

The Culture of Piracy in the Philippines

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Abstract

How does the Philippines, with its Westernized orientation and fairly easy linguistic access to Western (especially American) cultural products, cope with the profit-driven imperatives of recent digital technologies? Like many other countries that are marginalized by the West, a number of enterprising souls have introduced the irresistible delights of pirated products. Yet unlike these other countries, even those immediately neighboring the archipelago, video piracy in the Philippines flourishes in a decidedly old-school manner: no illegal downloads or broadcasts, strictly VCDs and now, DVDs. How and why this culture has emerged and flourished, and the reasons for its persistence, will be the concerns of this paper.

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.

– Hong Kong film producer Manfred Wong, upon discovering his film, *Young and Dangerous IV*, on the black market, on his way to the movie's premiere

When I started to teach 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, around 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 classes on film history, film theory, experimental film, documentary etc.

Yet, only one year later, the situation has 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. Not only allow the brisk, new transfers on many of these DVDs for a more rewarding viewing experience for the students, but it is also noticeable that some professors have started to use more uncommon, contemporary, independent and cult films, and also more films from Asia.

Needless to say, most of these films stem from the markets for pirated DVDs, 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 the thirty-one countries worldwide, that supposedly have a larger market for illegal software than for commercial software (International Intellectual

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

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.

While the production hot spots of bootlegged DVDs and CDs seems to be in China, Indonesia and Malaysia, the Philippines were 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 have been dropped from this list in the beginning of 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). According to the report, 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 these very pirates says as much about the situation in the Philippines as the fact, that Manzano never even felt obliged to deny this story. Despite the damning report he is still in office, the claims have never been investigated, and Manzano has never even felt to urge to comment. Under these circumstances, it is safe to assume that the piracy situation in the Philippines is not going to go away any time soon.

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 have work and a relative reasonable income, which is not a given in a Third World country like the Philippines. One personal estimate has it that more than 100.000 people in the Philippines earn a living by being part of the supply chain for pirated media (Joel 2006).

Film buffs are happy to get their films from these illicit sources, because it gives them an unprecedented access to films. 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 to either to limit oneself to the American and Filipino offerings in the cinemas and on video. Or it meant to pay a fortune for mail-ordered videos from abroad. Or it meant to have a well-organized circle of friends that would swap and copy the latest movies on VHS tapes. These days are over, for good.

Just as one example: Orson Welles' classic *Citizen Kane* was never legally available in the Philippines, and people went to great length to see this movie. Now it is easy to find this film in pirate markets. While the majority of films, that are for sale on the pirate markets, are the same predictable Hollywood-blockbusters as in the regular stores, it is entirely possible to find "independent" films, classic movies all the way back to the silent area, cult films, and even occasionally experimental and documentary films (Cang et al 2002). Examples of rare films that people 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 *Cremaster* films by American video artist Matthew Barney, that was never officially released on DVD.

When I came to the Philippines more than two years ago, these pirated movie market were one of the most fascinating phenomena I encountered. Coming from a country where this type of piracy is virtually unknown, I was very interested how the economy and the distribution system of this illegal market works. I started to run into obstacles. For obvious reasons, the people involved in this kind of business are not interested to reveal the details of their operations to the public. 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. 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.

Only eventually and only with the help of friends was I able to meet some people who knew more details, and were willing to share them. Most of what I will present in this talk is based on three interviews with people who have greater insights in the dealings with pirated material. I tried to counter-check all the details of what I was told, and what I will present in this paper are only details that at least two informers confirmed.

Due to the illegal nature of the trade, other writers and scholars run into similar problems when they try to answer the many questions that piracy raises. Most of the statistics that are quoted on a regular basis 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 colors possible. Therefore their numbers have to be taken with more than a grain of salt.

According to the Business Software Alliance (BSA), software piracy in the Asia-Pacific region costs manufacturers close to \$8 billion in 2004. Worldwide, losses due to software piracy were estimated at more than \$32 billion in 2004. The BSA puts piracy rates in China at 90 percent and Russia at 87 percent. These are highly questionable numbers, to be sure. 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. However from their publications it is often difficult to assess how they arrived at these numbers. So it is safe to assume that their numbers are not only estimates, but also highly exaggerated estimates. Yet, even if the actual numbers are lower than the numbers quoted, they are still quite impressive and suggest that the subject of piracy deserves closer examination both as an economic and cultural phenomenon. And it is to the culture of piracy in particular that I will turn 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. 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. 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 much more remote corners in Asia before they even 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 their role in furnishing pan-Asian piracy.

