and other pieces of luggage. In Manila, the duplication of these disks starts as soon as they arrive. Hot spots for reproduction are the districts of Quiapo, Pasig, Caloocan City and other parts of Metro Manila. Especially in the neighbourhood of Quiapo, where the biggest pirate market in all of Manila is located, the duplication machines

can only run between 8 am and 6 pm, because otherwise the noise they make might attract unwelcome visitors.

Therefore the first DVDs are typically available on the streets the day after they arrive in Mindanao. Errand boys deliver the disks complete with covers to merchant customers. These business relationships are not exclusive. The owners of the little stalls that sell the pirated disks are free to buy from all the suppliers. Yet among the distributors, there exists an unspoken agreement that whoever has a film first, has the exclusive right to distribute this film. According to Joel, they even maintain periodic contact to make sure that no two suppliers deliver the same movie. This system is based on a code of honour that is recognized by all the main players in the market.

The existence of such an unwritten “code of honour” was stressed time and again by this informant. According to Joel the whole piracy market relies exclusively on these informal, but binding, agreements. For obvious reasons, there are no written agreements or even contracts between the distributors and merchants, between the suppliers and the sellers. The number of disks delivered to a seller is only documented in the notes that the delivery boys keep. It is an entirely informal economy.

This accord usually entails that distributors will supply the sellers with new DVDs, when their merchandise is confiscated during a police raid. The police in the Philippines are required to furnish the traders with a list of the disks they confiscate, and the sellers take this list to their suppliers, who in turn provide them with new movies (Alexander 2006). Those who do not honour the rules of this trade face punishment, which can range from exclusion from the delivery system to more severe forms of retributions including physical violence. I will return to this point later (Richie 2006).

The “Chinese Connection” in the Philippines operates slightly differently (Richie 2006). Their goods usually come from Hong Kong, sometimes from Singapore. Often the couriers are unsuspecting looking, young women, coming into the country as tourists by plane. They typically hide the disks in their luggage, often in bags with other, legal DVDs and CDs. Another method is to hide the disks in big boxes of second hand clothes, which are imported into the Philippines. Once these disks reach Manila, they are manufactured like the ones coming from the “Muslim Connection”.

According to Joel, to buy a “master disk” in Hong Kong can cost the buyer up to one million HK dollars. Once the disk has been smuggled into the Philippines, the distributors will sell the copied disks for 20 or 25 pesos, while the blank DVD usually costs 5 pesos. The vendors in turn offer the disks for a price from 50 pesos (for a standard movie) up to 70 pesos (for a new or not-yet released movie). Since the most successful films are distributed in quantities of hundreds of thousands, there are huge profit margins - both for the distributors and the vendors of DVDs and CDs - despite the outwardly low price per disk.

In some cases, the suppliers do not just deliver the disks but also blueprints for the cover design. In other cases, local graphic artists - using pictures they obtained from the Internet - design these covers. Sometimes this practise can lead to amusing results. On the covers of some disks one can find pictures, which are not from the movie in the box, or credits of completely different films (A pirated version of *On the Wings of Desire* by German director Wim Wenders lists Van Diesel as one of the actors!). They might also include lists of special features (such as bonus material, subtitles in Spanish, Cantonese or Arabic) that are not on the disk.

The plot summaries on the back of the box are typically taken from the Internet Movie Data Base, and are often reproduced in versions full of typographical errors or poor English. The practice of using pictures from the web can sometimes lead to amusing results: Recently a version of Akira Kurosawa's Dostojevski-adaptation *The Idiot* (1951) was sold in Manila with a cover from Lars Van Trier's independent digital movie *The Idiots* (1998). The English subtitles of pirated DVDs that come from China usually include inappropriate translations, sometimes even in direct contrast to the actual dialogue (Pang 2005).

