Piracy in World History

Maritime Humanities, 1400-1800: Cultures of the Sea

Early modern oceans not only provided temperate climates, resources, and opportunities for commercial exchange, they also played a central role in cultural life. Increased exploration, travel, and trade, marked this period of history, and early modern seascapes were cultural spaces and contact zones, where connections and circulations occurred outside established centres of control and the dictates of individual national histories. Likewise, coastlines, rivers, and ports were all key sites for commercial and cultural exchange. Interdisciplinary in its approach, *Maritime Humanities, 1400–1800: Cultures of the Sea* publishes books that conceptually engage with issues of globalization, post-colonialism, eco-criticism, environmentalism, and the histories of science and technology. The series puts maritime humanities at the centre of a transnational historiographical scholarship that seeks to transform traditional land-based histories of states and nations by focusing on the cultural meanings of the early modern ocean.

Piracy in World History

Edited by
Stefan Eklöf Amirell
Bruce Buchan, and
Hans Hägerdal

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Cover illustration: Daniel Boyd, 'We Call them Pirates Out Here', 2006, oil on canvas, 226 × 276 cm. This image is reproduced courtesy of the artist and Roslyn Oxley9 Gallery, Sydney.

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Växjö and Brisbane, 16 April 2021
The editors

1 Introduction

Piracy in World History

Stefan Eklöf Amirell, Bruce Buchan, and Hans Hägerdal

Pirates, it is frequently claimed, have existed since the dawn of history, as long as there has been traffic and commerce at sea.[1] Presumably, the origins of piracy would thus be sometime in the pre-historic past, when people first took to the sea for commercial purposes, probably around eight thousand years ago, along the coast of the Persian Gulf.[2] Historical records over close to three and half millennia, from ancient Egypt to the present, seem to provide documentation of piratical activity from all around the world. Piracy would appear to be ubiquitous across a very *longue durée* in the history of humanity, and only with the projection of sea power by major states and empires, whether ancient (when Rome or Srivijaya controlled their adjacent seas) or modern (when Great Britain or the United States did so) was piracy efficiently suppressed, at least temporarily.

On closer examination, however, this grand narrative has several weaknesses. As for the allegedly pre-historic origins of piracy, it is not an activity that has left distinct traces in archaeological records – unlike, for example, farming, hunting, or fishing. It may be inferred from material remains and ancient depictions that maritime violence occurred. In the absence of written sources, however, it is generally not possible to determine whether such violence was piratical by modern definitions, or by those current at the time. As Philip de Souza put it, a history of piracy can "be written only on the basis of texts which mention pirates or piracy in explicit terms, or

1 E.g. John Philip Jenkins, "Piracy, International Law," *Encyclopaedia Britannica online* (accessed 8 October 2020); John Zumerchik and Steven Laurence Danver, *Seas and Waterways of the World: An Encyclopedia of History, Uses, and Issues* (Santa Barbara, CA: ABC Clio, 2010), 565.

2 R. Carter, "Boat Remains and Maritime Trade in the Persian Gulf During the Sixth and Fifth Millennia BC," *Antiquity*, 80 (307) (2006): 52–63.

Amirell, S. E., B. Buchan, and H. Hägerdal (eds), *Piracy in World History*. Amsterdam: Amsterdam University Press 2021
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which can be shown to refer implicitly to pirates or piracy, according to the normal usage of these terms in the culture which produced the texts."[3]

The alleged opposition between piracy and state power is often also much less straightforward than it may seem. Maritime raiding and violence were regularly central to the accumulation of power, wealth, and state building, whether we look to ancient Greece, medieval Scandinavia, Elizabethan England, pre-colonial Southeast Asia, or the Chinese coasts in late imperial times. As the capacity to project sea power and exercise maritime violence became institutionalized and linked to state building the need to draw a border between licit and illicit violence arose. From this perspective, the concept of piracy understood by definition as illicit violence, applies only in relation to a state or system of states (whether real or imagined).[4]

European overseas expansion during the Early Modern period is particularly illustrative with regard to the ambiguity between piracy and state power. From the turn of the sixteenth century, European navies and trading companies around the world excelled in maritime violence. Their competitive advantage in this field enabled them to harass and eliminate commercial and political rivals, Europeans as well non-Europeans. Maritime violence exercised by states and trading companies was seen in principle (at least in Europe) as legitimate, in contrast to the piratical violence exercised by non-state sponsored actors. At the same time, however, imperial rivalry at sea and on the coasts of the Americas, Africa, and Asia during the Early Modern period encouraged piratical activity and created a vast grey zone between licit and illicit maritime violence. To the non-Europeans who frequently were subject to the violence, extortion, and coercion of European navigators, moreover, the difference between, on the one hand, illicit piratical violence and, on the other hand, purportedly legitimate forms of maritime violence, such as naval warfare and patrols, punitive expeditions, blockades, or privateering, was often imperceptible and of little practical consequence.[5]

Our book bears on its cover a painting completed in 2006 by First Nations Australian artist, Daniel Boyd, entitled 'We Call Them Pirates Out Here'. Boyd's is a satirical reimagining of a familiar colonial trope of the benign

3 Philip De Souza, *Piracy in the Graeco-Roman World* (Cambridge: Cambridge University Press, 2002), 2.

4 See Stefan Eklöf Amirell & Leos Müller (eds), *Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective* (Basingstoke: Palgrave Macmillan, 2014).

5 E.g. Adam Clulow, "European Maritime Violence and Territorial States in Early Modern Asia, 1600–1650." *Itinerario*, 33, no. 3 (2009): 72–94; Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press, 2019), 27–31.

white coloniser, Captain Cook, as a pirate.[6] By portraying the pretence of empire as an act of piracy, Boyd's image neatly aligns with our aim in this book to unsettle the conventional oppositions between piracy and sovereignty, toppling the *hostis humani generis* from its pillar of infamy. Pursuing this aim raises difficult questions about the concept of piracy and its definition in relation to global history. Is piracy an essentially European concept that is applied, often inappropriately, to world historical contexts in the wake of European overseas expansion from the late fifteenth century? What, in different historical and cultural contexts, sets piracy apart from purportedly legitimate uses of maritime violence, such as warfare at sea, reprisal, protection, and privateering? Is there a principal difference between piracy or armed robbery at sea and similar acts of plunder and violence on land? What are the meanings and connotations of the concept of piracy in different linguistic and cultural contexts? These are some of the key questions that this book sets out to explore. It does so by looking at the role that piracy played in different cross-cultural contexts during the period of European overseas expansion and imperialism from around 1500 until around 1900.

In posing these questions, our aim is to contribute to the global history of piracy and, in particular, to the global conceptual history of piracy, by highlighting both legal and theoretical perspectives and several empirical case studies involving colonial or imperial encounters in the maritime context. The cases include studies of piratical violence in Europe, the Philippines, Indonesia, India, the Ottoman Empire, China, and Vietnam across almost four hundred years. European overseas expansion is an important theme in many of the studies, but a significant feature of our chapters is that they also bring non-European – particularly Asian – perspectives to bear on the analysis of piracy. By confronting these competing, or concurrent, understandings of piracy as a historical, legal, and rhetorical concept, the book sets out to highlight how piratical violence and its suppression contributed to shaping imperial forms of domination, particularly in Asian, European, and Mediterranean waters and coastal areas, including several regions that have hitherto not been as extensively studied as the Atlantic with regard to piracy during the Early Modern period.

6 'We Call Them Pirates Out Here' is a satirical reworking of E. Philips Fox's painting 'Landing of Captain Cook at Botany Bay, 1770' from 1902. Boyd's painting is kept at the Museum of Contemporary Art in Sydney, Australia. A video of Daniel Boyd's description of the work and its context can be viewed at the MCA website here: https://www.mca.com.au/artists-works/works/2006.25/. We are grateful to Daniel Boyd and the Roslyn Oxley9 Gallery in Sydney for granting permission to reproduce this painting.

Global History and the Historiographical Context of the Book

Piracy has long been a prominent topic in world history and arguably preceded the current boom in global history by at least a century. C.R. Pennell, in a brief review of the academic (mainly anglophone) literature on piracy, sets the start of serious study of piracy based on documentary and archival sources to 1890, when Stanley Lane-Poole's book *The Barbary Corsairs* was published. This was followed, twenty years later, by C.H. Haring's *The Buccaneers in the West Indies in the Seventeenth Century*.[7] There were, however, several studies published earlier in the nineteenth century in other languages, including French, Dutch, and Spanish, which were also (biases notwithstanding) based largely on documentary sources, such as: Ch. de Rotalier, *Histoire d'Alger et de la piraterie des Turcs dans la Méditerranée* (1841); J.H.P.E. Kniphorst, *Historische schets van den zeeroof in den Oost-Indischen Archipel* (1875); and J.M. Montero y Vidal, *Historia de la pirateria Malayo-Mahometana en Mindanao* (1888).

As these titles indicate, the historiography of piracy in the late nineteenth and early twentieth centuries was by no means confined to Europe or European pirates. Nevertheless, for most of the colonial period and the decades following World War II, the sources and perspectives were principally European. This remained so into the twentieth century, even when scholars in the late colonial and early postcolonial period began to write more balanced histories of piracy and its suppression, compared to earlier, generally salutary, and pro-colonial studies.[8]

Only from the late 1970s did scholars more consistently begin to explore what Europeans called piracy from non-European perspectives. Two monographs that focused on Southeast Asia were ground-breaking in this respect, Carl Trocki's *Prince of Pirates* (1979) and James Warren's *The Sulu Zone* (1983). In recent decades, piracy and maritime raiding in other parts of Asia have also attracted attention from scholars working with manuscript sources in Asian archives, including in Muhammad al-Qasimi in the Persian

7 C.R. Pennell, "Introduction," in C.R. Pennell, ed., *Bandits at Sea: A Pirates Reader* (New York: New York University Press, 2001), 5. See also David J. Starkey, "Voluntaries and Sea Robbers: A Review of the Academic Literature on Privateering, Corsairing, Buccaneering and Piracy," *Mariner's Mirror*, 97, no. 1(2011): 127–147.

8 E.g. Grace Fox, *British Admirals and Chinese Pirates* (London: K. Paul, 1940); Nicholas Tarling, *Piracy and Politics in the Malay World: A Study of British Imperialism in Nineteenth-Century South-East Asia*. Donald Moore Gallery, 1963).

Gulf, Robert J. Antony in China and Vietnam, Adam Clulow and Peter D. Shapinsky in Japan, and Lakshmi Subramanian in India.[9]

From around 1990, the rise of global (or world) history combined with a surge in contemporary piracy in some parts of the world (particularly in the Strait of Malacca, the South China Sea, the Gulf of Guinea, and the Gulf of Aden), to stimulate interest in piracy as a global historical phenomenon. Much of the scholarly attention has been directed towards the role of piracy in the European overseas expansion and imperialism and its role in the development of international law, with important contributions by, among others, Janice E. Thomson, Alfred P. Rubin, Lauren Benton, Peter Earle, and Daniel Heller-Roazen.[10] Several articles, particularly in the *Journal of World History*, have also dealt explicitly with piracy in global historical contexts. A recent thirtieth anniversary special issue of the journal on the theme "Roads and Oceans" featured no less than three articles (out of ten) with the words pirates or piracy in the title.[11]

Even so, the attempts to write a more balanced and genuinely global history of piracy has only just begun, and to date there have only been a few attempts to understand piracy from a cross-cultural point of view. A pioneering article by Patricia Risso in the *Journal of World History* in 2001 entitled "Cross-cultural Perceptions of Piracy," attempted to analyse the different terms used in the Western Indian Ocean and the Persian Gulf to refer to what Europeans called piracy and privateering.[12] A few other scholars have followed suit with regard to East and Southeast Asia. Robert Antony

9 Muhammad Al-Qasimi, *The Myth of Arab Piracy in the Gulf* (London and Dover, NH: Croom Helm, 1986); Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley, CA: University of California, 2003); Adam Clulow, "The Pirate and the Warlord," *Journal of Early Modern History*, 16, no. 6(2012): 523–542; Peter D. Shapinsky, *Lords of the Sea: Pirates, Violence, and Commerce in Late Medieval Japan* (Ann Arbour, MI: University of Michigan, 2014); Lakshmi Subramanian, *The Sovereign and the Pirate: Ordering Maritime Subjects in India's Western Littoral* (New Delhi: Oxford University Press, 2016).

10 Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ: Princeton University Press, 1994); Alfred P. Rubin, *The Law of Piracy* (Irvington-on-Hudson, NY: Transnational Publishers, 1998); Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2009); Peter Earle, *The Pirate Wars* (London: Methuen, 2003); Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009).

11 Matthew P. Romaniello, ed., "Roads and Oceans: Rethinking Mobility and Migrations in World History," A Thirtieth Anniversary Collection of the *Journal of World History*, 2001.

12 Patricia Risso, "Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region During a Long Eighteenth Century," *Journal of World History*, 12, no. 2(2001): 293–319. The article was also included in the "Roads and Oceans" collection of the journal cited above.

has briefly dealt with the problem of translating the concept of piracy to and from Chinese, and Jennifer L. Gaynor has discussed various ethnonyms associated with maritime raiding in the Malay Archipelago. Stefan Eklöf Amirell has highlighted the concepts used in East and Southeast Asia, arguing that illicit maritime violence was conceptualized in parts of Asia in ways that resembled the European understanding of piracy.[13] All three are among the contributors to this book and develop these themes further in their contributions.

The present volume thus aims to contribute to the research effort that began around 2000 and that aims to unpack the rich and complex history of how the essentially European concept of "piracy" was translated and perceived when different cultures came increasingly into contact with one another from the sixteenth century onward. In doing so, the book can be said to be part of the effort to "capture maritime history's still-unrealized potential as a vehicle for world history," as Lauren Benton and Nathan Perl-Rosenthal recently put it, and to overcome the "ocean regionalism" that has shaped much research in maritime history to date.[14]

Piracy and other forms of maritime violence and coercion were a central theme in European overseas expansion from the sixteenth to the early twentieth century, as well as in the rhetoric and discourses that accompanied that expansion. European navigators were experts in maritime violence, and their capacity to exercise violence at sea was a decisive comparative advantage throughout the history of European expansion. They frequently used this advantage to threaten or destroy their commercial and political competitors, including both other Europeans and non-European rulers and merchants.[15] Meanwhile, maritime violence and raiding was also perpetrated by non-European communities, who attacked both European and non-European seafarers and coastal settlements in search of booty and slaves. Some prominent examples of such non-European "pirates" (in the parlance of colonial sources) included the so-called Barbary states of North Africa,

13 Robert J. Antony, "Introduction," in Robert J. Antony, ed., *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas* (Hong Kong: Hong Kong University Press, 2010), 7–8; Jennifer L. Gaynor, "Piracy in the Offing: the Law of Lands and the Limits of Sovereignty at Sea," *Anthropological Quarterly*, 85, no. 3 (2012): 846–850; Jennifer L. Gaynor, *Intertidal History in Island Southeast Asia: Submerged Genealogy and the Legacy of Coastal Capture* (Ithaca, NY: Cornell University Press, 2016); Amirell, *Pirates of Empire*, 34–40.

14 Nathan Perl-Rosenthal and Lauren Benton, "Introduction: Making Maritime history Global," in Lauren Benton and Nathan Perl-Rosenthal (eds), *A World at Sea: Maritime Practices and Global History* (Philadelphia, PA: University of Pennsylvania Press, 2020), 5–6.

15 E.g. Earle, *Pirate Wars*; Subramanian, *The Sovereign and the Pirate*.

the coastal Malays, and other indigenous seafaring groups in Southeast Asia and the Arabs of the Oman coast in the Persian Gulf.[16] Such practices were well-known and had designated terms in various non-European languages, including in the Ottoman Empire, China, India, and other parts of Asia and the Mediterranean. In these regions, maritime raiding was part of the social, economic, political, and cultural fabric, as it was in Europe, albeit in different ways and carrying different connotations and associations. This is discussed in several of the contributions to our book, particularly those by Robert J. Antony, Jennifer L. Gaynor, Hans Hägerdal, Lakshmi Subramanian, and Joshua White.

A major aim of this book is to explore the different meanings of piratical violence and the encounters between different concepts and cultural understandings of such violence during the period from 1500 to 1900. Our chosen time period is crucial in the global history of piracy. It witnessed the development of a legal and political discourse on piracy in Europe, triggered largely by the competition and anomalies that European overseas commercial and imperial expansion gave rise to. The period was also formative with regard to the development of international law, in the context of which laws pertaining to piracy and other forms of maritime violence and jurisdiction at sea played central roles.[17] While the European experience of piracy in the context of expanding maritime commerce and empire in this period is well known, our volume also looks to non-European perspectives on piracy and related forms of maritime violence – not least the acts of violence and coercion perpetrated by European navigators – for example in the Ottoman Empire, China, India, Vietnam, and various parts of the Malay Archipelago.

However, the period 1500–1900 is also part of a much longer global history of piracy, which stretches from the formulation of the concept more than two thousand years ago up to the present. With regard to modern and contemporary history, it is frequently observed that piracy is an essentially European concept that has been, and in some cases still is, inappropriately applied to very different economic, social, political, and cultural contexts

16 E.g. Gillian Lee Weiss, *Captives and Corsairs: France and Slavery in the Early Modern Mediterranean* (Stanford, CA: Stanford University Press, 2011); Stefan Eklöf Amirell, "The Making of the 'Malay Pirate' in Early Modern European Thought," *Humanities*, 9, no. 3 (2020): 91; Al-Qasimi, *Myth of Arab Piracy*.

17 E.g. Rubin, *Law of Piracy*; Peter Borschberg, *Hugo Grotius, the Portuguese, and Free Trade in the East Indies* (Singapore: NUS Press, 2012); Benton, *Search for Sovereignty*, ch. 3; Mark Chadwick, *Piracy and the Origins of Universal Jurisdiction: On Stranger Tides?* (Leiden: Brill, 2019).

than those prevailing in Europe.[18] In order to evaluate the relevance of such claims – which risk being tainted by cultural relativism as well as Orientalist biases and a troubling lack of source criticism[19] – it is necessary first to turn briefly to the history of the concept of piracy as it developed in Europe from Antiquity to the eve of Europe's overseas expansion.

The Ancient Origins of Piracy in Europe

The early historiography of piracy is overwhelmingly concentrated to the Mediterranean, where the concept itself first appeared in the final centuries BCE, although the term is often applied anachronistically to earlier historical periods as well. For example, the first documented instance of piracy is often associated with the Sumerians, who supposedly were attacked by pirates at the end of the third millennium BCE.[20] The cuneiform records from Ur, however, do not use the word piracy or any similar term, and the assertion seems to be based on a passage in the so-called Code of Ur-Nammu, who, in the twenty-first century BCE, boasted of having established freedom of trade, presumably in the Persian Gulf, from a certain "chief sea captain."[21]

Similarly, the so-called Sea Peoples, who wreaked havoc in the eastern Mediterranean between the fourteenth and twelfth centuries BCE, are often identified as pirates. However, there is no reliable evidence that the Sea Peoples were pirates or were seen as such by their contemporaries, either explicitly or implicitly. Piracy began to be conceptualized in the writings of Homer and later Greek texts, but the word *peirates* (πειρατης) seems to have appeared only around the mid-third century BCE.[22]

The etymology of the term points to a persistent and intriguing ambiguity between pirates and states or empires, because both the words pirate and empire have the same root, *per-* (περ-), which means to risk or attempt.[23]

18 E.g. Joseph N. F. M. à Campo, "Discourse Without Discussion: Representations of Piracy in Colonial Indonesia 1816–25," *Journal of Southeast Asian Studies*, 34, no. 2 (2003): 199–214; Rubin, *Law of Piracy*, 2; Adam Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies* (Singapore: Institute of Southeast Asian Studies, 2007), 6–8; Antony Reid, "Violence at Sea: Unpacking 'Piracy' in the Claims of States Over Asian Seas," in Antony (ed.) *Elusive Pirates*, 15–26.

19 Amirell, *Pirates of Empire*, 11–13.

20 E.g. Robert Haywood and Roberta Spivak, *Maritime Piracy* (London: Routledge, 2012), 23–24.

21 Harriet Crawfurd, "Trade in the Sumerian World," in *idem* (ed.) *The Sumerian World* (New York: Routledge 2013), 457.

22 De Souza, *Piracy*, 3.

23 Rubin, *Law of Piracy*, 345.

The well-known story of the pirate and the emperor, as told by St Augustine of Hippo, illustrates the relative quality of piracy in relation to empires and states:

> Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, "What do you mean by seizing the whole earth; but because I do it with a petty ship, I am called a robber, while you who do it with a great fleet are styled emperor."[24]

Empires and states during Antiquity projected themselves as the antithesis of pirates and the guarantors of maritime security. A major aim of the Roman Empire in the wake of the Punic Wars was to suppress piracy and uphold maritime security in the Roman *Mare nostrum*. Failure to do so could threaten the very foundations of the Roman Empire. When the Cilician sea raiders disrupted maritime traffic in the eastern Mediterranean during the Late Roman Republic, the statesman and general Gnaeus Pompeius Magnus (Pompey) led a campaign in 67 BCE that supposedly cleared them from the sea in just three months. Speaking in the Senate in favour of Pompey and defending the decision to grant him extraordinary military powers, the orator and statesman Marcus Tullius Cicero (106–43 BCE) represented the situation as one of unprecedented crisis that threatened the very existence of the Roman Republic.[25] In the view of Cicero, pirates were the antithesis of the state and of civilized society. Cicero was the first Roman Latin author to use the word *pirata*, which he borrowed from the Greek, although he also used other terms, particularly *praedo* (robber, thief), to refer to the Cilicians and other sea robbers.[26]

Of particular importance in the present context is Cicero's brief discussion about pirates in a section on perjury in his last major philosophical work *De Officiis* (*On Duties*), in which he famously defined pirates as *communis hostis omnium*, that is, the "common enemy of all." Cicero argued that pirates

24 St Augustine of Hippo, *City of God*, transl. by M. Dods (Peabody, MA: Hendrickson Publ., 2009), 101 [4:4]. Augustine calls Alexander king (*rex*) in the text but uses the word emperor (*imperator*) in the direct discourse allegedly delivered by the pirate (*pirata*).

25 Philip de Souza, "Piracy in Classical Antiquity: The Origins and Evolution of the Concept," in S. Eklöf Amirell and L. Müller (eds), *Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective* (Basingstoke: Palgrave Macmillan, 2014), 39–40.

26 De Souza, "Piracy in Classical Antiquity,", 49, n. 67.

were not lawful enemies and thus outside the law of nations and not subject to any moral obligations. The entire passage reads:

> Furthermore, we have laws regulating warfare, and fidelity to an oath must often be observed in dealings with an enemy: for an oath sworn with the clear understanding in one's own mind that it should be performed must be kept; but if there is no such understanding, it does not count as perjury if one does not perform the vow. For example, suppose that one does not deliver the amount agreed upon with pirates (*praedonibus*) as the price of one's life, that would be accounted no deception – not even if one should fail to deliver the ransom after having sworn to do so; for a pirate (*pirata*) is not included in the number of lawful enemies, but is the common foe of all the world (*communis hostis omnium*); and with him there ought not to be any pledged word nor any oath mutually binding.[27]

Cicero's writings about pirates thus placed them outside the law and represented them as subversive enemies, not only of Rome but of all nations. He echoed the words of the Greek historian Polybius, who described the Illyrians from the West Balkans in the second century BCE as the enemies of all.[28] If unchecked, such persistent, large-scale piracies could pose existential threats to the state and society.[29] The perceived threat helped to establish the legal and moral discourse, which Cicero had pioneered, according to which pirates were defined as the generic enemies of humanity. Any measures were justified to deal with them.

At the same time, however, there was some ambivalence in the Roman practices in dealing with alleged pirates. Triumphs were regularly accorded to those who campaigned against the pirates, suggesting they were, after all, legal enemies to which the Roman laws of war applied, at least to some degree. Alleged pirates, moreover, could be useful for the accumulation of power, both imperial and personal. Pompey the Great was not the only Roman leader who built his career on fighting pirates. For example, according to Plutarch, Julius Caesar first made a name for himself as a war leader by raising a navy to defeat a band of Cilician pirates who had captured and subsequently released him for a ransom.[30]

27 Cicero, *De Officiis* [On Duties], III:107. Transl. Walter Miller (London: Wiliam Heinemann & New York: Macmillan, 1913), 385–387.

28 Polybius, *Histories*, 2:12.4–6.

29 Cf. Amirell & Müller (eds), *Persistent Piracy*, esp. De Souza, "Piracy in Classical Antiquity."

30 Plutarch, *The Life of Julius Caesar*, 1–2.

In all of these respects – the notion of pirates as the enemies of all, the threat posed by pirates to state and society, and the usefulness of pirates for the extension or accumulation of power – Roman notions of piracy were to reverberate in the history of Europe and, from the late fifteenth century, the world. From this time, the texts of Cicero and other classical authorities were rediscovered in Europe. *De officiis*, in particular, was one of the most read and secular books in Europe during the Renaissance, and it was translated to several vernacular European languages from the late fifteenth century.[31] In this way, Cicero's writings on piracy and other topics came to exercise a great influence on the development during the Early Modern period, which eventually would lead to the establishment of international law and the law of the sea. Together with other salient features of the pirate image, such as the association with opulence and drunkenness, many elements of the European perception of the pirate thus had their origin in Roman times. They gained renewed currency as Europeans began to extend maritime trade and colonization in the fifteenth century.[32]

Piracy and the European Overseas Expansion

Initially, with the onset of Iberian maritime expansion in the second half of the fifteenth century, Spain and Portugal tried to deal with the new challenges of governing the newly discovered oceans and overseas lands by dividing them into separate spheres of interest. A series of agreements sanctioned by the Pope were concluded during the second half of the fifteenth century, the most famous of which was the Treaty of Tordesillas in 1494. Spain and Portugal accordingly agreed on a meridian line through the Atlantic, which was said to mark the border between the two countries' spheres of influence. Portugal was to exercise sovereignty over all lands already or yet to be discovered to the east of the border and Spain the western part. In 1529, the agreement was supplemented by the Treaty of Zaragoza, which drew a corresponding antemeridian on the other side of the earth.

The treaties recognized Spain and Portugal as the only legitimate maritime powers, which in theory made all shipping that was not expressly sanctioned or permitted by the Iberian powers illegal. As discussed by Birgit Tremml-Werner in her contribution, Spain and Portugal tended to

31 David Marsh, "Cicero in the Renaissance,", in Catherine Steel (ed.), *The Cambridge Companion to Cicero* (Cambridge: Cambridge University Press, 2013), 313.

32 De Souza, "Piracy in Classical Antiquity," 43; cf. Heller-Roazen, *Enemy of All*.

define anyone who defied their self-proclaimed and papally sanctioned jurisdiction over oceans as pirates or corsairs, the two concepts being used largely interchangeably during the sixteenth and seventeenth centuries. In the Indian Ocean, the Portuguese tried to assert their presumed rights over the sea by forcing Arab, Indian, Malay, and other merchants to buy *cartazes* (licences) in order to avoid being plundered or sunk by Portuguese vessels. These and other violent or coercive acts on the part of Portuguese navigators gave rise to much resentment and resistance among merchants, rulers, and dispossessed coastal groups around the Indian Ocean, as Lakshmi Subramanian discusses in her chapter.

The controversy over jurisdiction and sovereignty at sea came to the fore when, from around the turn of the seventeenth century, the Dutch began to send commercial expeditions to Asian seas, that is to lands that the Portuguese considered to be under their sovereignty and in their maritime sphere of influence. Accusations of piracy, in this context, were a useful tool for the Portuguese (and other European powers) to assert their rights to, and control over, trade and maritime traffic in relation to other Europeans. In 1602, the Portuguese, on dubious grounds, accused six Dutchmen of piracy in Chinese waters, which led to their execution by Chinese authorities in Canton. By way of retaliation, the Dutch seized a Portuguese carrack, the *Santa Catarina*, in the Strait of Malacca the following year.[33] In order to justify the seizure, legally and morally, the Dutch jurist Hugo Grotius wrote his famous tract *Mare liberum*, which argued for the right of any nation to use the sea for trade and marine transportation. Such activities, in Grotius's view, were legal by international law. Piracy, on the other hand, was illegal from the point of view of all nations.

The legal and intellectual discourse on piracy in Early Modern Europe was literally a world apart from the reality of maritime encounters overseas. Portuguese, Spanish, Dutch, English, French, and other European navigators all pursued ruthless policies to further their strategic and commercial interests in distant seas and on the coasts. With few goods to trade in exchange for the spices, textiles, porcelain, tea, and other Asian commodities that the Europeans craved, the main competitive advantage of the latter was their superior naval power. Europeans thus made frequent use of maritime violence and coercion in order to force their will on Asian sovereigns and

33 Peter Borschberg, "The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (1602–c. 1616)," *Journal of Southeast Asian Studies* 33, no. 1 (2002): 31–62; Michael Kempe, "Beyond the Law. The Image of Piracy in the Legal Writings of Hugo Grotius," *Grotiana*, 26, no. 1 (2007): 379–395; see also Borschberg, *Hugo Grotius.*

communities and to eliminate any commercial competitors, European, Asian, or African. Historian Peter Earle has aptly called such practices "piratical imperialism"; that is, European governments supporting or condoning piracy committed by their own subjects as a cheap and effective way of furthering their commercial and political objectives overseas.[34] There was, in other words, a great difference between the rhetoric about pirates as the enemies of all and the reality of clandestine connections between pirates and other entrepreneurs of illicit maritime violence, and trading companies and empires.[35]

Piratical imperialism did not go unnoticed at the time. European sources from the sixteenth, seventeenth, and eighteenth centuries are packed with accusations of piracy by the members of one nation against another or several other nations, particularly other Europeans.[36] Europeans also tried to convince Asian merchants and rulers that fellow Europeans were pirates, and the Dutch, in particular, worked hard to spread their view of the English as a "nation of pirates."[37]

This Hobbesian situation on the world's oceans made it necessary to draw a line between legal and illegal maritime violence and to establish a legally enforceable distinction between pirates and privateers. On paper, the distinction may have seemed straightforward enough: pirates were essentially bandits at sea who operated without the permission or sanction of a recognized sovereign, whereas privateers held a commission from a recognized sovereign in the form a letter of marque and confined their raids to attacking enemy ships in wartime.[38] In practice, however, the policy of sanctioning privateers, which remained common on the part of European governments throughout the Early Modern era, created a vast grey zone between legal and illegal maritime violence. The practice thus gave rise to a number of problems and anomalies in the international maritime sphere. First, one nation's pirates were another nation's privateers or even just innocent navigators. The different perspectives gave rise to very different interpretations, for example in the case of the six Dutchmen who

34 Earle, *Pirate Wars*, xi.

35 Cf. Lauren Benton, "Toward a New Legal History of Piracy: Maritime Legalities and the Myth of Universal Jurisdiction," *International Journal of Maritime History*, 23, no. 1 (2011): 225–240.

36 E.g. Amirell, "Making of the Malay Pirate."

37 N. A. M. Rodger, *The Command of the Ocean: A Naval History of Britain 1649–1815* (London: Penguin, 2006), 162; Earle, *Pirate Wars*, 120.

38 David J. Starkey, "Introduction," in *idem*, E.S. van Eyck van Hesling, J.A. de Moor (eds), *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries* (Exeter: University of Exeter Press, 1997), 1–9.

were executed in Canton at the beginning of the seventeenth century or with regard to the raids of English privateers against the Spanish Main under Elizabeth I. As discussed in several of the chapters in this book, such discrepancies were not confined to inter-European politics and conflicts but were even more pertinent (if not always more visible in the sources, which tend to be written largely by Europeans) in intercultural contexts.

Second, many privateers stretched the limits of their commissions and attacked not only enemy ships, but also the vessels of neutral of even friendly nations. When their commissions expired many privateers turned pirates and piracy frequently surged following the end of major European wars, such as the War of the Spanish Succession (1701–1714), the end of which inaugurated the last great wave of Atlantic Piracy, which lasted until around 1726. Further contributing to the grey zone between piracy and privateering was what Lauren Benton has called "legal posturing"; that is, the numerous and often creative strategies that pirates adopted to defend their actions and protect them from prosecution.[39]

In view of the obviously chaotic and unregulated situation on the world's oceans, European jurists in the sixteenth and seventeenth centuries strove to formulate a workable legal definition of piracy. The Italian jurist Alberico Gentili held that it was the sovereign who had the right to define who was a pirate, and as this doctrine gained currency throughout Europe, it provided the sovereign with an instrument of great power that extended far beyond his or her shores.[40] It also afforded European governments the right to define non-European actors as pirates simply by withholding recognition of sovereignty or statehood, as discussed by Östlund and Buchan in the context of the so-called Barbary states in the Mediterranean. This points to a third problem concerning the distinction between legal and illegal maritime violence, namely, the question of who was a sovereign. The answer was not always clear even in Europe, as demonstrated in the chapters by Buchan and Kempe, and the problem was even more pertinent in relation to non-European rulers. Were raiding fleets sponsored by North African or Southeast Asian rulers, for example, to be considered piratical or as part of the naval forces of the rulers in question?

European states continued to issue letters of marque to privateers and to nurture ambiguous relationships with these and other entrepreneurs of maritime violence throughout the seventeenth century. Whether the English,

39 Lauren Benton, "Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism," *Comparative Studies in Society and History*, 47, no. 4 (2005): 700–724.

40 Rubin, *Law of Piracy*, 20–21.

as Dutch propaganda in the East made out, were a "nation of pirates" is debatable, but it is certain that many of the most well-known pirates of the so-called Golden Age of Atlantic piracy in the seventeenth and eighteenth centuries were English. Although the well-researched field of Atlantic piracy is not the main focus of this volume, English pirates inevitably appear in several of the contributions, particularly those by Kempe and Buchan, demonstrating the ambiguous attitude that European states and authorities had towards piracy.

A major sea change occurred at the beginning of the eighteenth century, when Britain, then emerging as the major European naval power, began to take the lead in the global struggle against piracy. In 1700, Parliament passed a law that outlawed piracy more clearly than before and prescribed severe punishments for piratical activities. The law was passed against a background of outrage at the ravages of Henry Avery and William Kidd in India in the last years of the seventeenth century, jeopardizing English relations with the Mughal court, embarrassing the English East India Company and the Crown. The result was that the British began to take stern measures against pirates. Kidd and Avery, together with their crews, were tried and sentenced on charges of piracy and several of the perpetrators of the attacks on Mughal ships in the Indian Ocean were executed. Largely due to British suppression following the War of Spanish Succession, the Golden Age of Atlantic piracy as well as the ravages by European pirates in the Indian Ocean came to an end around 1730.[41]

Following this suppression of European piracy, attention turned increasingly to non-European entrepreneurs of violence who were identified as pirates, for example in North Africa and the Malay Archipelago, as discussed by Östlund and Buchan, Hägerdal, and Tremml-Werner. From the second half of the eighteenth century, piracy became a very useful instrument for asserting European sea power in Asian and African waters. Several indigenous nations, for example in North Africa, the Persian Gulf, and the Malay Archipelago, were identified by European imperial agents as piratical. Brutal attacks were launched on several occasions, particularly in the nineteenth century, in order to suppress "piracy" and assert imperial and commercial dominance on land and sea.[42] Piracy continued to be invoked

41 Rubin, *Law of Piracy*, 100–104; Earle, *Pirate Wars*; Robert C. Ritchie, *Captain Kidd and the War against the Pirates* (Cambridge, MA and London: Harvard University Press, 1986); Michael Kempe, "'Even in the Remotest Corners of the World': Globalized Piracy and International Law, 1500–1900," *Journal of Global History*, 5, no. 3 (2010): 353–72.

42 On North Africa, see Frank Lambert, *The Barbary Wars: American Independence in the Atlantic World* (New York: Hill and Wang, 2005); on the Persian Gulf, see Al-Qasimi, *Myth of Arab Piracy*; on Southeast Asia, see Amirell, *Pirates of Empire*.

as a serious threat that necessitated harsh security measures in colonial contexts, sometimes even in areas far away from the sea, as discussed by Stefan Amirell in this volume.

Concurrent Concepts of Piracy

From an Asian point of view, European commercial and imperial expansion, both before and after the turn of the eighteenth century, looks very much like a massive wave of organized piracy, neatly captured by Peter Earle's phrase "piratical imperialism." This observation, however, raises the question of what terms were used in non-European languages to denote what Europeans called piracy. Were there established terms in the vernacular Asian and African languages or were European terms, such as piracy, corsair, and privateer, borrowed and introduced in these languages as a result of the interaction with European navigators? Patricia Risso's article showed that there were both indigenous and borrowed words for illicit maritime violence in Arabic and Persian, and the contributions of the present book extend and corroborate this conclusion. Although it is sometimes claimed that there was no indigenous Malay term for piracy, at least not before the mid-nineteenth century, illicit maritime violence was conceptualized much earlier.[43] Throughout the Malay Archipelago, a wide range of ethnonyms were used to refer to piratical activities or maritime raiding, as discussed by Jennifer Gaynor and Hans Hägerdal in their contributions. Sometimes, these ethnonyms became generic terms for piracy or maritime raiding, such as the Malay word *lanun*, derived from *Illanun* (or *Iranun*), an ethnic group originating from the southern Philippines and which, from around 1770, acquired a formidable reputation for maritime violence and coastal raiding throughout Southeast Asia.[44]

Chinese and Japanese officials, meanwhile, often used established terms associated with plunder and illicit violence at sea, such as *wokou* in Mandarin or *bahan* in Japanese, to refer to the Dutch and other European navigators.[45] In India, meanwhile, both the Portuguese and the Dutch gave rise to generic

43 Reid, "Violence at Sea," 19, cites Crawfurd, *Descriptive Dictionary*, 353, as a basis for the claim that piracy was not conceptualized in Southeast Asia before the mid-nineteenth century. See Amirell, *Pirates of Empire*, 36–40, for a rebuttal of this and similar arguments.

44 James Francis Warren, *Iranun and Balangingi: Globalization, Maritime Raiding and the Birth of Ethnicity* (Singapore: Singapore University Press, 2002).

45 Paula Calanca, "Wokou. Un terme au long cours?" in Michèle Battesti (ed.), *La Piraterie au fil de l'histoire. Un défi pour l'État* (Paris: Presses de l'université Paris-Sorbonne, 2014), 77; Adam

terms in Bengal associated with piratical behaviour: *harmads*, derived from the Portuguese word *armada* (fleet), and *olandez* derived from the Dutch.[46] The Italian word for corsair, *corsale*, was absorbed by Arabic and became *qursan*, meaning a privateer licenced by the state.[47] These examples, several of which are further discussed in the empirical chapters of this volume, demonstrate that translating and conceptualizing piracy was a complex and multi-directional process. The term piracy was not unilaterally imposed by European colonialists in non-European waters and cultural contexts.