The free movement of capital and data is not only a hallmark 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 was another advantage to 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 technology supported their production. Be it the Internet that is used to send movie as files around the globe, be it the inexpensive and fast disk burners that allow for the mass production of DVDs and VCDs, be it the scanners and the graphics software that allows for the design of the covers, be it the cheap printers that allow for their output on paper. The creative, do-it-yourself-aspects of digital media, which have been hailed by many media 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 played 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. Flexible, non-hierarchical, speedy, highly efficient and organized beyond national boundaries, these groups 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 the law-enforcement organisations that might make the magnitude of piracy more evident. 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. IPO Director General Adrian Cristobal, Jr. said 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). These items include Playstation games, MP3

CDs, VCD, and DVD movies, computer equipment, as well as other equipment used to manufacture pirated products. Needless to say, that 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 with the number of confiscated goods, each item would be worth 174 pesos or around three dollars. Since most pirated DVDs are sold for 70 pesos or 1 dollar 30 cents, one wonders on which “value” these numbers are based – on the “street price” for these goods, or on the price that are charged for legitimate DVDs, software packages and CDs. Free Software activists have argued for a long time, that the prices for example of 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 for example, 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 – may it take 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 for relatively low costs. Piracy is therefore an important case in point where the price of digital data, that software manufactures or DVD producers ask 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 prizes of its medium, 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. While pirated DVDs were on sale for 100 pesos and more per film in 2002 (Cang et al 2002), in the meanwhile the prize has dropped to between 50 and 70 pesos.

One good example of the mechanisms of the pirate market is the “DVD sampler,” that many Chinese vendors have started to offer recently. These samplers contain 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 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 are typically in MPEG-3.)

These sampler disks were originally offered for 150 pesos and more. But in a matter of months, their prizes dropped to 50 to 70 pesos – 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 their way out of the market. Interestingly, the illegal competition seems to have led 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 dollars) and more in regular shops, more recently the prizes have dropped to around 500 pesos (10 US dollars). (Of course, with

prizes like this, the purchase of legal DVDs is still out of reach for the majority of the Filipinos.) This can serve as an example how the existence of a widespread piracy market can influence the rest of the (legal) economy.

The entertainment industry so far has shied away from looking into new ways of getting compensated for their products in the age of their 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 has 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, when I came to the Philippines. The debate around piracy in Germany has centred mainly on the file sharing on 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 once again bound to physical objects such as CDs, VCDs and DVDs. The distributors of these disks made a profit from distributing this material, which was not passed on to the creators of this material. While I obviously do not subscribe to this model, I nevertheless had to take into account that it existed and 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 in this paper.

I wanted to find out more about piracy since there did not seem to be a great number of studies on this particular phenomenon. There still isn't. Recently a number of books and academic essays have started to address the issue of media piracy. While most of the book publications are popular and often sensationalistic accounts from the United States (Lascia 2005, Naim 2005, Phillips 2005), some fascinating 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).

My presentation will address the issue of media piracy in the Philippines from a number of different viewpoints. First of all, I will 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. In the second part of my presentation I will formulate some preliminary ideas on the nature of media piracy in the Philippines. I will discuss the unprecedented rise of media piracy in the last couple of years as 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 seem to rely on more “traditional” methods, that include messengers and personal delivery, and using long distance busses and fishing boats for the delivery of illegal DVDs.

“Asian Piracy”?

But 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’s 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 the lack of those. The best-known example of this type of publication might be William Alford’s *To Steal a Book Is an Elegant Offense* (Alford

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 [of 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 facts into a “national character,” that is 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 the high level of piracy in China. According to this line of thinking, China’s huge dimensions and its diverse population, which entails 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 also 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 to be subversives. However, in any case these observations about China would not account for a general “Asian piracy,” and most certainly do not apply to the situation 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 it forms a particular culture of piracy that is quite different from the culture of piracy in other countries. I take into consideration that piracy has greatly affected the availability of movies in the Philippines that were nearly impossible to get before and therefore might have a positive impact on the media literacy of the country. I also acknowledge that the piracy gives a lot of people work and income that otherwise would have none. 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 Connection” and the “Muslim Connection”

According to one of my sources (Joel 2006) the trade with illegal goods is organized along two main trajectories, that he called the “Muslim Connection” and the “Chinese Connection.” Let’s first look at the “Muslim Connections,” which operates mainly from the Southern Philippine island of Mindanao. Mindanao is characterized by its Muslim population and the close connections that the island has to the Malay parts of 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, that are available in the Philippines.

According to this source the movies that come into from this region are brought into the country by the most inconspicuous, humble means. Often it is via the boats of fishermen, that travel the Mindana Sea, the Sulu Sea and the Moro Gulf, the area between Mindoro and the Malaysian Island of Borneo. According to my informants most of the Malaysian pirate movies come from the city of Kota Kinabalu on Borneo (Joel 2006). This area is very difficult to watch for the police and the coast guard, because it has hundreds of little island and many of them are under the effective control of the Moro Liberation Army, a Muslim guerrilla organization.