Accounts of DVD covers can read like the following: "The global film is included completely, broadcast the new feeling superstrongly". On another DVD sampler it says: "Unique Color Sensual Desire Cinema". The copyright notice (!) on the same box reads: "The copyright owner of the video disc in this DVD only permits Your Excellency to run the family to show, owner keeps the copyright all one's life relevantly in the right, not listing exhaustively... exhibiting in the place such as a club, station, bar, theatre etc, for instance without permission, forbid hiring out, export or distributing, copy issue, alter right, will bear civil and criminal responsibility."

Apart from these language difficulties, the quality of the films that stem from the “Chinese Connection” are often of better quality than from the “Muslim Connection”. Moreover, it seems that most of the “quality” art house and the increasing number of classic American, European and Japanese movies also come from China rather than from the “Muslim Connection”. A company from Shenzhen by the name of “Bo Ying” produces very sophisticated DVDs, often taken from the American Criterion Collection, which specializes in top-notch editions of classic films in flawless transfers and with original bonus material. Yet a visit to the website of Bo Ying leads to an “Anti-Piracy Statement”! Emails to both TR-Boy and to the Criterion Collection regarding the copyright situation of these DVDs were not answered. Yet it is safe to assume that Bo Ying did not obtain the rights to these films, since the Criterion Collection points out on their website, that they only distribute their films in the United States.

Some customers of piracy markets in the Philippines have become very aware of issues of quality. In a number of forums on the Internet, buyers of pirated movies exchange tips on where to find rare films and how to distinguish quality DVDs from inferior ones. This type of advice also

includes information where rare, sought-after films were sold. One forum is called *TheQ*. (Q stands for Quiapo, the neighbourhood in Manila with the biggest pirate market.) A typical entry is as follows: “Found *Weekend* by Jean-Luc Godard in Quiapo in the Muslim Barter Center at Stall No. 16. Ask for Benjie!”

Other forums provide more general advice on how to distinguish bad DVD copies from good ones. These expert customers go so far as to identify well-made copies based on the design of the cover and the occasional manufacturer name. One poster in the “Pinoy DVD” blog explained crucial differences in manufacturing quality, and pointed out the quality of the releases from a company that identifies itself with the label “Superbit” on the cover. (PinoyDVD forum in June 2002). Other participants of the forums provided detailed technical analysis of different DVD versions of the same film, and compared them in terms of picture and sound quality. These tests were obviously conducted with laboratory equipment and software used by professional video studios.

Access in a globalized information economy

But where do these films come from? In many instances, movies that have not even premiered in the cinemas of the Philippines are already available in the pirate market. Unlike a couple of years ago, these versions have not been videotaped in a cinema. Since movie premiers of American films are increasingly internationally synchronized this practice has become obsolete anyway. Increasingly, these films are in near-DVD quality, which suggests that they were made available to the pirate market from sources inside the US film industry, where people have access to digital, high quality versions of these movies. That would mean that these films have been taken from the various Internet peer-to-peer offerings, where “Warez” groups compete in releasing new films on the net before their official premiere. These groups typically obtain their films from sources inside the film industry, for example disgruntled employees in post-production or dubbing studios or in DVD-pressing plants that get new movies before they come out in the theatres (see Lascis 2006, 47 - 66).

Surprisingly, this was vehemently denied by my informants (Alexander 2006, Ronnie 2006). They point to the China Film Office as a source for Hollywood films, which are available on the pirate market before they are released in the movie theatres. There might be some truth to this claim. Most

American film companies submit digital copies of their latest releases way ahead of their official opening in the US to the Chinese authorities, because they want to distribute their productions in the huge Chinese market (that so far only allows in 20 foreign films per year.) If people in this office are the source, they would have far-reaching access to the latest Hollywood productions in digital versions of good quality.