The complex conceptual history of piracy from the sixteenth to the nineteenth century thus contains both competition and entanglement. In order to study these processes, we have been inspired by the theoretical and methodological framework pioneered by Gunlög Fur and colleagues centring on the study of concurrences.[48] The point of departure for the framework are the multiple meanings of the word "concurrence." The word obviously means "simultaneous"; that is, the temporal property of two things happening at the same time. In addition, "concurrent" can also mean "having equal authority or jurisdiction" and "tending to or intersecting at the same point." Third, in an archaic noun-form, "concurrent" can also mean "a rival or competitor," a meaning that is still common in many European languages, including French, German, and Scandinavian languages. While the English verb "concur" (at the root of both the noun "concurrence" and the adjective "concurrent") thus has the connotation of agreement and acceptance, in other European languages it has retained its earlier meaning of competition. As a theoretical and methodological concept, concurrences contains in its reservoir of meanings both agreement and competition, entanglement and incompatibility as it slides uneasily across time and space and between different languages. It signals contestations over interpretations and harbours

Clulow, "European Maritime Violence and Territorial States in Early Modern Asia," 1600–1650. *Itinerario*, 33.3 (2009): 91, n. 2.

46 Lakshmi Subramanian, "Of Pirates and Potentates: Maritime Jurisdiction and the Construction of Piracy in the Indian Ocean," in D. Ghosh and S. Muecke (eds), *Cultures of Trade: Indian Ocean Exchanges* (Newcastle-upon-Tyne: Cambridge Scholars Publishing, 2007), 28–29; W. van Schendel, "Asian Studies in Amsterdam," in L. Douw (ed.), *Unsettled Frontiers and Transnational Linkages* (Amsterdam: VU University Press, 1997), 1; see further Amirell, *Pirates of Empire*, 28–29; K. Yazdani, *India, Modernity and the Great Divergence: Mysore and Gujarat (17th to 19th c.)* (Leiden: Brill, 2017), 532–534.

47 M. Pelner Cosman & L.G. Jones, *Handbook to Life in the Medieval World*, 1 (New York: Infobase Publishing, 2008), 216; see further Risso, "Cross-Cultural Concepts."

48 See Diana Brydon, Peter Forsgren, and Gunlög Fur (eds), *Concurrent Imaginaries, Postcolonial Worlds* (Leiden: Brill, 2017), esp. Fur's contribution, "Concurrences as a Methodology for Discerning Concurrent Histories," 41–68.

different, diverging and, at times, competing claims that affect studies of the definition of concepts such as sovereignty, authority, jurisdiction, piracy, and the legitimate use of maritime and terrestrial violence.

We believe that the framework is useful because it indicates a way of avoiding one of the major pitfalls in the writing of global history: the tendency to overemphasize connectivity and convergence, resulting in a deterministic and sometimes celebratory grand narrative of modern globalization.[49] Concurrences instead recognizes both confluence and competition and insists that any understanding of the world take into account both entanglements and tension between equally weighty jurisdictions. Concurrences suggests, on the one hand, that different perspectives and locations are always and inescapably entangled; on the other hand, it acknowledges that historical actors constantly negotiate the different and sometimes incompatible demands arising from these concurrent conditions. By adopting concurrences as a heuristic point of departure, we are forced to grapple with the universalizing perspectives contained in colonialist claims, and to pay attention to how such claims and imperatives attempt to subsume or co-opt alternatives. By moving beyond an understanding of encounters and concurrences in terms of simplistic binaries between active agents and passive victims, historical developments can be fruitfully studied as a series of simultaneous and competing stories of exchange, cooperation, transculturation, and appropriation, where non-Europeans always retain a measure of agency. The historian can thereby challenge established historical narratives while remaining alive to the significance of alternative voices and understandings of the world.

These points of departure, we believe, are conducive for studying how the concept of piracy was defined, translated, and used in various contexts marked by global interaction and imperial encounters from the sixteenth to the early twentieth century. By highlighting these complex global historical processes, we hope that the present volume will contribute to the current efforts to understand the role that piracy and, more broadly, maritime violence have played in world history.

Summary of the Contributions

The ten contributions in this book are organized in three sections, each of which deals with a central aspect of piracy in world history during the period

49 E.g. Franz L. Fillafer, "A World Connecting?," *History and Theory*, 56, no. 1 (2017): 3–37.

between 1500 and 1900. The first of these is piracy in international law and politics. The origins of modern international law are frequently sought in the Early Modern period, and piracy has often been accorded a major role in this development, as well as in the emergence of an international system of states. In his contribution to this section, Michael Kempe highlights how international law developed through a process that he calls "integration by exclusion." Specifically, he focuses on the piratical exploits and subsequent trial of John Cusack, an Irish privateer-turned-pirate who was sentenced to death by the Admiralty in England and executed in 1675. The case illustrates how accusations of piracy as a crime against all nations was a central element in the emergence of international law in Europe and in the establishment of England's claim to be an effective global sea power. Kempe also argues that the sentence was meant to demonstrate to other European nations that England was willing and able to project its jurisdiction at sea far beyond the country's shorelines.

The idea of pirates as *hostes humani generis* is also in focus in Bruce Buchan's chapter. Although the concept may appear to be so entrenched as to be axiomatic, Buchan argues that piracy also elicited ambiguous responses from philosophers and lawyers. Pirates were merely one among a pantheon of archetypal enemies of good order, and there was at least some doubt about whether they deserved the worst opprobrium. By examining references to piracy in the work of the English political philosopher John Locke in particular, Buchan argues that pirates vied with tyrants for the title of "common enemy of all humankind." While Locke's prevarication certainly did not amount to a rehabilitation of either figure, the British intellectual and legal context in the last years of the seventeenth and early years of the eighteenth centuries provides some evidence of continuing doubt about who the *hostis humani generis* really was.

Contemporary views of piracy often associate it with state failure. However, as Jennifer Gaynor shows, this view may be traced to nineteenth-century debates about Southeast Asia, and in particular, the writings of Raffles for whom it became a pretext for intervention. Prior to this, European observers tended either to naturalize piracy as a part of Southeast Asian life, or to label foes as pirates. Both nineteenth-century colonial debates and earlier stereotypes disconnected from maritime settings do not provide reliable evidence of piracy. Instead, they offer evidence of colonial ideology and statecraft. Gaynor historicizes piracy's association with failed states and offers another way to theorize piracy without adopting either statist or relativist points of view.

The second section of the book deals primarily with piracy in the context of imperial expansion. Hans Hägerdal's contribution focuses on the Bugis and Makassar peoples of South Sulawesi, who, along with several other ethnic groups in maritime Southeast Asia, were frequently associated with piracy in colonial discourses and representations. Hägerdal asks how raiding correlated with other types of activities, such as commerce or service as auxiliaries, through two cases. The first is Lombok and Sumbawa in the late seventeenth and early eighteenth centuries, where landless Makassarese aristocrats fought or allied with various groups to create a political platform. The second case is the seascape around Timor, further to the east, where a socially different type of maritime enterprise evolved, entailing both commercial activities and raiding of vulnerable small-scale island societies. While Dutch writers termed all these seafarers "pirates," this fails to capture the range of their socio-political roles. Moreover, Hägerdal demonstrates how the Dutch East India Company contributed to the rise of piratical activity through colonial advances on Sulawesi in the 1660s.

Lakshmi Subramanian's chapter also sets out to counter Eurocentric bias in depictions of maritime power and violence along India's western littoral during the period of British East India Company expansion in the late eighteenth and early nineteenth centuries. She adapts recent analyses of legal pluralism in maritime spaces to explore the role of piracy in Indian conceptions of power and jurisdiction at sea. Piracy, she argues, was a matter of contention among Indian and British governing authorities that drew both of them into efforts to understand the phenomenon as part of local histories and traditions. Despite the efforts of some to understand piracy in this context, the British ultimately portrayed maritime predation as an ethnographic marker of a "savagery" over and against which their sovereignty could be asserted. Like Subramanian, Joshua White takes a non-Eurocentric point of view and aims to highlight the concurrent concepts of piracy and other forms of maritime violence in the early modern Mediterranean. He shows that a wide range of concepts were used in the early modern Ottoman Empire to conceptualize what Europeans termed piracy or privateering. As in Europe, there was considerable ambiguity in the use and interpretation of these terms, and the practices that they described. In contrast to the emphasis that contemporary Europeans put on the distinction between piracy and privateering, in theory if not always in practice, Ottoman Islamic law did not differentiate between foreign Christian pirates and foreign Christian corsairs or privateers.

A further reminder of the hazards of a Eurocentric approach to the phenomenon of piracy is provided by Robert Antony in his study of interactions

between the Qing regime and pirates. Late imperial China saw the development of three overlapping maritime "regimes" along its coasts, namely, the imperial dynastic power, the European overseas enterprise, and the "pirates" themselves. Notably, the latter two regimes challenged the first in various ways. A reassessment of the Qing imperial claims of sovereignty in the face of activities labelled as piracy provides crucial understanding of the way empire was constructed. Here, Antony points at both parallels and dissimilarities between East Asian and Western forms of piracy and shows how the various players off China's coasts contended with each other over maritime space.

The third and last section of the book deals primarily with discourses of piracy and highlights how representations of piracy emerged in different international and colonial contexts from the late sixteenth to the early nineteenth century. Birgit Tremml-Werner focuses on how piracy was rendered in Spanish records from the Philippine Islands from around 1570 to 1800. She demonstrates that the label "pirate" was used to denote a wide range of hostile elements or peoples, including other Europeans, Chinese, Japanese, and indigenous Philippine groups. Several of these alleged pirates have been largely overshadowed by later, mainly nineteenth-century, accounts that focused exclusively or overwhelmingly on the maritime raiding of indigenous Muslim "Moro piracy." Her chapter thus demonstrates the complex nature of piracy and the multiplicity of actors, practices, and representations of the phenomenon during the long period under study.

Östlund and Buchan consider how piracy intersected both scholarly discourse and state policy in a period of acute political crisis in Sweden in the early years of the eighteenth century. By focusing on one student dissertation presented and printed at Uppsala University in 1716, they contend that Sweden's precarious position necessitated a delicate navigation of piracy in both the Baltic and the Mediterranean. Effectively, Sweden's weakness dictated a policy of partial recognition of Barbary pirate states along the North coast of Africa, and even led to offers of employment for former pirates as a substitute navy closer to home. While the scholarly traditions of natural law provided ample resources to condemn pirates as mere sea robbers, this one dissertation illustrates how moral, philosophical, and historical arguments could be marshalled in defence of a more equivocal attitude to piracy, which also reflected the delicate balancing act performed by the Swedish state.

In the last chapter, Stefan Eklöf Amirell turns to the prominent role of "piracy" in French colonial expansion in Vietnam in the late nineteenth and early twentieth centuries. He demonstrates how the long-standing European

fascination with pirates in popular culture made it expedient for French colonial officials to label anyone who resisted French colonial expansion in Vietnam as pirates, even if this meant that the concept was stretched to its limit and applied to bandits as well as Vietnamese court officials who had never set foot on a sea-going vessel. Amirell also juxtaposes the French and Vietnamese concepts associated with piracy, banditry, and subversion and shows how the Vietnamese king Tu Duc, not unreasonably, accused the French navy of piracy.

Finally, we are much obliged to Lauren Benton, who has written the afterword. She sums up the main conclusions of the book and its implications for further research, and also provides some well-deserved criticism along the way. The themes Benton highlights will continue to engage scholars of piracy and world history into the future. Together with Benton's Afterword, the essays in this book are a testament to the enormous potential of piracy to push scholarly research in world history, intellectual and colonial history into productive conversation. It is our hope as editors that this book will act as a prompt to other researchers to pursue the suggestions and unfinished leads our contributors have generously provided herein. Our thanks go to each of them.

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2 "Publique Enemies to Mankind"

International Pirates as a Product of International Politics

Michael Kempe

Abstract
The origins of modern international law are frequently sought in the Early Modern period, and piracy has often been accorded a major role in this development, as well as in the emergence of an international system of states. The chapter highlights how international law developed through a process that Kempe calls "integration by exclusion." Specifically, the author focuses on the piratical exploits and subsequent trial of John Cusack, executed in 1675. The case illustrates how accusations of piracy as a crime against all nations was a central element in the emergence of international law in Europe and in the establishment of England's claim to be an effective global sea power. This demonstrated its ability to project its jurisdiction at sea far beyond the country's shorelines.

Keywords: John Cusack, international law, sea power, maritime jurisdiction, Early Modern

Introduction

In recent years, scholars of the global history of piracy have begun to question the traditional view that piracy was mainly a European concept, spread around the world during the European expansion in the Early Modern period.[1] While there have been attempts to understand piracy from a global, cross-cultural perspective, there has been less attention given to how the

1 See for instance, Patricia Risso, "Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century," *Journal of World History* (2001): 293–319; Stefan Eklöf Amirell and Leos Müller (eds), Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective (New York: Palgrave,

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European and non-European concepts of piracy developed concurrently within the period of European expansion in the seventeenth and eighteenth centuries. Especially noteworthy has been the work of historians of international law who have pioneered important studies of the meaning of piracy.[2] Comparatively neglected within this work, however, is an explanation of how piracy functioned as an integrating factor in forming the public law of European nations. This paper will explain why the international pirate played a significant role as a figure of *negative integration* in the *Ius Publicum Europaeum*. In forming an international community of nations bound by law in the seventeenth century, the pirate as the common enemy of all was a crucial ingredient.

On 30 August 1674, after several months of pursuit, the English Admiralty finally succeeded in capturing George Cusack, one of the most sought and feared pirates in Europe, in the Thames estuary. Soon after, a short treatise was published detailing the arrest of Cusack. In it, he was classified among the most evil kinds of criminal, namely, a pirate and sea robber. Pirates were the direst enemies of the human race, who must be wiped out like troublesome vermin:

> Amongst all the rapacious violencies practised by wicked Men, there is scarce any more destructive to Society and Commerce then that of Piracy, or Robers of the Sea, whence in all Ages they have been esteemed, *humani generis hostes*, Publique Enemies to Mankind whom every one was obliged to oppose and destroy, as we do Common vermine that Infest and trouble us.[3]

In this chapter, I will place Cusack's history in the context of piracy's place in the rapid development of international relations and international law in this period. In previous scholarship on the history of the community of nations as a legal concept, attention has primarily been directed at

2014); and Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press 2019), 34–40.

2 See for instance, Alfred P. Rubin, *The Law of Piracy* (New Port, RI: US Naval War College Press, 1988); Lauren Benton, *Law and Colonial Cultures. Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002); Michael Kempe, *Fluch der Weltmeere. Piraterie, Völkerrecht und internationale Beziehungen, 1500–1900*, (Frankfurt / New York: Campus Verlag, 2010); and *idem*, "'Even in the Remotest Corners of the World': Globalized Piracy and International Law, 1500–1900," *Journal of Global History*, no. 5 (2010): 353–372; persistent link: https://doi.org/10.1017/S1740022810000185.

3 *News from Sea, Or The Taking of the Cruel Pirate, being a Full and True Relation how Captain Cewsicke, alias Dixon, alias Smith, an Irish-Pyrate* [...] (London: printed for R.W., 1674), 1.

inward integration, for example by reference to universals, such as shared customs, habits, or treaties.[4] In contrast, I will draw attention here to the question of *outward* delimitation, or integration by exclusion. What is at issue here is the constitution of an international legal community through the conceptualization of the pirate as the common enemy of humankind.

The history of piracy in this period charts a complicated terrain of subtle meanings and mendacious matters of state. The suppression of piracy was used in England, for example, as a way of implementing claims to sea power. Yet, those same pirates were executed precisely by those authorities and institutions that had formerly promoted them. It was comparatively easy for sea captains to obtain letters of marque or other licences to take booty at sea, so long as it was taken from the authorizing sovereign's enemies. The widespread practice of international privateering created a class of nationally unattached privateers who might obtain legitimate employment from different sovereigns. The activities of these international troublemakers inevitably led to an agreement between the European nations to set limits to the privateering system. They did so by extending the concept of piracy. Whereas the question at issue at the beginning of the seventeenth century was how to establish the most extensive right as possible to take booty at sea, as formulated by, for example, Hugo Grotius,[5] from the second half of the seventeenth century, European sea powers sought to regulate this right of booty more strictly. The price paid for this change in international prize and privateering policy was that the not inconsiderable reservoir of battle-hardened sea robbers it created began to operate independently. This ultimately led to the phenomenon of a globalized European piracy that connected the Atlantic with the Pacific and the Indian Ocean in the so called "Golden Age of Piracy" at the beginning of the eighteenth century.

4 Important milestones on the way to this development are seen in research in Grotius's concept of a "communitas inter civitates ex consensus," Theodor Graswinckel's "societas gentium," the "civitas maxima" in Christian Wolff or Emer de Vattel's concept of a "société des nations." For a fundamental treatment, see Ernst Reibstein, "Deutsche Grotius-Kommentatoren bis zu Christian Wolff, " *Zeitschrift für Ausländisches und Öffentliches Recht und Völkerrecht*, no. 15 (1953/54): 77–102.

5 See Michael Kempe, "Beyond the Law. The Image of Piracy in the Legal Writings of Hugo Grotius," in *Property, Piracy and Punishment: Hugo Grotius on War and Booty in De iure praedae: Concepts and Contexts*, ed. by Hans W. Blom (Leiden: Brill, 2009), 379–395. Also in: *Grotiana* 26–28 (2005–2007): 379–395.

The Sea Robber as *Hostis Humani Generis*

In European history, the understanding of the pirate as a universal enemy had developed in the context of considerations of the laws of war, which had their beginnings in Roman antiquity. In the last century before Christ, the spread of piracy in the Mediterranean had led scholars and lawyers of the Late Republic to embark on a legal clarification of the difference between war and piracy. Once war had been understood as a legal process, the next step was to distinguish between legal war enemies (*perduelles* or *hostes*) and non-legal enemies. In the case of the former, fundamental norms had to be observed, including the principle of contractual fidelity and, in particular, the observance of promises made under oath. The same did not apply to irregular opponents.[6] The classical lawyers defined legal wartime enemies by the criterion of official warfare. Enemies were those against whom the Roman people had publicly declared war. Hostile peoples against whom war could not be declared were termed robbers or bandits.[7] Regarding this latter category, Cicero pointed to the pirate, whom he defined not as a legal wartime enemy but the common enemy of all (*communis hostis omnium*), as standing outside all legal order.[8]

This concept of the pirate established itself in legal traditions derived from Roman Law, but was extended in the medieval period by descriptions, in the writings of Bartolus of Saxoferrato[9] for instance, of the sea robber as *hostis humani generis*. Canon Law further stamped the pirate as a heretic who must be expelled from the Christian community. In the *Bullae Coenae Domini*, all pirates, corsairs, and sea robbers (*omnes piratas, cursarios, ac latrunculos maritimos*), and the receivers of their stolen goods

6 See Karl-Heinz Ziegler, "Pirata communis hostis omnium,", in *De iustitia et iure. Festgabe für Ulrich von Lübtow zum 80. Geburtstag*, ed. by Manfred Harder and Georg Thielmann (Berlin: Duncker und Humblot, 1980), 93–103, 97.

7 "Hostes sunt, quibus bellum publice populus Romanus decreuit uel ipsi populo Romano: ceteri latrunculi uel praedones appellantur." Digest 49, 15, 24. See also Digest 50,16,118: "'Hostes' hi sunt, qui nobis aut quibus nos publice bellum decreuimus: ceteri 'latrones' aut 'praedones' sunt" (its not Cicero but Digest (Roman Law).

8 Cicero, *De officio*, 3, 29/107: "nam pirata non est ex perduellium numero definitus, sed communis hostis omnium; cum hoc nec fides debet nec ius iurandum esse commune."

9 See Emily Sohmer Tai, "Marking Water: Piracy and Property in the Premodern West," in *Seascapes: Maritime Histories, Littoral Cultures and Transoceanic Exchanges*, ed. by Jerry H. Bentley, Renate Bridenthal, and Kären Wigen (Honolulu University of Hawaii Press, 2007), 205–220, 215, n. 6.

(*receptatores*), are anathematized.[10] What was assumed here was that pirates were indiscriminate in attacking anybody, regardless of origin, nation, or religion. But it was also sufficient cause for the anathema if the pirate cruised the seas with the intention of plundering people from one nation, for example if French pirates preyed on the Portuguese alone.[11]

It was only towards the end of the sixteenth century, however, that piracy was first conceptualized in the context of international law. In 1588/89, the Italian lawyer Alberico Gentili took up Cicero's definition of the pirate in his *De iure belli libri tres*, explicitly linking the hitherto unspecific general concept of an enemy with international law.[12] According to Gentili, war on pirates is just because they have violated the *commune ius gentium*: "*Piratica est contra ius gentium, & contra humanae societatis communione*."[13] The pirate violates the laws of war as a part of international law and therefore cannot enjoy its protection.[14] Gentili agrees with the legal tradition that a war against pirates can neither be officially declared, nor concluded by a treaty, and can only end with the death of the pirates or their victory.[15] The Italian lawyer went beyond previous tradition in seeing the pirate – even more so than the robber in general – as the general enemy of humanity *par excellence*.

10 Quoted here from Martino Azpilcueta, *Enchiridion sive Manvale Confessariorvm et Poenitentivm* (Würzburg, 1593), 878; and Molina, *De Ivstitia*, col. 663. This document is a collection of sentences of excommunication announced by the popes on Holy Thursday, dating from the thirteenth century.

11 "Satis tamen est, vt quis pirata dicatur, incurratque proinde hanc excommunicationem, si intuitu depraedandi homines vnius nationis dumtaxat discurrat per mare, vt si Galli discurrant animo praedandi solos Lusitanos." Molina, *De Ivstitia*, col. 664.

12 "Piratae omnium mortalium hostes sunt communes. Et itaque negat Cicero, posse cum istis intercedere iura belli." Alberico Gentili, *De iure belli libri tres*, 2 vols (Oxford/London, 1933), vol. 1: The photographic reproduction of the edition of 1612; vol. 2: the translation of the edition of 1612, l. 1, ch. 4, 33.

13 Gentili, *De iure belli* (*1612*), l. 1. ch. 25, 201–202. On Gentili's understanding of the pirate, see also Gesina H. J. van der Molen, *Alberico Gentili and the Development of International Law*, 2nd edn. (Leiden: Sijthoff, 1968), 168–178; and Alain Wijffels, "Alberico Gentili e i pirati," in: *idem* (ed.), *Alberico Gentili Consiliatore. Atti del convegno quinta giornata gentiliana 19 settembre 1992* (Milano: Dott. A. Giuffrè, 1999), 85–131.

14 "Cvm piratis, & latrunculis bellum non est. […] Et alia ratione nec ius belli habent: quia ius belli à gentium iure est: & tales non fruuntur illo iure, cui hostes sunt." Gentili, *De iure belli* (*1612*), l. 1. ch. 4, 32–33.

15 "Nunquam pactis bellum cum praedonibus compositum, neque foederibus finitum: sed aut superstites fuere victores; aut victi necesse mori habuerunt." Gentili, *De iure belli* (*1612*), l. 1, ch. 4, 33–34.

Although one could assume that street robbers also prey on all people without distinction, the pirate alone did so on seas open to all nations,[16] and was thus, at least potentially, in a position to reach and to afflict members of virtually any country. The strategy and tactics of piratical activities were characterized by unpredictable spatial behaviour, namely, sudden appearance, immediate attack, and swift disappearance. The unlocalizable spatial presence, the emergence and then retreat into invisibility, made pirates a universal danger. The fact that this aggressor was simultaneously nowhere and everywhere made the pirate the enemy of all nations. What linked the people of all nations to one another was the fact that they could all become the victims of pirates. As the virtual assailant of all nations, the pirate thus became, as it were, the negative integrational figure for the community of all people and nations.

The concept of universal enmity referred not only to a potential hostility towards all people, but also to the inhumanity of the crime itself. As Bruce Buchan discusses at greater length in his contribution to this book, in London in 1693 some legal experts refused to treat the privateers of the deposed James II as pirates because they were not enemies of all humanity but only of the new English government. The supporters of the ruling king, William III, objected however: "*Hostis humani generis*, is neither a Definition, or as much as a Description of a Pirat, but a Rhetorical Invective to shew the Odiousness of that Crime."[17] By placing themselves in opposition to the laws of sovereigns and nations, pirates were cast as opponents of the very possibility of laws between sovereigns and nations, and thus as a universal antagonist of all humanity. Accordingly, in the English legal literature of the seventeenth and eighteenth centuries, pirates were often depicted as "beasts of prey" or "savage beasts."[18] Piracy was regarded in English criminal law as a comprehensive crime. As an accumulative crime, piracy included accusations of robbery, murder, barbarity, treason, and atheism.[19] Contemporary observers accused the sea robbers of savageness and disgusting bestiality, denied that they possessed a national character, held their ethnic heterogeneity

16 See Gentili, *De iure belli (1612)*, l. 1, ch. 4, 36–37.

17 Matthew Tindal, *An Essay Concerning the Laws of Nations, And the Rights of Soveraigns. With an Account of what was said at the Council-Board by the Civilians upon the Question, Whether their Majesties Subjects taken at Sea acting by the late King's Commision* [*original spelling or typo?*], *might not be looked on as Pirates?*, 2nd edn. (1694), 27–28 [Italics in the original].

18 See Joel H. Baer, "The complicated Plot of Piracy: Aspects of the English Criminal Law and the Image of the Pirate in Defoe," in: *Eighteenth Century. Theory and Interpretation* 23, no. 1 (1982): 3–26.

19 See Baer, *Plot of Piracy*, 13–16.

against them, and associated them with cannibals. The inhumanity of the crime, its indiscriminate choice of victims, and the omnipresence of the danger thus made pirates the most hostile of all the enemies of humanity, the most dangerous of all universal enemies.

Penal law on Pirates, Universal Jurisdiction, and the Right of Intervention

From the concept of universal enmity, Gentili derived the universal right to pursue and punish pirates. All human beings were affected by their violations no matter where or against whom they were committed. Therefore, any person was empowered to fight against pirates wherever they may be found.[20] To the present day, piracy is regarded as the first international crime or – in the words of Carl Schmitt – as "the archetype of the so-called world crimes."[21] These are criminal actions for which the law enforcement authorities of all states have the responsibility to prosecute in international waters.[22] Gentili reasoned that all states should be on a warlike footing against piracy everywhere, which later helped to promote the acceptability of the principle of intervention in international law. Some have drawn the connection between the justification of a *bellum piraticum* and the beginnings of international police and punitive expeditions, which were controversial in the nineteenth century and have remained so to the present day.[23]

It was the pirate who made the seas unsafe, "*qui prius maria infestavit*," as the humanist lawyer Johannes Drosaeus put it in 1564.[24] Time and again in the Early Modern period, the restlessness of the pirate, the uninterrupted wandering from coast to coast, island to island, beyond the horizon, attracted particular condemnation. The leading judge in the case against Joseph Dawson and others accused of piracy in 1696 emphasized that the concept

20 See Gentili, *De iure belli (1612)*, l. 1. ch. 25, 202.

21 Carl Schmitt, "Völkerrecht [Ein juristisches Repetitorium] (1948/50)," in: *idem*, *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik 1924–1978*, ed. Günter Maschke (Berlin: Duncker & Humblott, 2005), 701–839, 765.

22 For example, Kenneth C. Randall, "Universal Jurisdiction under International Law," in: *Texas Law Review*, no. 66 (1988): 785–841, 791: "Piracy is the oldest offence that invokes universal jurisdiction."

23 See for example, Eugenio Di Rienzo, "'Bellum Piraticum' e guerra al terrore. Qualche considerazione problematica," in: *Filosofia politica* 19, no. 3 (2005): 460–470.

24 Ioanne Drosaeo [Drosaeus], *Methodvs Ivris Vniversi Ivstinianea*, Coloniae 1564, fol. 193r.

of the pirate referred to "their wandering up and down, and resting in no place, but coasting hither and thither to do mischief."[25] Restlessness and perpetual wandering became central characteristics of a corsair's life, and seemed to magnify the dangerousness of the crime.

Thus, pirates personified the restlessness of the sea itself. Since the medieval period, the French expression "écumeurs de la mer" has been applied to pirates and others who struck terror into peoples' hearts.[26] The sea was accessible for use by all,[27] and this necessarily meant that trade, war, and plunder existed inseparably side by side. In this way, in the concept of the pirate in international law, the sea represented *ex negativo* the shared traffic space of nations. The sea was the medium, the topographical precondition, for understanding pirates as virtual assailants of all people and all nations.

From Africa via the West Indies to the North Sea: A Privateering and Pirate Voyage

Around the mid-seventeenth century, a systematically elaborated concept of piracy was available in legal theory, which ensured that sea robbers could be legally treated as universal enemies. But what was the situation in legal practice? To whom was this concept applied in international contexts? How did one become such an enemy of all peoples and nations in the second half of the seventeenth century? The above-mentioned George Cusack was explicitly reckoned among the *humani generis hostes*, the "Publique Enemies to Mankind," when he was brought before court as a pirate after his arrest in 1674. Cusack's career as a privateer and a pirate is not untypical and yet also unusual at the time. It is not untypical because many elements can be found in his biography that are characteristic of contemporary privateering and piracy. Similar biographies can be found in archives on pirate trials such as those documented for the London Admiralty Court.

At the same time, the case is unusual because these characteristic elements are bundled and concentrated in the person of Cusack in such an untypical way that he was already perceived by his contemporaries as an extreme example of the prevailing conditions. It is possible to reconstruct

25 Charles Hedges' Charge, "Trial of Joseph Dawson and Others," in: *Howell's State Trials*, London 1696, vol. 13, 455, quoted in Robert Phillimore, *Commentaries upon International Law*, vol 1, Philadelphia 1854 (ND Littleton, CO, 1985), vol 1, 286.

26 From the French *écumer*, to foam, but also to plunder.

27 See Gentili, *De iure belli (1612)*, l. 1, ch. 4, 36–37.

Cusack's career as privateer and pirate, and his later trial at the High Court of Admiralty, with the help of two anonymously authored printed texts – *News from the Sea* and *The Grand Pyrate*,[28] in addition to the court documents, which have hitherto remained unresearched.[29]

Born in East Meath in Ireland, George Cusack went to Flanders in 1653, serving as a mercenary during the first Anglo-Dutch Naval War (1652–1654), in which, by his own account, he made use of the name "Smith." He also served as a mate or helmsman on several privateers, thus remaining in the service of the English sovereign until the end of the war.[30] During the second Anglo-Dutch War in 1665, Cusack again served as a privateer for the English, but was captured and imprisoned by the Dutch after a sea battle and subsequently interned in Guinea.[31] After the end of the war in 1667, he left Guinea on board a Spanish merchant ship heading for Cadiz, where he joined the *Hopewell*, a 250-ton ship with 24 cannons, richly laden with textiles, manufactured goods, tools, and weapons.[32]

After the ship set out on the high seas Cusack and four Englishmen seized control of the ship. The Captain and officers were set adrift in a boat and left to their fate.[33] The merchant Thomas Power was kept prisoner on board. On 4 November 1668, the pirates reached the island of Barbados in the Lesser Antilles, which was then an English colony. Here, they were informed that

28 *News from Sea* (London: Printed for R. W. 1674) and *The Grand Pyrate: Or, the Life and Death of Capt. George Cvsack The great Sea-Robber. With An Accompt of all his notorious Robberies both at Sea and Land. Together With his Tryal, Condemnation, and Execution. Taken by an Impartial Hand* (London, 1676).

29 In detail: The National Archives (TNA) London: Records of the Admiralty (ADM) 106/305, fols. 9r–9v: 17.02.1674, Note on investigations on an Irishman named Cusack; fol. 19r–19v: 28.02.1674, further research on Cusack; ADM 106/299, fol. 120r–121v: 31.08.1674, Report of Cusack's arrest; High Court of Admiralty (HCA) 1/10, 6: Marshal of Marshalsea, warrant of arrest for George Cusack, 1.09.1674; HCA 1/10, 19: charge brought against Cusack and others; HCA 1/10; HCA 1/28, 7: list of prisoners; HCA 1/28, 41, 42 and 44: death warrant (several copies) of George Cusack and Simon Harker; HCA 1/101, 121: French letter of marque to George Dixon [George Cusack]; HCA 1/101, 122: documentary evidence for the trial of Cusack, confiscated from the ship *Robert*; HCA 13/142, fol. 143r–fol. 175r, fols. 184r, 193v, 201r–201v, 203r: interrogation protocols of the accused and protocols of the testimony of witnesses in the Cusack trial.

30 *Grand Pyrate*, S. 4; and HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 145v.

31 HCA 13/142, Protocol, of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 145v.

32 *Grand Pyrate*, p. 5; and HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 146r.

33 HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fols. 146r–146v.

the captain had been rescued.[34] A few days later, on 8 November, they called at the French island of Martinique, pretending that their ship was an English warship. During a conversation with the authorities, Thomas Power betrayed Cusack to the French Governor, who, however, refused to arrest him.[35]

Not far from the island of Anguilla, the *Hopewell*, (now renamed *The Valiant Prince*) encountered an English naval ship. Cusack and his men were arrested, brought back to Barbados, from which he subsequently escaped.[36] He then made his way to Tortuga, where, in March 1669, he signed on the Lisbon-based *São José*, which set sail for La Rochelle on 1 April. The 250-ton ship, equipped with 28 cannons, carried a valuable cargo of campeachy wood, tobacco, cotton, and coconuts. Shortly after departure, the crew was overwhelmed by Cusack and some of the other sailors whom he had engaged beforehand as his accomplices. The overwhelmed crew, mostly Frenchmen, were set ashore in Cartagena, where they were imprisoned by the Spanish for seventeenth months.[37] The *São José* was renamed the *Flying Devil* and set course for New England. After reaching the coast close to Boston, the crew unloaded the cargo and the ship was burnt. According to the author of *The Grand Pyrate*, Cusack then re-crossed the Atlantic to Ireland.[38]

In the final phase of the third Anglo-Dutch Naval War (1672–1674), Cusack returned to England. In December 1673, he again acquired a licence as a privateer of the Crown and cruised along the coast of Scotland, where he took several Dutch ships as prizes.[39] After the end of the war, Cusack, operating from London, managed to acquire a French letter of marque in order to operate as a plunderer against the enemies of France.[40] He persuaded seven seamen to join him on a booty hunt, using the French letter of marque as the legal basis for their operations. Cusack now called himself Captain George Dixon, which was the name in which the letter of marque was issued.[41]

As they did not possess a ship of their own, Cusack and his crew signed on several different merchant ships in order to reach Amsterdam.[42] Here,

34 *Grand Pyrate*, 8–10.

35 *Ibid*., 11–12.

36 HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fols. 146v.

37 *Grand Pyrate*, 15–16.

38 *Ibid*., 16 and 18.

39 *News from Sea*, 2.

40 HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 147r.

41 HCA 13/142, Protocol of the interrogation of Michael Fitz Gerrard, fols. 150v–152v, fol. 150v.

42 *Grand Pyrate*, 19–20.

acting independently in several groups, they succeeded in signing on the ship *Robert*.[43] According to a statement made by one of Cusack's accomplices, the ship was going to transport weapons (carbines, swords, and pistols) to Newcastle.[44] Shortly after leaving the harbour, Cusack and his accomplices proceeded in the usual fashion and overwhelmed the crew, some of whom took their side (as was also customary).[45] According to the concordant statements of two of those interrogated at the later trial, Cusack then showed all on board his French "commission" in order to legitimise the seizure of the ship.[46] Shortly afterwards, they seized a Danish and two Swedish ships in the North Sea. By taking away the sails, the rigging, and the anchor, they made the ships unseaworthy, gave the crews a small amount of provisions, and left them to their fate on the open sea. The booty was sold on the east coast of England, and after the proceeds had been divided up, Cusack and his accomplices went into hiding for a time.[47]

By mid-July, Cusack planned a further plundering raid in London. Together with Henry Lovewell and Simon Harker, who had taken part in the seizure of the *Robert*, Cusack hired sixteen Irish seamen aged between 20 and 31. The *Robert* was renamed *Fortune*, and with it they seized the *St Anne* off the Norwegian coast, a ship commanded by an English captain but sailing under the Danish flag. The ship was on its way to London with a cargo of wood, the crew was set adrift in an open boat without a compass. However, a Dutch ship rescued them and brought them to a beach in Norfolk. Cusack's crew sold a part of the cargo of the *St Anne* in Aberdeen, but meanwhile the rescued crew of the looted ship had reported the robbery to London. Cusack and his men left Aberdeen and abandoned the *St Anne*, which was confiscated by the Scottish Admiralty.[48] At the beginning of August, Cusack

43 HCA 13/142, Protocol of the interrogation of Henry Lovewell, 7.09.1674, 5.09.1674, fols. 168v–169r.

44 HCA 13/142, Protocol of the interrogation of Simon Harker, 8.10.1674, fols. 165r–168r, fol. 166r. The interrogees obviously wished to create the impression that the *Robert* was smuggling weapons on an illegal voyage, in order to exonerate themselves of the charge of piracy. HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 148r.

45 HCA 13/142, Protocol of the testimony of Edward Creswell, 30.10.1674, fols. 172v–173r.

46 HCA 13/142, Protocol of the interrogation of Michael Fitz Gerrard, fols. 150v–152v, fol. 150v: "Captaine Dixon then showing him a French Comission to take ye ships of ye Enemyes of France"; and TNA London, HCA 13/142, Protocol of the interrogation of Simon Harker, 8.10.1674, fols. 165r–168r, 167r: "Ye said Smith alias Cusack yen showing a French Comission to ye Examinater and saying hee seized his ship by virtue of ye same."

47 HCA 13/142, Protocol of the interrogation of James Dawson, 7.09.1674, fols. 143r–145r, fol. 145r; and HCA 13/142, Protocol of the interrogation of Simon Harker, 8.10.1674, fols. 165r–168r, 167r.

48 *Grand Pyrate*, pp. 21–22.

reached Lee (Essex) in the Thames estuary and made his way from there to London in order to recruit more crewmembers for a new "privateering voyage."[49] On 30 August 1674, however, a Royal Naval ship arrested Cusack in the Thames estuary. Together with thirteen accomplices, he was brought to the Marshalsea prison in London.