When these fishermen smuggle illicit movies into the country, it is usually one single disk, that contains the wanted films. Often these disks are hidden in the belly of tuna fish or in barrels of shrimp in order to hide the disk from the customs or other law enforcement agencies. Once this one precious disk has arrived on the beaches of Mindanao, two copies are made, typically in the city of Davao. One stays in Mindanao as master disk for the copies, which are eventually distributed there. One copy goes to Cebu to assure the distribution in the Visayas, the smaller islands in the centre of the Philippine archipelago. The “original” goes to Manila. From these three “master disks” the ten thousands of copies that will eventually be sold all over the Philippines are made.

Joel says that the distributors of these disks use the 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 busses 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 14 hours from Davao to Manila. That means that disks that have been delivered to Mindanao in the early morning, will be in Manila on the afternoon of the same 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 in the afternoon of the day after they arrived in Mindanao. Errand boys deliver the disks complete with covers to the merchants they have a business relationship with. 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 periodical contact to make sure that not 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 honor” 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 the 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 have to face punishment, which can range from exclusion from the delivery system to more severe forms of retributions including physical violence. This is an important point, and I will return to this observation 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. In another method, the disks are hidden in big boxes of 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 peso, while the blank DVD usually costs 5 peso. The vendors in turn offer the disks for a prize 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 whole sellers and the vendors of DVDs and CDs – despite the outwardly low prizes 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 Vin Diesel as one of the actors!). They might also include lists of special features (such as bonus materials or 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 side-splitting versions full of typos or poor English. The

practice of using pictures from the web can sometimes lead to hilarious results: Recently a version of Akira Kurosawa's Dostojevski-adaption *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 ranges from Chinese-flavoured to completely outlandish and sometimes even in direct contrast to the actual dialogue (Pang 2005).

The account of DVD covers can read like this: "The global film is included completely, broadcast the new feeling superstrongly." On the box of 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 n the right, not listing exhaustively, 'the private family shows the use' not including using, 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, and it seems that most of the "quality" and 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 bad product. This type of advice also includes information where rare, sought-after films were sold. In one forum called

TheQ. (Q stands for Quiapo, the neighbourhood in Manila with the biggest black market.) Since “TheQ” has recently disappeared from the Internet, I can only quote from my memory here, but there were a lot of posts along these lines: “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 of a movie from good ones. These expert customers go so far to identify well-made copies of films from 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 there. Unlike a couple of years ago, these versions have not been video taped from the screen 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 censorship board of Mainland China 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 on the huge Chinese market (that so far only allows in 20 foreign films per year.) If people in this office were the leaks, 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. Which 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, how come that the Filipino traders cannot? Why do they rely on sources outside the country for product, which are both costly and must be smuggled into the country? 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 leveled the playing field in this particularly area to an extent, that all that is needed to participate 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. To participate in this network 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 seem to prefer to get their material from outside the Philippines rather than obtaining it themselves. In addition to this, the methods that are used to smuggle the movies into the country and to the distribution centers seem positively antiquated. 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. So, therefore, it is bewildering, why the pirate groups rely on the risky and complicated approach that I have described.

Again, my suggestions to use the Internet for the delivery of the movie material were greeted with incomprehension by my informants. They claimed that the net was either not safe enough or prone to interception by law enforcement authorities. Giving 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 it is safe to assume that many of the Chinese and Malaysian pirates get their material from just these sources, this argument is not convincing. Also, lack of technological know-how or the necessary equipment cannot be the reason.

Rather it seems that there is a instinctive resistance on the part of the Filipino pirates to make use of these tools, that the recent development of technology and globalization have made 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 the long distance busses – 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 e.g. 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 deal making, 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: the claim that the various players in the black market operated following 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 especially 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 while he was never “wronged” by anybody in the pirate market, while the

majority of the Philippine government institutions as well as the political administration were known to be corrupt and frequently ignore both the law and business contracts. Compared to the general disorder of the state, 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 is safe to say, that the Philippines is a weak state and that the rule of law is not incessantly observed. Powerful people and especially politicians bend the law to their own advantage. Gloria Arroyo, the current president, 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, again a charge that the government so far was unable to prove untrue. Behind many of these killings seem to be local politicians, out to either silence opponents or even gaining material advantages. Nevertheless, the Philippine law enforcement agencies and the courts have shown little success in curbing these crimes and in convicting the guilty.

Considering these facts, for many participants in the pirate market, the market appears like a more honest and fair alternative to a society that is perceived as unjust, uncontrolled and generally in favor 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 month a growing number of DVD samplers with films of local super-stars

such as Fernando Poe Jr. or Sharon Cuneta have appeared on the black market. The way my informants justify their participation in the black market therefore leaves many moral questions open.

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 seem more thriving than ever, when I visited them recently.

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, wouldn’t have developed without the existence of pirate distribution networks.

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, thereby effectively prohibiting its public exhibition. According to newspaper reports, the film promptly surfaces 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 films on the black market. In China, piracy is effectively a way around state censorship. If the illegal distribution channels of the Philippines will be used for the dissemination of material, which the authorities try to keep out of circulation, depends on the future development of the country.

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