Nevertheless, it seems unlikely that all the new US films that are available via the “Chinese Connection” in the Philippines come from one source. I still assume that many of these films come from Internet sources, either from peer-to-peer sites or direct exchanges with people in the US film industry that make films accessible to pirates for payments. This leads us to the most important question: If the players of the “Muslim Connection” or the “Chinese Connection” can get access to these new films online, why is it that the Filipino distributors cannot? Why do they rely on sources outside the country for products that are both costly and must be smuggled in? The Philippines might be a relatively poor country in South East Asia, but so are Malaysia and Indonesia, where many films on the black market in the Philippines come from.

The mechanisms of globalization have greatly facilitated participation in this activity. All that is needed in the exchange of illegal software, films and music is a state-of-the-art computer and a DSL internet connection. In the days before the emergence of the “Darknet”, the networks of peer-to-peer offerings and the many private servers and nets designated for the exchange of pirated films and music, you had to have access to executives in the film industry to get access to new, unreleased films. In the age of digital globalization, however, we see a well-developed and highly efficient network of intermediaries that provide material that was completely inaccessible to people outside the privileged group of film distributors, television executives etc. All it takes is technical equipment that is available to middle class Filipinos and very limited technical knowledge to participate in the mobilization of images that global digital networks have made possible.

Yet, the media pirates in the Philippine prefer to get their material from outside the country rather than directly from the Internet. In addition, the methods used to smuggle the movies into the country and to the distribution centers seem positively antiquated (or traditional). Why smuggle a disk in the belly of a tuna, when you could hide the movie on the laptop of a

businessman or the iPod of a tourist? Why even send these digital goods physically, when one of the most practical features of digital data is that you can send them via the Internet? Even the five or more Gigabytes that are typically on a DVD could be sent over an ordinary DSL connection in less than a day. It is therefore bewildering why the pirate groups rely on the risky and complicated approach that I have described.

My suggestions to use the Internet for the delivery of pirated material were greeted with incomprehension by most of my informants. They claimed that the net was either not safe enough or prone to interception by law enforcement authorities. Given the fact that the majority of the media pirates in the West get their movies via P2P offerings, that strong encryption is easily available for this type of transaction and that many of the Chinese and Malaysian pirates get their material from just these sources, this argument is not convincing. Also, the lack of technological know-how or the necessary equipment cannot be the reason.

Rather, it seems that there is a cultural resistance on the part of the Filipino pirates to make better use of the recent developments of technology and globalization available to them. Rather than using the net or other new

technologies, they prefer to use time-honored ways of delivery - such as fishing boats, ferries and long distance buses - that might seem overtly complicated and convoluted to outsiders, yet draw on long traditions of moving contraband into and throughout the Philippines. These delivery systems are as effective and fast as any other system in the Philippines, such as the postal service or the various private courier companies. Yet, it relies on technology and methods that appear anachronistic and outmoded compared to the piracy in other countries.

Therefore, the “culture of piracy” of the Philippines does not rely on the latest technological means of obtaining and distributing their material, but rather moves along long-established trajectories of the illegal economy of the Philippines. Ironically, the pirates in the Philippines are beneficiaries of globalization, while not directly participating in it. That sets them apart from the piracy of other Southeast Asian countries, that make liberal use for example of peer-to-peer service, billing services such as Paypal for financial transactions and even online auctioning houses such as Ebay for the sale of their products.

None of this is true for the media pirates of the Philippines. They have no use for these new technologies, and rely on long-established ways of conducting business, where physical objects rather than non-tangible, digital goods are sold for cash, not for money transfers to virtual Internet accounts. Piracy in the Philippines is a predominantly local, not a globalized, trade; films might enter the country from various neighboring nations, but they do not get disseminated from the Philippines.

A code of honor

In the interviews with the traders that I conducted, another interesting point kept coming up. This was the claim that the various players in the black market operated according to a common, unwritten “code of honor”. The basics of this code of honor are that deals and agreements are honored, that payments are made as agreed upon and in time, and that the various participants in the black market acknowledge their obligations towards each other. That goes so far, that distributors replace disks that were confiscated during police raids, and that traders exchange defective disks for their customers!