The Trial of George Cusack for Piracy

Cusack's transfer to prison and the warrant of arrest for "piracy and robbery" in several cases are dated 1 September 1674.[50] In the following two months, the questioning of the accused and the witnesses took place. All of those accused of serious robbery and piracy referred to Cusack's French letter of marque as a legitimation of their plundering raids. They presented themselves throughout as legitimate "privateers."[51] The court proceedings were led by Sir Leoline Jenkins, senior judge of the Admiralty Court. Jenkins later made a career as a top-ranking diplomat of the English Crown, participating, among other things, as envoy at the negotiations for the peace of Nijmegen in 1678–1679. He is widely regarded as a central figure in the history of international law and many of his verdicts developed into precedence cases of modern international maritime law, in particular of prize law.[52]

The court proceedings took place on 7 and 9 January 1675. The accused were Cusack ("alias Dixon, alias Smith") and six members of his crew.[53] The charge was piracy "against the Law of Nations" on account of the seizure of the *Robert* and other ships.[54] Cusack defended himself by claiming that he had only undertaken privateering raids as authorized by the letter of marque issued by the French king. The court, however, insisted on not recognizing the "French commission."[55] After consulting for an hour, the

49 HCA 13/142, Protocol of the interrogation of George Cusack, 4.09.1674, fols. 145v–150r, fol. 149v.

50 HCA 1/10, 6: Marshal of Marshalsea, Warrant of arrest for George Cusack, 1.09.1674; HCA 1/10, 19: the charge against George Cusack and others.

51 See, for example HCA 13/142, Protocol of the interrogation of Maurice Fitz Gerrard, fols. 152v–154r, fol. 155r.

52 See John B. Hattendorf, "Maritime Conflict," in: Michael Howard *et al.* (ed.), *The Laws of War. Constraints on Warfare in the Western World* (New Haven, CT, and London: Yale University Press, 1994), 98–115, 105.

53 The crew first hired in August in London was not accused, as they had been arrested before the planned plundering raid could take place. *Grand Pyrate*, 29.

54 *Ibid.*

55 *Ibid.*, 30–31.

Admiralty Court found all the accused guilty and sentenced them to death by hanging. The accused then presented a mercy petition.[56] Initially, the petition was rejected but on 9 January, all of the accused were pardoned, except Cusack and Simon Harker, his closest confidant.[57] On 16 January 1675, they were both hanged at Execution Dock (now Wapping High Street) in the London harbour.[58]

The anonymous author of *The Grand Pyrate* excoriated Cusack. In the account of this short text he becomes the prototype of a *hostis humani generis*. The seriousness of his crimes was unmistakably denounced. The author underlined not only that the victims of his plundering raids were of many different nations – English French, Dutch, Danes, and Swedes – but also that he and his accomplices were particularly perfidious, as they disguised themselves as ordinary sailors in order to join and then seize ships and crews. Cusack was depicted as a notorious serial offender with a high level of criminal energy, whose privateering voyages extended over many years and covered a wide radius of action – Africa, the West Indies, the Atlantic, the North Sea – and whose readiness to use violence was always high. For example, in Barbados, when his disguise was revealed, he had not hesitated to open fire immediately on a warship. It appeared particularly unscrupulous that he had set the crews of the captured ships adrift in small boats or left them behind in unseaworthy ships, which meant their almost certain death. It was also emphasized that Cusack had explicitly declared his intention to wage battle against (almost) the entire world. He was said to have called upon his accomplices after the capture of the *Hopewell* to swear in writing that they would seize or sink ships and vessels of all nations apart from England.[59] The description of the universal hostility of Cusack's pirates culminated in the recital of a drinking song that the deep-sea devils supposedly sang daily, intoxicated by alcohol and their own evil:

> Hang sorrow, let's cast away care,
> The World is bound to find us:
> Thou and I, and all must die;
> And leave this World behind us.

56 *Ibid*., 31.

57 See Calendar of State Papers, Domestic Series, Charles II, November 1st, 1673, to February 28th, 1675, London 1904 (ND Nendeln, Liechtenstein 1968), Whitehall, 10.01.1675, 526.

58 HCA 1/28, 41, 42, and 44: Execution warrant (in several copies) for George Cusack and Simon Harker.

59 *Grand Pyrate*, 6.

The Bell shall ring, the Clark shall sing,
The Good old Wife shall wind us.
The Sexton shall lay our Bodies in Clay
Where the Devil in Hell shall find us.[60]

The Grand Pyrate's presentation of Cusack as the enemy of humankind freely blended fact and fiction. It was built on the ascription of negative attributes to his personal character and behaviour. It was said that Cusack was always aggressive and treacherous, that he had stolen £6 and a watch from a close relative as a child.[61] Furthermore, he was accused of blatant atheism and contempt of God, symbolized by the renaming of the *São José* as *Flying Devil*. Moreover, when some of his pirates supposedly tried to prevent him from throwing the *Hopewell's* ship Bible overboard, he is said to have called out to them, "You Cowards, what do you think to go to Heaven and do such Actions as these? No, I will make you Officers in Hell under me."[62] He was also regarded as immoral and totally antisocial. In New England, he apparently even cheated his own crew of their share of the booty.[63] Some even went as far as to accuse him of breaking sexual taboos. After his escape from arrest, he was supposedly rearrested in the bed of a woman whom some claimed to be his sister.[64]

International Criminals and National Politics

Leaving aside for the moment the stylization of Cusack as a universal bogeyman, one could ask what the decisive reason was for his condemnation and execution as a pirate. He and his crew had without doubt repeatedly violated the existing law of prize and the customary rules of most countries on the seizure of booty.[65] The manipulation of a letter of marque was just as impermissible as the setting adrift of the captured crews on the open sea. In addition, the legality of the seizure of goods from the ships he had

60 *Ibid.*, 8–9.

61 *Ibid.*, 4.

62 *Ibid.*, p. 7. See also Richard Frohock, "Bible overboard: the word and the grand pirate, Captain George Cusack," *Early American Literature* 42, no. 2 (2007): 263–283.

63 *Ibid.*, 18.

64 *Ibid.*, 28.

65 On English "prize law" and the international regulations on prize law customary at the time, see especially R.G. Marsden, "Introduction," in: *idem* (ed.), *Documents relating to Law and Custom of the Sea*, vol. 2: 1649–1767 (Colchester [etc.]: Navy Records Society, 1916), vii–xxii.

captured ought to have been examined by due process of law in a prize court. Cusack's accomplices knew this and in the interrogation into the wild plundering of the two Swedish vessels and the Danish ship each denied his own participation and tried to incriminate the others.[66] These violations of the law were at the most necessary but by no means sufficient conditions for condemnation as a pirate. Far weightier than these offences was the fact that Cusack's international raids, by which the subjects of a number of nations were affected, redounded upon the reputation of the English Crown and must have negatively affected the relations of England with other countries.

In the West Indies, Cusack's activities led to tension with Portugal at the highest political level. When the French crew who had been imprisoned by the Spanish after the seizure of the *São José* heard, after their release, that their ship had landed near Boston they informed the owner in Lisbon, who then demanded compensation from the government in New England. The complaint was coolly rejected by the Boston authorities, who pointed out that the time limit of one year for appeal had elapsed. The case then even came up before the Crown in London, as the Portuguese owner officially demanded that the English King should order the Boston Governor to compensate for his losses.[67] Furthermore, Cusack's activities had also fuelled the flames of the conflict between the English Crown and its American colonies. The support for Cusack in Montserrat and Boston painfully reminded the London government that the English in the overseas colonies, who were bound by the Navigation Acts of 1651 to restrict the import and export trade of the colonies to the mother country, were willing to cooperate with pirates and smugglers in order to circumvent the monopoly and to acquire highly desired raw materials and commercial goods.[68]

However, the disturbances caused by Cusack in European waters were much more serious than the conflicts overseas. They created a turmoil that threatened to embroil England in disputes with its neighbours. The capture of the *Robert*, which was sailing from Amsterdam with Dutch papers, seriously endangered the new and still fragile peace with the United Provinces. The part played by the French letter of marque in the seizure of the *Robert* complicated the already difficult relationships with the French Crown. Finally, the capture of the three Scandinavian vessels and the *Saint*

66 See for example HCA 13/142, Protocol of the interrogation of Henry Lovewell, 5.09.1674, fols. 168v–169r, fol. 168v.

67 See *Calendar of State Papers, Colonial Series, America and West Indies, 1669–1674* (London, 1889) (ND Vaduz: Kraus Reprint Ltd, 1964), 1672?, 457 (Nr. 1007).

68 *Grand Pyrate,* 16–18. On the protectionist monopoly policy in England, see also Oliver M. Dickerson, *The Navigation Acts and the American Revolution* (New York: Octagon Books, 1978).

Anne by the *Robert* near the Norwegian coast put a strain on relationships with friendly or at least neutral nations.

England therefore had to undertake urgent measures to rid itself of a reputation as a "pirate nation" that had stuck to it since the times of the Elizabethan buccaneers. In order to demonstrate that the English government was seriously committed to fighting such troublemakers, "advertisements" calling for the arrest of Cusack's band of pirates were sent to all the larger harbours in England, Scotland, Ireland, Holland, and France.[69] The Admiralty in London thus stamped Cusack as a universal criminal above all because he had done international damage to the national interests of England. By adopting these severe measures, England could also present itself to neighbouring sovereigns as the deliverer from a universal scourge of humanity.

In addition, the Cusack trial was designed to clearly underline the royal claim to naval supremacy over England's coastal areas. The decisive point was that the claim to sovereignty was not restricted to the immediate coastal waters, the "narrow seas." Instead, England extended the so-called "royal chambers" far into the open sea, "even to the very Shoars of his Neighbours".[70] Cusack's trial and execution was meant, moreover, to make it clear that the English Admiralty was in a position to assert this claim in reality. By demonstrating its ability to send such enemies of all nations to their doom, England at the same time legitimated its claim to be an effective sea power.

Freelance Privateers and Privateering Enterprises

Cusack's attempt to legitimize his bold raiding voyages with the help of a counterfeit – the French letter of marque – characteristically illuminates the development of privateering policy in the seventeenth century. In the competition for maritime supremacy – both in the New World and in Europe – the legal system of letters of marque and reprisal had long become a central feature of international disputes at sea. In the course of the seventeenth century, the issue of such licences had reached truly inflationary proportions. They were not only easy to acquire for the immediate subjects of a sovereign, but were also issued to the subjects of other nations. After the peace of 1604 between England and Spain, for example, English privateers continued their activities with the help of commissions freely provided by the Dutch, who

69 *News from Sea*, 4.
70 *Ibid.*, 28.

were still at war with Spain.[71] In the Caribbean, English "privateers" had the option of acquiring letters of marque from the French or the Dutch.[72] In the course of the seventeenth century, the buccaneers and filibusters based in the Caribbean increasingly specialized in acquiring their privateering rights from one or the other European nation, depending on the nationality of the ships they wished to attack in any particular situation. For example, the English governor of Jamaica was recommended not to treat the privateers at anchor in Port Royal too severely, as it was to be feared that they would otherwise acquire letters of marque from the French in Tortuga.[73] It was said of the governors of the French Antilles that they had for many years given full discretionary powers to captains entitling them to seize any ship that came their way.[74] When the colonial governments gradually abandoned the policy of supporting the Caribbean privateers, some captains organized the acquisition of the corresponding commissions from indigenous chiefs in Central America.[75]

In this way, privateering practice led to the development of a particular type of sea robber, who, unlike the corsairs and merchant warriors of the sixteenth and early seventeenth centuries, was not committed to serving a single nation but operated on a freelance basis for one sovereign after another or for several simultaneously. With freelance privateers like Cusack and the rest the national links of the licenced sea robbers gradually began to dissolve. This development was encouraged by the fact that they lived solely off their booty: "no purchase, no pay" – this was the customary international principle limiting the "pay" of a privateer to the booty taken, a principle also accepted by the young seamen from London who operated as privateers under the leadership of Cusack.[76] For this reason, the privateer can only be

71 See Ivo van Loo, "For Freedom and Fortune: The Rise of Dutch Privateering in the First Half of the Dutch Revolt, 1568–1609," in: Marco van der Hoeven (ed.), *Exercise of Arms: Warfare in the Netherlands, 1568–1648*, (Leiden: Brill, 1998), 173–195, 186–189.

72 See *Calendar of State Papers, Colonial Series, America and West Indies, 1661–1668* (London, 1880) (ND Vaduz: Kraus Reprint Ltd, 1964), 20.02.1665, S. 280 (N°. 942).

73 See *ibid*., 30.06.1664, 219–220 (N°. 767); and *ibid*., November? 1664, 253 (N°. 843).

74 See Peter T. Bradley, *The Lure of Peru. Maritime Intrusion into the South Sea, 1598–1700*, (London: Palgrave Macmillan, 1989), 136.

75 [Alexandre Olivier Exquemelin], *Bucaniers of America: Or, a true Account of the Most remarkable Assaults Commited of late years upon the Coasts of The West=Indies* [...] (London, 1684), 33–39. On cooperation between pirates and the native Indian population, see also Ignacio J. Gallup-Diaz, *The Door of the Seas and the Key to the Universe: Indian Politics and Imperial Rivalry in the Darién, 1640–1750* (New York: Columbia University Press, 2005), 53–74.

76 See HCA 13/142, Protocol of the interrogation of Maurice Fitz Gerrard, 5.09.1674, fols. 152v–154r, fol. 153r.

conditionally described as a maritime mercenary. For although he acted as a kind of private warrior for one nation – or in the case of the freelance variant for several – his situation was different from that of a mercenary soldier on land, as he received no basic pay for his services.

By using privateers equipped with letters of reprisal and marque uninhibitedly to support their imperialist ambitions the competing European sea powers encouraged the privateers themselves to make use of their licences in an equally uninhibited fashion for their own plundering voyages, in the hope that their operations would be somehow legalized. Many freelance privateers did not baulk at making further use of authorizations that had already expired or of holding several licences from different sovereigns, or, as in the case of Cusack, of authorizing actions on the basis of a letter of marque that had been issued to another person,[77] and which, on closer examination, revealed clear traces of manipulation. Although Cusack must have been aware that this deceit would be easily seen through, he obviously felt it better to be able to present a counterfeit letter of marque than none at all.

International privateering brought forth the privateer as a virtually independent entrepreneur, who, as a ship-owner, specialized in hiring other privateers, often from several different countries, in the name of an individual sovereign in order to build up larger privateering units for the authority he served. These units were mostly meant to strengthen the regular navy or even to provide the foundation stone for the development of a navy. In 1674, for example, the Electoral Prince of Brandenburg, Friedrich Wilhelm II, commissioned the Dutch ship-owner and maritime trade merchant Benjamin Raule to build up an electoral navy with the help of internationally hired privateers.[78] Raule, who could look back on relevant experience in the Zeeland *commissievaart* succeeded, within a few years, in creating a small fleet of privateers, which was not only useful to the Great Electoral Prince in the war against Sweden (1674–1679), but also made a decisive contribution to the establishment of Prussian bases on the African coast and in the West Indies.[79] Privateering entrepreneurs like Raule stood in the tradition of the so-called military enterprisers.[80] But whereas the military entrepreneurs specialized in the creation of mercenary units for

77 See *Grand Pyrate*, 30.

78 On the correspondence between Raule, the Electoral Prince, and Prussian diplomats on the build-up of an electoral navy in Brandenburg, see Geheimes Staatsarchiv Berlin: GStA PK Berlin, I. HA Rep. 65 Marine und Afrikanische Kompagnie-Sachen, 1664–1731, Fascicle 2.

79 See the correspondence of Raule in GStA PK Berlin, I. HA Rep. 65 Fascicle 24, 26, and 27.

80 See especially Fritz Redlich, *The German Military Enterpriser and His Work Force. A Study in European Economic and Social History*, 2 vols (Wiesbaden: Franz Steiner Verlag, 1964–1965).

land operations largely disappeared in the period after the Thirty Years War (1618–1648), the enterprises specializing in the creation of maritime forces only reached their peak in the second half of the seventeenth century. They played a decisive part in the competition between the European powers for the build-up of permanent naval units until the end of the Spanish War of Succession in 1713.[81]

The End of Freelance Privateering

Gradually, the dark side of internationally practised privateering became more visible. Unscrupulous sea robbers like Cusack were so dangerous precisely because they always found the support of some nation or other and were never the enemies of all nations at once. The phenomenon also enabled a degree of deniability. Responsibility for a privateer such as Cusack, operating under one sovereign's letter of marque, could be shrugged aside when found to be the subject of another sovereign. Cusack's sea robbers were ultimately condemned by the system that had produced them in the first place. Almost all of them had, like Cusack, served the English Crown in the wars against the United Provinces, either as soldiers or mercenaries, in the navy or as privateers. The end of hostilities with the Netherlands left them unemployed. Most of the men – 25 years old on average – had learned nothing but seafaring and the trade of war. Their know-how had probably protected most of them from the execution of their sentences, as Jenkins and the Admiralty judges were content to make an example of Cusack and his "right-hand man," Harker. One can easily imagine how many of the reprieved were later active again as privateers in the service of His Majesty, just as Cusack had been officially engaged as a privateer operating against Dutch ships off the coast of Scotland, despite his former activities as a Caribbean pirate. From privateer to pirate and back again: the enemies of the international community were also products of the international system as such.

In the course of the second half of the seventeenth century, attempts were beginning to be made in Europe to foreclose the legal consequences of the problem of international privateering. At the end of the third Anglo-Dutch War, the English government began to forbid the acceptance by its privateers

81 See Jaap R. Bruijn, "States and Their Navies from the Late Sixteenth to the End of the Eighteenth Centuries," in: Philippe Contamine (ed.), *War and Competition between States* (Oxford: Oxford University Press, 2000), 69–98.

of letters of marque issued by foreign potentates, in order to prevent freelance privateering from getting out of hand.[82] In the Anglo-Dutch Commercial and Maritime Treaty of 1–10 December 1674, an agreement was reached between the two parties on such a prohibition.[83] When Cusack presented his French letter of marque in the court, the Admiralty pointed out to him that, since the recent treaty and the newest proclamations, Englishmen were no longer allowed "to take a commission from any foreign Prince."[84]

In the Trade and Navigation Treaty of Nijmegen in 1678, France and the United Provinces also reached an agreement on such a verdict.[85] In France, these regulations were included in the Ordonnance touchant la marine, proclaimed by Louis XIV, which set up binding rules for the conduct of war at sea.[86] It forbade French sailors from acquiring commissions from foreign governments for the equipment of warships flying under the French flag without the approval of the king. Whoever violated the regulation was to be treated as a pirate.[87] The Ordonnance broadly reflects the tendency, by then dominant in Europe, to tighten up the regulation of warfare at sea by extending the definition of piracy. In this way, the room for manoeuvre of booty hunters, who used the competition between the leading sea powers to acquire documents legalizing their plundering raids from rulers or even potentates whose own authority was dubious, was increasingly narrowed down in the final third of the seventeenth century.

82 See Marsden, *Law and Custom*, vol. 2, Introduction, xi–xii.

83 "Tractatus Navigationis & Commercii inter Carolum II. Regem Angliae & Ordines Generales Uniti Belgii … Actum Londini, I. Decembris 1674," in: Dumont (ed.), *Corps Universel*, vol. 7, Tl. 1, Amsterdam 1731, N°. 132, 282a–285a, Art. 5–7, 283a–283b.

84 *Grand Pyrate*, p. 30.

85 "Commissions pour des Armements particuliers ou Lettres de Represailles des Princes et Estats Ennemis desdits Seigneurs Estats Generaux […]." Handels- und Schifffahrtsvertrag von Nijmegen 1678 zwischen Frankreich und den Generalstaaten, Art. 2, NA Den Haag, Staten General, Inv. Nr. 12587.186, accessible online via the Europäische Friedensverträge der Vormoderne data bank, Institut für Europäische Geschichte Mainz at: http://www.ieg-mainz.de/; last accessed: 23rd July 2021.

86 "Ordonnance touchant la marine du mois d'aout 1681. Louis, par la grace de Dieu, Roy de France et de Navarre," in: J. M. Pardessus (ed.), *Collection de Lois Maritimes antérieures au XVIIIe siecle*, vol. 4 (Paris: l'Imprimerie Royale, 1837), 325–418.

87 "Défendons à tous nos Sujets de prendre Commission d'aucuns Roys, Princes, ou Estats estrangers, pour armer des Vaisseaux en Guerre et courir la Mer sous leur Banniere, sic e n'est par nostre permission, à peine d'estre traitez comme Pirates." "Ordonnance touchant la marine du mois d'aout 1681, Book 3 (Des Contracts Maritimes), Titel 9 (Des Prises), Art. 3," in: Pardessus (ed.), Collection de Lois Maritimes, vol. 4, 384. This regulation had already been enacted in a declaration of 1 February 1650 but had had little effect. See *ibid*., 384, n. 6.

The European Legal Community: Integration by Exclusion

The fact that the international community had produced its own enemies in the case of the privateers also characteristically sheds light on another respect on a European community of nations whose members were gradually growing closer together as a result of the increasingly dense network of contractual relations established after the Peace of Westphalia. What welded the various nations and peoples of Europe together was not merely the shared principles of a developing a *Ius Publicum Europaeum*, or the shared values, customs, and regulations agreed on in treaties.[88] A double process of integration took place not just inwardly, but by means of outward delimitation in the formation of a European community of nations under international law. Pirates, above all, were a useful means to promote integration by exclusion, as demonstrated by the European policies that tightened up the private law of prize.

A privateering system that had run out of control, whose excesses affected virtually all the nations of Europe, gave rise to a minimal legal consensus among the states concerned, which was not only expressed in unilateral enactments on privateering, but also in bilateral treaties. By declaring the freelance booty hunter a pirate, these treaties identified the sea robber as the common enemy of the community of nations in general and the European community in particular. When all sovereigns, without exception, ceased to give pirates protection in their harbours (at least officially), the policy of exclusion in the context of the law regulating naval warfare could lead to a kind of legal congruency. The exclusion of the pirate created a normative compatibility between the individual national systems of maritime law, and this provided an important component for the formation of interrelationships in international law. The exclusion of pirates was the lowest common normative denominator in a community of nations that was otherwise profoundly divided. No matter how "anarchical" an international community composed of equal, sovereign political units *internally* disrupted by competition, conflict, and the struggle for power was,[89] the members of this community acted in concert *externally* (at least theoretically), in order to exclude the privateer who no longer had any national attachment

88 See Arthur Nussbaum, *Geschichte des Völkerrechts in gedrängter Darstellung* (Munich and Berlin: Böhlau Verlag, 1960), 128–132.

89 On the model of the anarchical character of the international community that arose in the modern period, which has strongly influenced the theoretical discussions on international relations, see Hedley Bull, *The Anarchical Society. A Study of Order in World Politics* (1977), 3rd edn. (New York: Columbia University Press, 2002).

as a common enemy. Of course, it was mainly the community of European nations that were integrated by including factors like religion, languages, protocol, science, and codes of honour. Yet, by permanently producing an enemy of all nations in all waters, this community could achieve a wider integration by means of excluding the common enemy of all humankind.

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3 All at Sea

Locke's Tyrants and the Pyrates of Political Thought[1]

Bruce Buchan

Abstract
Although the concept of pirates as *hostes humani generis* appears to be axiomatic, it is argued in this chapter that piracy elicited more ambiguous responses from philosophers and lawyers in late seventeenth-century Britain. Pirates were merely one among a pantheon of archetypal enemies of good order. By examining references to piracy in the work of the English political philosopher John Locke in particular, it is argued here that pirates vied with tyrants for the title of "common enemy of all humankind." Locke's prevarications were mirrored by continuing doubts and legal debates about who the *hostis humani generis* really was.

Keywords: hostis humani generis, law, political philosophy, John Locke, tyrants, sovereignty

Introduction

Captain Charles Johnson's *General History of the Pyrates* (1724) has long intrigued scholars, not least for its ambivalent tone towards its eponymous subjects – the "pyrates." With both shocked outrage and breathless fascination, the book presented brief biographies of maritime violence and plunder, embellished and invented from the life stories some of the most notorious of Europe's pirate captains. The *General History* confirmed the figure of

1 Research for this chapter has been supported by grants from the Swedish Foundation for the Humanities and Social Sciences, and from the Swedish Research Council, for two projects with Dr Linda Andersson Burnett: "The Borders of Humanity: Linnaean Natural Historians and the Colonial Legacies of Enlightenment" (P15–0423:1) 2016–19, and "Collecting Mankind: Prehistory, Race, and Instructions for 'Scientific Travelers', circa 1750–1850" (2019–03358) 2020–24.

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the "pyrate" very much as Cicero had defined it in the first century BCE, as the common enemy of all humankind.[2] Yet, the implication of Johnson's text was that the "pyrate" could not literally be a *hostis humani generis* because an "enemy" was one who lived within a domain constituted by sovereign law. Hence, the "pyrate" could not be an "enemy" because they placed themselves outside of any sphere of sovereignty whatsoever. In the words of the "Abstract of the Civil Law and Statute Law now in Force, in Relation to Pyracy," included towards the end of the book:

> Though Pyrates are called common Enemies, yet they are properly not to be term'd so. He is only to honour'd with that Name, says Cicero, who hath a Commonwealth, a Court, a Treasury, Consent and Concord of Citizens, and some Way, if Occasion be, of Peace and League: But when they have reduced themselves into a Government or State, as those of Algier, Sally, Tripoly, Tunis, and the like, they then are allowed the Solemnities of War, and the rights of Legation.[3]

The *hostis humani generis* subsisting fitfully on the cruel seas beyond the reach of law was a fiction of territorial sovereignty. As Carl Schmitt put it, the European tradition of public law was inscribed with a fundamental binary opposition between land and sea. Land was the seat of sovereignty and law, whereas the seas were conceptualized as a realm of freedom over which sovereign power did not extend, or had only a tenuous reach.[4] In this context, the pirate inhabited an indeterminate domain; and hence their lives, however uncertain, were a defiance to the idea of sovereign states.[5] In Schmitt's narrative, the perpetual statelessness of pirates was a necessary problem only up until the end of the eighteenth century. In the nineteenth, territorial states had more effective means to project force at sea, and international law followed in their wake. By century's end, the anathema of the sovereign-less, stateless pirate had simply become an anachronism, not only in Europe but in most waters around the world.

2 Cicero, *De Officis* [*On Duties*], ed. by M.T. Griffin and E.M. Atkins, (Cambridge: Cambridge University Press, 44BCE/1991) Book III, § 107, 141–142.

3 "An Abstract of the Civil Law and Statute Law now in Force, in Relation to Pyracy," in Charles Johnson, *A General History of the Pyrates from their First Rise and Settlement in the Island of Providence, to the Present Time*, 2nd edn. (London: T. Warner, 1724), 424.

4 Carl Schmitt, "The Concept of Piracy (1937)," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 2, no. 1 (2011), 27–29.

5 Amedeo Policante, *The Pirate Myth: Genealogies of an Imperial Concept* (Abingdon: Routledge, 2015), 178.

Seductive as Schmitt's rationalization of piracy's great historical irrelevance is, I argue here that the ambivalence manifested in Johnson's text reflects a persistent ambiguity represented by the figure of the "pyrate" in British political thought between 1690 and 1730 – a period often referred to as the "Golden Age" of European or Atlantic piracy.[6] For those engaged in political debate in these decades, "pyrates" embodied versatile possibilities, beyond their designation as *hostis humani generis*, and yet short of being consigned to a watery realm of perpetual sovereign-less, insecurity.

Pyrates in the Mist

The *General History* was published to capitalize on the currency of public fear and fascination in piracy, at a time when Britain was waging a campaign to exterminate pirates from distant seas. The book presented piratical exploits in the Caribbean, across the Atlantic, and into the Indian Ocean and Red Sea. The British public's interest in the pirates committing such far-flung crimes had been fed by a range of sensational trials, widely reported in periodicals and further publicized in plays and broadsheets.[7] One of the most notorious of these cases involved the Englishman, Henry Avery or Every (1659–?). He had caused an international scandal by making himself fabulously rich in 1695 with a raid on the *Ganj-i-Sawai*, a ship belonging to the Mughal Emperor Aurangzeb, returning wealthy and well-connected pilgrims from Mecca across the Red Sea. Though Avery and his crew tried to lie low by establishing their own pirate community on Madagascar, the British attempted to assuage the Mughal Emperor's outrage by staging a public trial in 1696. While Avery managed to disappear without trace, members of his crew had been captured, were found guilty, and executed.[8] The trial of Avery's crew (followed soon after by the trial and execution of William Kidd in 1701 for other acts of piracy committed in the Indian Ocean) reinforced an evident public interest in piracies on seas far from Britain. The idea took hold in the public imagination of Avery as a "successful pirate," and a host of

6 On piracy in the "Golden Age," see: Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates and Anglo-American Naval World, 1700–1750* (Cambridge: Cambridge University Press, 1987); P. Linebaugh and M. Rediker, *The Many Headed Hydra. Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, MA: Beacon Press, 2000).

7 D.R. Burgess, "Piracy in the Public Sphere: The Henry Every Trials and the Battle for Meaning in Seventeenth-Century Print Culture," *Journal of British Studies* 48 (2009): 887–913.

8 *Ibid*., 890–893.

writers fancifully reimagined him not only escaping the law, but defending the virtue of the women aboard the Mughal's ship.[9] Captain Charles Johnson was one among others who ventured into this domain of public taste with a play that portrayed Avery as a comic hero.[10] When he later came to write the much more successful *General History* he chose to begin it by recounting Avery's exploits. Here, though, Johnson told a rather different tale: one that did not culminate in comedy and chivalry, but in the perpetual jealousies, mutual fears, and irremediable insecurities into which these "successful" pirates sank on Madagascar. The mystery that still surrounds the real identity of Captain Charles Johnson may help to explain why he took such a different view. Despite its lurid tales of far distant piracies in exotic locations, the book may well have been fuelled by a mortal dread far closer to home.

The *General History* was long thought to have been the work of the English journalist, writer, and controversialist Daniel Defoe (1660–1731). More recently, another candidate has been suggested as author, namely, Defoe's erstwhile employer: the former sailor and anti-Whig journalist, Nathaniel Mist (?–1737).[11] Mist was the editor of the eponymous *Mist's Weekly Journal: or Saturday's Post with Fresh Advices Foreign and Domestick* between 1716 and 1728, followed by *Fog's Weekly Journal* from 1728 to 1737. Evidence suggests that Mist was a Jacobite, an adherent to the exiled Stuart dynasty of Scotland and England. If so, he would have shared with at least some among the pirate crews an opposition to the political establishment that arose from the deposition of the last Stuart king of Britain, James II (1633–1701; reigned 1685–1688), in the Glorious Revolution of 1688. The charge of piracy had been employed by the Whig government, as we shall see, in the early 1690s, in widely publicized trials to deny the validity of commissions issued by James authorizing privateers to prey upon British shipping.[12] If Mist was a Jacobite, and was also the author of the *General History*, it would help to explain the ambivalence of the text. Whether or not he authored the work, *Mist's* provided the first and glowing review of the first edition of the *General History*.[13]

9 F. Burwick and M.N. Powell, *British Pirates in Print and Performance*, (New York: Palgrave, 2015), 15–32.

10 Charles Johnson, *The Successful Pyrate. A Play*, 2nd edn., (London: Bernard Lintott, 1713).

11 Arne Bialuschewski, "Daniel Defoe, Nathaniel Mist, and the 'General History of the Pyrates'," *Proceedings of the Bibliographical Society of America* 98, no. 1 (2004): 21–38.

12 The outcome of these trials was Matthew Tindal's *An Essay Concerning the Laws of Nations and the Rights of Sovereigns* of 1694. See below.

13 Letter 35, in *A Collection of Miscellany Letters, selected out of Mist's Weekly Journal*, fourth volume, (London: printed for T. Warner, 1727), 194–198.

Mist's review expressed some admiration for the subjects of the book, and wondered how, "a Parcel of Out-Laws who were Enemies to all Men, and all men so to them, whom no Land would receive, could subsist upon an Element which does not furnish the Necessaries of Life to Man." More remarkable, however, was that, "these Men whom I look'd upon to be no better than so many Ruffians, did not cut one another's Throats, upon the least Division, or that there were not continual Divisions amongst them." The *General History* was unusual in explaining how the "pyrates" were "governed amongst themselves" by a "Policy" that "kept them in Peace amongst one another [...] under the Title of Articles" establishing a "System of Government, which I think, (considering what the persons were who fram'd it) as excellent for Policy as anything in *Plato's* Commonwealth."

Mist certainly exploited the critical potential of pirates and their communities to cast veiled aspersions against the government of the Whig prime minister Robert Walpole (1676–1745), who, his critics alleged, had risen to power amid the financial scandal of the South Sea Bubble in 1720–1721 by "screening" those responsible from prosecution.[14] Mist made the point by alluding to the concurrence between pirate commonwealths and the original purposes of government, which, Mist explained, was "founded upon Covenant; it was Mens agreeing to be governed according to their particular judgments, and particular Appetites, that first set up Commonwealths; and they consented for the Benefits of Society, that any Man who injured another should suffer such a Penalty." The problem in existing commonwealths was that "those appointed to Preside" grasped more power and by "skreening" themselves from punishment, making "unworthy Promotions," and practicing "Imbezzlement." The pirates, by contrast, "seem to be very jealous of their Liberties," and practice promotion by "Merit." Although "they are Rogues to all the World besides", Mist wrote, "yet they are Men of Honour to one another."

Mist's purported Jacobitism, and his opposition to Prime Minister Walpole's Whig government, might help to explain why pirates and piracy should be selected as the unlikely medium for political critique. The *General History* publicized the seditious actions of pirates who represented an alternate sovereign legal order registered, for example, in the pointedly Jacobitical re-naming of pirate vessels *The Revenge*, the *Royal James*, and

14 Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (New York: Palgrave, 2014), 132–135.

Queen Ann's Revenge.[15] As others have pointed out, pirates would stop at nothing to legitimize their violence, even claiming to fight on behalf of a deposed king.[16] Yet, what is interesting about this feature of the *General History*, in light of Mist's glowing review of it, is that it highlights a wider ambivalence surrounding the figure of the "pyrate" as *hostis humani generis* in British legal and political thought in the so-called Golden Age of Atlantic piracy.[17] The "pyrates," as presented here, were no doubt volatile and violent, but they were also possessed of a unique kind of virtue. If this deliberately ambivalent portrayal of the "pyrates" was a product of Mist's Jacobitism, it is likely to have originated in his opposition to the English Whigs who ousted King James II from Britain in 1688, and their use of the charge of "piracy" to consolidate a new sovereign on the throne.

John Locke and the Pyrates of Political Thought

In recent years, political theorists have argued that "Golden Age" pirates achieved a kind of social contract.[18] Pirate "Articles" were agreements made by men who inhabited "a genuine state of nature," and were "created to exit the Hobbesian Jungle."[19] A variety of scholars have drawn attention to the self-organization among pirate crews as forms of resistance to sovereignty and the sanctity of property in Britain, Europe, and in their various colonies and empires.[20] Some scholars have gone further by identifying pirates as rational actors who contracted for limited political authority within their crews and communities; in effect, exemplifying in their pirate "Articles" the social contract long imagined by political theorists, (most notably John Locke

15 E.T. Fox, "Jacobitism and the 'Gold Age' of Piracy, 1715–1725," *International Journal of Maritime History* 22, no. 2 (2010): 282–293.

16 Mark G. Hanna, "Well-Behaved Pirates Seldom Make History: A Reevaluation of English Piracy in the Golden Age," in *Governing the Sea in the Early Modern Era*, ed. Peter C. Mancall and Carole Shammas (Berkeley, CA: University of California Press, 2015), 129–168.

17 For the corresponding treatment of the pirate in legal thought, see Megan Wachspress, "Pirates, Highwaymen, and the Origins of the Criminal in Seventeenth-Century English Thought," *Yale Journal of Law & the Humanities* 26, no. 2 (2015): 315–316.

18 P. Sheridan, "Pirates, Kings and reasons to Act: Moral Motivation and the Role of Sanctions in Locke's Moral Philosophy," *Canadian Journal of Philosophy* 37, no. 1 (2007): 35–48.

19 P.T. Leeson, "The Calculus of Piratical Consent: The Myth of Social Contract," *Public Choice*, 139 (2009), 443–459; Peter Hayes, "Pirates, Privateers, and the Contract Theories of Hobbes and Locke," *History of Political Thought* 29, no. 3 (2008): 463.

20 J. E. Thomson, *Mercenaries, Pirates, and Sovereigns*, (Princeton, NJ: Princeton University Press, 1994), 45–54.

himself).[21] This rational model of self-interested piratical decision-making also entailed "progressive racial practices," such as liberating slaves taken at sea to maximize the "dispersed benefit" obtained by augmenting the crew.[22] This rehabilitation of the *hostis humani generis* transforms the pirate into a willing subject of political philosophical order. The pirate is no longer an outcast and a villain, but an active constituent of contractual government. This analysis fails to grasp the historical function of piracy in Western political thought in circumscribing the problem of misgovernment.[23] This was exemplified in the political thought of the man whose writings have come to symbolize British social contract theorizing, John Locke (1632–1704).

As a one-time Secretary to the Council of Trade and Plantations (in the early 1670s) and a member of the Board of Trade and Plantations (1696–1700), John Locke was engaged in the long-running campaign to eradicate pirates from preying upon Britain's (and its colonies') sea-going trade.[24] It was in the context of this campaign that pirates came to be defined as the *hostis humani generis*, the barbarous enemy whose very existence beyond and in defiance of the law necessitated their elimination.[25] It is hardly surprising that Locke would have adopted such a view of pirates who threatened the commerce of the seas, the property and lives of merchants, and the rights of nations to exchange and trade. Yet, Locke's references to pirates do not indicate that he viewed *them alone* as the major threat. In fact, Locke's scattered discussions of "pyrates" reveals some interesting prevarications.[26]

Locke's interest in piracy pre-dated the "Golden Age." In his early *Essays on the Laws of Nature*, written while he was still in Oxford in the early 1660s, Locke referred briefly to pirates as an example of the natural diversity of moral opinion anciently prevailing among human communities. This natural moral diversity was the only explanation of why many ancient "nations have

21 Leeson, "The Calculus of Piratical Consent," 445.

22 *Idem*, "The Invisible Hook: The Law and Economics of Pirate Tolerance," *New York University Journal of Law & Liberty*, no. 4 (2009): 143, 161.

23 Cicero, *On Duties*, Bk. II, § 40, 78; Bk. III, § 107, 141.

24 On 12 September 1699, for instance, Locke signed a memorandum from the Board on the "Earl of Bellomont's Letter About Captain Kidd" that recommended an amnesty to all pirates operating off the coast of Britain's American colonies. The National Archives, Kew, London, CO324/7.

25 Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations*, (New York: Zone Books, 2009), 152–154. M. Neocleous, *The Universal Adversary*, (Abingdon: Routledge, 2016).

26 By contrast, Sarah Pemberton argues that Locke uses pirates as an avatar for unjust and unlawful violence enabling him to extend the domain of natural law and its protection of the rights of property on land, across the seas. S. Pemberton, *Locke's Political Thought and the Oceans: Pirates, Slaves and Sailors*, (Lanham, MD: Lexington Books, 2017), 42–43.

professedly been pirates and robbers," a fact self-evidently demonstrating that there was no general consent among humans on the nature of justice, as Grotius had suggested.[27] This was an entirely conventional condemnation of piracy as mere robbery by force and fear.[28] Here, piracy was a convenient analogue for illegitimate power over another, in contrast to the legitimate power of rulers who are obeyed "for conscience" sake, because a "king has command over us by right."[29] Locke's purpose in so arguing, as Daniel Carey has so eloquently shown, was to suggest that reason alone (rather than cultural convention) served as the means of discovering the nature of justice and morality.[30] In his later *Two Treatises of Government* (1690), Locke's references to piracy are again fleeting, but significant. Their significance lies in his representation of the pirate as an embodiment of illegitimate power, exercised without sovereign sanction. In levelling the accusation of piracy, however, Locke displayed a hint of ambivalence about the real identity of the *hostis humani generis*.

At the time he wrote and later (anonymously) published his *Two Treatises*, Locke was closely aligned with an influential group of property-owning, Parliamentary powerbrokers led by Locke's patron, Anthony Ashley Cooper, the 1st Earl of Shaftesbury (1621–1683).[31] Shaftesbury's colourful career included serving in the regime that executed King Charles I in 1649, then joining the delegation that invited Charles's son to become the next Stuart king in 1660, before finally leading an ill-fated effort to oust Charles's brother and heir, James II, from the throne in 1679–1681. Locke was a close associate of and advisor to Shaftesbury through all of these parliamentary permutations, and the history of the *Two Treatises* (which was most likely written in the years between 1679–1681), was bound to the machinations that led his patron Shaftesbury from power to Dutch exile in 1683.

Locke first invoked the figure of the pirate in his "First Treatise" where he took aim at the notion that monarchical government derived its authority from divine dispensation. Locke argued that it would be impossible to identify the rightful holder of such a dispensation. Worse still, this notion served

27 John Locke, *Essays on the Law of Nature: The Latin Text with a Translation, Introduction, and Notes*, ed. by W. von Leyden (Oxford: Clarendon Press, 1660–1664/1954), 169.

28 This was, for example, how Hobbes referred to pirates. See T. Hobbes, *Leviathan*, ed. by R. Tuck (Cambridge: Cambridge University Press, 1651/1996), Part II, ch. 17, 118.

29 Locke, *Essays on the Law of Nature*, 185, 189.

30 Daniel Carey, "The Problem of Sati: John Locke's Moral Anthropology and the Foundations of Natural Law," *Journal of Early Modern History* 18 (2014): 79–80.

31 See for example, P. Laslett, "John Locke, the Great Recoinage, and the Origins of the Board of Trade: 1695–1698," *William and Mary Quarterly* 14, no. 3 (1957), 377–378.

those rulers who made the spurious claim that their rulership demonstrated their divine authorization. Locke pointedly disdained any idea that the possession of power alone entitled the possessor to be regarded as a rightful ruler. If this were the case, then "there would be no distinction between Pirates and Lawful Princes [...] and Crowns and Sceptres would become the Inheritance only of Violence and Rapine."[32] Here, Locke invoked the image, already well-established in European political thought, of the pirate as the incarnation of coercive, violent power without any title or justification. The pirate was the direct opposite of the legitimate ruler who upheld the laws, defended property, and served justice on malefactors.[33] By arguing so, Locke steered a familiar course within the channel markers of European political thought, but his course soon took him into less familiar waters.

Previous political thinkers, from Cicero to St. Augustine of Hippo and on to Thomas Hobbes, had noted the more than passing resemblance between pirates and sovereigns, and worried that the moral or spiritual grounds that normatively distinguished the sovereign's powers from the pirate's plundering might just be illusory, or at least historically contingent.[34] Locke, however, had no truck with these concerns, as he made clear in the "Second Treatise." He summarily dismissed the idea that war or conquest, violence or aggression, even that sanctified by the passage of time, could ever be the foundation for the rightful exercise of power. Otherwise, he maintained, "Robbers and Pyrates have a Right of Empire over whomsoever they have Force enough to master [...]."[35] Rightful power over the lives and liberties of subjects, Locke argued, can only rest on "*the Consent of the People*." This alone established a means of arbitrating or umpiring disputes that did not depend on the extortion of obedience.[36]

Locke complicated this apparently conventional logic in another reference to pirates, this time in the context of defending his own argument for a limited right to rebellion. For Locke, government by consent was revocable only when the enormities committed by a tyrannous government became so great that it placed itself into a state of war with its own people, who may

32 Locke, *Two Treatises*, I, § 81, 203.

33 Andrew Dilts, "To Kill a Thief: Punishment, Proportionality, and Criminal Subjectivity in Locke's Second Treatise," *Political Theory* 40, no. 1 (2012): 58–83.

34 St Augustine, *The City of God Against the Pagans*, ed. by R.W. Dyson, (Cambridge: Cambridge University Press, 413–426/1998), 145–146; Thomas Hobbes, *On the Citizen*, ed. by R. Tuck and M. Silverthorne, (Cambridge: Cambridge University Press, 1642/1998), 149–50; and Hobbes, *Leviathan*, 118. Hayes, "Pirates, Privateers and the Contract Theories of Hobbes and Locke," 461–484.

35 Locke, *Two Treatises*, II, § 176, 385.

36 *Ibid*., § 175, 384.

then legitimately rebel and replace their government.[37] Far from sounding a clarion call for revolution, however, Locke was at pains to argue that this was a conditional right to rebel that could be invoked only when the government had actually become tyrannous. To deny such a right, Locke argued, would be to argue that "honest" subjects "may not oppose Robbers or Pirates."[38] Locke's final, if tangential reference to piracy in the *Two Treatises* elaborated this point in reference to the time worn "ship of state" metaphor. In Locke's hands, however, the metaphor was given an unusual twist by likening the subject of a state drifting towards tyranny to a passenger aboard a "Ship [...] carrying him, and the rest of the Company to *Algiers*."[39] The significance of this reference could not have been lost on contemporaries, for whom the port city of Algiers on the North African coast was a well-known resort of Barbary corsairs.[40] These raiders, both African Muslims and Europeans, operated from the north coast of Africa, attacking European shipping and coastal communities.[41] Of most importance in contextualizing Locke's reference was that chief among the corsairs' objectives was to take captives for sale into slavery to work on galleys or as domestic servants, estimated to have numbered in the thousands from Britain alone in the early decades of the seventeenth century.[42] Hence the significance of Locke's analogy. Passively watching the drift of a state towards tyranny was akin to the position of captives knowing that their ship was destined for Algiers, and they for slavery. Both captive and subject were bound for intolerable slavery at the hands of a power no more legitimate than that of a mere pirate. Moreover, and this was the burden of Locke's metaphor, neither captive, nor subject should be deceived that the temporary setbacks or illusory concessions made along the path to tyranny had any greater bearing on the final destination than the crosswinds that occasionally beset the corsair's galley.

With this simple metaphor Locke quite unexpectedly reversed the logic of his previous references to piracy. In those earlier references, pirates served as a negative example of the chaotic violence and force to which individuals lay exposed in the absence of political authority in the "state of nature." In the new formulation, by contrast, Locke's logic placed the pirate

37 *Ibid*., § 196–208, 396–404.

38 *Ibid*., § 228, 417.

39 *Ibid*., § 210, 405 (italics in original).

40 C. Lloyd, *English Corsairs on the Barbary Coast* (London: Collins, 1981), 94.

41 A. Talbot, *'The Great Ocean of Knowledge': The Influence of Travel Literature on the Work of John Locke*, (Leiden: Brill, 2010), 305. See also, Lloyd, *English Corsairs*, 65–66.

42 Linda Colley, *Captives: Britain, Empire, and the World, 1600–1850*, (New York: Anchor, 2002), 50.

on a par with rulers who, by their tyrannous "usurpations" had become no better than pirates themselves and thus deserved to be considered the "common Enemy and Pest of Mankind."[43] By using this significant phrase, Locke equated tyrants and pirates and echoed a much older, classical Roman understanding, according to which both a tyrant and pirate could be described as a common enemy, worthy of extermination.[44] In Locke's formulation, however, it seems that tyrants constituted the main threat and were thus the genuine "common enemy and pest" of humankind. In this way, pirates and piracy were employed in the text as an analogy for the "danger" to the "Laws [...] Estates, Liberties and Lives" of subjects caused, not so much by maritime crime, as by terrestrial tyranny.[45]

Locke's Pyrates

At this point, it is worth asking what Locke might have known of the pirates who populated his text. Although his earliest references to piracy in the 1660s indicated no particular knowledge, by the time he came to write and then continue to revise his *Two Treatises*, Locke had ample access to a variety of sources on piracy – both printed and personal.[46] Locke amassed a considerable personal library, among which his collection of ethnographic writings produced from Europe's expanding global and imperial connections has been estimated as one of the finest.[47] This ethnographic interest provided one possible avenue through which Locke may have been exposed to first-hand accounts of the politics of piratical communities in the Caribbean as he published and then revised his *Two Treatises* throughout the 1690s. Although published in 1689–1690 (some ten years after it was originally written), Locke was unhappy with this first edition, and so he continued to refine the work. Further editions appeared in 1694 and 1698, and he left instructions with his executors for a further edition after his

43 Locke, *Two Treatises*, II, § 230, 418.

44 H.D. Gould, "Cicero's Ghost: Rethinking the Social Construction of Piracy," in *Maritime Piracy and the Construction of Global Governance*, ed. by M.J. Struett, J.D. Carlson, and M.T. Nance, (London: Routledge, 2012), 25.

45 Locke, *Two Treatises*, II, § 209, 404–405.

46 On the publication history, see Laslett, "Introduction" to Locke, *Two Treatises*, 8–9.

47 Locke possessed "195 titles which can be called *Voyages and Travel*," and among his whole personal library those dealing with "travel, exploration, and geography [...] [and] comparative anthropology" contained the most evident signs that he had closely read them and marked pages for remembering. J. Harrison and P. Laslett, *The Library of John Locke*, 2nd edn., (Oxford: Oxford University Press, 1971), 27.

death in 1704. Throughout these years, Locke was closely involved with the Board of Trade and its efforts to protect Britain's maritime trade from piracy.[48] In the context of the Board's oversight not only of maritime trade, but also of colonial governance and inter-imperial rivalry, Locke had the opportunity to meet the sometime pirates and privateers, William Dampier (1651–1715) and Lionel Wafer (1640–1705).[49] Both claimed to have served in privateer crews under Letters of Marque from their sovereign to raid the shipping of his Spanish and French enemies. But both also joined one of the various parties of buccaneers, who raided Spanish shipping and communities on their own piratical account on the Pacific and Caribbean coast of the Isthmus of Panama. Locke owned copies of both Dampier's *New Voyage Round the World* (1697) and Wafer's *New Voyage and Description of the Isthmus of America* (1699), which spoke of some of their piratical experiences.[50] More importantly, Locke also owned copies of the 1695 and 1699 editions of Alexandre Exquemelin's *The Buccaneers of America* (originally published in Dutch in 1678), the latter of which contained the published journal of another English buccaneer and companion of Dampier and Wafer, Basil Ringrose. Although it was subsequently overshadowed by Captain Charles Johnson's *General History of the Pyrates* published in 1724, Exquemelin's book was written from first-hand experience in buccaneer crews and was the most detailed account of pirate political organization available in Locke's lifetime.

According to Exquemelin, the buccaneers made decisions about the direction of their voyages and raids in "Council," wherein "they agree upon certain Articles which are put in writing, by way of Bond or Obligation, the which every one is bound to observe."[51] The Captain and other office bearers of their pirate vessels were also elected by common vote, and their dismissal could just as easily be accomplished by the same means. William Dampier, for example, noted that captains were seconded by a Quartermaster who

48 Locke's professional engagement in the Board's anti-piracy efforts is described in, Pemberton, *Locke's Political Thought and the Oceans*, 47–71.

49 A Board memorandum of 6 July 1697 records the copying of Dampier's and Wafer's accounts of "the Isthmus of Darien," where the Scottish East India Company was intending to form a settlement. TNA, CO324/7. Also, D. Preston and M. Preston, *A Pirate of Exquisite Mind: The Life of William Dampier, Explorer, Naturalist and Buccaneer*, (London: Doubleday, 2004), 245, 248.

50 Harrison and Laslett, *The Library of John Locke*, see numbers 511 and 512, 910, 2485, and 3121.

51 All quotes from Exquemelin will be made from the second (1695) English edition as follows: John Esquemeling [Alexandre Exquemelin], *The History of the Bucaniers of America; Or, a True Account of the Most Remarkable Assaults, Committed* (*of Late Years*) *upon the Coasts of The West Indies, by the Bucaniers of Jamaica and Tortuga*, second edition (London: William Whitwood, 1695), Part I, 42.

held "the second Place in the Ship according to the Law of Privateers."[52] All booty taken on their raids was passed into the "the common stock" and divided by equitable shares, which also included compensation for the sick and injured.[53] Any pirate who looted for themselves and did not abide by their agreement to contribute what they took to the joint stock was expelled, or worse. Exquemelin was clear that by these means the buccaneers maintained "very good orders" and a "civil and charitable" ethos among themselves, even though they exercised a fearsome and pitiless violence against their victims.[54]

If Locke consulted Exquemelin at all while revising the *Two Treatises*, it is hard to imagine that he took much else from it than the sensational stories of cruel atrocities, ambushes, tortures, lootings, and sackings committed by the French buccaneer captain François l'Olonnais (c. 1630–c. 1669).[55] One of the features of piracy that Locke emphasized was that pirates were those with whom no faith could be kept. Pirates not only placed themselves beyond the reach of laws, but also defied those very laws by claiming a right to act on their own account. Therefore, they could not be trusted to keep their bargains.

No feature of piracy could be more redolent of this defiance of moral and legal authority than the practice of piratical oath-making and oath-taking.[56] In Early Modern European political and legal discourse, oaths had a double meaning. Oaths were made not only in abusive "swearing," but in the formal solemnities of "swearing in." In this latter sense, oaths were pledges or promises of trust, truthfulness, and fidelity made under the divine authority of God, or the secular authority of law.[57] Oath-taking, on assuming public office or in giving legal testimony, was therefore a testament of veracity, validated by divine and political hierarchy. These oaths were verbal symbols of the ideal of liberty Locke recommended – a liberty underwritten by divine, legal, and political sanctions. This was precisely the sense in which Locke spoke of oaths of allegiance and obligation marking the transition of subjects from child to "free" adult:

52 William Dampier, *A New Voyage Round the World*, (London: Hummingbird Press, 1697/1998), 41.

53 Exquemelin, *Bucaniers*, Part I, 42.

54 *Ibid*., Part I, 43.

55 *Ibid*., Part II, 1–25.

56 Bruce Buchan, "Pirate Oaths, Mutinous Murmurings, and British Counter-civilities at Sea in the Eighteenth Century," *Cultural History*, 9, no. 1, (2020): 1–25.

57 Conal Condren, *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006).

> Common-wealths [...] allow that there is *a time when Men* are to *begin to act like Free Men*, and therefore till that time require not Oaths of Fealty, or Allegiance, or other publick owning of, or Submission to the Government of their Countreys.[58]

Pirate oaths can be understood as deliberately subversive, marking their discourse as both uncivil and illegal under existing British statutes (which imposed fines for public swearing), freely made in defiance of authority. Pirate oaths were the most "uncivil" of vocal expressions because they were not made to affirm a hierarchy of moral, spiritual, or political authority. Rather, they affirmed the radical autonomy of the individual from those hierarchies. Pirate oaths, like those of the cruel and "sacrilegious" l'Olonnais, affirmed individual judgement as the sole criterion, disdaining God's authority. When that "cruel Tyrant" l'Olonnais thought he had been led astray in the jungle by his Spanish captives, he swore "with great choler and indignation: 'By Gods Death, the Spaniards shall pay me for this."[59] If Locke ever saw such instances as evidence for his own view of piracy, he overlooked Exquemelin's counter-examples. Even the pitiless l'Ollonais was said to have given his word to the request of some Spanish inhabitants of a besieged town to be given two hours to evacuate.[60] The two hours being given and scrupulously obeyed for the duration, the poor Spaniards were nonetheless looted upon the expiry of time. More significant perhaps, is the emphatic evidence that oaths among the pirates themselves were considered as binding on the individual pirate as any sacred promise. Exquemelin described the buccaneers of the Caribbean adopting the practice of making a "solemn Oath" that all their pillaged goods were surrendered for redistribution according to the system of shares, and should any of them be found to have "contraven'd the said Oath, immediately he is separated and turned out of the society."[61] Here is unequivocal evidence of the egalitarianism and consent of pirate political order. Pirate order did not only consist in pure rebellion, or in sacrilegious oath-making, or extortionate robbery, but in the reconstitution of an egalitarian social and political structure based on a form of consent much more radical than Locke could abide.

58 Locke, *Two Treatises*, II, § 62, 309 (italics in original).
59 Exquemelin, *Bucaniers*, Part II, 20.
60 *Ibid*., Part II, 21.
61 *Ibid*., Part I, 43.

Of Pyrates and Sovereigns

When Locke wrote of government by consent his thought was not animated by *democratic* aspirations so much as by the overriding concern to *limit them*, by balancing a right to rebellion against tyranny with the need for security of property. This concern took shape in the campaign of England's Whiggish elite, for whom Locke worked, to secure a Protestant and pliable successor to the throne to follow the Catholic James II. The *Two Treatises* were originally conceived and composed, but never published, in the context of the "Exclusion Crisis" of 1679–1681. At that time, Locke's patron, the Earl of Shaftesbury, led an unsuccessful Parliamentary and propaganda campaign to have a Bill passed to have King Charles II's Catholic brother and heir, James, excluded from succession to the throne. Although Locke selectively and circumspectly circulated his manuscript at this time, he did not publish it. Over succeeding years, he continued to refine the manuscript and eventually published it anonymously in the wake of the "Glorious Revolution" of 1688–1690 that had succeeded in deposing the then king, James II, and replacing him with his Protestant daughter Mary and her husband William, Prince of Orange. The publication of Locke's text in 1689–1690 apparently provided a justification for this rebellion and deposition, even though it originated in an earlier crisis.[62] The text trod a fine line between revolution and security, as Locke himself acknowledged in attempting to construe the right to rebellion as a limited and last resort. The Whiggish elite had learned the lesson from Britain's earlier Civil War and Commonwealth government (1642–1660) that the common people desired and would fight for their own liberty and democratic rights that they conceived to be more expansive than the property-owning elite were willing to allow. For this elite, there was much to lose in opening the door to more radical claims. The Glorious Revolution was their attempt to secure the state that would secure them and their property, and by so doing protect and project Britain's colonial and maritime commerce.

It is therefore significant that at the very time Locke was working on the second edition of the *Two Treatises*, piracy presented one of the first serious legal challenges to the new regime he and his patron had worked to establish. King James II's ill-fated attempt to win his throne back by force of arms in Ireland ended in 1691 with a capitulation to the victors that allowed him to withdraw his troops and supplies to France. By the Treaty of Limerick, he and his army were accorded the honour of defeated

62 Laslett, "Introduction" to Locke, *Two Treatises*, 45–7.

enemies at war and, for those captured, rights as prisoners of war. As he and his forces prepared to withdraw, however, James determined to strike back by issuing commissions, or Letters of Marque, to some of his Irish officers to act as privateers against British shipping. Among James's motivations for doing so was clearly a desire to continue the war by a profitable means that also demonstrated his claim to sovereign status through issuing commissions.[63] For the new government at Westminster, this claim had to be denied outright, for a new and invited sovereign now sat upon the throne that James had been forced to vacate.

As John Bromley has demonstrated, the capture and trial of a handful of these captains in 1692–1693 took place in a hostile atmosphere fed by fevered computations that their raids cost British trade as much as £3 million.[64] In November 1692, the Lords of the Privy Council and the Lords of the Admiralty convened to try captains John Golding, Thomas Jones, John Ryan, Darby Collins, Richard Shivers, Patrick Quidley, John Slaughter, and Constantine de Hartley as pirates. The Advocate of the Fleet, Dr William Oldys (or Oldish) was briefed to prosecute the captains as pirates, which he refused on the grounds that these defendants were not the "common enemies to all mankind" but "privateers" acting under the "colourable authority remaining in King James."[65] At issue between Oldys and the Lords was not the practice of privateering itself, but the question of a "colourable authority remaining in King James" to issue such warrants following his deposition from the British throne in 1688. Oldys's contention was supported by Sir Thomas Pinfold, who addressed the Lords on the identity of defendants as "pirates." As Pinfold saw it, "a Pirate was *hostis humani generis*," meaning that any person so described must be a literal enemy to all humankind. Pinfold claimed that the defendants "were not Enemies to all Mankind" but simple sailors prosecuting war by means of entirely legitimate privateering (duly warranted by a sovereign monarch), "therefore they can not be Pirates."[66] Such a literal defence elicited smiles from the justices, one of whom was

63 John Bromley, *Corsairs and Navies 1660–1760*, (London: Hambledon Press, 1987), 155.

64 *Ibid*., 159–160.

65 *A Complete Collection of State Trials and Proceedings for High Treason and other Misdemeanours from the Earliest Period to the Present Time*, Vol. 12, A.D. 1687–1696, (London: T.C. Hansard, 1812), 1269–1270.

66 Matthew Tindal, *An Essay Concerning the Laws of Nations and the Rights of Sovereigns, with an account of what was said at the Council-Board by the Civilians upon the Question, Whether their Majesty's Subjects Taken at Sea acting by the Late King's Commission, Might not be Looked on as Pirates*..., (London: Richard Baldwin, 1694), 27.

said to have replied: "Whether there ever was any such thing as a Pirate, if none could be a Pirate but he that was actually in War with all Mankind."[67]

The argument was taken sufficiently seriously by the Lords of the Admiralty that Oldys was summarily dismissed and replaced by the Deputy Judge Advocate, Matthew Tindal. He had no scruples about trying the men as pirates. His prosecutorial arguments in 1692 resulted in the conviction of the officers as pirates, some of whom were hung, and their bodies displayed in gibbets between low and high tide marks on the Thames as a warning to others. In 1694, Tindal amplified his arguments in a publication that was to become an influential work on piracy in international law: *An Essay Concerning the Laws of Nations and the Rights of Sovereigns*. Tindal argued that James had no claim to be regarded as a sovereign, having abdicated his throne and its prerogatives, and thus he could not issue valid privateering commissions.[68] The ubiquitous Latin tag used to name the figure of the pirate in law, *hostis humani generis*, was, Tindal wrote, "[…] neither a Definition" or a "Description […] but a Rhetorical Invective to shew the Odiousness of that Crime."[69]

What kind of a crime was it? For Tindal, the crime of piracy imbibed two orders of wrongdoing. First, for a subject who "receives Protection from a Government, and has sworn to be true to it, yet acts against it," piracy is a treasonous betrayal.[70] Second, in repudiating allegiance and obligation to one government, the pirate subverts all governments by holding in contempt the "Ties and Bonds that unite People in Civil Society under any Government." Hence, the pirate is an "Enemy to all Governments." As Tindal saw it, the "Certainties" on which the law of nations was founded mandated freedom of the seas and security of commerce, requiring the assertion of sovereignty over and above the spurious claims made by an "unkinged" monarch who had now "dwindled" to become not just a private person, but a mere "pirate" who no longer possessed the sovereign right to declare war and peace.[71] In this formulation, Tindal appeared to echo Locke's association of the figures of the tyrant and the pirate. What lay at issue, as Tindal made clear, was not simply the prosecution of a handful of *hostes humani generis*, but the de-legitimation of a one-time sovereign who now represented to the new

67 *Ibid*., 27.
68 *Ibid*., 18–20.
69 *Ibid*., 27–28.
70 This and following quotation from, *Ibid*., 28.
71 *Ibid*., 16, 19.

English government a threat so memorably defined in Locke's resonant phrase: "the common Enemy and Pest of Mankind."[72]

Conclusion

For some time, John Locke was identified as the author of an extended introductory essay on the history of navigation for the *Collection of Voyages and Travels* (1704) produced by his publisher, Awnsham Churchill. The introductory essay positioned the commercial and intellectual benefits of "the empire of Europe [...] now extended to the utmost bounds of the earth where several of its nations have conquests and colonies," within a much longer history of contest for the "sovereignty of the seas."[73] The essay seemed to echo the argument in Locke's *Two Treatises* that the extension of Britain's imperial sovereignty in America was a token of progress away from the insecurity of the state of nature, for which the savagery of "pyrates" on the high seas served as an analogue. The pyrate in particular was construed not simply by Locke, but also by his contemporary Tindal, as an agent of the endemic insecurity of the state of nature, a figure who exercised violence solely on his or her own account without any legitimate state sanction. The longevity of this construction of the pirate has enabled the anachronistic elision by which piratical sailors of the late seventeenth and early eighteenth centuries are construed as "essentially terrorists."[74]

Andrew Dilts has recently argued that the question of the appropriate punishment for those who transgress, renounce, or live beyond divine, moral, and human law has shaped the Western "canon of political theory."[75] The figure of the pirate, like that of the "savage," is a "source of physical and ontological threat" to the law-abiding inhabitants of civil society. The pirate is one of those "liminal figures that haunt the boundaries of membership [of civil society] and the border between the law of reason and the law of

72 Locke and Tindal were acquainted, and Locke had copies of all Tindal's published works in his own library, leading to the supposition that Locke "approved" of Tindal's arguments. S. Lalor, *Matthew Tindal, Freethinker: An Eighteenth-Century Assault on Religion* (London: Continuum, 2006), 29.

73 "An Introductory Discourse, Containing the Whole History of Navigation from its Original to this Time," in, *A Collection of Voyages and Travels: Some Now First Printed from Original Manuscripts... in Four Volumes*, (London: Awnsham and John Churchill, 1704), Vol. I, lxxiii, and xii–xiii.

74 O. H. K. Spate, *The Pacific Since Magellan, Volume II: Monopolists and Freebooters* (London: Croom Helm, 1983), 135. Also, Neocleous, *The Universal Adversary*.

75 Dilts, "To Kill a Thief," 60, and following quote from p. 61.

beasts." Seen in this light, the rhetorical purpose of Locke's references to piracy in the *Two Treatises* might be said to serve as negative examples against which to define "the obedient subject [of civil society] as rational, innocent, and, above all, free."[76]

I have argued in this chapter for a slightly different view. In effect, Locke's (and Tindal's) "pyrates" served a more ambivalent purpose, to position not only the maritime marauder, but also the terrestrial tyrant (James II) as the common pest of humankind. Piracy, for them, was not simply a matter of legal definition, but of moral and political argument about the basis of political order and the legitimacy of sovereignty. In this construction, the tyrant and the pirate symbolized the inevitable insecurity that lay beyond the bounds of civil society, in which legal restrictions on the use of violence gained no purchase. The insecurity they embodied was twofold; each was to blame for the insecurity born of their own violence, but each was also subject to the constant fear of becoming victims to the unrestrained violence of another in the state of nature. It was this same doubled insecurity that Captain Johnson imagined in the opening biography of his *General History*: the "Life of Captain Avery."[77] As depicted here, Avery's crew found themselves cut adrift on the cruel seas of the state of nature where their only security lay in their own power of self-defence, constantly excited by mutual jealously and suspicion among themselves. Johnson's tale of Avery's crew was far-removed from the picaresque fantasy of the "successful pirate," and was, in fact, a ready-made rebuttal of the contractual argument for government by consent that had been mobilized by Locke and others to legitimate the (still relatively) new Whiggish political order established in 1688. In Johnson's *General History*, Avery's crews' fate illustrated why the contractual and consensual order of pirate articles led straight to the nightmare of ravenous insecurity, perpetual vigilance, and ineradicable violence. It is telling that Johnson could find no better comparison to describe their situation than to consider them all as petty "tyrants," for each of whom:

> the fear of their [individual] power could not secure them against a surprise [...] if power and command be the thing which distinguish a prince, these ruffians had all the marks of royalty about them, nay more, they had the very fears which commonly disturb tyrants.

76 *Ibid*., 72.

77 All following taken from: Johnson, *General History*, 59–61.

These pyrates' unmitigated fear was the surest illustration of the very same identity that Locke had taken such pains to establish, between the pirate and the tyrant. "Thus tyrant like they live [...]," Johnson wrote of Avery's pirates, fugitives "fearing and feared by all."

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4 The Colonial Origins of Theorizing Piracy's Relation to Failed States

Jennifer L. Gaynor

Abstract
Contemporary views of piracy often associate it with state failure. However, this view may be traced to nineteenth-century debates about Southeast Asia, and in particular, the writings of Sir Stamford Raffles for whom it became a pretext for intervention. Prior to this, European observers and officials tended either to naturalize piracy as a part of Southeast Asian life, or to label foes as pirates. Both nineteenth-century colonial debates and earlier stereotypes disconnected from maritime settings do not provide reliable evidence of piracy. Instead, they offer evidence of colonial ideology and statecraft. This essay historicizes piracy's association with failed states and offers another way to theorize piracy without adopting either statist or relativist points of view.

Keywords: failed states, Southeast Asia, Sulawesi, colonial rule, military intervention

Introduction: The Politics of Piracy, Pillaging, and Slavery

Images of piracy lie at the heart of talk about "failed states," a term that entered the political lexicon of the United States in the early 1990s and that came to occupy a prominent place in international peace and security.[1] While this timing suggests that the notion of failed states and its association with piracy are recent additions to political theory, I argue here that they do not originate from the context of offshore Somalia and related international interventions in the western Indian Ocean. Instead, the failed states concept

1 Charles Call, "The Fallacy of the Failed State," *Third World Quarterly* 29, no. 8 (2008), 1491–1507.

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and its association with piracy may be traced to nineteenth-century colonial debates about Southeast Asia.

During the nineteenth century, colonial debates about piracy in maritime Southeast Asia encompassed views that ranged from taking piracy as a sign of state dissolution, much as it appears in contemporary failed states theory, to functionalist explanations of piracy as simply inherent to how some states worked. The latter view, in which maritime marauding was seen as a practice common to Southeast Asian statecraft, typified the much earlier remarks Tomé Pires made about coastal polities in sixteenth-century Southeast Asia. Pires, a Portuguese apothecary who spent time in Malacca shortly after the Portuguese conquest in 1511, left detailed notes about the main trade items of ports throughout Southeast Asia and beyond it, as part of his effort to plot their commercial ties with Malacca. He also recorded the naval capacity of port cities throughout the maritime world of the Indian Ocean and Asia, from the Red Sea to Japan. Although Pires specified little about the interactions between mariners and their nautical leaders, he took pains to note how many boats and rowers lay at the disposal of different ports and rulers.[2]

This attention to nautical resources mattered to Pires as a measure both of commercial and of naval capacity. Yet, he also recognized the inextricable relation of nautical resources to regional slavery. Some of the maritime commerce he described involved a trade in slaves, including captives acquired in maritime raiding and war. Such displaced people formed, among other things, a source of maritime labour. Hence, piracy in early modern Southeast Asia, which included the taking of people, intertwined with the slave trade both in its commercial aspect and as a source of maritime labour.

Pires noted carefully which regional ports of the early sixteenth century earned a reputation among Southeast Asians for marketing slaves, especially those located in the western archipelago and peninsular Southeast Asia. According to him, in addition to the many western archipelago ports that sold slaves, one could also buy slaves in regularly held fairs, some of which were renowned as venues openly geared toward the trade in slaves.[3] Since these port markets and fairs were already well-known for selling slaves by

2 Tomé Pires, *The Suma Oriental of Tomé Pires, an Account of the East, from the Red Sea to Japan, Written in Malacca and India in 1512–1515;* and *The Book of Francisco Rodrigues, Rutter of a Voyage in the Red Sea, Nautical Rules, Almanack, and Maps, Written and Drawn in the East before 1515*, trans. Armando Cortesão (London: The Hakluyt Society, 1944).

3 Pires, *Suma Oriental*, 225–228.

Map 1. Political Southeast Asia

Pires' time, his work illustrates that a vigorous slave trade predated European involvement in Southeast Asia.

Pires clearly differentiated pillaging from trading. Nevertheless, he characterized both trading and pillaging as activities common to all nations.[4] This view of pillaging as common to all nations contrasts with piracy, which is typically understood as being carried out by actors external to states and their presumption of political and legal authority. Pires often characterized pillagers as corsairs, a term that derives from a Mediterranean context,

4 *Ibid*., 221.

where it implies state sponsorship.[5] On the one hand, his use of this term is striking, given later Spanish use of the term *piratas* from at least the mid-seventeenth century onwards, especially in reference to "Moros" in the Philippines. On the other hand, it is also unsurprising that Pires should use the term corsairs in his writings on Indian Ocean and Asian maritime worlds, given his Iberian provenance. Pires' use of the term corsairs reflects his understanding of the political structures in which many archipelagic mariners undertook plunder during the early sixteenth century. In other words, he recognized their pillaging as being, in some sense, sponsored by Southeast Asian political authorities, rather than, as we have come to understand piracy, conducted beyond sovereignty's bounds.[6]

The extent to which pillaging in sixteenth-century Southeast Asia actually took place with political sponsorship remains hazy. Nevertheless, we can distinguish between Pires saying that pillaging was common to all nations, and the notion that piracy was intrinsic to everyday life in the maritime world. Regardless of whether plunder took place under some political authority, or despite it, it is hard to imagine that those who suffered the depredations of raids would have blithely accepted such violence as just a part of daily life, no matter how common it may have been. Though this may seem obvious, the point must be made explicitly: whatever one calls it – piracy or corsairing – we cannot presume that people simply accepted pillaging as something natural. Rather, a sceptical and curious approach rejects explanations of piracy as "natural," which indeed explains nothing at all, to probe instead its social and political dimensions. In other words, the critical task is to resist approaches that naturalize piracy, in order to historicize piracy's dynamics.

Pillaging, when it involved taking people, meant sudden dislocations for those taken, as well as consequences for those left behind. Emotionally wrenching, with implications for people's safety and well-being, such dislocations moreover impacted practices and concepts of belonging and status, as well as relations between groups – in other words, politics. While Pires may not have given much thought to such social dimensions of pillaging in Southeast Asia, his observations clearly demonstrated his grasp of the maritime world's immense need and competition for bodies – labour – to man commercial vessels and naval expeditions. Some of this demand for

5 Joshua M. White, *Piracy and Law in the Ottoman Mediterranean* (Stanford, CA: Stanford University Press, 2017).

6 Jennifer L. Gaynor, "Piracy in the Offing: The Law of Lands and the Limits of Sovereignty at Sea," *Anthropological Quarterly* 85, no. 3 (2012): 852.

maritime labour was filled by slaves.[7] As noted above, Pires was perfectly aware that pillaging procured people for sale as slaves. However, nowhere in his work does he associate an abundance of pillaging with political disarray. The notion that such maritime pillaging was a sign of state dissolution would have been unthinkable to him.

Pirates, Territory, and the State

The tension between predation carried out by non-state actors on the one hand, and state-sponsored pillaging on the other, undergirds many debates about what was, or was not, piracy. While corsairs worked under some form of sponsorship by a political authority, whether a privateer's letter of marque and reprisal, or, as in Southeast Asia, a relation of clientship to a patron, piratical actions lay beyond the state. For the most part, it may be more accurate not to conceive this "beyond" in territorial terms, because when it comes to most historical piracy claims, territory was not the main determinant of sovereignty's limits. Nevertheless, territory did play an ever-greater role in the parameters of sovereignty from the late nineteenth century and into the twentieth.

Even as representations of territorial control featured increasingly in measures of where high seas lay and what constituted piracy, legal history reveals a counterpoint to colonial denials of native states' control over coasts. After all, if such coastal sovereignty were not recognized by would-be colonizers, their offshore waters would essentially be rendered "empty" space, whether for colonial appropriation or simply the rejection of native states' sovereignty. Maps, which formed a quasi-legal means to reconstruct the property histories of new colonial possessions, legitimized the spread of colonial power.[8] Yet, even as the work of colonial cartographers supported territorial myths of dominion, in certain legal contexts, particular coasts were acknowledged to be part of independent native realms. The remarks of colonial officials in this regard actually deflate myths of colonial territorial control, demonstrating, for instance, that courts of every level in the lesser

7 Brett Baker, "South Sulawesi in 1544: A Portuguese Letter," *Review of Indonesian and Malaysian Affairs* 39, no. 1 (2005): 71. On Spain's use of Southeast Asian labourers as boatbuilders and mariners in the galleon trade, see Andrew Christian Peterson, "Making the First Global Trade Route: The Southeast Asian Foundations of the Acapulco-Manila Galleon Trade, 1519–1650," Unpublished PhD dissertation University of Hawai'i, Manoa, 2014.

8 Benedict Anderson, "Census, Map, Museum," in *Imagined Communities* (London and New York: Verso, 2006 [1983]), 174.

Netherlands Indies recognized the independence of allied realms and vassal principalities in Celebes (Sulawesi) between 1871 and 1881. Though the Council of the Indies reconsidered this fact of their independence in the 1890s, and the Minister of Colonies in 1902 denied self-governing realms any possibility of having their own territorial waters, these realms' shores had not previously been washed by the waters of the Netherlands East Indies.[9] Such efforts to extend colonial territorial control coincided with colonial cooperation against "piracy" and the idea that it signalled native state dissolution.