Joel kept pointing out that the whole pirate market could not work without these commitments. He stressed that he felt that in many respects the way the pirates conduct their business was more reliable and sincere than many legitimate companies in the Philippines and especially than the government. When I quoted the line “If you live outside the law, you must be honest” (from Bob Dylan’s song *Absolutely Sweet Marie*), he enthusiastically agreed. He pointed out that he was never “wronged” by anybody in the pirate market, while the majority of the Philippine government institutions as well as the political administration are known to be corrupt and frequently ignore both the law and business contracts. Compared to the general disorder of the government, he described the piracy market as comparatively orderly and fair.

It is beyond the scope of this paper to analyze the present condition of the Philippine state. Yet it can be observed that the Philippines is a weak state and that the rule of law is not universally observed. Powerful people and especially politicians bend the law to their own advantage. President Gloria Macapagal Arroyo has been accused to of manipulating the last election to her advantage, allegations that were never properly investigated and that have never been discounted. The government has also been held responsible

for the increasing numbers of political killings of critical journalists and activists all over the Philippines, a charge that the government so far has been unable to disprove. Behind many of these killings appear to be local politicians, out to silence opponents or gain material advantages. Philippine law enforcement agencies and the courts have shown little success in curbing these crimes and in convicting the guilty.

In such a context, for many participants in the pirate market, their practices appear more honest and fair, compared to a broader society that is perceived as unjust, uncontrolled and in the control of the elite. Joel sums it up like this: “Most politician and big-time business men are really crooks, while we are honest. Our word counts.” (Joel 2006)

That they break Philippine and international law is rationalized by the pirates as justified, since “we take from those, who have too much to begin with” (Joel). All of the interviewees agreed that it was morally acceptable to pirate US-American movies, since “Hollywood” or “the West” makes so much profit out of these films anyway. This does not account, of course, for the growing number of American, European and Asian independent films, which start to appear on the pirate market.

All of my informants also agreed that they would not touch pirated versions of Philippine movies in order not to endanger the existence of the Philippine movie industry. Yet, in the last couple of months, a growing number of DVD samplers with films of local super-stars such as Fernando Poe Jr. or Sharon Cuneta have also appeared on the black market. This latter example indicates that the justifications and rationales of my informants are not entirely convincing.

Outlook

The mobilization of moving images that both international and Philippine piracy has set in motion seems unstoppable at the moment. The government lacks resources - some might argue even the will - to effectively reduce piracy. While the Philippines was recently dropped from the "priority watch list" of the International Intellectual Property Alliance (IIPA) because of alleged crackdowns on pirate markets, these markets continue to thrive.

In other countries, the piracy traders eventually use their considerable distribution muscle for other purposes. A particularly interesting example is

Nigeria. There the pirate market gave rise to a whole new genre of movies, which were distributed along the same networks as the pirated Indian “Bollywood”-films that were so popular among the Hausa people of Nigeria. (Larkin 2004). These so-called Nollywood films, cheap feature length video productions that are immensely popular in Nigeria, would not have developed without the existence of pirate distribution net works.

For the time being, filmmakers and film studios in the Philippines usually condemn piracy and will not deal directly with the pirates. Yet, another example suggests that these distribution channels can be used for other purposes than selling pirated Hollywood blockbusters. In August 2006, the Movie and Television Review and Classification Board of the Philippines gave a documentary on the former president of the Philippines, Joseph Estrada, an X rating, thereby effectively prohibiting its public exhibition. According to newspaper reports, the film promptly surfaced on the pirate markets in Manila.

So far, the press and the arts in the Philippines are relatively free from government intrusions, and cases like the ban of the Estrada-documentary remain an exception. So it is unlikely that we will see a development as in

China, where precisely the films which have been banned by the Film Office, are often the most successful on the black market. In China, piracy is effectively a way around state censorship. Whether the illegal distribution channels of the Philippines will be used for the dissemination of banned material will depend on the political future of the country.

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