Although questions of piracy often rely on authority over a particular location, as with the legal concept of jurisdiction generally, piracy may also entail a subject's political affiliation, as well as the nature of the acts in question. Whether through spatial authority or political subjecthood, the theft of goods and persons made pirates outlaws. Yet, whereas outlawry may exist in relation to a single state, piracy subsists in a fundamentally international or interpolity arena. That is, when the agents of a state or polity made piracy claims or designations, they signalled not just the bounds of a single state, but also the limits of sovereignty – both theirs, and from their view, that of others.[10]

What makes piracy international, then, is not so much its occurrence on the high seas, but instead its juridical location at the limits of sovereignty. Indeed, most historical piracy has taken place not on the high seas, but instead, in the offing, the visible offshore area beyond inshore navigational hazards. Rather than focus on piracy as an activity in "non-state" spaces, or by "non-state" people, actions that might be considered piracy in particular historical circumstances are best understood in relation to the relevant array of political authorities and law. Piracy as a phenomenon only occurred in international arenas where legal spaces between polities stretched and sometimes overlapped. These interpolity spaces, and the diplomatic, legal, and naval resources brought to them by different players, structured both the character of claims about piracy, as well as effective denials of piracy. Through such claims, authorities gathered political and legal legitimacy to

9 Barbara Sillars Harvey, *Tradition, Islam and Rebellion: South Sulawesi 1950–1965* (PhD, Cornell University, 1974), 47, note 66; Gertrudes Johan Resink, *Indonesia's History Between the Myths: Essays in Legal History and Historical Theory* (The Hague: W. van Hoeve, 1968), 136–8, 141–2, 165, 182–3. On the legal history of Netherlands Indies "sea territory" in the late nineteenth and early twentieth century, see John G. Butcher and R. E. Elson, *Sovereignty and the Sea: How Indonesia Became an Archipelagic State* (Singapore: NUS Press, 2017), 1–25, especially 14–16.

10 Gaynor, "Piracy in the Offing." A fuller discussion of piracy's definitions may be found on 822–824.

themselves, and attempted to deny it to others, in an effort to manage the limits of their sovereignty.[11]

This conclusion followed from a consideration of piracy's many definitions, and a detailed examination of cases across different eras in Southeast Asia's engagement with the world, before and after the arrival of Europeans. Taking a close look at how the question of piracy unfolded in relation to particular configurations of politics, power, and cultural comprehension, "Piracy in the Offing" examined three examples. First, amidst the relations between Southeast Asian polities and China during the early fifteenth century, it looked at how Chen Zuyi, a transplant to the western archipelago, appeared to the fifteenth-century naval commander, Zheng He, and to the Chinese chroniclers of his deeds. Here, "pirates" (as Western scholars have translated the term), presented an impediment to the setting up of orderly tributary relations, or at least the fiction of them, with subordinate states along established trade routes through the Malacca Straits to the Indian Ocean.

Second, the piece probed the capture of a Portuguese carrack by three Dutch ships under Jakob van Heemskerk in early seventeenth-century Southeast Asia, along with the European political and legal context of this event. For Grotius, defending this ship's seizure near the Malacca Straits, pirates, whoever they might be, could never be the kind of admiral who he made every effort to portray as identified with the nascent Dutch state. Even though Heemskerk lacked letters of marque and was forbidden from engaging in conflict, Grotius portrayed him as an extension of the state—a state Grotius presumed already to exist—arguing that Heemskerk was both its representative and agent. The *Mare Liberum* cannot reasonably be understood separately from this context, as it comprises one of the chapters in Grotius' larger argument, bolstering the nascent Dutch state and this would-be (or perhaps would-not-be) pirate's supposed inseparability from that state. Third, the article took up the question of piracy in connection with nineteenth-century views on the proliferation of raiding in Southeast Asia and intercolonial attempts to curb it.[12]

Working up from analyses anchored in these different eras and settings provided a way to, in a sense, control for the frequently noted role of European colonial ideologies in piracy ascriptions. In other words, drawing from a range of cases and settings across different periods, with different configurations of interpolity relations, produced a set of qualitative data

11 *Ibid*., 852.

12 *Ibid.,* 825–850.

that might yield less reductive analyses. Abstracting and comparing the dynamics they shared made it possible to infer new theoretical views on piracy, beyond those offered by a critique of colonial perspectives and relativist cultural arguments about piracy's representation. To build such an analytical strategy entailed asking not only how to look across eras and beyond European colonialism; it also meant employing methods open to the question of whether one could analyse piracy without adopting statist perspectives. Given that agents of the state have produced most of the relevant sources, how might one approach piracy without adopting statist perspectives?

In fact, the lens of the state is not the only optic available. Historical analyses of piracy that rely on the writings and actions of self-proclaimed pirates provide one avenue of analysis with, as it were, built-in critiques of the state, though it is not easy to come by such material. While not nearly as abundant as materials written by court scribes, politicians, jurists, and officials, records left by pirates provide a privileged point of view that, with ample contextualization, allow historians to reap unique insights into the motivations of pirates and the dynamics that contributed to their actions. Marcus Rediker, whose work exemplifies this bottom-up approach in the social history of piracy, drew on the actions and words of pirates to argue that they made not another, if alternate, state in the eighteenth-century Atlantic, but rather formed a multicultural, democratic, and egalitarian society – albeit one often beset by violence.[13]

Attending to such evidence, where it exists, is as important to understanding piracy as the writings and practices of slaves are to slavery, and as the voices of women are to our understanding of, well, history. Southeast Asia is typical in that records left by agents of the state are vastly more abundant than the seemingly non-existent jottings of pirates. Yet, this holds true especially for the colonial state, while indigenous Southeast Asian polities and imperial formations left far fewer resources for historical scrutiny. The vast region of maritime and coastal Southeast Asia, notorious for piracy in its past, remains so even today. Yet, in this region of infamously legion pirates, scholars have nevertheless found it a challenge to locate sources in Southeast Asian languages to illuminate acts that even states considered piratical.

Though offering a more modest type of evidence, the very languages of the region themselves provide historical clues to regional piracy in the past.

13 Marcus Rediker, *Villains of All Nations: Atlantic Piracy in the Golden Age* (New York: Verso, 2004); *idem*, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World 1700–1750* (Cambridge: Cambridge University Press, 1995 [1987]).

Found neither in state archives, nor in pirate memoirs, instead, the inadvertent traces of past predations left their mark on the historical languages of the region's captives, the victims of marauding, and their communities' means of expression. For instance, the word *lanun*, now glossed as Malay for "pirate," became common throughout the region. It derives from the ethnic name Iranun, or Ilanun, famed for their pan-archipelagic raiding during the late eighteenth and nineteenth centuries from bases in what is now the southern Philippines.[14] The name "Tobelo" strikes a similar chord among people of coastal Sulawesi and parts of the eastern archipelago, though it retains its original ethnic overtones, like the names for other notorious historical pillagers, such as the Vikings and Cossacks. "Camucones" and "Tidong" were names the Spanish used during the sixteenth and seventeenth centuries to label particularly fierce, non-Muslim pirates with bases in northeastern Borneo and western Sulu, now parts of east Malaysia and the southern Philippines. "Tidong" survived for a time as a term for "pirate" in several central and northern Philippine languages, distant from where those bases lay, though this sense of it has since fallen out of use.[15] These notions of pirate, or what we translate with this word, did not rely on differentiating the violence of pirates from the violence of states. Instead, these "pirates" inhere in the notoriety of a group's raiding and the traces left by the memory of their depredations.

Such evidence from linguistic traces, properly contextualized, offer a way to show that piracy could exist in settings where states did not. Yet, this, in a sense, silent testimony of language still cannot eliminate the challenge of analysing the historical record without reproducing statist perspectives. Especially in colonial contexts, relativist analyses usefully underscore the frequent ascription of piracy claims by those in positions of power, along with their assumption of epistemological privilege in legal and moral terminologies.[16] The structure and substance of piracy claims, however, merit a fuller theoretical explanation than that provided by the relativist

14 James Francis Warren, *Iranun and Balangingi: Globalization, Maritime Raiding, and the Birth of Ethnicity* (Singapore: National University of Singapore Press, 2002), 141.

15 Charles O. Frake, "The Genesis of Kinds of People in the Sulu Archipelago," in *Language and Cultural Description: Essays by Charles O. Frake*, 311–332, 323, (Stanford, CA: Stanford University Press, 1980); and personal communication.

16 Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press, 2019), 10–14; Patricia Risso, "Cross-cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century," *Journal of World History* 12, no. 2 (2001), 295–296; Sulṭān Muḥammad al-Qāsimī, *The Myth of Arab Piracy in the Gulf* (London: Croom Helm, 1986).

critique that they issue from a perspective or position of power. Hence, while relativistic approaches provide a critical lens on how states and imperial powers operated, nevertheless, critical analyses of these operations do not necessarily describe a theoretical framework for analysing the phenomenon, or question, of piracy.

A wealth of work on piracy theory, from Cicero to Alfred P. Rubin, and more recent work by scholars such as Daniel Heller-Roazen, views piracy from the state's perspective.[17] What might a theoretical description of piracy that does not assume statist perspectives look like? One approach to building an analytical framework that neither privileges statist perspectives, nor inverts them, is to analyse a broad set of historical instances, and, comparing them, to abstract the features their dynamics share. By drawing on both non-European and pre-European settings alongside colonial ones, comparing analytical inferences from concrete historical settings offers opportunities to critique power, as well as to infer a theoretical description abstracted from the commonalities shared among their historical dynamics.

My own modest attempt to derive theoretical points from the analysis of such shared dynamics began with the metaphor of "the offing": the visible waters beyond inshore navigational dangers. With its between-land-and-sea location and its perspectival lability – from which side is one viewing these waters? – the offing provided a neat model for understanding the structure and dynamics shared among situations that involved the question of piracy. As I clarify below, "the offing" implies a spatial deixis. Moreover, in settings where a question of piracy hangs in the balance, the metaphor of the offing provides a tool for thinking about deixis at the level of socio-legal interactions. In other words, the offing helps one understand piracy as a form of socio-legal deixis.

"The offing," a term of art in the nautical field, encompasses a set of implicit spatial relations between land and sea. Ships in the offing can see the shore, and, conversely, from the shore one can see ships in the visible waters beyond the coast. The figurative sense of the offing as something about to happen may have derived from either direction, either from the shore, from which one may see a vessel, or from a vessel, from which one can see the shore. Though the term "the offing" comes from the world of mariners, it has a curiously even-handed structure that privileges neither land, nor sea. It is also a deeply phenomenological term, in how it implicitly orders

17 See Gaynor, "Piracy in the Offing," 822–824; Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations*. (Brooklyn, NY: Zone Books, 2009); Alfred P. Rubin, *The Law of Piracy*. (Newport, RI: US Naval War College Press, 1988).

structures of experience through perception, or reference to a perceptual context. The offing requires that one adopt the perspective of a perceiver, now at sea but referencing the shore, now on shore but referring to the sea, in order to grasp its play simultaneously in language and in space. An explicitly geographic term, the geography of the offing relies not on an abstract geometry of the earth, but instead on an embodied position, as well as, for instance, the weather, the height of one's vantage point, even how practiced one may be in sighting things at sea.

This structure provides a useful way to think abstractly about piracy across contexts, and how, in similar ways, cross-cutting interpolity political and legal relations structure piracy. Thus, the offing presents an apt metaphor for the structures of orientation and position that piracy questions raise. Able to distil commonalities among divergent examples, this approach to piracy works not through a static definition, but rather through an analytical framework for grasping dynamic sets of relations. Like the offing, questions of piracy play out in relations between ship and shore, and through political, legal, and social claims in which perceiving piracy relies, in part, on positionality in this structure of relations. Moreover, like the offing, the term "pirate" points towards, or indicates, the opposing side of that scaffold's structure. In other words, for the offing, this scaffold orients one from ship towards shore or from shore towards ship; while for piracy, it structures perspectives from within the state to what lies beyond sovereignty's limits, or, conversely, towards the state from beyond its graces.

Only after explaining these interrelated structures of perception, drawing out the metaphor of the offing, and applying it to historical cases focused on the question of piracy did the offing's resemblance to the concept of deixis become apparent, which necessitated an explanation of its theoretical relevance. Borrowed from the Greek adjective, *deiktikos*, meaning "pointing," or "indicating," deixis is typically understood as the process of "pointing" via language to the extra-linguistic context. Deixis belongs to the subfield of linguistics known as pragmatics, which studies how people understand and produce speech acts in particular, concrete situations. Deixis belongs to pragmatics because it directly involves the relationship between the structure of language and the context in which it is used.[18] Deictic expressions use "pointing" language (for instance, "here," "there") that situates a speaker in relation to a shared context. Spatial or place deixis is only one form of deixis. Languages that express familiarity in pronouns, or use honorifics to indicate higher status, engage forms of person deixis. Although I had never

18 S. C. Levinson, *Pragmatics*, (Cambridge: Cambridge University Press, 1983), 55.

before seen the concept of deixis used in fields outside of linguistics, the analytical power of the offing metaphor led me to transpose deixis from its linguistic origins and to elaborate its relevance in this recurrent type of socio-legal setting, initiating a new way to theorize piracy.

Textual Wakes

Another way to approach piracy is by understanding how activities considered piratical in a given time and place contrast with the things mariners did when they were not busy behaving like "pirates," for maritime piracy takes more than theft. It requires skill in handling boats, and social knowledge about what to do with the things or people taken. Rarely does one find full-time pirates. Therefore, to grasp the motivations and means of piracy calls for some understanding of the social, political, and economic seascapes in which mariners lived when they were not out and about marauding, matters that must be sought in the sources.

Some boats left textual wakes on their travels, inscribing aspects of their undertakings in the historical record, if only a fraction of what occurred in wider maritime lives and settings. Tracing their paths through the sources can reveal considerably more than just their geographic mobility. While sources for piracy are hard to find in the languages of the region, nevertheless, the activities of mariners, both Southeast Asian mariners and others, did leave their mark in colonial archives, as well as in some indigenous language sources. These textual wakes may be followed, analysed, and contextualized, to help elucidate the times and places in which some mariners engaged in acts that might be considered piratical.

Where colonial concerns focused on the maritime world, archival sources present numerous boats to follow, and many such letters penned on boats, often dispatched to other vessels, proved useful in writing *Intertidal History*. Though such sources reveal a great deal, they present quite limited views of the region's littoral societies. Where Southeast Asian mariners' activities did appear in sources in regional languages, such as in Makassar's court chronicles, those sources helped reveal political, economic, and social relations that escaped the purview of colonial observers. Nevertheless, most regional mariners did not commonly keep records of their own, or, at least, thus far, few such records are known to have survived. Yet, even though their traces are few, Southeast Asian sources do more than simply relativize the views found in colonial archives. In presenting qualitatively different information, such "indigenous" sources may open new vistas for

analysing the past, clarifying alternate motivations for people's actions. For instance, Southeast Asian sources help to clarify why interethnic marriages were contracted between maritime people and other groups, and elucidate how maritime and naval labour formed an integral part of Southeast Asian littoral societies and politics.

Take, for instance, the Straits of Tiworo, in what is now Southeast Sulawesi, Indonesia. During the mid-seventeenth century, this amphibious polity first came into the sights of the VOC (Vereenigde Oost-Indische Compagnie, Dutch East India Company) for its alliance with Makassar and its role in the Great Ambon War, which formed part of the spice wars. The people of this maritime-oriented polity became the targets of a colonial campaign, though Dutch records of the time called neither Tiworo, nor its mariners "pirates" when the VOC first attacked Tiworo during the mid-1650s. In that 1655 attack, two hundred of Tiworo's men – those who were not off elsewhere at the time – were slaughtered, while three hundred of Tiworo's women and children, including the wives and daughters of Tiworo's ruling family, were taken captive by the VOC and its largely Ternaten allies. Possibly, some were eventually sold off as slaves, but records show that the VOC granted these captives to their local fighters, allowing those fighters to keep them. Aside from the political indignity and the personal tragedy of falling into the hands of enemies, this transfer of people also undermined the strength of ties between Tiworo and its main ally, Makassar. In this situation, one of many where the line between war and raiding overlapped, it is fair to say that it was not Tiworo's maritime-oriented people, but rather the VOC and their largely Ternatan allies, who had plundered captives.[19]

Twelve years later, in connection with the Makassar War, another conflict largely over the control of spices, Tiworo again came into the VOC's sights. During the dozen-years' interim, Makassar undertook campaigns of eastward re-expansion, encompassing parts of Sulawesi and areas to its east. Sultan Hasanuddin's justification for this re-expansion explicitly referred to Tiworo's earlier sacking and pillaging. By the time of the Makassar War, Tiworo had rebuilt its villages and had two forts rather than one. Yet again, in this set of conflicts, the VOC aimed to rein in Makassar and its supporters, since Makassar was the primary transshipment point for spices, such as cloves and nutmeg, from the eastern archipelago.

In 1667, during the run-up to the Makassar War, Tiworo's inhabitants evacuated when word reached them that VOC forces were hunting down a

19 Jennifer L. Gaynor, *Intertidal History in Island Southeast Asia: Submerged Genealogy and the Legacy of Coastal Capture.* (Ithaca, NY, and London: Cornell University Press, 2016).

particular naval detachment under Makassar. The leader of the VOC's allies at the time, a Bugis prince from Boné called Arung Palakka, confiscated Tiworo's boats and banned their appropriation by the Governor General. Though most of Tiworo's population had fled, Arung Palakka invited a contingent of sixty Tiworo men to form half of his Guard of Prime Commanders. Thus, this large contingent of Tiworo men switched their allegiances from Makassar to Boné.

This detail of allegiance switching perhaps escaped the notice of Admiral Cornelis Speelman when he wrote his lengthy narrative of the Makassar War three years later. On the verso side of its first page, he labelled Tiworo a nasty (or vile) pirate's nest. Rather than any actual piracy claim, however, his derisive tone was precisely the result of Tiworo's effectiveness as Makassar's ally. We know from Speelman and other sources that Tiworo had a ruler (*raja*) who, along with his family, maintained close ties with Makassar's ruling elite. We also know the VOC regarded Tiworo as an important ally of Makassar's. In addition, we know details about how Tiworo and its mariners bolstered both Makassar's expansionary endeavours, as well as shared its interests in conflicts over spices.[20] Despite these close ties between Tiworo and Makassar, the writing on the wall led a large Tiworo contingent to shift their allegiances to Boné. Each of these sixty men gained a gun along with their new prominent positions under the Bugis leader Arung Palakka, and both the guns and the status conferral make it very unlikely that their family members would have been taken and involuntarily relocated or subordinated.

Tiworo, the so-called pirates' nest, was a polity in its own right, not an outsider beyond states, and one could not call its mariners non-state actors. On the contrary, Tiworo maintained alliances, first with the state of Makassar, and then with the latter's rival, Boné. Curiously, such disparagement – as Cornelis Speelman demonstrated – of Southeast Asian mariners as piratical, had not been characteristic of the Dutch work published in 1663 about the Great Ambon War, which related the 1655 attack on Tiworo.[21] Nor did such characterizations as piratical, or designations of piracy, appear in archived letters between VOC commanders and ship captains engaged in fighting mariners from Tiworo and elsewhere during these conflicts of the 1650s and 1660s. Tagging Tiworo as a nasty pirates' nest only took place in retrospect,

20 The foregoing material on Tiworo and Southeast Asia's spice wars draws from Gaynor, *Intertidal History*, 65–106.

21 Livinius Bor, *Amboinse Oorlogen, door Arnold de Vlaming van Oudshoorn als superintendent, over d'Oosterse gewesten oorlogaftig ten eind gebracht* (Delft: Arnold Bon, 1663).

and in Admiral Speelman's 1669 report, he did not level a specific charge or claim of piracy, but instead, cast aspersions on a nautical realm that had challenged, and, for a time, helped to foil, his aims. Speelman's scorn was essentially name-calling in the mode of history written by the victors.

Though Speelman may have attempted to deny Tiworo's political and nautical legitimacy, his scornful words came well after the Tiworo contingent shifted their allegiance to Boné, and the Makassar War had reached its conclusion. Not only did he call Tiworo piratical after the conflict's conclusion. Of note for my purpose here, Speelman also did not couple this invective with any notion of failing political structures. This seventeenth-century example thus presents an interesting contrast with later nineteenth-century perspectives that took piracy as a sign of state dissolution. Also, whereas Speelman's invective was applied retrospectively, in contrast, nineteenth-century assessments of piracy as a sign of state dissolution mobilized piracy ascriptions to justify prospective actions and a politics of intervention.

The nineteenth-century vision that linked piratical activities to Southeast Asian maritime people does not seem to be connected in any substantial way to the historical role seventeenth-century Tiworo played as a vital non-urban maritime hub and opponent of European powers and their allies during the spice wars. In fact, one can trace in the historical record how Tiworo fell out of notice, disregarded rather than spurned, the memory of its social and political place in wider networks of political economy and social interaction faded beyond recognition.[22] Later stereotypes of regional sea people as pirates, especially those of the Iranun and Balangingi Sama, instead appear to have roots in earlier Spanish views about *piratas* in the Philippines, views that flourished in connection with the raiding these mariners conducted from bases in the Southern Philippines during the late eighteenth and nineteenth centuries. Below, I discuss the changing dynamics of colonial "anti-piracy" efforts across the nineteenth century, and the popularization of the idea that such "piracy" grew out of native state decay. Yet, it must also be noted, as James Warren has argued, that Iranun and Balanangingi Sama raiding across the archipelago was carried out under the authority of the Tausug *datus* of the Sulu sultanate, hence, their activities were an extension of the state. In other words, Iranun and Balangingi Sama raiders effectively operated as clients of the Sulu state, and

22 Gaynor, *Intertidal History*, 11–22.

their "piracy" formed a functional part of the polity, rather than evidence of the state's dysfunction.[23]

Colonial "Piracy" and "Failed States"

During the first half of the nineteenth century, colonial powers in the eastern parts of the region viewed harassment of their European rivals by Southeast Asians as a strategic benefit. In the western archipelago, they were too suspicious of each others' intentions to mount joint expeditions, as well as wary of the effect that independent anti-piracy actions might have on their diplomatic relations. They also began to realize that "piracy" was more than just a naval problem, and that it called for more cooperation regarding tactics, boundaries, and intelligence.[24] Yet, even when such cooperation was achieved it could be fleeting. For example, as late as 1897, a ban on the passage of arms in the Sulu zone lasted less than a year, since the Spanish-American conflict again made gun-running lucrative.[25]

Attacks by colonial powers on what they viewed as pirate centres could result in the dispersal of survivors and a wider distribution of their activities. Dutch attacks on the Ilanun at Tolitoli in 1823, for instance, reportedly distributed their bases and activities to the Makassar Straits and the Flores Sea.[26] Similarly, the 1848 Spanish attack on Balangingi's stronghold dispersed the raiders based there.[27] While colonial observers may not have recognized the wide networks of kinship and cooperation among some littoral seafaring people of the region, the perception that attacks resulted in dispersion rather than resolution led colonial powers to use other approaches, such as sedentarization, empowering native chiefs, and the facilitation of trade, which might yield better long-term results. However, since the people they relied on for these approaches sometimes also retained interests in raiding's

23 James Francis Warren, *The Sulu Zone, 1768–1898: The Dynamics of External Trade, Slavery, and Ethnicity in the Transformation of a Southeast Asian Maritime State*. (Honolulu: University of Hawaii Press, 2007 [1981]); Warren, *Iranun and Balangingi*.

24 Warren, *The Sulu Zone*, 197; Warren, *Iranun and Balangingi*, 276, 282–283; Ger Teitler, "Piracy in Southeast Asia, A Historical Comparison," *MAST* 1, no. 1 (2002): 69–71.

25 Eric Tagliacozzo, "Kettle on a Slow Boil: Batavia's Threat Perception in the Indies' Outer Islands, 1870–1910," *Journal of Southeast Asian Studies* 31, no. 1 (2000).

26 Warren, *Iranun and Balangingi*, 141; J.N.F.M. à Campo, "Discourse without Discussion: Representations of Piracy in Colonial Indonesia, 1816–25," *Journal of Southeast Asian Studies* 34, no. 2 (2003): 205.

27 Warren, *The Sulu Zone*, 195–196, 345; Warren, *Iranun and Balangingi*, 355–358.

continuation, the success of these approaches had their limits.[28] As intercolonial cooperation developed, it allowed for greater coordination among the powers. Eventually, steam made the expediency of such cooperation more feasible, while later, early twentieth-century administrative projects further narrowed the space for regional mariners to manoeuvre.[29]

In his *Piracy and Politics in the Malay World* (1963), Nicholas Tarling argued that the eighteenth-century expansion of European trade into "Malay" areas threatened the economic foundations of indigenous coastal states, weakening the sultanates and allowing for the development of piracy. However, many have cast doubt on Tarling's analysis. Anne Lindsey Reber traced this analysis to Raffles' evolving views on Southeast Asia. Often omitted or cited only in passing by many authors, though extensively quoted and extolled by James Warren, Reber's 1966 thesis examined nineteenth-century British writings on Malay piracy as a historiographical problem.[30] She demonstrated how early nineteenth-century British colonials saw "piracy" in the western Straits, which reached across the archipelago from Sulu bases, as sufficient justification for intervention and conquest. Raffles, she explained, introduced biases into the historical record, for he, especially, came to write about nineteenth-century designations of piracy in Southeast Asia in ways that tied it to the notion of native state decay. Raffles largely faulted the Dutch for this situation of supposed native state decay, an unsurprising ascription of blame given early nineteenth-century intercolonial wars over territorial control. Raffles proposed to ameliorate these conditions through new commercial centres under British domination.

He may have first presented this interpretation of regional piracy's origins in an 1811 report to Lord Minto. However, his ideas were not restricted to the circumscribed realms of officialdom. Reber makes it clear from the start that, "Raffles was the first major publicist of the need for piracy suppression in the Indonesian archipelago."[31] Nineteenth-century debate about Southeast Asian piracy brought the association of piracy and forms of "native rule" out from the corridors of colonial bureaucracy and into the emergent public space of the press.[32] Though some afforded "piracy" a certain legitimacy

28 Campo, "Discourse," 205–209.

29 Warren, *The Sulu Zone*, 196–197; Campo, "Discourse"; Tagliacozzo, "Kettle," 75.

30 Warren, *Iranun and Balangingi*, 22.

31 Reber, "A Historiographical Problem," 1–2.

32 For instance, during the mid-nineteenth century, the newspaperman (and solicitor), James Richardson Logan, published a series of pieces that demonstrated a degree of sympathy, though not tremendous amounts of local knowledge, about maritime-oriented archipelagic society and culture. See "The Piracy and Slave Trade of the Indian Archipelago," *The Journal of the Indian*

in the Southeast Asian context by normalizing it, these debates took place without the contribution of Southeast Asian voices. However complex the debate was methodologically, this limited the epistemological reach of inquiry, and also underscores that the audience for this discourse was European, especially British. It was among these communicative networks, both the circles of colonial officialdom and the expanding dimensions of a reading public, that such debates found their raison d'être.

In a rather similar fashion, "failed states" made quite a splash in the press when piracy around the horn of Africa soared in the 1990s. However, it should be noted, in contrast, that one did not hear such talk of failed states to explain the high incidence of piracy in the contemporaneous Malacca Straits. When piracy in the Malacca Straits later declined, though, countries engaged in international cooperation were nevertheless quick to credit and congratulate themselves, having learned that cooperation was vital to their aims, much as intercolonial cooperation effectively brought "piracy" to an end, for a time, in the late colonial period. Curiously, those kudos of containment ignored how fishing communities in the Straits continued to be targeted. At the same time, one finds it encouraging that Somalia observers now more commonly integrate the political economy of fishing into analyses of piracy off its coast, where fish stocks were being raided by vessels from elsewhere.[33] Fishing is serious business. In the 1970s, Indonesia's small-scale fishers took matters into their own hands with Molotov cocktails when trawlers damaged their gear, and sometimes their persons, along with the large scale of extraction that threatened their livelihood. A nationwide ban on trawlers in 1980 was only partly successful.[34] In recent years, Indonesia's Minister of Marine Affairs and Fisheries has become famous for her orders to blow up foreign fishing vessels in Indonesia's waters.

While Raffles' and Tarling's interpretation of piracy's origin looked to native state decay, their explanation, which assigned agency to colonial actors, focused more on the consequences of commercial disruption. Theories of failed states, more than Tarling's or Raffles' explanations of native state decay, often imagine a lack of policing resources as one of piracy's main causes, which simultaneously positions "state failure" as a pretext for external intervention. Critics of the failed state concept have done a

Archipelago and Eastern Asia, James R. Logan, editor, III (1849): 581–588, 629–636; IV (1850): 42–52, 144–162, 400–410, 617–628, 734–746; V (1851): 374–382.

33 Gaynor, "Piracy in the Offing," 850–851.

34 Connor Bailey, "The Political Economy of Marine Fisheries Development in Indonesia," *Indonesia* 46 (1988): 33-37.

better job of providing context and explaining the political economy of disruptions in peoples' livelihoods.

A number of scholars in political science and related fields have argued against the analytical utility of the notion of failed states. For instance, Charles T. Call has pointed out that the concept contains culturally specific assumptions about what a "successful" state looks like, grouping together disparate kinds of states with different problems. Similarly, Stein Eriksen critiqued the "fast-growing discourse of 'state failure'." Whereas Call advocated that analysts should abandon the notion of "failed states" and similar concepts, Eriksen, after scrutinizing the notion of the state underlying debates about failed states and assessing the methodological strategies of their key contributions, outlined an alternative analytical approach based more on state practices and dynamic processes.[35] This proposal has several analytical advantages, chief among them doing away with the use of particular idealized notions of statehood as the basis against which deviations are measured.[36]

The problem, as Eriksen rightly pointed out, is not that these notions are based on Western concepts of the state. In other words, the problem is not relativism. Rather, he explains, drawing on Mahmood Mamdani, the problem is doing "history by analogy," which tells us more about a normative

35 Charles T. Call, "The Fallacy of the 'Failed State'," *Third World Quarterly* 29, no. 8 (2008): 1494; Stein Sundstøl Eriksen, "'State Failure' in Theory and Practice: The Idea of the State and the Contradictions of State Formation," *Review of International Studies* 37, no. 1 (2011): 230.

36 Such as with the following: William Zartman, *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (Boulder, CO: Lynne Reiner, 1995); Robert I. Rotberg, ed., *When States Fail: Causes and Consequences* (Princeton, NJ: Princeton University Press, 2004); Robert Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1991); and Stephen Krasner, "Sharing Sovereignty: New Institutions for Collapsed and Failing States," *International Security* 29, no. 2 (2004): 85–120. See also, inter alia, Harvey Starr, "'Introduction' to the CMPS Special Issue on Failed States," *Conflict Management and Peace Science* 25, no. 4 (2008): 281–284; Zaryab Iqbal and Harvey Starr, "Bad Neighbors: Failed States and Their Consequences," *Conflict Management and Peace Science* 25, no. 4 (2008): 315–331; Jack A. Goldstone, "Pathways to State Failure," *Conflict Management and Peace Science* 25, no. 4 (2008): 285–296; Robert Bates, "'The Logic of State Failure': Learning from Late-Century Africa," *Conflict Management and Peace Science* 25, no. 4 (2008): 297–314; Lisa Chauvet and Paul Collier, "Aid and Reform in Failing States," *Asian-Pacific Economic Literature* 22, no. 1 (2008): 15–24; and David Carment, Joe Landry, and Yiagadeesen Samy, "State Failure, Development, and International Security: The Challenges of Intervening in Fragile States," in *Routledge Handbook of Civil Wars*, edited by Edward Newman and Karl DeRouen Jr. (New York: Routledge, 2014), 334–346.

model and what states purportedly "lack," than about how particular states actually work.[37]

Conclusion

Piracy's nineteenth-century association with the decline of states in Southeast Asia differs from notable earlier sixteenth- and seventeenth-century views. For instance, while Tomé Pires found both trade and pillaging common to all, and not necessarily external to polities, during the famed seventeenth-century spice wars, Admiral Cornelis Speelman used the pirates' nest label for an opponent that stymied Dutch efforts, and applied it only after the conflict's conclusion. During the nineteenth century, colonial Europeans often applied the piracy label to pillaging. Though not everyone agreed that the capture of people was piratical, some normalized it as just part of the maritime world, while others remained blind to the circuits of exchange and political clientship that tied raiders to Southeast Asian states.

The notion that piracy was the result of native state decay may be traced to nineteenth-century debates. Popularized by Raffles, who had plans for developing alternate commercial centres under British domination, the idea has had a long life in the historiography of Southeast Asia. Though resuscitated by Nicholas Tarling, Anne Lindsey Reber shortly thereafter traced the idea that piracy resulted from native state decay to Raffles and critiqued it as a problem for historiography. The notion that piracy resulted from native state decay constituted a problem for historiography both because it was a colonial ideology adopted into the historical canon to explain dynamics in Southeast Asia's past, and because it offered an ideological justification for colonial military intervention. James Warren turned the notion firmly on its head when he argued that raiders based in the Sulu zone had been clients of the Sulu state. Part of the state, rather than signs of its dysfunction or dissolution, raiding practices flourished in the connections between Sulu's maritime-oriented political economy and the burgeoning world system.

When political scientists, journalists, and military officials used "failed states" to explain piracy during the 1990s, they did so in apparent ignorance of the idea's colonial origins in nineteenth-century debates that posited a causal link between state dissolution and piracy. Needless to say, they were also unaware that this notion had already been critiqued for posing a

37 Mahmood Mamdani, *Citizen and Subject* (Princeton, NJ: Princeton University Press, 1996), 9, cited in Eriksen, "'State Failure' in Theory and Practice," 234.

historiographical problem, a problem that substituted an erroneous theory to explain piracy's causes, in disregard of historical specificities. Having entered the political lexicon of the United States, "failed states" came to occupy a prominent place in international peace and security. It was thereby again deployed to military ends. Better analysis would turn to local histories of interaction between state and society, political economy's impact on environments and populations, and the dynamics of intraregional politics. Better theory could use history inductively, and leave off tapping bad theory as a justification for intervention.

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5 The Bugis-Makassar Seafarers

Pirates or Entrepreneurs?

Hans Hägerdal

Abstract
The essay focuses on Bugis and Makassar seafarers of South Sulawesi through two cases. The first is Lombok and Sumbawa in the late seventeenth and early eighteenth centuries, where landless Makassarese aristocrats fought or allied with various groups to create a political platform. The second case is the seascape around Timor, further to the east, where a socially different type of maritime enterprise evolved, entailing both commercial activities and raiding of vulnerable small-scale island societies. While Dutch writers termed all these seafarers "pirates," this fails to capture the range of their socio-political roles. Moreover, the study demonstrates how the Dutch East India Company contributed to the rise of piratical activity through colonial advances on Sulawesi in the 1660s.

Keywords: Bugis, Makassar, Eastern Indonesia, representations, VOC

Introduction

The image of piracy has largely been shaped by a few early European descriptions, such as Exquemelin's *History of the Buccaneers of America* (1678) and Johnson's *A General History of the Pyrates* (1724), which oscillated between the romantic and the abhorrent. These pirates are placed outside of the norms of society, entering an internalized system of modes of behaviour, however violent and turbulent. While less publicized, seaborne raiding in Southeast Asia has also been emblematic in the form of "Malay pirates," for example via Salgari's novels about Sandokan. Such literary references, and the fact that the Malays were primarily confronted by British ships and therefore found their way into works in English, tends to overshadow

Amirell, S. E., B. Buchan, and H. Hägerdal (eds), *Piracy in World History*. Amsterdam: Amsterdam University Press 2021
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other groups active in maritime violence. In fact, acts of seaborne robbery have been known in maritime Southeast Asia since the Middle Ages, and remain an intermittent problem for commercial shipping to this day.

What we conventionally term piracy covers a broad spectrum of activities, from acts condoned or encouraged by states, to robberies outside any legal framework or state interest. Yet, such a broad definition does not help us to understand the complexity of Bugis-Makassarese non-state raiding ("piracy") in the seventeenth and eighteenth centuries. Often, the "criminal" nature of the pursuit is contingent on the perspective; raiders tied to a minor archipelagic ruler in the precolonial era may have claimed political and religious legitimacy, while being regarded as sheer piracy by European authorities.[1] Early accounts of maritime Southeast Asia, like the famous *Suma Oriental* of Tomé Pires (c. 1512), stress that the coastal polities of Sumatra and Sulawesi were bent on raiding in addition to their commercial pursuit, thus sponsoring "corsairs" tied to a littoral ruler.[2] The small scale and non-bureaucratic structure of many Southeast Asian kingdoms meant that the distinction between what maritime violence was inside or outside customary norms was vague, sometimes irrelevant. Historians have lately argued that the nautical skills and networks of seaborne groups made them attractive allies to land-based polities; alliances that could oscillate between partnership, clientship, and dependency. Moreover, attention to maritime-oriented connections and networks may qualify traditional historiographical focus on European expansion in Southeast Asia.[3] An examination of this archipelagic aspect of history highlights the importance of concurrent experiences and concepts of piracy. Bugis-Makassarese piracy was unlike that described by Johnson and Exquemelin in many ways, and the concept of piracy in itself is not exactly covered by local terminologies.[4] It was the product of a volatile intermixing of devastating war, weaponized religion, and aristocratic ambitions, in an archipelago offering multiple opportunities for trade and profit, and where already fraught geopolitical

1 Stefan Eklöf Amirell, "Civilizing Pirates: Nineteenth-Century British Ideas about Piracy, Race and Civilization in the Malay Archipelago," *HumaNetten*, 41 (2018).

2 Tomé Pires, *The Suma Oriental of Tomé Pires: An Account of the East, from the Red Sea to Japan*, ed. and transl. by Armando Cortesão, Vol. I–II (London: Hakluyt Society, 1944), 221.

3 Jennifer Gaynor, *Intertidal History in Island Southeast Asia: Submerged Genealogy & the Legacy of Coastal* Capture (Ithaca, NY, and London: Cornell University Press, 2016), 7.

4 Carl Trocki refers to the distinction between raiders tied to Malay political systems, and those operating beyond these, the true seaborne outlaws or *perompak*. See Carl A. Trocki, *Prince of Pirates: The Temenggongs and the Development of Johor and Singapore 1784–1885* (Singapore: NUS Press, 2007), 68. The standard term for pirate in modern Indonesian is *bajak laut*, sea robber. The Makassarese terminology will be discussed below.

tensions were catalyzed by the colonial aspirations of the Dutch East India Company (VOC).

In this respect, the seaborne activities of the Bugis-Makassar peoples of South Sulawesi offer a fascinating case study. The two closely related groups are known in dated sources since the sixteenth century when they appear as highly mobile seafarers, politically divided into a number of medium-sized kingdoms: Gowa; Tallo'; Luwu'; Boné; Wajo'; Soppeng; Tanete; and a few more. Historiographical tradition suggests that these realms emerged in about the fourteenth and fifteenth centuries, more or less at the beginning of Southeast Asia's age of commerce (to use the well-known term coined by Anthony Reid).[5] The kingdoms generally consisted of a coastline and a food-producing inland, and the distance from the sea was nowhere greater than 40 kilometres.[6] Geographically, South Sulawesi was well-placed, somewhere near the centre of maritime Southeast Asia, with feasible access to Kalimantan, Java, and eastern Indonesia. Historical records of the seventeenth and eighteenth centuries reveal an enormous range of Bugis-Makassarese seaborne activities, from Arakan in the north-west to the islands off Papua in the east.[7]

All this would not have been possible without a pronounced boat-building tradition, with specialized craftsmen coming from particular localities. The characteristic South Sulawesi type of ship was the *paduwakang*, which existed in a shorter and a longer, elongated type. The latter, which interests us here, was a warship that had sails as well as rowers. The ships were typically about eighteen metres in length and were often constructed in timber-rich southeast Kalimantan under the supervision of Bugis-Makassarese ship architects. The Makassarese oared warships of the seventeenth century were even longer, some 26–40 metres. The reach of their maritime activities was also enabled by a convergent set of navigating techniques, where the position of the sun and stars, the maritime environment, and the winds were used to determine the ship's position.[8]

5 Ian Caldwell, "Power, State and Society among the Pre-Islamic Bugis," *Bijdragen tot de Taal-, Land- en Volkenkunde* 151, no. 3 (1996): 417–418.

6 Leonard Y. Andaya, *The Heritage of Arung Palakka*: *A History of South Sulawesi* (*Celebes*) *in the Seventeenth Century* (The Hague: M. Nijhoff, 1981); Christian Pelras, *The Bugis* (Oxford/Cambridge: Blackwell, 1996).

7 For Arakan, see Sebastien Manrique, *Travels of Fray Sebastien Manrique*, 1629–1643, 2 vols. (London: Hakluyt Society, 1927), 379; for Papua, A. Haga, *Nederlandsch Nieuw Guinea en de Papoesche eilanden. Historische bijdrage 1500–1883* (Batavia: W. Bruining, 1884),vol. I, 253.

8 Pelras, *The Bugis*, 257–264.

There were, therefore, a number of factors in Bugis-Makassar culture and geography that could easily translate into overseas economic and political activities. A politically expansive phase started in the early seventeenth century when Islam was introduced in South Sulawesi. With religion as its defining political ideology, the Makassar realm, consisting of the double kingdoms of Gowa and Tallo', extended its suzerainty over Sulawesi, East Kalimantan, Lombok, Sumbawa, and some spots in Timor and Maluku. In the decades around the mid-seventeenth century, Makassar was therefore one of the major realms in maritime Southeast Asia, along with Aceh, Mataram, Ternate, and the VOC.[9]

Often, this suzerainty amounted to little more than the payment of tributes, but sometimes it involved harsher conditions and forced labour. The rapid and violent construction of the realm led to revolts among the subjugated Bugis kingdoms, and the eventual collusion between the VOC and a fugitive Bugis prince, Arung Palakka of Boné. Makassar was eventually defeated by the coalition in 1667 and 1669, and the losers were forced to sign the Bungaya Treaty, which regulated affairs in Sulawesi and beyond.[10] The city of Makassar became an important VOC stronghold, while much of Sulawesi came under the suzerainty of the Dutch and Boné. However, destructive warfare ruined the living conditions for large groups of Bugis and Makassarese, as well as creating intense dissatisfaction among the local aristocracies.[11] Moreover, the stipulations of the treaty denied the Makassarese much of their former commercial network, for example to the Spice Islands in the east.

With the wars of the late 1660s, the stage was set for a comprehensive diaspora that took Bugis-Makassar people to as diverse places as Siam, Poulo Condor, Aceh, and Australia. The forced nature of the diaspora created preconditions for a wide range of overseas activities, from peaceful commerce to service as mercenaries to outright piracy. In this chapter, I will look at two geographical cases where Bugis-Makassar people undertook piratical activities, and ask how such activities correlated with other types of activities, such as commerce or service as auxiliaries. The first case is Lombok and Sumbawa in the late seventeenth and early eighteenth centuries. These two islands were brought under Makassarese suzerainty in

9 John Villiers, "Makassar: The Rise and fall of an East Indonesian Maritime Trading State, 1512–1669," in *The South-East Asian Port and Polity: Rise and Demise*, ed. by J. Kathitithamby-Wells and John Villiers (Singapore: Singapore University Press, 1990), 152–155.

10 Andaya, *The Heritage of Arung Palakka*, 100–116.

11 Kathryn Anderson Wellen, *The Open Door: Early Modern Wajorese Statecraft and Diaspora* (DeKalb, IL: Northern Illinois University Press, 2014), 30–38.

the early seventeenth century (perhaps only partly in the case of Lombok).[12] The six Muslim petty kingdoms of Sumbawa were formally brought under the dependency of the VOC after 1669, while Lombok was left outside the Dutch orbit and soon became a bone of contention between the Hindu Balinese and the West Sumbawans.[13] The other case is the seascape around Timor, further to the east, a small-scale or even stateless and low-technology area that partly came under nominal VOC suzerainty between the 1613 and 1653, and partly under Portuguese domination in the same period.[14] Here, I follow the occurrence of maritime raiding after 1669 to the late eighteenth century. For the purpose of this chapter, I focus on seaborne robbery beyond the prerogatives of land-based polities. This approximates the traditional European understanding of "piracy," and was understood as such by European observers (in Dutch reports, *zeerovers*, etc.), although, as mentioned, it is not exactly paralleled by indigenous terms. The approximate Makassarese terms are (*tau-*) *belo* and *serang*, while robber in general is *gorra*, *bango*, or *lanong*.[15] Some of these appear to derive from raiding maritime peoples (Tobelo, Ceram, Ilanun), which indicates a propensity to associate outsiders with violent crime and highlights the ambiguities in finding a conceptual correspondence. Geographically, I compare an area with intense food production and Hindu-Javanese and Islamic cultural influences, with a dry and relatively resource-scarce area, characterized by small-scale and genealogically defined communities mostly practising ancestral religions. What range of activities by the Bugis-Makassar seafarers can be traced in the material, and how did forms of cooperation alternate with outright "piracy"?

Alliance and Enmity in Sumbawa and Lombok

Conditions in Sumbawa were fairly unsettled after the Bungaya Treaty, and it took some years before all the six kingdoms had signed contracts with

12 Hans Hägerdal, "From Batuparang to Ayudhya: Bali and the Outside World, 1636–1656," *Bijdragen tot de Taal- Land- en Volkenkunde* 15, no. 1 (1998): 70–71.

13 *Idem*, *Held's History of Sumbawa* (Amsterdam: Amsterdam University Press, 2017), 17–18; J. Noorduyn, *Bima en Sumbawa. Bijdragen tot de geschiedenis van de sultanaten Bima en Sumbawa door A. Ligtvoet en G. P. Rouffaer* (Dordrecht: Foris, 1987), 10, 15.

14 See especially Arend de Roever, *De jacht op sandelhout. De VOC en de tweedeling van Timor in de zeventiende eeuw* (Zutphen: Walburg Pers, 2002).

15 B. F. Matthes, *Makassaarsch-Hollandsch woordenboek* (Amsterdam: Muller, 1859), 212, 800, 850.

the VOC. Treaties were an important part of the Company's attempts to regulate trade and ensure monopolies in the Indies, and were never intended to be concluded between equals; rather, they left the local aristocracies as subordinated allies.[16] However, the territories in Sumbawa did not always adhere in practice to the stipulations, but often colluded with Makassarese aristocrats operating beyond the control of the Company. This made for a highly volatile situation of unstable and ever-changing alliances in Sumbawan and, by implication, Lombok waters.[17]

The main protagonists here were two Makassarese princes of the blood, Karaeng Pamolikang (d. 1704) and Karaeng Jarannika (d. 1700). We meet Karaeng Jarannika on various occasions in the 1660s and 1670s, as one of the more prominent chiefs of the King of Gowa, and a person who drew suspicion in the eyes of the VOC as being an unreliable element. In 1674, he was involved in a scheme with two other princes to attack Bima in East Sumbawa with their seaborne retainers. The reason was allegedly a matter of honour: the Sultan of Bima had supposedly ordered the digging up and burning of the corpse of the King of Tallo' (the junior "twin kingdom" of Makassar) who had died on Sumbawa the year before. To the outsider, this looks very much like a loose pretext for legitimizing acts of piracy, but similar motives are found in other contexts among Makassarese aristocrats and refer to the traditional virtues of *siri*, dignity, and *pesse*, communal empathy.[18]

This time the threat evaporated, but Sumbawa continued to be disturbed by the interference of Makassarese aristocrats operating counter to Dutch interests. The confused situation was further complicated by warrior-bands from Karangasem on Bali, an emerging Hindu kingdom that found room for eastward expansion after the sudden fall of Makassar. Politically disunited Lombok was an attractive object of conquest for the mountainous East Balinese kingdom due to its vast rice-producing potential. The main kingdom Selaparang in East Lombok was defeated in 1676–1678, an event that later tradition plausibly attributes to internal squabbles among Lombok aristocrats. The somewhat unusual situation emerged with a Hindu minority ruling a Muslim majority, though belonging to a strongly localized brand

16 Martine van Ittersum, "Empire by Treaty? The Role of Written Documents in European Overseas Expansion, 1500–1800," in *The Dutch and English East India Companies Diplomacy, Trade and Violence in Early Modern Asia*, ed. by. Adam Clulow and Tristan Mostert (Amsterdam: Amsterdam University Press, 2018), 153.

17 Hägerdal, *Held's History of Sumbawa*, 115–119.

18 Andaya, *The Heritage of Arung Palakka*, 15–16.

of Islam.[19] Whether religious sentiment played a role is not known, but Karaeng Jarannika and his men undertook an expedition to Selaparang in the following year in order to confront the Balinese. Formally, it was an effort to assist the Sumbawan king, who was related to the rulers of Selaparang and had claims of overlordship of Lombok. While West Sumbawa had a contract with the VOC, the action was not endorsed by the Company, which dryly noted that Karaeng Jarannika failed and received a good hiding (*eenige lustige slagen*) from his Hindu adversaries. Back in West Sumbawa, he was nevertheless prestigious enough to marry the mother of the young sultan, herself a Selaparang princess.[20] This was in line with the traditional strategy of the South Sulawesi elites to approach the centre of a polity via marriage.[21]

An opportunity to actually perform raids on behalf of the Company offered itself in 1695 when one of the local Sumbawan kingdoms, Tambora, started a quest to dominate the island by violent means. From their base in Makassar, the Dutch authorities and their close ally Arung Palakka decided to act against the disobedient vassal. In September 1695, the Sulawesi forces were assembled in a splendid oath-giving ceremony in preparation for the expedition, where Karaeng Jarannika played the role of field commander for the Makassarese auxiliaries.[22] It was at this time, apparently, that Jarannika started to cooperate with his distant relative Karaeng Pamolikang, an elderly warrior. The expedition was successful since the auxiliaries were able to deplete the forces of Tambora, whose king surrendered to Jarannika on the Company's behalf in 1697.[23]

So far, the pattern might be similar to that of the Malay world, where violent conduct by seaborne groups could be seen as perfectly legitimate as long as they were tied to a polity.[24] However, the abnormal situation of a militarized aristocracy deprived of its normal means made for increasingly volatile behaviour. The following events show the vague borderline between

19 Hans Hägerdal, *Hindu Rulers, Muslim Subjects: Lombok and Bali in the Seventeenth and Eighteenth Centuries* (Bangkok: White Lotus Press, 2001).

20 W. Ph. Coolhaas (ed.), *Generale missiven van Gouverneurs-Generaal en Raden aan Heren XVII der Verenigde Oost-Indische Compagnie*. Vol. IV: 1675–1685 (Den Haag: M. Nijhoff, 1971), 273.

21 David Bulbeck, "The Politics of Marriage and the Marriage of Polities in Gowa, South Sulawesi, during the 16th and 17th Centuries," in *Origins, Ancestry and Alliance: Explorations in Austronesian Ethnography*, ed. By James J. Fox and Clifford Sather (Canberra: ANU Press, 2006).

22 Andaya, *The Heritage of Arung Palakka*, 292.

23 W. Ph. Coolhaas, *Generale missiven van Gouverneurs-Generaal en Raden aan Heren XVII der Verenigde Oost-Indische Compagnie*. Vol. V: 1686–1698 (Den Haag: M. Nijhoff, 1975), 737–739, 784, 838.

24 Trocki, *Prince of Pirates*, 68–69.

political activism and piracy. In the same year, Jarannika broke with the VOC by taking some Tamboran people aboard and sailing his flotilla to Manggarai in Flores, an area that was contested between Gowa and Bima and where the Dutch had nothing at all to say. The King of Gowa, as a Dutch vassal, tried to call him back but was conveniently ignored – in fact, the Dutch suspected that the king was not serious in his efforts. The year after this, Jarannika and Pamolikang sought refuge in Selaparang in Lombok, in spite of the previous enmity with the Balinese. The Dutch heard a rumour to the effect that Jarannika had been captured by his hosts, since he had boarded a vessel belonging to the Balinese ruler, and sincerely hoped that this would be true, "as he has deserved death, if only because of his latest work in the kingdom of Sumbawa, where he has pillaged four villages."[25]

The Dutch were disappointed, for the two cronies appeared in Sumbawan waters in full force in 1700. According to what the Company later heard, the close ally of the VOC in Sulawesi, Boné, had a hand in this. Boné was ruled by a nephew of Arung Palakka, who aimed to increase his influence on rice-producing Sumbawa by forming a strategic alliance with the sultan of the western kingdom. The court hesitated to receive the Bonese princess due to the enormous costs that such a marriage would involve in terms of bride-wealth and pomp. Boné therefore supposedly encouraged the two raiding princes to ravage the island, which they happily did. The Dutch reports relate how the locals received the "pirates" with the honours due to ruling princes, to no avail as the coastal areas were badly ravaged. A local Sumbawan potentate revealed to the Dutch that there was even more at stake. Jarannika entertained contacts with Surapati, a Balinese runaway slave who had carved out a little principality in East Java and who was the arch-enemy of the VOC.[26] The general idea, it was suggested, was to force the Sumbawan kingdoms in the alliance and then to "wage war together against Batavia."[27] This was truly alarming news for the Dutch.

It did go that far, however, for the locals eventually united with the courage of despair. A letter by a few Sumbawan lords details the dramatic end of the pirate expedition, which, interestingly, had features of a family enterprise and included wives and children:

25 W. Ph. Coolhaas, *Generale missiven van Gouverneurs-Generaal en Raden aan Heren XVII der VerenigdeOost-Indische Compagnie*. Vol. VI: 1698–1713 (Den Haag: M. Nijhoff, 1976), 23.

26 Luc Nagtegaal, *Riding the Dutch Tiger: The Dutch East Indies Company and the Northeast Coast of Java* (Leiden: KITLV Press, 1996), 72–79.

27 Nationaal Archief, The Hague: Archive of the Verenigde Oostindische Compagnie, access number 1.04.02 (hereafter VOC) 1637, letter from Tambora and Kalongkong to Batavia, 1700, fols. 84–85.

> In this time Karaeng Jarannika and Karaeng Pamolikang once again arrived to Kampu in order to strengthen their fortification. They asked Raja Kore to hand over all the Dompunese who were in his land. However, Raja Dompu would not allow it. For we had promised, all together, to fight the enemy in unison, so that Your Grace's men, Raja Tambora, Raja Dompu, Raja Kore, and Bumi Partiga [of Bima], took to the arms. There was mutual fighting, but Karaeng Jarannika and Karaeng Pamolikang were put to flight, retreating to their ships at night. However, Kare Kanjar and all the Makassarese with him, who had remained at Alas, were attacked by Tureli Barambon who got at them at Alas with some Tamborese and Dompunese. The men of Your Grace put trust in the power of the Company and overwhelmed their stockade where their wives and children had been left. Kare Kanjar and 30 of his men fell, and we also took 70 of their cannons, over which victory we felt a great joy in our hearts; for we were first like stones sunk in the sea, but now we are like the wood that floats on the waves.[28]

From this point onwards, the royal raiders ran out of luck, in part because of the notorious untrustworthiness of their chiefs. The defeated princes withdrew over the strait to Palaba in Lombok where the Balinese King of Karangasem received them: "this was no wonder since they were then all united and loyally assisted each other." However, the Byzantine intrigue that pervaded "Indonesian" politics at the time soon made the position of the pirates even more vulnerable. The Sumbawan rulers suggested to the Balinese king that he would do well to exterminate the rascals (*die schelmen moest uytroeyen*) in order to ingratiate himself with the VOC. The king decided to act quickly to deal with the troublesome guests. He invited the pirates to a feast with the spectacle of "mirror-fighting Balinese" – perhaps the well-known Baris dance where performers appear in rows with lances in their hands. At a given sign, the Balinese turned on the hapless Makassarese and impaled each one with two or three lances, an operation so swift that "not even a cat or dog could have escaped." Jarannika lost his life along with 151 retainers, while the sly Pamolikang had wisely remained in the pirate den and was able to set sail and sneak away in time.[29]

This was not the end of the affair, though. Pamolikang sought refuge with Surapati in East Java, but soon received news from the turbulent Lombok. The Balinese king quarrelled with his Muslim vassal of Selaparang over the

28 VOC 1637, letter from Tambora and Kalongkong to Batavia, 1700, fol. 86.

29 VOC 1663, relation by Datu Loka, 1700, fols. 91–92.

captive wife of Pamolikang, who happened to be a princess from Sumbawa. The Makassarese elite paid enormous attention to marriage alliances and the correct treatment of noblewomen, a circumstance that even disrupted political alliances at times.[30] As heated words turned into an outright rebellion against the Balinese, Pamolikang once again saw an opportunity to act and gathered sufficiently strong forces to attack the Balinese at Sokong in north-western Lombok in c. 1701. A Sumbawan witness gives an idea about the nature of the petty fighting in the region:

> [Pamolikang] gained in the first two attacks two paggers [stockades] from the Balinese, from which they retreated, employing a war stratagem. However, when they were to assault the third, and Pamolikang's son-in-law Karre Isa with some of his retainers (as the Balinese for the second time pretended to retreat) already were in there, then the most of the Balinese jumped out from the forests which had hid them around the place, and they thus encircled the aforementioned son-in-law [...] with 44 Makassarese and two prominent pongawas [chiefs] of Karaeng Pamolikang called Sapanjang and Karre Montoli, who now had to pay with their death. However, Pamolikang had escaped this dance with some of his people who had saved their life by running amuck. He was thus yet outside the pagger, and when he got wind of the Balinese he walked away right in time. Nevertheless, when he was called and asked for by his son[-in-law] to come to his help, he did not answer anything but: 'Ya my son, here each one must help himself; and show that you are a man, for that is the way of warfare'.[31]

The quotation indicates that the so-called pirates regarded their business as legitimate warfare, carried out with a pronounced code of conduct. Moreover, in spite of all his maverick enterprises, Pamolikang may have enjoyed secret support from the aristocracy of Gowa and Tallo'. At least this is how the Dutch understood the situation, as they pointed out that the request by the Gowa court to assist their brothers-in-faith in Selaparang was merely "a hidden way of corresponding with the old brigand Karaeng Pamolikang and so once again strengthen him in his robberies."[32] But the

30 Leonard Y. Andaya, "The Bugis-Makassar Diasporas," *Journal of the Malaysian Branch of the Royal Asiatic Society* 68, no. 1 (1995): 122–123; Bulbeck, "The Politics of Marriage and the Marriage of Polities."

31 VOC 1663, relation by Datu Loka, 1700, fols. 89–90.

32 Coolhaas, *Generale missiven*, VI, 222.

latter lived on borrowed time. When he once again attacked the Tambora kingdom with his seaborne raiders in 1704, the locals managed to surround and break into the house where he was staying. To be on the safe side, they shot Pamolikang with his own musket, conforming to a local belief that a man of great innate powers had to be killed with a personal object.[33] While Sumbawa had not seen the last of piracy, it entered a slightly more peaceful era, while Lombok would remain under Balinese domination until 1894.[34]

The persistent but ultimately unsuccessful enterprise of the Makassarese pirate princes warrants a few interesting observations. The porous line between state-condoned warfare and sheer piracy is striking. Fighting on behalf of the Dutch and its allies could immediately be followed by blatantly anti-VOC activities. Rapid changes of alliances made for clashes with a number of polities of any religion or ethnicity. In spite of the independent acts of the two princes, their ties to the VOC vassals in Gowa and Tallo' were never entirely broken. In the highly hierarchical system of Bugis-Makassar society, their aristocratic "white" blood carried with it an awe that combined with their apparent martial prowess. This can also be seen in the ambiguous stance of their Sumbawan victims; at one moment they would marry into local royalty and act as protectors, in the next they would ravage the coasts of the erstwhile allies. Their Muslim identity may have played a role in machinations against the Dutch and Balinese, but in both cases enmity alternated with alliance in a somewhat confusing way that seems to transcend religious borders. To the extent that we can trace the concrete aims of their acts – the material is usually Dutch with all its bias – they tried to secure bases from whence to build up a position of political power, such as West Sumbawa, Selaparang, and Manggarai. This is indicated by the open or clandestine alliances that shifted with great rapidity. In that way, they might classify as political entrepreneurs rather than pirates of the classical outlaw type. As pointed out by Leonard Andaya, Makassarese post-1669 migrations to other parts of Indonesia, such as Banten, Madura, Jambi, and Palembang, led to shifting alliances with local rulers where the Makassarese leaders took great care to guard their princely prerogatives in spite of being threadbare refugees.[35] On the other hand, the self-willed and untrustworthy (and thus piratical) pattern of behaviour eventually became self-defeating.

33 Compare Lalu Manca, *Sumbawa pada masa lalu* (*suatu tinjauan sejarah*) (Surabaya: Rinta, 1984), 136–137.

34 Coolhaas, *Generale missiven*, VI, 351; Manca, *Sumbawa pada masa lalu*, 137.

35 Andaya, "The Bugis-Makassar Diasporas," 121–125.

From Trepang-gathering to Piracy in the Timor Islands

It is interesting to compare the pirate fleets of Jarannika and Pamolikang with the more anonymous enterprises in eastern Indonesia. The pirate princes of Sulawesi went to Java, East Kalimantan, Bali, Lombok, Sumbawa, and western Flores, but usually no further than that. During the imperial era, Makassar made inroads in the sandal-rich Timor, most notably in 1641 when certain ports in the north-east were reduced to tributaries. Coastal sites on the nearby Alor Island likewise had to pay tribute. Similar to Sumbawa-Lombok, the sudden collapse of Makassarese state power created a power vacuum. The ethnically mixed Portuguese community (the Black Portuguese or Topasses) had hitherto kept a power base in Lifau in West Timor and Larantuka in Flores, but were now able to expand their influence to East Timor in 1668–1671, just in time to prevent the Dutch rivals from doing the same. But the Portuguese and Dutch communities in Timor were small and unable to police the vast waters.[36]

Makassarese seafarers are frequently mentioned after 1669 in the Dutch records from Kupang, the hub of VOC power in the Timor Islands. Their activities were part of a larger overall movement where they travelled eastwards, via the Tomini Gulf or Southeast Sulawesi, and effectively circumvented Dutch bases, especially gaining economic leverage in the eighteenth century.[37] Since the sources relatively seldom speak of Bugis, one suspects that the term Makassarese alludes, without distinction, to anyone coming from South Sulawesi. From the Dutch horizon, they usually act as troublemakers, being either "smugglers" who bring goods without VOC permits, or outright pirates. There are contrary indications that the sea migrants actually got on relatively well with the Portuguese, who anyway did not have the VOC's means to control trade prerogatives.[38] The fleets of ships appearing around the Timorese coasts were initially relatively small although they later became more substantial. In fact, they often seem to lack strategy; or rather, they adopt a strategy of flexibility, seeking opportunities for trade or robberies as they found them in the vulnerable societies of eastern Indonesia. In 1671, for example, it was reported that a single Makassarese ship had abducted 12–13 people in a coastal settlement

36 Hans Hägerdal, *Lords of the Land, Lords of the Sea: Conflict and Adaptation in Early Colonial Timor, 1600–1800* (Leiden: KITLV Press, 2012), 162–173.

37 Leonard Y. Andaya, "Local Trade Networks in Maluku in the 16th, 17th and 18th Centuries," *Cakalele* 2, no. 2 (1991): 73–75.

38 VOC 1663, instructions by Joannes Focanus, 7 May 1702.

of VOC-affiliated Rote.[39] Some years later, in 1692, a chief from Sumba approached the VOC authorities in Timor and asked that the Company should step in as protectors over the stateless island, whose coasts had become prey for raiding from Makassarese and some other groups such as Malays, Bimanese, and Endenese – the latter being a mixture of local Florenese and migrants from Sulawesi.[40] An interesting variant is the appearance of a so-called Raja Tallo' in Alor with seven ships in 1702. Pretending to be the actual monarch of that realm, he gave the local raja an offer he could probably not refuse, to provide protection against unspecified benefits. In order to give weight to his words he took three hostages, then lifted anchor and sailed westwards before the Dutch had any chance to react.[41] As far as is known, the self-styled raja did not return; it is interesting, however, that the status of the Makassar royalty was sufficient to underpin a coup of this kind.

Eighteenth-century reports often complain about the increasing activities of Makassarese seafarers, whether violent or more commerce-oriented. This is substantiated by reports of rather large fleets, and an interesting combination of piracy and other activities. To quote a piece from 1737:

> The [Makassarese] use to travel to the Papuan Islands and also those around Banda every third or fourth year in order to find and boil trepang and obtain massoi.[42] Not so long ago, the Bandanese submitted several complaints about the Makassarese to the government. However, the Makassarese of old used this [pursuit] for their profit. They now arrive in such force in order not to be attacked and captured by the cruising pancalangs[43] and sloops of the Company in these eastern regions. In the time of the eastern winds they stay below the east coast of Timor where sometimes trepang may be found, staying until they are ready to deal with the further region. However, how much [i.e. little] these Makassarese should be trusted, and how they commit great robberies of humans on

39 VOC 1287, report, Kupang, 1671.

40 VOC 1531, dagregister Kupang, sub 17 December 1692.

41 VOC 1663, report, Kupang, 8 May 1702.

42 Trepang or tripang: any kind of edible sea cucumber, mainly used in the Chinese kitchen as a luxury dish. Massoi: bark from a tree found in Papua, used for medical purposes, such as essential oil; see *VOC-glossarium; Verklaringen van termen, verzameld uit de Rijks Geschiedkundige Publicatiën die betrekking hebben op de Vereenigde Oost-Indische Compagnie* (Den Haag: Instituut voor Nederlandsche Geschiedenis, 2000), 65–66, 118.

43 Large Malay sailing vessel; *VOC-glossarium*, 86.

> various islands under the pretext of looking for trepang, is seen from time to time, and therefore carefulness is a good thing.[44]

In this and other pieces, we see how the fleets have swelled over the decades, to sizes of up to 40 vessels that even discouraged Dutch intervention. No less than 80 Makassarese ships are said to have passed Maubara in Portuguese Timor in April–May 1728.[45] As apparent from the quotation, the acquisition of slaves as well as trepang, edible sea cucumber, were propelling the activities. The demand for trepang increased greatly over the century, as it ultimately found its way to wealthy Chinese people in China or Southeast Asia. In fact, the quest for trepang brought the seafarers over vast bodies of water, to northern Australia, from at least the early eighteenth century.[46] Slaves were widely used in Southeast Asian ports, and a few plantation regimes, such as Banda, and were indiscriminately employed by Muslims, Christians, and others. The fragmented nature of eastern Indonesian societies together with faltering VOC surveillance made for excellent opportunities for slaving piracy.[47] While the Dutch never completely gave up their ambition to police these waters, the pirate-entrepreneurs were rarely caught red-handed.[48]

There is, moreover, evidence that piratical activities were even organized across ethnic-religious lines. This is seen from a report referring to events in 1752. In October of that year, three ships with Makassarese and European crews approached the Alor Islands. Landing at Pandai in the northern part of Pantar Island, they slew the local raja, plundered the settlement, and eventually set the houses on fire. The marauders then proceeded to Barnusa on the same island but were less lucky this time. The inhabitants fought back and forced the crews to return to their ships, leaving some cannons and five men on shore. The enraged population immediately massacred the five pirates.[49] As often is the case with colonial reports about places far from the trading posts, there is not much detail, and we do not even know the nationality of the Europeans. Once again, the vulnerable position of

44 VOC 8330, dagregister Kupang, sub 24 June 1737.

45 W. Ph. Coolhaas, *Generale misiven van Gouverneurs-Generaal en Raden aan Heren XVII der Verenigde Oost-Indische Compagnie*. Vol. VIII: 1725–1729 (Den Haag: M. Nijhoff, 1985), 191.

46 Gerrit Knaap and Heather Sutherland, *Monsoon Traders: Ships, Skippers and Commodities in Eighteenth-Century Makassar* (Leiden: KITLV Press, 2004), 24, 98–102; C. C. Macknight, *The Voyage to Marege* (Melbourne: Melbourne University Press, 1976).

47 Rodney Needham, *Sumba and the Slave Trade* (Monash: Centre for Southeast Asian Studies, 1983).

48 VOC 3553, report, Kupang, 1779.

49 VOC 8346, missive, Kupang, 14 September 1753, fols. 58–59.

islands where VOC control was vague or non-existent would have made them tempting targets for temporary constellations of raiders.

At the same time, we should not assume that the Makassarese without VOC permits were necessarily violence-prone. While there are several examples of raiding and threats, the vast majority of the VOC reports point to peaceful activities. In fact, the Sulawesi seafarers were obviously functional since they carried on trading in regions where the Company lacked an incentive. A report from Kupang in 1750 admits that any attempt to improve Company trade in the Timor Islands was fruitless, since foreign keels managed the commerce. Apart from the Portuguese from Macau, a lot of Makassarese ships provided Alor, Solor, Flores, and Sumba with goods –probably mostly textiles from other parts of Asia. They even began to trade under the Portuguese flag in the dangerous waters of South Timor.[50]

This rather ambivalent image of Makassarese activities is strengthened by indigenous Timorese sources. Our contemporary material is largely Dutch or Portuguese, but a substantial body of indigenous traditions have been recorded since the nineteenth century in various parts of the island. In contrast with historiographic traditions from Bali and Lombok for example, the Makassarese occur frequently in these traditions. The foreigners are often known as Lubu Lubu Makassar, which possibly combines the Makassarese with Luwu', the oldest and most venerable Bugis kingdom and an early centre of iron technology. The stories depict the Makassarese rather differently. They tend to differ in the details from spokesman to spokesman, but West Timorese tradition often speaks of fighting between Makassarese intruders and local groups. The Portuguese are sometimes drawn into the story, either siding with or fighting against the Makassarese. The vague and detemporalized setting makes it hard to know if any historically known events are alluded to; the stories may represent the collective memory of Timorese contacts with the Bugis-Makassar seafarers during the seventeenth, eighteenth, and nineteenth centuries. East Timorese tradition, by contrast, usually portrays the contacts as peaceful; the Makassarese came for trade, not war or proselytizing.[51] This is fairly compatible with contemporary accounts of the eighteenth century, which emphasize the regular Makassarese trade in slaves, beeswax, and sandalwood in the waters

50 VOC 8343, report, Kupang, 15 September 1750, fols. 60–61.

51 This observation is in the first place drawn from the unpublished voluminous collection of Timorese oral stories by the late Peter Spillett, *The Pre-Colonial History of the Island of Timor Together With Some Notes on the Makassan Influence in the Island*. (Darwin: Museum and Art Gallery of the North Territory, 1999).

of Portuguese Timor. While not piratical on the whole, these traders were fiercely independently minded and assaulted Europeans whenever they had the chance.[52]

Conclusions

I began this chapter by suggesting that Bugis-Makassarese piracy was similar to but also very different from the archetypal image of the contemporaneous piracy perpetrated by European crews in the Atlantic and Indian oceans and in the Caribbean. These were concurrent piracies; their common features belying distinctive characteristics. Yet, there is a further argument to be made for comparisons between our two cases, Sumbawa-Lombok and the Timor Islands. They offer obvious contrasts, indeed, two vastly different types of piracy. In the first instance, the operations were carried out by senior aristocrats, who seem to have kept a certain standing in the eyes of the local peoples in spite of all the pillaging and rupture of alliances. To an extent it might reinforce the idea that piracy was not necessarily a dishonourable pursuit in this time and place.[53] Karaeng Jarannika and Karaeng Pamolikang may have had an overall strategic aim in mind, to secure steady bases where they could operate independently of the Dutch overlords. In that way, they fall into a larger diasporic movement among enterprising Bugis-Makassar protagonists, who established dynasties or even polities in such diverse places as Aceh, Riau-Lingga, Selangor, and East Kalimantan.[54] In this case, however, their rash fickleness between political cooperation and sheer piracy eventually brought doom over themselves.

While their activities lasted for some three decades, the other case is a drawn-out process, a range of activities in the ill-policed eastern Indonesian waters, which were only curbed with the increasing efficiency of the Dutch colonial state, far into the nineteenth century. The seafarers involved here were usually not aristocrats and remained more anonymous in the historical records. Most probably, the voyages were organized in a similar way to those described by Thomas Stamford Raffles in 1817: every crew member received

52 Anne Lombard-Jourdan, "Un mémoire inédit de F.E. de Rosily sur l'île de Timor (1772)," *Archipel* 23 (1982): 97–98.

53 Anthony Reid, "Violence at Sea: Unpacking 'Piracy' in the Claims of States over Asian Seas," in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. by Robert Antony (Hong Kong, 2010), 15–26.

54 Andaya, "The Bugis-Makassar Diasporas."

his stipulated share of the cargo according to their status and capacity.[55] While there was no lack of piratical or semi-piratical acts among the seafarers, we also see an interesting combination of peaceful entrepreneurship and slave-robbing, all completely beyond the monitoring capabilities of the colonial governance. Furthermore, the violent side of the matter should not be exaggerated: the informal network of commercial contacts with outlying places necessitated a degree of trust between buyers and sellers.

In seventeenth-century Europe, a common notion of a pirate (occurring in the most archetypical form in the West Indies) was a sea thief, an enemy of the human species. In a way, the pirate was not even an enemy proper, since pirates had no "commonwealth," no court, no treasury, no concord of citizens; rather, he was a freebooter outside of any law.[56] Here, again, the framework of concurrent concepts of piracy becomes useful. The VOC officials might have had such notions in mind when describing the troublemakers who passed review before their eyes, judging from invectives such as *zeerovers* (sea robbers, pirates), *rovers* (brigands), *schelmen* (rascals). Against this, it apparently weighed lightly when the court of Gowa, addressing the Dutch authorities, referred to the slain Karaeng Jarannika as *een voornaam Macassarees princekint* (a noble Makassarese princeling).[57] Nor did the Dutch know or care that the tribes of distant Timor kept stories of Makassarese, who brought the secret of iron to the island, or intermarried with the highest aristocracy, aside from their more violent approaches. In fact, the two types of Makassarese pirates were involved in a net of cultural affinities, migratory patterns, and economic exchange that did not entirely place them outside human "commonwealth."

Finally, it should be recalled that the two types of piracy had a common root. When the Dutch Company officials complained about the illicit acts of the Bugis-Makassar seafarers (and they frequently did), they were oblivious of the fact that they themselves had let the beasts out of the cage. Leonard Andaya and Kathy Wellen have described the enormous disruption and devastation brought about by the Makassar War.[58] Aristocrats lost their old lands and positions, while ordinary families were faced with starvation or large-scale violence. In these unsettled times, piracy was a way to fight and survive for another day. The dilemma is known from

55 Thomas Stamford Raffles, *History of Java*, 2 Vols. (London: Black, Parbury, and Allen, 1817), II, clxxxii–clxxxiii; Pelras, *The Bugis*, 267.

56 Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009), 113.

57 VOC 1663, dagregister Makassar, 1702, fols. 20–21.

58 Andaya, *The Heritage of Arung Palakka*, 208–210; Wellen, *The Open Door*, 30–38.

many times and places, from Viking Age Scandinavia to modern Somalia, and should remind us that we do not need resort to inherent martial traditions to explain the seaborne violence that plagued the islands. Piracies occurred concurrently, involving different regions and populations and having similar but also vastly different experiences, giving rise to partly overlapping concepts.

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6 Piracy in India's Western Littoral

Reality and Representation

Lakshmi Subramanian

Abstract
The chapter sets out to counter Eurocentric bias in depictions of maritime power and violence along India's western littoral during the period of British expansion in the late eighteenth and early nineteenth centuries. The author adapts analyses of legal pluralism in maritime spaces to explore the role of piracy in Indian conceptions of power and jurisdiction at sea. Piracy was a matter of contention among Indian and British governing authorities that drew both of them into efforts to understand the phenomenon as part of local histories and traditions. Despite the efforts of some to understand piracy in this context, the British ultimately portrayed maritime predation as an ethnographic marker of a "savagery" over which their sovereignty could be asserted.

Keywords: East India Company, South Asia, legal pluralism, Eurocentrism, sovereignty

The present chapter is an attempt to respond to recent attempts at questioning the Eurocentric bias in depictions of maritime power and violence in a period of European expansion. It takes its cue from new and significant work done on the idea of legal pluralism in maritime spaces, on non-European conceptions of power and jurisdiction at sea, and on the value of using piracy as a lens for understanding the articulation of sovereignty.[1] As the title indicates, the chapter focuses on both the materiality of maritime

1 Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010); C.R. Pennell, *Bandits at Sea: A Piracy Reader* (New York: New York University Press, 2001).

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violence and predation as well as of its representation in Asian and European sources to arrive at a more nuanced understanding of the phenomenon in the context of India's western littoral, conventionally understood as the "pirate coast" par excellence. It was a dubious and inglorious reputation for sure and not necessarily the sole construction of the British colonial state, although the latter's intervention as the policeman of the seas to protect free trade lent additional semantic and political overtones to the bundle of activities that came to be designated as piracy.

In keeping with the underlying rationale of the present volume, namely, to look at non-European understandings of maritime violence, this chapter will draw attention to three important sub-themes that constituted the phenomenon of predation and raiding, as it was pursued actively by littoral society, as it was described by the early colonial state and, subsequently, by imperialist and nationalist historiography. It is important to stress at the outset that the chapter does not propose to speak of non-European perspectives on maritime violence in an abstract way or as hermetically sealed off from European understanding of the same. Histories of piracy and privateering (Indian, European) in the context of European claims to sovereignty expressed in terms of a monopoly on the legitimate use of violence to safeguard private property, were entangled in complex ways with local realities and contingencies to produce confusing and contradictory narratives. The challenges of reading the archive constitutes, therefore, the second broad concern of the paper. Thirdly, it will try and identify the specificity of the context, i.e. the western Indian littoral, to contextualize the workings and ramifications of maritime violence from the latter decades of the eighteenth century by linking it with networks of labour mobility, political articulations of regional littoral states, and the resultant escalation of violence in littoral society.

A recent book on trafficking and capitalism across the Arabian Sea in the nineteenth century, by Johan Mathew[2] makes the important point that histories of unregulated and inhuman activities such as slavery, and trafficking in arms and gold were deeply entangled with capitalism and the assertion of the free market, bolstered by the British empire. Implicit in this assertion is the way certain activities and operations flowed from the logic of certain modes and arrangements of power and its enforcement, and were subsequently framed as outside the domain of legitimate market activity. In a sense, this assumption resonates with some of the more recent

2 Johan Mathew, *Margins of the Market. Trafficking and Capitalism across the Arabian Sea* (Oakland, CA: University of California Press, 2016).

work to emerge on piracy in the Indian Ocean[3] where the argument has been that the colonial state endorsed some forms of violence as legitimate and others as not. Such a perspective on piracy as a phenomenon that was both discursively constructed as well as a real practice in response to myriad forms of political pressure, including colonial violence has had earlier incarnations in older nationalist Indian historiography that critiqued European assumptions about the Indian pirate. In any case, the Indian pirate did not command the same imagination or claim the narrative of adventure or freedom or privateering, and occupied a rather narrow and constricted space, literally hugging the littoral avoiding the high seas. As Hägerdal notes with respect to Bugis-Makassar in this volume, piracy along the western Indian coast was littoral piracy that targeted coastal trade rather than shipping on the high seas. This meant that the limits of territorial expansion were more apparent in the littoral and coincided with the early colonial state attempting to simultaneously reformat the power structure in the seas by marking off the coastlines more sharply than ever.

Piracy in the Indian Ocean: A Historiographical Tour

As other contributors to this volume have noted, the history of piracy has been characterized by concurrent concepts and understandings of the phenomenon. Yet, there is also an historiographic concurrence. Early studies on piracy in the Indian Ocean tended to extol the strength and resourcefulness of the European imperial navies in subjugating the lawless pirates of the Indian Ocean, both European and Asian. Even here the Indian pirate was not held on a par with the European, who, in most cases, was seen as a privateer working for the interest of a specific European power while the Indian pirate was, at best, a petty criminal. For example, John Biddulph, in his classic account of the pirates of Malabar, referred to European pirates as:

> courageous rascals and splendid seamen who with their large crews, handled their ships better than any merchantmen could do, but stopped short of such fulsome praise for his Indian counterparts. The latter's operations were seen as the inevitable consequence of the Indian State's

3 Simon Layton, "Discourses of Piracy in an Age of Revolution," *Itinerario* 35, no. 2, August 2011, 81–97. See also, "The 'Moghul's Admiral': Angrian 'Piracy' and the Rise of British Bombay," *Journal of Early Modern History* 17, no. 1 (2013): 1–19.

> indifference to matters maritime. Biddulph referred to them as small-time rogues and not as daring adventurous men.[4]

There was one exception to this characterization, though: Kanhoji Angria, the Maratha chieftain of Kolaba, who assumed almost mythic perceptions in European representations as the archetypal Indian pirate, whose ruthless attacks on the English trading company and its protected merchants smacked of villainy and cruelty. In putting together such a representation, both of the sporadic and episodic violence of small time marauders along the Indian littoral and of the violence of the combat in containing Angrian piracy, European writers were arrogating to themselves exclusive claims to sovereign jurisdiction on the Indian Ocean, which they could not share with any other, while simultaneously denying possibilities of political agency to Indian littoral groups that included rulers, their merchants and privateers, and pirates who chafed at restrictions.

The validity of such representations, the politics behind such a construction lies at the heart of my project. Equally, it seeks to investigate the shifts in the working of littoral politics that engaged maritime mercenaries in their political calculus. In undertaking such a study of reality and representation of piracy and predation, the study works under the assumption that the advent of the Europeans in the Indian Ocean following the blazing guns of Gama and his merry men introduced very substantive changes in the way the ocean was understood as a site of commercial activity and political power. Following the work done by scholars such as M.N. Pearson, Genevieve Bouchon, and Jean Aubin among others, I argue that, notwithstanding earlier practices of deploying violence as a political resource by several states in the Indian Ocean, the articulation of the cartaz-cafila-armada system by the Portuguese was more comprehensively coercive and inductive and had profound consequences. It forced Indian traders who had always worked in a *mare librum* to accept passes, pay for them, and call at designated ports of call to pay customs, thereby adding to their operating costs. The system was not especially popular and in regions such as Malabar that witnessed large-scale violence, anti-Portuguese coalitions were formed by local rulers and dispossessed coastal groups, seen by the Portuguese as pirates! Subsequent work (Elliott, Layton, Subramanian) has demonstrated how piracy was a label that Europeans used to describe any resistance to their politics of ordering the seas and their exclusive claims to policing this

4 John Biddulph, *The Pirates of Malabar and an English Woman in India Two Hundred Years Ago* (London, 1907).

domain albeit in the service of free and fair trade, that the phenomenon of predation was, in many cases, part of the privateering policies adopted by local states, especially the Marathas, and that it was a complex set of practices and nested rights embedded within a political and moral economy.

West-coast Politics: A Mosaic of Nested Rights and Entitlements

Between the sixteenth and the eighteenth centuries, there were important changes in littoral society, especially along the west coast where coastal states put forward their conceptions of authority over littoral stretches and territorial waters. In part, this was a response to Portuguese action, in part an experiment with new forms of control. From the late seventeenth century, we find a self-conscious engagement with naval power by the Maratha ruler Shivaji (1627/30–1680), who built a string of impressive forts along the littoral to neutralize the power of the Portuguese (based in Goa) and expand coastal Maratha power. This did not automatically translate into a radically new conception of power and sovereignty on the seas but was, nonetheless, an experiment to mobilize sections of coastal society and compress them into a small naval force of sorts. This was certainly the beginning of a maritime programme that included rights to custom duties, to shipwrecks, and to a preliminary definition of territorial waters. We find a rudimentary articulation of this in the early eighteenth-century edict on Maratha state policy, the Ajnapatra (1715)[5] credited to Ramachandra Amatya and put into effect under the successors of Shivaji. It may be useful to consider some of the practical suggestions put forward in the tract and then extrapolate from that the larger legal and moral conceptions that undergirded Maratha naval action in retaliation against the European demands at sea.

Referring to the navy as an independent limb of the state that had to be built and secured, the Ajnapatra issued clear directives about the optimum size and constitution of the naval force that had to operate as a protector of trade, fishing interests, and merchant shipping, as well as a strong contender for authority at sea. What the minister seems to have advocated for was readiness for preventive action at sea against the enemy, so that valuable resources from land were not siphoned off to maintain the navy. The navy was meant to keep off dangers from the sea; by this time, the Marathas were

5 "The Ajnapatra or Royal Edict," *Journal of Indian History*, VIII (1929–1930): 231. The date of completion of the edict is mentioned as 1715.

aware of the dangers that lurked from Europeans whose naval prowess had intimidated even the Mughal Empire. To quote,

> [...] naval forces should check the enemy by always moving in the sea [...] no complaint of the officer of the sea-fort should be allowed to reach the king. By keeping oneself always informed off the movements of the sea-foes the territory of the enemy should be looted.[6]

The edict went on to insist the necessity of protection of merchants and fishermen (*kolis*), the latter being the backbone of the naval force and spoke on modes of naval action at sea during war and conflict, and of resisting the claims of European merchants who did not behave like merchants. Thus, what seems apparent from a close reading of the document is that Europeans had to be effectively countered at sea and, for this, defending territorial waters was crucial. The most efficient way of ensuring this was to farm out responsibility to armed mercenaries and sea captains who rode the seas.[7] Superficially, the sea captains or coastal chiefs resembled European privateers lending their expertise at sea to mount limited naval campaigns but the resemblance ended there. Many of them actively cultivated interests around aquatic resources – rights to wrecks and fishing, for instance, became part of coastal politics. From the latter decades of the seventeenth century, the emergence of sea captains who fought for the Maratha state and for smaller local chiefs was striking, as their operations and skirmishes at sea replicated the wars on land. The emergence of small coastal powers – the Malvans, Kudals, or Desais of Sawantvadi – testified to the growing parcellization of littoral authority with a growing assertiveness over territorial waters. None of these chiefs saw themselves as pirates – they were fighting men whose exploits were in the service of states. The greatest of such privateers who assumed a bigger role was Kanhoji Angria (1669–1729) but he was dismissed by the English Company as a lawless pirate.

It is not my intention here to make a case for Kanhoji the privateer/coastal ruler of Kolaba and debunk the pirate label that was ascribed to him by the English. That is well known,[8] instead I wish to consider whether, by

6 *Ibid*., 231.

7 *Ibid*.

8 There is an impressive historiography on Kanhoji Angria. See for instance S.N. Sen, *Early Career of Kanhoji Angria and Other Papers* (New Delhi: Orient Paperbacks, Reprint, 1981). Also see Derek Elliott, "Pirates, Politics and Companies: Global Politics on the Konkan littoral, c. 1690–1750," *Economic History Working Papers* (London: London School of Economics and Political Science, 2010).

this time, there was in place a conception of piracy in relation to sovereign authority over the seas and the markets that absorbed clandestine goods, on the part of regional rulers. Kanhoji himself, I would argue, represented a shift, for he laid explicit claims to sovereignty over the seas and insisted that only his passes were legal tender over specific stretches, and that the English had no right to defy his sphere of influence. Unpacking his actions and his pronouncements as they come to us in the East India Company's documentation, it is clear that he embodied the political conceptions of the Maratha State and its understanding of sea power and that he set out initially as a privateer fighting on behalf of the Maratha ruling house before he set himself up as a coastal potentate, acknowledging the sovereign authority of his overlord but having marked his sphere of influence. Standing up for his sovereign's rights against the claims of other coastal rulers like the Sidis of Janjora and the dispersed Portuguese power off Goa and Bassein, the Desais of Sawantvadi, he claimed to be lord of the seas with definite rights. His death and the subsequent destruction of his small state by the Bombay Marine, the naval force of the English East India Company, put an end to the experiment, but one important and noticeable consequence was the dispersal of piratical activity along the coast, especially its northern stretches, the area of our present study.

The region described by the colonial archive as the Northward, consisted of coastal Gujarat, Kathiawar, Cutch, and Sind, a region that was held to ransom by the operations of the Cooley pirates of Okhamandal, a small area at the westernmost extremity of Kathiawad. Emerging as an epicentre of piracy and piratical activity, the small confederacy of Okhamandal encompassed a complex range of operations located within a specific moral economy of rights and obligations that were not easily or accurately captured by the colonial ethnographic exercise. The phenomenon of piracy in the Northward had important links and intersections with local conventions and politics in a period of political instability and turbulence. The politics of Northern piracy was thus part of the regionalization and localization of power in north-western India in the regions of Kathiawar and Cutch, where a complex mosaic of political arrangements emerged as a result of coastal migrations, Rajput agrarian colonization, Mughal and Maratha interventions, and the slow but insidious expansion of the English East India Company, which insisted on the sacrosanctity of their trading permit. The emergence of smaller states in the region – foremost among them being Junagadh under the Babi rulers, Bhavnagar under the Gohels, and Nawanagar – testified to new political equations that rested on commercial ambitions, on aggressive policies of controlling trade and markets, on countering the violence of

coastal groups and communities who were known to both prey on coastal shipping under English protection, and to working for warring principalities. Some of the new states, such as Bhavnagar and Baroda under the Gaekwads, entertained close relations with the English East India Company, while others, including Junagadh, relied on the services of small-scale privateers to further their maritime ambitions. Two things were thus apparent, one, a slow coagulation of coastal interests that found opportunities to extend their raiding operations and two, the changing political calculation of states like Bhavnagar and Junagadh in relation to the sponsoring of maritime violence and to the extension of claims over contiguous littoral spaces.

For the greater part of the eighteenth century, the states in Kathiawar pursued territorial expansion, subjugation of coastal stretches and claimants, and continually looked towards diverse sources of revenue. Virtually all the states entertained maritime claims that assumed the form of tacit support and sponsorship of limited raids, or of extending direct authority over coastal strongholds. The raja of Porbandar was thus a warring merchant who fitted out private vessels and followed his substantial trade interests very seriously and with the application of force whenever necessary. The point here, then, is to emphasize how, in the latter decades of the eighteenth century, there was an open contest between the English Company and regional states over the right to attack ships belonging to rivals during war time, to resist the unilateral claims of any power to impose its trade permits and to abide by local understanding of practices and conventions that included limited use of maritime violence to square debts and to supply and corner markets.[9]

The concrete spatialization of these processes was evident in the emergence of Okhamandal as the pirate confederacy par excellence, a status that it maintained until the first decades of the nineteenth century, when the epicentre moved further north to Cutch. In part, the rise of Okhamandal was the result of long-term migration of Rajputs of lesser rank and of their local arrangements with coastal peoples, and it provided a loose form of statehood for dispossessed coastal groups as well as for local inhabitants whose operations as petty raiders, as mercenaries serving the interests of local merchants and small-time bosses, enjoyed a form of sanction. Identified as a pirate state by travellers and defined as such by the English Company in the eighteenth century, the Okha region was largely peopled by coastal peoples, the kolis and sangarians, who serviced the three principal Rajput chieftains of Dwarka-Bate, Aramra, and Positra. By the mid-eighteenth

9 Lakshmi Subramanian, *The Sovereign and the Pirate: Ordering Maritime Subjects in India's Western Littoral* (Delhi: Oxford University Press, 2016).

century, the region assumed the contours of a small confederacy of chiefs who invoked their legitimacy from the celebrated temple at Dwarka, sharing with its trustees a proportion of the proceeds that came from sponsored raiding expeditions. The intersection of religion, raids, and authority was incomprehensible to the English East India Company from the vantage point of either sovereignty or of free trade. By the closing decades of the eighteenth century, the English Company had penetrated into the political structure of western India, sharing administrative command with the decaying Mughal political edifice in Surat from 1759 and asserting the primacy of English jurisprudence to those who sought the intervention of the Mayor's court in resolving commercial disputes. Law and military power were the two principal instruments through which the Company put forward the idea of reason and equity in the conducting of fair trade, which was guaranteed by the active operations of their naval force, the Bombay marine, against pirates and by the judgement of the Mayor's Court, which decided on a fair and admissible resolution of disputes. Both instruments held the advantage of establishing the supremacy of the Company as the arbiter of fair trade and shipping in the seas.[10]

The ensuing confrontation between the English East India Company and the chiefs of Okhamandal followed the predictable pathways of tenuous diplomatic negotiations, half-hearted military operations, and sustained political pressure. The exercise had the useful consequence of generating substantial information on the dynamics of Company policy, local claims, and colonial interests. The context in which these transactions operated lent a specific twist to official representation of Northern piracy. This was not a simple or straightforward exercise; local contingencies of resource crunch and military inadequacy, the orientation of individual administrators, and the calculations of an expanding colonial state caught in the midst of Anglo-French rivalries in the larger context of the Indian Ocean made for a complex and predictably incoherent representation of piracy.

Reading the Archive

Thus, any analysis of the complex skeins that made up both the activity of piracy as well as of its discourse, must factor in the political context of the

10 For the earlier period, as the Company tried to articulate a political strategy of force in the high seas, see I. Bruce Watson, "Fortifications and the 'Idea' of Force in Early English East India Company Relations with India," *Past & Present* 88 (1980): 70–87.

late eighteenth century. This was a period of instability and conflict that led to new forms of coastal political arrangements, including protection money and staking claims to ships. It was a period when the colonial power in western India was trying to grapple with the immediate task of cleaning up sea lanes to protect the interest of their trade and of their *protégé* merchants but without entirely understanding the features of local society. There were many voices in the emerging discourse on piracy; some individual Resident administrators attempted to understand the phenomenon afresh and not simply reduce them to the category of lawless pirates, while others found nothing to recommend them or failed to even reflect on the consequences of the operations of the English company and their extractive mechanisms on local society.

I have argued elsewhere how the construction of the Northern pirate and predation flowed out of the self-assumed responsibilities undertaken by European trading companies in the sixteenth and seventeenth centuries to police the high seas and provide convoy and protection services against especially violence at sea.[11] This meant that merchants accepting European protection endorsed those elements mandated by Europeans as characterizing pirates and piracy. The English East India Company worked through local collaborators to extend their principles of free and fair trade, a euphemism for their monopoly control over the seas. Predictably, the Company authorities dismissed the actions of coastal chiefs as arbitrary and antithetical to trade. In reiterating the supreme authority of their pass, and that only they had the authority to issue passes, they masked the aggression that underscored their politics, which had the real consequence of dispossessing local communities, many of whom turned to petty raiding and predation. At the end of the eighteenth century, the processes of dislocation appear to have accelerated thanks to endemic political conflict between small coastal potentates, and between the latter and the English Company, the pressure of bureaucratic regulation on small-time traders, the political calculations of local bosses, and the complex web of social relations between merchants, temples, chiefs, and pirates, all of which created conditions for myriad forms of littoral violence. Categorizing and castigating them as piracy masked, if not distorted, the more complex formation of nested rights, of local arbitrage practices, and of manoeuvres that the Company's policies were instrumental in augmenting. Piracy along this littoral worked at many registers and within a complex political and moral economy that

11 Subramanian, *The Sovereign and the Pirate*.

included local bosses, merchants, and even temple trustees in Dwarka, where a particular form of piracy and piratical politics prevailed. Thus, even if we can see the Okha case of piracy working within the interstices of sovereign authority and markets that the English power wished to define, we can also adopt another lens for understanding the phenomenon. This is to ground piracy as an integral part of littoral political arrangements that embodied the tension between caste Rajputs and seafaring coastal groups, and how this was held in balance by a set of quasi-political and financial arrangements in which local merchants, markets, and the temple at Dwarka played an important mediating role. This requires a careful reading of the archive along the grain and its multiple registers, and listening closely to the murmurs of merchants, the complaints of captured pirates and the outrage of their bosses, and the latter's conceptions of what they thought of as custom and practice.[12]

We come across instances where merchants used pirates to cut a deal, to work against local competitors, and even to redeem debts. Pirated goods circulated in grey markets and it is clear that circuits of low-level circulation were supported by petty piratical activity. Okhamandal also emerges as an area that could absorb swathes of dispossessed coastal peoples and communities who were welcomed by the confederacy of chiefs whose income was dependent on supporting predation. Evidently, seen in this way, piracy had a very different set of functions than being simply dismissed as savage and barbaric and infinitely antithetical to order and free trade. As it happened, the complexities of the phenomenon surfaced when the region became a site of intense ethnographic investigation by the English Company, whose officers, especially the Resident of Baroda, Alexander Walker (1764–1831), undertook with great attention. Walker was appointed as Resident of Baroda in 1802, initially entrusted with the specific responsibility of stabilizing revenue arrangements in the region and subsequently of containing piracy. An unusually sensitive official, with a keen interest in local societies and peoples he encountered, Walker came with considerable experience thanks to his stint as commissioner in Malabar. Walker preferred to work with local collaborators to get a better sense of the ground situation, with the result that his correspondence was able to capture the myriad shifts and registers in the emerging discourse on piracy and predation.

12 These are evident in the petitions that merchants and pirates submitted to the English company during their depositions.

Walker's analysis, especially in its understanding of the fragility of the power base of coastal chieftains stood in sharp contrast to the earlier marine surveys by Company officials of Okhamandal.[13] The latter tended to see the region as a site of residual violence, to see predation as endemic and pathological with hoary antecedents. While presenting a detailed history of the Waghed Rajput kings of Beyt and the genealogy of the connections that existed between the three major units of Okhamandal, whose chiefs were part of a larger brotherhood, and of the special relations the region enjoyed with the chiefs of Cutch, the reports also spoke of the predation that the Okhamandal pirates engaged in, especially against the Arabs and the Sindians to the north of Kathiawar. The reports pointed to the growing violence against the Company and Company-protected shipping bypassing entirely the extreme pressure that coastal society had been subject to. Walker, on the other hand, approached the issue differently. Trying to be more realistic in his expectations, he insisted that not all groups, individuals, and chiefs could be labelled as pirates and that unless the Company was prepared to give up their claims for restitution and break the spiral of extraction and violence, there was no chance of a long-term political solution to the problem. He made a distinction between states and communities, not in terms of culpability under law and justice but in terms of their organization and accessibility to formal and bureaucratic structures. The fact that pirates were mobile, dispersed with contingent connections to markets and local bosses meant that it would be impossible to bind them under a contract. Under the circumstances, the sensible option would be to fall back on their conventional customary obligations of restraint and to integrate these into the treaty obligations that were being considered. It is useful to look at these shifts within colonial discourse, at differences between the Resident and his superiors, for it enables us to speculate about an alternative model for understanding predation in the western Indian littoral, removing it from the over-deterministic narratives of liberal free trade and the monopoly of state violence.

It will be useful here to analyse sections of Walker's correspondence with the higher authorities in Bombay in order to underline the subtle distinctions that marked official representations of piracy and to attend to the complexities of the local situation that made a simple translation of coastal politics intelligible. For the Resident, it was clear that the pirate states operated under very low margins and that it was impossible to expect them to conform to any agreements that the Company initiated. At the

13 Subramanian, *The Sovereign and the Pirate*.

same time, Walker was critical of the half-hearted efforts by the Company whose military excursions were compromised by financial constraints. This meant that he was able to come up with a more layered understanding of the nature of littoral politics. What comes through repeatedly in the correspondence is his effort to expand the idea of local custom that the chiefs were invoking, to include new treaty arrangements, and, thereby, to persist in convincing chiefs to give up their habits of predation. It was not as though the Resident was unaware of the curious and complex entanglements of local trade, pilgrimage, and piracy, or that the chiefs entertained very different notions of equity. As he put it in one of his letters to Bombay (dated 2 December 1807):

> It is doubtful whether any arrangements would be respected by a people who had no other idea of equity than that derived by force. In relinquishing piracy and any modification they conceived that they were relinquishing a right handed down to them from their ancestors which was the *gift of Krishna* (italics mine) and secured to them by their religion and lawful source of livelihood. They exercise piracy as a right and as a legal means of subsistence and this habit which was favourable to their immediate interests and which was supported by their prejudices would probably not yield to regulations.[14]

But he did not stop there; instead, he insisted on trying out for the first time a novel contractual arrangement that would enable the chiefs to experiment with a new mode of contractual reciprocity that would integrate local customs and conventions as well. He was emphatic in taking to task the desultory efforts of the English Company in resisting the acts of predation.

On 29 December 1807, in his address, he pointed out how:

> [...] the petty, inconclusive expeditions against their forts have never procured more than a temporary impression while they have been a source of expence without real advantage. Pirates thus have been encouraged rather than deterred and the losses of the merchants have accumulated to an amount which it will be vain to expect them to pay.[15]

14 Letter from Walker dated 2 December 1807, Walker of Bowland Papers, National Library of Scotland (NLS) Accession No.13675.

15 Letter from Walker dated 29 December 1807 from his camp at Kundermarana, Walker of Bowland Papers, NLS, Accession no. M13674.

Subsequently, the Resident continued to insist on the counter-productive pressure exerted by the Company on the small chiefs to make good the losses suffered in the past. As he put it:

> Among a people and country, where robbery and plunder have so long been familiar, honesty and industry cannot immediately assume their legitimate authority… without this superintendence, the pirates that are now labelled but not suppressed would soon be excited by opportunity, want and poverty.[16]

Can we, in fact, see in Walker's own statements an expression of customary rights and obligations that connected various kinds of subjects in a common web of relationships, albeit extractive and exploitative, cemented within an overriding moral economy wherein piracy was a lawful means of subsistence, an inheritance, a gift by the veritable godhead Krishna? By this, he probably meant that the intersecting interests of the chiefs and the temple at Dwarka lent legitimacy to the operations that characterized the region and economy of Okhamandal. What stands out in the Resident's communication is his understanding of predation as an inevitable consequence of the pressures that the local economy experiences and a studied appreciation of the violence of Company politics, which had dismantled existing structures of rights and obligations, compelling marginal and mobile communities to opt for a policy of raiding.

Identifying discursive shifts thus is an important pointer to the subsequent piracy narratives in the Indian Ocean. The phenomenon of escalating piracy was definitely connected to the overall militarization of coastal society that came in the wake of European claims over the seas from the sixteenth century and of Mughal-Maratha conflicts in the seventeenth century, which had definite coastal chapters, and, subsequently, of the policies of the English Company that saw itself as the supreme policeman of the seas to ensure the virtues of free and fair trade. From about the 1720s, or thereafter, the English East India Company would appear to have reinvented itself as the ombudsman of the ocean, undertaking the important task of guarding the seas, ensuring protection to all merchants against arbitrary violence at sea and condemning all piracy as immoral. The English Company in India reflected the changing disposition of the English nation that no longer relied

16 Letter from Colonel Walker to Francis Warden, Secretary to the Bombay Government's political department, dated 23 January 1808, Walker of Bowland Papers, NLS, Accession No. MS13675, 69–70.

on the exploits of Drake and Raleigh.[17] The substantial expansion of the Company's political influence as a local power situated in the littoral helped add weight to the older policy of arranging for convoy and protection against maritime depredations and transformed the narrative stance towards piracy and violence. Thus, the staging and framing of maritime violence in the Indian seas was not politically neutral or innocent; indeed, representation emerged as an integral part of politics. Under the circumstances, the English could hardly afford to ascribe any kind of political agency to piracy, even if the actors themselves put forward a different point of view.

We are fortunate in that we have petitions and depositions by raiding chiefs and individual pirates and, while these must be read critically, they do provide valuable details about the way the latter organized their voyages, and why and how they flouted authority to mark their actions, occasionally as individual assertions or as small-time players for their immediate bosses. These depositions are of immense value in reconstructing episodic piracy and also as seeing it embedded within complex structures in littoral society. In 1813, two pirate brothers, Nackwa Kassow and Jecha Nackwa, were intercepted and interrogated and made to depose. Both of them worked as part-time mercenaries for the ruler of Cutch and sometimes as independent raiders going to sea with prior knowledge of shipping schedules. The brothers insisted that rulers in Cutch used them to stake their competing claims and they worked together within a circuit of local markets dominated by merchants. Pirates had social networks of relatives and religious elders on whom they depended for support (shelter for a wife, for instance) and they often resisted immediate structures of authority and took to attacks and raids as a form of active defiance. Unlike the case of European piracy and privateering, piracy off the north-western littoral was essentially local, even though it operated in what was a mobile geography. It was anchored within an established littoral area, drawing sustenance from villages and hamlets, and was geared to local markets, operating within a loose geography that was configured and reconfigured by informal and contingent alliances with local groups and individuals. They acted on their own volition and were not unduly invested in fidelity to any particular ruler or principality. Yet, they appear to have had community ties and we even hear of instances where community elders occasionally interceded on their behalf.[18]

17 Anna Neil, "Buccaneer Ethnography: Nature, Culture and Nation in the Journals of William Dampier," *Eighteenth Century Studies* 33, no. 2 (2000): 165–180.

18 These petitions are analysed in great detail in my book, Subramanian, *The Sovereign and the Pirate*.

One may then legitimately make a case for not just a more complex understanding of piracy in the Indian context but to see its manifestation as a curious and complex interplay between larger regional pressures and local politics. There was a law-and-order dimension in the sense that a section of coastal society was defying the emerging dispensation along the littoral, it was also an assertion of local interests that fitted into a scheme of markets and protection money. In the case of Okhamandal, there was a nexus between temple trustees, local chiefs, and merchants. In the case of Cutch, piracy was an arm of the state as it deployed pirate groups to harass their competitors. And yet, these complex elements were not always evident, especially as imperial discourse tended to flatten the narrative. It is here that the historian has to remain sensitive to the reading of the archive and recognize how representation itself is a deeply political project.

The complexity of piracy, the skeins that make up the story of predation and predators were ironed out in both colonial and anti-colonial discourse. This reveals the imprint of concurrent yet linked understandings; separate concepts but with malleable and permeable discursive boundaries, shifting in relation to emergent forms of knowledge and colonial priorities. As early as the sixteenth and seventeenth centuries, piracy as a category of representation was thrust on all those Indian/Asian players who bypassed or flouted the cartaz-cafila-armada system and who occasionally even adopted an aggressive policy of retaliation. There is no doubt that in the aftermath of violence brought in by the Portuguese, coastal society in parts of Malabar were militarized, and that a number of coastal bosses adopted the pass system to articulate a new politics affecting the littoral waters if not the high seas. It is also important to bear in mind that the escalating political conflict between the Mughals and the Marathas and the Marathas and the Europeans enabled small-time pirates to double up as privateers and maritime mercenaries. Privateering, however, was never identified as such by the Europeans, who saw all Indian action as predatory and incapable of fitting into the well-known lexicon of maritime politics. So, for every Kit or Avery who were extolled as brave pirates and comprehended as privateers fighting for the British crown, there was, on the Indian side, only lawless pirates like the dreaded Angria or nest of vipers (Malwans) who were, by default, outside the pale of law and civilized principles of commerce. This representation was part of the larger arsenal that the English Company deployed to take over sovereign control of the sea lanes and the commerce that was carried on them. Nor did this representation change very much at the end of the eighteenth century, notwithstanding the interventions of Colonel Alexander Walker whose ethnography of the Northern pirate

was, admittedly, more nuanced than earlier characterizations. As Resident of Baroda, charged with the responsibility of pacifying local society, his approach was political but, unlike his other colleagues in the Bombay Council, Walker was keen to contextualize predation and to draw important distinctions between small states that used predation as a political resource and groups that were accustomed to raiding as a means of livelihood. He was also emphatic in identifying the burden of Company regulations, of the political uncertainty and conflict that had ravaged the region forcing chiefs and communities to turn to piracy. He was insistent on abandoning indemnification claims that simply added more pressure and spiked up the possibility of escalating piracy; instead, he wished to bring pirate chiefs to a formal agreement that would bind them to maintain their part of the bargain, albeit with some concessions.

Walker's report on the Northern pirates did not receive many takers in the Bombay Council. Most of its members were reluctant to draw a distinction between pirate states and communities and did not endorse the Resident's suggestions about relinquishing indemnification. Nor did they value his ideas about holding pirate states to their commitments, which the Resident saw as a kind of political apprenticeship for the states to start envisaging public responsibility more seriously. In the end, as military options became the only viable course of action, the official discourse took the form of treating them as lawless subjects and criminals, albeit within a complex political structure that was based on alliances between the Rajput groups, Vaghelas and Jadejas, and coastal communities like the Wadellas.

The after-life of this ethnography is something I would like to touch upon by way of conclusion. I wish to reflect on how this complicated history of piracy, which was an integral part of the changing coastal polity, was represented in subsequent narratives and, in fact, erased from later histories of Gujarat, whose maritime dimension disappeared in the more mainstream histories that were put together.[19] The maritime dimensions of Gujarat were played down in the new histories that were produced and that emphasized the centrality of the Rajputs and of the merchant nexus with state power, leaving no space for the vibrant and robust maritime communities that made up the region. It was only as pirates and outlaws that specific communities were recalled. Occasionally, piracy narratives in Gujarat and Kathiawar were framed within the themes of religion and valour. It is likely that the

19 Lakshmi Subramanian, "Gujarat in the History of the Indian Ocean. Navigating Maritime Pasts," in Edward Alpers and Chhaya Goswami (eds.) *Trans-Regional Trade and Traders Situating Gujarat in the Indian Ocean from Early times to 1900.* (Delhi: Oxford University Press, 2019).

presence of the Dwarka shrine in Okhamandal and the influence it enjoyed, the participation of the temple in the proceeds of piracy made an impression on early observers, even on Colonel Walker, who mentioned how pirates enjoyed a tacit, quasi-religious legitimacy. This is not to suggest that the Resident saw the connection of piracy with the temple at Dwarka as central; probably, all that he intended to communicate was that raids and coastal politics were implicated in a complex local economy of religion, markets, and politics. However, the description stuck and it subsequently became part of an orientalizing strategy that tended to tag religion onto local customary practice. For the moment, it invoked a particular context in which activities such as predation were anchored within a local economy of protection, convention, and customary obligations. It is important not to exaggerate the religious overtones of the discourse; European observers spoke of the Dwarka temple and its trustees as silent endorsers of piratical campaigns whereas, in fact, what they were alluding to was the complicated caste and pollution issues that marked off the Okha chieftains from the rest of their Rajput brethren. In any case, Walker's nuanced ethnography did little to convince his superiors about the Northern pirates, who were dismissed as savage, pathologically prone to predation and criminal activity.

The subsequent narratives of piracy played up some of these elements. In tracking the history of piracy's representation in Gujarat, two moments seem especially important. The first is that of Colonel Tod, who represented an important voice of colonial ethnography that came long after pacification, and the other of nationalist folklore specialists like Jhaverchand Meghani.[20] For James Tod, pursuing the idealized feudal ruler, it was convenient to press local stories of heroism and valour into a grand narrative of romantic Rajput feudal honour, while for Meghani it was important to imbue the story of the outlaws with a degree of agency. Both drew and worked from a repertoire of tales and memory that carried vestiges of maritime activity, including piracy that was an integral part of local economies and political arrangements. In both cases, the phenomenon of piracy, although deployed as an important political resource, was detached from the idea of sovereignty notwithstanding some of the convergences between Indian and European political arrangements at sea. In both cases, the idea of piracy was always nested within a local and community structure of customs and obligations and thus emptied out of all political traction.

20 James Tod, *Travels in Western India* (London, 1839). Also see: J. Khuman, *Rendering of Sorathi Baharvatiya by Jhaverchand Meghani from Gujarati into English with Critical Introduction* (Unpublished thesis, Saurashtra University, 2011).

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7 Holy Warriors, Rebels, and Thieves

Defining Maritime Violence in the Ottoman Mediterranean

Joshua M. White

Abstract
The essay takes a non-Eurocentric point of view and aims to highlight the concurrent concepts of piracy and other forms of maritime violence in the early modern Mediterranean. The author shows that a wide range of concepts were used in the early modern Ottoman Empire to conceptualize what Europeans termed piracy or privateering. As in Europe, there was considerable ambiguity in the use and interpretation of these terms, and the practices that they described. In contrast to the emphasis that contemporary Europeans put on the distinction between piracy and privateering, in theory if not always in practice, Ottoman Islamic law did not differentiate between foreign Christian pirates and foreign Christian corsairs or privateers.

Keywords: Ottoman Empire, corsairs, legal interpretation, Islamic Law, conceptual variety

"Think of jihad as an island," wrote the sixteenth-century Ottoman bureaucrat, historian, and social commentator Mustafa Ali: "On its right is a sea of wealth, on the left is corruption."[1] Corsairing and piracy, holy war and criminal rebellion – the opposing legal poles of Mediterranean maritime raiding were not distinguished by tactics, equipment, or even personnel, but

1 Mustafa Ali, *Mevā'idü'n-Nefāis fī ḳavā'idi'l-mecālis*, ed. Mehmet Şeker (Ankara: Türk Tarih Kurumu Basımevi, 1997), 288; *idem*, *The Ottoman Gentleman of the Sixteenth Century: Mustafa Ali's 'Tables of Delicacies Concerning the Rules of Social Gatherings,'* transl., Douglas Brookes (Cambridge, MA: Harvard University, 2003), 35. See also Cornell Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa Ali (1541–1600)* (Princeton, NJ: Princeton University Press, 1986).

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by targeting and authorization, or its absence. Mustafa Ali argued that many of the holy warrior heroes (*gazi*s, in Ottoman parlance) who had brought North Africa into the Ottoman fold, corsairs like Hayreddin Barbarossa (d. 1546) and Turgud Reis (d. 1565), had begun their careers as petty coastal pirates, preying on Christian and Muslim Ottomans in the Aegean. With time and success, they expanded their operations, improved the size and range of their craft, and only then transitioned to legitimate corsairing in service of the faith and the sultan. By repenting of their earlier sins and devoting themselves to maritime jihad against the enemies of Islam and the Ottoman dynasty, however, these corsairs earned their place in the Ottoman pantheon and their reward in the hereafter.

But, writing just before his death in 1600, Mustafa Ali observed that over the past generation it had become increasingly difficult to distinguish between the small-time pirates then following similar career paths along the Adriatic and Aegean coasts and the North Africa-bound corsairs they may have aspired to become.[2] The reorientation of Ottoman naval resources and a series of profound political, economic, environmental, and military challenges contributed to an explosion of piratical violence in the eastern half of the Mediterranean in the decades following the Ottoman conquest of Cyprus and the Ottoman defeat at Lepanto, both in 1571, and the Ottoman capture of the Spanish-held fort of La Goletta at Tunis in 1574, which marked the end of over half a century of naval conflict over the North African littoral and led to a formal truce with Spain that was ratified in 1581. As Ottoman naval defence efforts foundered in this era of endless land wars and fiscal crisis, a diverse assortment of Catholic corsairs and English and Dutch merchant-pirates poured into the Ottoman Mediterranean, while homegrown Muslim and Christian coastal raiders proliferated from the Aegean to the Adriatic. Ottoman-aligned corsairs based in North Africa and along the southern Adriatic and Ionian coasts also took advantage of the chaos, raiding the Ottoman subjects and shores they were otherwise expected to protect.[3]

This chapter considers the range of maritime actors circumnavigating Mustafa Ali's jihad island, the rich and varied terminology Ottoman administrators and jurists employed to classify and describe them, and the political and legal rules that could transform the erstwhile holy-warrior corsair into a rebel and thief in the eyes of the sultan's government. Conceptually, the

2 Mustafa Ali, *Mevā'idü'n-Nefāis*, 288.

3 For an overview of these developments, see Joshua M. White, *Piracy and Law in the Ottoman Mediterranean* (Stanford, CA: Stanford University Press, 2017), 6–12.

Ottomans shared much with their Mediterranean neighbours, particularly the Venetians, in how they understood the forms and practitioners of maritime violence. However, the ambiguity surrounding what separated legitimate corsairing from seemingly indiscriminate piracy – both often practiced by the same people, not only over the course of a career but sometimes on the same cruise – inflected the Ottoman vocabulary of maritime violence in the late sixteenth and seventeenth centuries. That vocabulary reflected the deep ambivalence Ottoman administrators felt towards those who might cheaply provide the state with intelligence and coastal defence and augment the imperial navy, but who might also be, have been, or become pirates attacking Ottoman ships and shores as well as those of the Ottomans' treaty-partners, thereby posing a grave challenge to Ottoman security and sovereignty.[4]

The two Ottoman Turkish words most frequently associated with the practitioners of maritime violence in the sixteenth and seventeenth centuries were *korsan* and *levend*. In Ottoman administrative and legal documents, these could signify naval irregulars, corsairs, or sometimes unambiguous pirates – the full spectrum of scale, legality, and professionalization. The words *korsan* and *korsanlık*, derived from the Arabic *qursān*, which in turn was derived from the Italian *corsaro*, carried the meaning of "corsair" and "corsairing" in the early modern period and were then used much as their cognates were in Italian; in modern Turkish, however, they are typically defined as "pirate" and "piracy."[5] Corsairs, particularly those associated with the major enterprises, whether Muslim or Christian, whether based out of Algiers or Malta, could be referred to as *korsan*. In theory, a corsair or privateer enjoyed political and/or religious sanction to raid designated enemies – that sanction being what separated them from mere pirates – but use of the term certainly did not imply Ottoman (or Venetian) approval, or even acceptance of the legitimacy or legality of the *korsan*'s raiding, though it might indicate recognition of a degree of professionalization on the raiders' part. Thus, Maltese corsairs were routinely referred to in the same breath as "damned infidels" and "thieves," and both the Ottomans and Venetians referred to Algiers- or Tunis-based raiders who illegally attacked

4 On the organization of the Ottoman navy in this period, see Colin Imber, "The Navy of Süleyman the Magnificent," *Archivum Ottomanicum* 6 (1980): 211–282.

5 Charles Pellat, Colin Imber, and J.B. Kelly, "Ḳurṣān," *Encyclopedia of Islam, Second Edition*, edited by C. E. Bosworth, E. van Donzel, B. Lewis, and C. Pellat (Leiden: Brill, 1986), 5:502; Idris Bostan, *Adriyatik'te Korsanlık. Osmanlılar, Uskoklar, Venedikliler, 1575–1620* (Istanbul: Timas, 2009), 17–19.

their subjects as *korsan* (or *corsari*), even as they decried their actions as criminal and rebellious.[6]

Indeed, *korsanlık* in the seventeenth century was sometimes deployed in circumstances free of the religious and political baggage scholars normally associate with the term. For instance, in 1617, when a Greek Christian ship captain accused another Greek Christian ship captain in an Ottoman court of firing his cannon at his ship, driving him overboard, and stealing his cargo of wheat – piracy in its purest form – the scribe quoted the plaintiff as saying that the defendant had, in that instance, "done *korsanlık*."[7] The blurry semantic distinctions between the various forms and practitioners of maritime violence, and their accompanying shades of legality, are exemplified by the many meanings of the word *levend*.

A word of uncertain origin, sometimes translated as "adventurer" or "young man," *levend* could denote officially recognized Ottoman corsairs, independent freebooters with no ties to the state, or naval auxiliaries more generally.[8] A ship, its captain, and the fighting men on board could all be called *levend*. Although the word was usually used for Muslims, it carried no specific ethnic or geographic connotation in Ottoman usage and was employed both in the core Ottoman lands and in North Africa. For example, according to Antonio de Sosa, in late sixteenth-century Algiers, all "soldiers of the sea – whether renegades, janissaries who go privateering […] or Turks […] are commonly called *levend*s."[9] The word was used for auxiliary or irregular forces on land as well, and by the second half of the sixteenth century, *levend* had also acquired the pejorative meaning of "bandit."[10] In short, both Ottoman and foreign (Christian) maritime raiders, including

6 See White, *Piracy and Law*, and below.

7 İslam Araştırmaları Merkezi (İSAM), Rumeli Sadareti Mahkemesi (RSM) 35, fol. 9r–v (Evasit/CA/1026); for more on this case, which intriguingly was heard fifteen years after the alleged attack took place, see White, *Piracy and Law*, 240–245.

8 Mustafa Cezar, *Osmanlı Tarihinde Levendler* (Istanbul: Çelikcilt Matbaası, 1965); both Italian and Persian etymologies have been proposed, on which see, Sophia Laiou, "The Levends of the Sea in the Second Half of the 16th Century: Some Considerations," *Archivum Ottomanicum* 23 (2005/6): 233–247, here 233–234.

9 Antonio de Sosa, *An Early Modern Dialogue with Islam: Antonio de Sosa's Topography of Algiers (1612)*, edited by María Antonia Garcés and Diana de Armas Wilson (South Bend, IN: University of Notre Dame Press, 2011), 154; a reference to non-Muslim *levend*s can be found in the Ottoman tale of the "Jailor Captain," set in the late seventeenth century, in which a Maltese galleon recruits *levend kefere*, that is "infidel *levend*s," from the Aegean islands, Fahir İz, "Makale-i Zindancı Mahmud Kapudan," *Türkiyat Mecmuası* 14 (1965): 111–50, here 139.

10 Cezar, *Osmanlı Tarihinde Levendler*; Laiou, "Levends of the Sea"; see also Nicolas Vatin, "Une Affaire Interne. Le sort et la libération des personnes de condition libre illégalement retenues en esclavage sur le territoire ottoman (XVIe siècle)," *Turcica* 33 (2001), 149–190. In modern Turkish,

those from North Africa and Malta, could be and usually were called *korsan*, but non-Ottomans were almost never called *levend*.

In Ottoman administrative documents, official views of such actors and their methods were clarified somewhat by context and through the use of various modifiers. For instance, the somewhat redundant *gönüllü levend korsanları* (literally "volunteer *levend* corsairs") and similar such constructions could be used to describe corsairs or volunteer irregulars in imperial employ and stationed in an Ottoman port.[11] On the other end of the legal spectrum, *harami levendleri* paired the word for robber or thief with *levend* to indicate pirates, as opposed to loyal irregulars. *Harami* was also used, either by itself or as an adjective, to describe a ship or a captain, to mean pirate in maritime contexts. Another common combination, *levend eşkiyaları* (*levend* rebels, outlaws, or bandits), could be used to describe both pirates at sea and highwaymen on land; it could also denote auxiliaries gone rogue. Banditry, like piracy, was viewed as a crime against the state and thus bandits and rebels were virtually synonymous in Ottoman usage. Such people were also referred to as *ehl-i fesad*, villains or evildoers – literally, "people of corruption" – which spoke to the insidious impact of their illegal activities on the proper order of society and their exclusion from its ranks. So, for example, Kara Hamza, Captain Osman, "Gypsy" Manika, and the sixty men who manned their galliots for raids on merchant ships and Anatolian coastal villages in the vicinity of Mytilene in 1588 were described simply as *ehl-i fesad* when the Sublime Porte ordered that they and their ships be captured and that they be sent directly to Istanbul for exemplary punishment.[12]

Sometimes, Ottoman scribes employed only descriptions of the types of ship or their sailors, such as *harbi kafir kalyonları* (enemy infidel galleons) or *kayık levendleri* (*levend*s with small skiffs, i.e. coastal raiders); frigateer (*firkateci*), viz. the sailor of a frigate, was an especially common byword for pirate, particularly those that preyed on Ottoman subjects.[13] In short, piracy was defined situationally rather than occupationally, while corsairing was

levend has once again assumed a more positive meaning, namely a courageous, good-looking man, and is a popular first name.

11 E.g. Başbakanlık Osmanlı Arşivi (BOA) Mühimme defteri (MD) 14: 322/224 (15/S/979).

12 BOA MD 64: 274/98 (996).

13 Examples of all of these can be found in the Ottoman "registers of important affairs," or *mühimme defterleri* (MD), held at the BOA in Istanbul; extant from the 1550s, the MD contain copies of much of the Ottoman administration's outbound correspondence and decrees. See White, *Piracy and Law*, esp. 31–35, 45, 245.

treated semantically as a profession, though one whose practitioners were frequently seduced into rebellion and corruption in the pursuit of wealth.

These terms frequently came together, as in the following from a sultanic decree dispatched in July 1574 to the commander of the Ottoman forces defending the western Morea:

> When the magistrates and governors on the Mediterranean coasts were ordered not to give provisions to the *harami firkate levendleri* (lit. "robber frigate *levend*s") and to capture them when they came ashore, the aforementioned persisted in corruption (*fesad*), continually raiding [Ottoman] tax-paying subjects and the subjects of the islands belonging to Venice and plundering merchant ships.[14]

That the central government considered these raiders to be engaged in illegal, piratical activity is clear enough. What is not clear is who these frigate-sailing pirates actually were, nor how they conceived of their own actions. Were these formerly licenced corsairs, left unemployed and disgruntled by the restoration of peace with Venice in 1573 after three years of war? Were they local irregulars stationed in a nearby fortress who, underpaid and deprived of legitimate plunder in peacetime, chose to raid their neighbours? Or were they simply local amphibious bandits who had made, or coerced, relationships with local officialdom? The broader body of Ottoman decrees from this period makes clear that the culprits included people from all three categories.[15]

From at least the 1480s, all Ottoman commercial treaties (*ahdname*) with European maritime powers included anti-piracy clauses that: prohibited attacks on each other's ships, shores, and subjects; mutually prohibited enslavement; required the parties to secure bonds from their corsairs to ensure their good behaviour; and provided mechanisms for the provision of restitution in the event of violations. They also embraced an attitude towards pirates akin to the Ciceronian *hostis humani generis*.[16] For example, the 1482

14 BOA MD 26: 180/68 (17/RA/982).

15 See White, *Piracy and Law*, especially ch. 1.

16 For an introduction to the *ahdname*s, see Alexander de Groot, "The Historical Development of the Capitulatory Regime in the Ottoman Middle East from the Fifteenth to the Nineteenth Centuries," in *The Ottoman Capitulations: Text and Context*, edited by Maurits van den Boogert and Kate Fleet (Rome: Istituto per l'Oriente C. A. Nallino, 2003), 575–604; for the original Turkish and Italian texts of the Ottoman-Venetian *ahdname*s, see Hans Theunissen, "Ottoman-Venetian Diplomatics: The Ahd-names. The Historical Background and the Development of a Category of Political-Commercial Instruments together with an Annotated Edition of a Corpus of Relevant

Ottoman-Venetian treaty stipulated that if either side "captured the ships of thieves (*haramiler*) in any place, they should punish and execute them."

In the sixteenth century, however, the texts' authors begin replacing the sea-robber appellation with *levend* and *korsan*, and the Venetian Italian translations invariably rendered these as "leventi et corsari."[17] The changes in vocabulary were just one response to the dramatic developments in the Mediterranean maritime landscape, which in the half-century after 1482 had witnessed the Ottomans' gradual dismemberment and absorption of most of the Venetian *stato da mar* and the rise of corsair-led imperial fleets on both sides of the Mediterranean.[18] Petty local piracy remained a problem, and the influx of well-armed English and Dutch broadside sailing vessels into the Mediterranean beginning in the 1580s was a new and significant source of danger to, as well as of competition for, both Ottoman and Venetian merchant shipping.[19] But it was the unrestrained rise of corsairing in North Africa, Malta, and later Livorno that led to heightened tensions and increased the opportunities for conflict, with both sides considering the other responsible for restraining their co-religionists. While Venice clamoured for the Ottoman admiralty to clamp down on North African corsairing and petitioned for the release of Venetian captives and the return of goods illegally seized by Ottoman-aligned corsairs, Istanbul complained repeatedly about Venice's failure to interdict the Maltese and other Catholic corsairs, including the Uskoks in Dalmatia, who stopped in or traversed

Documents," *Electronic Journal of Oriental Studies* 1 (1998): 1–698; on the *ahdname*s' treatment of piracy, see White, *Piracy and Law*, ch. 3. The "enemy of all" is a paraphrase of remarks found in Cicero's *De Officiis* (Book III, Ch. XXIX) but was popularized in the works of early modern jurists, beginning with Alberico Gentili in his *De iure belli libri tres*; see Daniel Heller-Roazen, *Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009), 13–22.

17 E.g. Theunissen, "Ottoman–Venetian Diplomatics," 533–4.

18 Palmira Brummett, *Ottoman Seapower and Levantine Diplomacy in the Age of Discovery* (Albany, NY: State University of New York Press, 1994); Andrew Hess, The Evolution of the Ottoman Seaborne Empire in the Age of the Oceanic Discoveries, 1453–1525," *American Historical Review* 75, no. 7 (1970): 1892–1919.

19 On the "Northern Invasion," see Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II*, Vol. I (Berkeley, CA: University of California Press, 1996), 615–642, as well as the reassessments by Molly Greene, "Beyond the Northern Invasion: The Mediterranean in the Seventeenth Century," *Past and Present* 174 (2002): 42–71; and Colin Heywood, "The English in the Mediterranean, 1600–1630: A Post-Braudelian Perspective on the 'Northern Invasion'," in *Trade and Cultural Exchange in the Early Modern Mediterranean: Braudel's Maritime Legacy*, eds. Maria Fusaro, Colin Heywood, and Mohamed-Salah Omri (London, 2010), 23–44; on the impact of "Northern" piracy on Venetian trade, see Alberto Tenenti, *Piracy and the Decline of Venice, 1580–1615*, transl. Janet Pullan and Brian Pullan (Berkeley, CA: University of California Press, 1967), 56–86.

Venetian territory to attack Ottoman targets. Maltese corsair attacks on Ottoman ships were cited as *casus belli* for both the Ottoman invasion of Venetian Cyprus in 1570 and Venetian Crete in 1645.[20] Consider the following clause from the 1595 text of the Ottoman-Venetian treaty, which reflects the impact of these developments on policy:

> If the *levend* galliots of North Africa and the *korsan* caïques of other places go by sea, or if other thieves go by land, and raid the islands and other places subject to Venice and capture their people and take them and sell them in Rumelia or Anatolia or in North Africa or in other places, or if they use them themselves; that sort of slave, in whoever's possession he is found, shall be taken from them without delay and be turned over to the Venetian Senate's *bailo*s or their deputies or their agents and those robber *levend*s (*harami levendleri*, i.e. pirates) shall be captured and strongly punished, and if that slave became Muslim, he shall be emancipated and freed.[21]

In effect, the treaty acknowledged that raiders might be considered corsairs in certain places, not least by the authorities in the North African port cities, but be viewed as pirates by the Ottomans and their treaty-partners when they violated the *ahdname* by taking protected subjects, for which reason additional treaty clauses explicitly permitted the Venetians (or the French or the English) to forcefully defend themselves against, pursue, and destroy any North African corsair ships that threatened them.[22] This was because the religious justification Muslim corsairs claimed to raid and enslave "enemy infidels" (*harbi kafirler* – that is, non-Muslims from the "Abode of War," the lands not ruled by Muslims) was always tempered by political and legal realities that identified people by their subjecthood as well as their religion and extended special protections to some to travel and trade.

20 Svat Soucek, "Naval Aspects of the Ottoman Conquests of Rhodes, Cyprus and Crete," *Studia Islamica*, no. 98–99 (2004): 219–261; see also White, *Piracy and Law*; on the Uskoks, see Catherine Wendy Bracewell, *The Uskoks of Senj: Piracy, Banditry, and Holy War in the Sixteenth Century-Adriatic* (Ithaca, NY: Cornell University Press, 1992). For more on the Ottoman–Venetian relationship, see Eric Dursteler, *Venetians in Constantinople: Nation, Identity and Coexistence in the Early Modern Mediterranean* (Baltimore, MD: Johns Hopkins University Press, 2006); E. Natalie Rothman, *Brokering Empire: Trans-Imperial Subjects between Venice and Istanbul* (Ithaca, NY: Cornell University Press, 2012); Maria Pia Pedani, *In nome del Gran Signore. Inviati ottomani a Venezia dalla caduta di Costantinopoli alla guerra di Candia* (Venice: Deputazione editrice, 1994).

21 Theunissen, "Ottoman–Venetian Diplomatics," 569–570.

22 White, *Piracy and Law*, 126–133, 162–163.

The corsairs who raided and enslaved the designated enemies of the faith at the designated times were celebrated as holy warriors of the sea. In fact, all those who fought in the sultan's wars, including those waged against fellow Muslims, were lauded as *gazi*s and *mücahid*s, since Ottoman religious-legal authorities issued fatwas – legal opinions – declaring every Ottoman war a holy war.[23] However, when Ottoman corsairs attacked the sultan's own subjects or attacked the subjects of the powers to which the sultan had extended peace and protection – by 1612, a list that included Venetian, Ragusan, French, English, and Dutch subjects – they became rebels and, by extension, pirates. Sultanic authorization was what consecrated the raiding of "enemy infidels" and kept the corsair on the right side of Mustafa Ali's jihad island.

This was in keeping with centuries of Islamic tradition, which held that the initiation and prosecution of jihad qua holy war was the exclusive responsibility of the leader (*imam*) of the Muslims and was embarked upon communally under his leadership, and so it was precisely this language that Istanbul employed when it admonished the leadership in Algiers and Tunis to restrain its corsairs and restrict their raids to targets that were acceptable to Istanbul.[24] For example, after a series of joint Algerian-Tunisian raids on Venetian possessions in 1624 – during the lengthy period of peace that separated the wars for Cyprus (1570–1573) and Crete (1645–1669) – the Ottoman imperial admiral sent a letter to Tunis that praised its corsairs for their past history as holy warriors but disparaged the participants in the raid as "rebel *levend*s." He explained his logic: "Their [the Venetians'] possessions are not like the possessions of other enemy infidels; theirs are not permissible (*halal*) for you."[25] His letter was accompanied by a fatwa from the Ottomans' chief religious-legal authority (*şeyhülislam*) that declared that it was a violation of Islamic law to attack the sultan's friends. The Tunisians

23 Colin Imber, *Ebu's-su'ud: The Islamic Legal Tradition* (Stanford, CA: Stanford University Press, 1997), 65–88; White, *Piracy and Law*, 207–208; on *gazi*, see Colin Imber, "What Does Ghazi Actually Mean?," in *The Balance of Truth: Essays in Honour of Professor Geoffrey Lewis*, edited by Çiğdem Balım-Harding and Colin Imber (Istanbul: Isis Press, 2000), 165–178.

24 On the meanings and practice of jihad, see Michael Bonner, *Jihad in Islamic History: Doctrines and Practice* (Princeton, NJ: Princeton University Press, 2008); on early Hanafı approaches, see also Muḥammad ibn al-Ḥasan Shaybānī and Majid Khadduri, *The Islamic Law of Nations: Shaybānī's Siyar* (Baltimore, MD: Johns Hopkins Press, 1966).

25 Archivio di Stato di Venezia (ASVe), Bailo a Costantinopoli (BAC), Carte turche 251/4, fol. 121v; the raids that led to this exchange and their aftermath are described in detail in Joshua M. White, "'It Is Not Halal to Raid Them': Piracy and Law in the Seventeenth-Century Ottoman Mediterranean', in *Corsairs and Pirates in the Eastern Mediterranean, 15th–19th Centuries*, edited by Gelina Harlaftis and David Starkey (Athens: Sylvia Ioannou Foundation, 2016), 77–94.

would subsequently defend their raids against the Venetians with the secular justification of retaliation and reprisal, since the Venetians were proactive in their defence against the corsairs (as was their right according to their treaty) and were famously uncompromising to those they captured, who they frequently executed on the spot. In response, Ottoman authorities turned again to the language of Islamic law, not in support of raiding the "enemy infidels," but as an explanation for why the corsairs could not, dispatching further fatwas to North Africa asserting the primacy of the sultan and the necessity of securing his permission to raid.[26]

Yet, calls for North Africa's corsairs to observe the sultans' *ahdname*s had been dispatched with some regularity since the 1580s, as Venetian, French, and English vessels came under increasing attack, and Istanbul's coercive capacity in the capitals of corsairing had only declined since then. Several decades of political, military, and fiscal crisis weakened the financial and administrative links to the North African provinces, which became virtually self-governing in the aftermath of provincial reorganization in 1587, while the Algerian and Tunisian corsairs with roots in the Ottoman Aegean and Adriatic whom Mustafa Ali had celebrated, like Hayreddin Barbarossa and his acolytes, had increasingly come to be replaced by European renegades – converted former captives, unemployed English and Dutch privateers, and entrepreneurial opportunists – who paid lip service to the old ideals (particularly the ancient and enduring hostility toward Spain) but had little connection and less loyalty to the distant Ottoman dynasty.[27]

Although individual decrees to free illegally enslaved European captives sometimes succeeded, the willingness of European powers to pay ransoms undercut the desultory Ottoman enforcement efforts, and most Ottoman and Venetian attempts to secure North African obedience to the sultan's treaties, like that in 1624, came up short. Ultimately, those failures accelerated the process of diplomatic divergence that began in earnest in the early seventeenth century and culminated in the 1620s, with Algiers and Tunis concluding treaties directly with European powers and declaring war and peace of their own accord. From this point onwards, Algiers, Tunis, and

26 White, "It is Not Halal."

27 On the changing Ottoman relationship with North Africa, see Emrah Safa Gürkan, "The Centre and the Frontier: Ottoman Cooperation with the North African Corsairs in the Sixteenth Century," *Turkish Historical Review* 1, no. 2 (2010): 125–163; on renegades, see Tobias Graf, *The Sultan's Renegades: Christian-European Converts to Islam and the Making of the Ottoman Elite, 1575–1610* (Oxford: Oxford University Press, 2017), and Bartolomé Bennassar and Lucile Bennassar, *Les chrétiens d'Allah. L'histoire extraordinaire des renégats, XVIe et XVIIe siècles* (Paris: Perrin, 1989).

Tripoli defined their own foreign policies, and as the balance of naval power in the Mediterranean began to shift northwards in the second half of the seventeenth century, they suffered repeated European bombardments – all with little complaint from Istanbul, which by mid-century had formally absolved itself of responsibility for the actions of "rebellious" corsairs it had long since ceased to authorize or rely upon.[28]

The fact of the matter was that the same factors that had made naval irregulars valuable to the Ottomans made regulating them incredibly difficult, and this was not just true of those operating out of semi-independent North Africa. The Sublime Porte had relied to some degree on *levend*s for maritime security and intelligence gathering since the fifteenth century, but its reliance on irregulars increased dramatically during and immediately after the 1570–1573 conflict with Venice and its Holy League allies. The defeat and near-total destruction of the Ottoman fleet at the Battle of Lepanto in October 1571 deprived the Ottoman government not only of hundreds of ships, but of thousands of experienced seamen, oarsmen, and soldiers.[29] As a result, Ottoman administrators turned to the *levend*s of the Adriatic and North Africa who had missed or survived the debacle at Lepanto to fill the security gap while the navy worked to recruit fresh men and rebuild. In the disorder and fog of war, there were myriad opportunities for corsairs tasked with pacifying the Aegean islands to engage in illegal slaving raids, and for ambitious amphibious bandits along the Adriatic, Ionian, and Aegean coasts to grow their gangs and expand their range.[30] The end of the war in 1573 brought little peace to the Ottoman Mediterranean as erstwhile corsairs persisted in piracy, and the situation only got worse as rampant inflation, successive wars against Safavid Iran (1578–1590, 1603–1618, 1623–1639) and Habsburg Austria (1593–1606), the disastrous Celali revolts (1595–1609), and dynastic crisis vied for the attention and resources of Ottoman administrators between the 1570s and 1640s.[31] The trade-offs facing Ottoman administrators relying on irregulars for maritime

28 White, *Piracy and Law*, esp. ch. 4; on the role the Ottomans' chief religious-legal authority (*şeyhülislam*) and his fatwas played in diplomacy between Europe and North Africa, see Joshua M. White, "Fetva Diplomacy: The Ottoman Şeyhülislam as Trans-Imperial Intermediary," *Journal of Early Modern History* 19, nos. 2–3 (2015): 199–221.

29 See John Guilmartin, *Gunpowder and Galleys: Changing Technology and Mediterranean Warfare at Sea in the Sixteenth Century* (London: Cambridge University Press, 1974); Andrew Hess, "The Battle of Lepanto and Its Place in Mediterranean History," *Past and Present* 57 (1972): 53–73.

30 White, *Piracy and Law*, 36–44.

31 For an overview of this tumultuous period in Ottoman history, see Caroline Finkel, *Osman's Dream* (New York: Basic Books, 2006), 196–228.

security, and the troubles and temptations facing those navigating Mustafa Ali's jihad island, are exemplified by the Ottoman raiding community of Aya Mavra fortress, located on the northern tip of the strategically located Ionian island of Lefkada.

Mustafa Ali named Lefkada among the chief destinations for an up-and-coming Anatolian pirate in 1599, and most of Aya Mavra's *levend*s were volunteers who flocked there from distant coastal regions of the empire. Greek-accented Turkish, Greek, and lingua franca, the Romance pidgin understood in every Mediterranean port, could all be heard in the taverns and along the wharves of this frontier outpost.[32] The fortress and its *levend*s fulfilled legitimate security needs – until its reconquest by Venice in 1684, Lefkada was the only Ionian island held by the Ottomans – and they played an important role in harassing enemy shipping and the nearby Venetian islands in wartime. But in peacetime, the unruly and largely unsupervised *levend*s of this insular 'Little Algiers', as the seventeenth-century Ottoman traveler Evliya Çelebi (d. 1682) called it, often turned to piracy, plundering the ships and villages of both the neighbouring Venetian islands and the nearby Ottoman mainland and carrying off their inhabitants in order to build and row their frigates.[33]

For example, as soon as the war with Venice over Cyprus came to a formal end in the spring of 1573, Aya Mavra-based *levend*s were illegally building frigates with which they were raiding nearby Ottoman subjects. Although Lefkada's Ottoman magistrate was ordered to record the names of the *levend*s "whose crime has been proven" and forward them to the Imperial Council for punishment, less than two months later the Imperial Council was dispatching yet another set of commands in response to complaints from the Ottoman governor of the Morea that some *levend* corsairs (*levend korsanlar*) from Aya Mavra had been plundering his district and taking Ottoman captives. Once again, Istanbul ordered that these *levends* be apprehended and put to the oar – a model punishment for pirates in a time when seasoned oarsmen were in dangerously short supply.[34]

32 Mustafa Ali, *Mevā'idü'n-Nefāis*, 288; Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi. Topkapı Sarayı Kütüphanesi Bağdat 308 Numaralı Yazmanın Transkripsiyonu* (Istanbul: Yapı Kredi Yayınları, 1996–2007), 8:282.

33 Evliya Çelebi, *Seyahatnâmesi*, 8:282. For more on this epic traveller, see Robert Dankoff, *An Ottoman Mentality: The World of Evliya Çelebi* (Leiden: Brill, 2004).

34 BOA MD 22: 30/12 (21/M/981); BOA MD 22: 332/172 (26/RA/981); on the sentencing of criminals to galley service, see Mehmet İpşirli, "XVI. Asrın İkinci Yarısında kürek cezası ile ilgili hükümler," *Tarih Enstitütüsü Dergisi* 12 (1982): 204–248.

The imperial centre understood that these *levend*s and others like them worked closely with contacts on land to supply victuals and fence their plunder, and it repeatedly dispatched orders to provincial administrators not to supply criminal *levend*s with grain, guides, water, or intelligence; all ships built without authorization or belonging to those suspected of engaging in piracy were to be seized and burned.[35] But such orders had little effect. The governors of the mainland district in whose jurisdiction Lefkada fell frequently colluded with the island's *levend*s, bankrolled their operations, both legal (there was a surfeit of licit targets in Habsburg- and papal-controlled Italy) and illegal, and turned a blind eye to all but their most egregious offences.[36] The same was often true for the governors, fortress commanders, and customs officers of many of the Ottoman port towns of the Adriatic, Ionian, and Morean coasts, who either chose or were forced to collaborate with the local *levend*s. Collusion may have been a choice for some officials, but for the soldiers and irregulars stationed along the Ottoman Empire's maritime frontiers who were paid, if they were paid at all, in debased coin at wages that had stagnated despite decades of inflation, participation in the raiding, whether legal or illegal, was a matter of financial necessity. And so the rash of piracy that began in the aftermath of peace in 1573 persisted until the Ottoman invasion of Venetian Crete in 1645 gave the *levend*s a new war to fight.

Some of the *levend*s based at Aya Mavra in this period harboured grander ambitions than sacking impoverished nearby fishing villages and plundering small coastal traders. It was still much as Mustafa Ali described; for many of the petty criminal *levend*s who built piratical careers on the backs of their neighbors, whom they raided and enslaved, and then moved on to Lefkada to acquire a bigger ship in order to take bigger prizes, the next step on the aspirational career ladder was Algiers, where corsairing was wholly supported by the local administration even when it was frowned upon in Istanbul.[37] Relations between Algiers and Istanbul had deteriorated

35 See, for example, BOA MD 26: 180/68 (17/RA/982); MD 31: 184/75 (12/CA/985); MD 34: 550/261 (986); MD 35 520/206 (986); MD 470/252 (12/Ş/988).

36 For some indication of the extent of the corruption: in 1617, Istanbul was informed that the previous district governor of Karlieli (which included Lefkada) had been kidnapping the residents of villages in his district, possibly with the connivance of Aya Mavra's *levend*s, and then exporting them to North Africa, where they were exchanged for captives with legal provenance who were then imported into Karlieli; for more on this case and its implications, see Joshua M. White, "Piracy of the Ottoman Mediterranean: Slave Laundering and Subjecthood," in *The Making of the Modern Mediterranean: Views from the South*, edited by Judith Tucker (Berkeley, CA: University of California Press, 2019), 95–122.

37 Mustafa Ali, *Mevā'idü'n-Nefāis*, 288–290; for more on the *corso* in Algiers itself, see Fatiha Loualich, "In the Regency of Algiers: The Human Side of the Algerine Corso," in *Trade and*

dramatically by the mid-seventeenth century, following decades of disputes over the harsh treatment of administrators sent from Istanbul and mounting Ottoman frustration with the failure of Algiers' leaders to consistently supply adequate naval support during the interminable campaign to conquer Crete. But whereas Algiers' contumacious corsairs and rebellious leadership no longer held the exalted position in the eyes of the Sublime Porte that it had a century earlier, it and the other North African port cities still represented an alternative locus for the legitimate practice of maritime violence and the image of success in that pursuit for mariners across the Ottoman Mediterranean. So much so, in fact, that *levend*s elsewhere began to adopt its corsairs' distinctive fashions.

In the 1670s, Evliya Çelebi observed that all of Aya Mavra's "frigateer *levend*s" wore red fezzes and red vests with patterned silk sashes around their waists, just like the Algerine corsairs who sometimes cruised in Ionian and Adriatic waters and occasionally participated in joint ventures with the local *levend*s. Evliya encountered the same styles being worn by the Albanian *levend*s of the port towns of Durrës and Vlorë, located just to the north of the narrow entrance to the Adriatic. These *levend*s were natives, unlike the motley crews on Lefkada, but they too provided maritime security and conducted reconnaissance missions and they too engaged in frequent piratical attacks (often carefully planned in advance) against nearby Ottoman, Venetian, and Ragusan targets.[38] By donning the costume of Algiers, the sometime-rebel *levend*s of the Adriatic and Ionian coasts masqueraded as holy warrior corsairs, even when an inconvenient peace rendered them pirates.

Indeed, even though Evliya acknowledged that heavy drinking in the Greek-run taverns was the Aya Mavra *levend*s' principal occupation on dry land, he declared that they were holy warriors and heroes (*gazi*s) owing to their service in the recently concluded 24-year war with Venice (1645–1669), and he insisted that some were "very devout."[39] Nevertheless, just as had happened after the return of peace in 1573, the *levend*s of Aya Mavra were disinclined to halt their attacks on Venetians after 1669, and they resumed raids on other Ottomans as well, once again transforming the culprits into evildoers, rebels, and thieves from the perspective of the Sublime Porte. The

Cultural Exchange in the Early Modern Mediterranean: Braudel's Maritime Legacy, edited by Maria Fusaro, Colin Heywood, and Mohamed-Salah Omri (London: I. B. Tauris, 2010), 69–96.

38 Evliya Çelebi, *Seyahatnâmesi*, 8:282, 314; on piracy in this region, see Bostan, *Adriyatik'te Korsanlık*; White, *Piracy and Law*, 51–8.

39 Evliya Çelebi, *Seyahatnâmesi*, 8:282.

dilemma for Istanbul was balancing the financial and political costs of the *levend*s' piratical activities, both on Lefkada and elsewhere within Ottoman domains, against the military and even economic benefits of maintaining (or simply permitting) these inexpensive, self-sustaining, highly motivated defence forces that occupied strategic points and injected valuable booty into their communities, which were often otherwise marginalized ports that had been left behind by tectonic shifts in Mediterranean trade routes and patterns of licit commerce during the sixteenth century.[40]

It was an unfortunate fact that the *levend*s of Aya Mavra did "not have good relations with the people of other places," as Evliya put it, "but they are brave and courageous and talented soldiers and they are a thorn in the eyes of Frengistan (the land of the Franks, viz. Christian Europe)."[41] And that, at least, argued for a policy of responding loudly to serious incidents – calling for the arrest of the "rebels" and the destruction of their craft – but otherwise avoiding sustained enforcement efforts that might exacerbate the situation. Thus, even though the Ottoman governor of the Morea dispatched a force to Aya Mavra in 1675 to burn the *levend*s' ships, their piratical attacks persisted until 1684, when the Venetians joined the new Holy League formed in the aftermath of the failed Ottoman siege of Vienna the previous year, declared war on the Ottoman Empire, and made the conquest of Lefkada their first priority.[42]

But just as the *levend*s of Lefkada dressed like the corsairs of Algiers, thereby associating themselves with the largest and most respected independent corsairing outfit in the Muslim Mediterranean, most maritime raiders looked for ways to legitimize their activities, to position their raids within the traditional practices and conflicts of the major corsairing organizations or to defend them with a variety of religious and secular justifications. As we have seen, when holy war no longer applied, self-defence, retaliation, and reprisal provided the most plausible explanations. The back-and-forth raiding of the Adriatic-Ionian frontier was often couched in such language, and Algiers and Tunis alike employed similar excuses when Istanbul demanded explanations for raids on Venetians. In the aftermath of corsair attacks on the Venetian Ionian islands in 1624, for example, the Tunisian leadership explained to the Ottoman and Venetian envoys sent to secure the release of the captives that its corsairs had no choice but to

40 On which point, see White, *Piracy and Law*, *passim*; Gonçal López Nadal, "Corsairing as a Commercial System: The Edges of Legitimate Trade," in *Bandits at Sea: A Pirates Reader*, edited by C. R. Pennell (New York: New York University Press, 2001), 125–136.

41 Evliya Çelebi, *Seyahatnâmesi*, 8:282.

42 The 1675 expedition is mentioned in George Wheler, *Journey into Greece in Six Books* (London: Cademan, 1682), 37; on continuing attacks, see ASVe BAC, Carte turche 252/12 (Evail/R/1093).

sack the islands of Paxos, Antipaxos, and Cephalonia because some people on the shore had hurled insults at the passing ships and a couple had fired their arquebuses, while their fleets were wholly justified in seizing Venetian ships since they were simply compensating themselves for losses sustained from Venetian anti-piracy patrols. The Istanbul government rejected all these excuses – those responsible for the attacks were labeled rebels and criminals – but as the North African port cities arrogated to themselves the right to make peace or war as they saw fit, any naval entrepreneur could join them and benefit from the legitimacy and infrastructure they could provide. In seventeenth- and eighteenth-century Algiers and Tunis, which had their own political and religious leaders, the corsairs could continue to claim the political and religious legitimacy that Istanbul denied them.[43]

Consider the example of the title character in the late seventeenth-century *Story of the Jailor-Captain Mahmud and His Victories over the Damned Hell-Dwelling Maltese*. Set in the 1670s, this Ottoman Turkish tale tells of a French corsair galleon whose jailor enlists his ship's Muslim captives in a mutiny. After they seize control of the ship, the jailor, now captain, explains to his mixed crew of Ottoman Muslims and French Christians that "we must join and take the flag of some power or an *ocak* [lit. "hearth," the term used for the governments in North Africa]; it is not reasonable for us to continue alone like this."[44] There is no question in this instance that the erstwhile Catholic corsairing vessel will continue in its former profession, but it requires a new sponsor, since independent piracy is not considered a viable option. They run through the possibilities: the Ottomans, they decide, would arrest them as pirates and imprison them; Algiers is too greedy and might well steal their ship; Tripoli is too poor and has little to offer them; and so they settle on Tunis, which is sufficiently wealthy, powerful, and welcoming. Eventually, like so many other North Africa-based European renegades, the French jailor adopts Islam and the name Mahmud, and battles Maltese

43 See White, "It is not Halal"; *idem*, *Piracy and Law*, 265–268; the Tunisians' explanations for the 1624 raids and for their hostility towards Venice are recounted in detail in the report of the Venetian dragoman Giovanni Battista Salvago in his *'Africa overo Barbaria'. Relazione al doge di Venezia sulle reggenze di Algeri e di Tunisi del dragomanno Gio. Batta Salvago, 1625* (Padua: A. Milani, 1937), 34–46. On the particular dynamics of the Adriatic frontier region, see Bostan, *Adriyatik'te Korsanlık*; Maria Pia Pedani, "Beyond the Frontier: The Ottoman–Venetian Border in the Adriatic Context from the Sixteenth to the Eighteenth Centuries,", in *Zones of Fracture in Modern Europe: The Baltic Countries, the Balkans, and Northern Italy*, ed. Almut Bues (Wiesbaden, 2005), 45–60.

44 İz, "Makale-i Zindancı Mahmud," 129; on the story and its history, see Andreas Tietze, "Die Geschichte von Kerkermeister-Kapitän, Ein Türkischer Seeräuberromane Aus Dem 17. Jahrhundert," *Acta Orientalia* 19 (1942): 152–210.

corsairs while capturing ships and men, but now from the other side of the political-religious divide of the Mediterranean – all without the knowledge, involvement, or approval of the sultan's government in Istanbul.[45]

Many of those who were captured or accused of simple piracy had excuses at the ready as well. For instance, the janissary Mustafa Beşe bin Abdullah accused the Armenian Yorgi veled Anton of the island of Kos of having partaken in a piratical attack on his ship four years earlier when he sued him in the court of Galata in April 1616. Returning from a trading expedition to Egypt, Mustafa Beşe's ship had dropped anchor at a spot along the coast near Kos and the crew had tucked in for the night when Yorgi and his compatriots climbed over the gunwales, seized Mustafa and his crew, robbed them, and plundered the ship. They did this, Mustafa explained, "because the aforementioned Yorgi is a frigateer (*firkateci*)." But Yorgi defended himself by claiming that he himself had been the prisoner of a pirate, a notorious "frigateer" known as Ak Mehmed, and that it was Ak Mehmed who had directed the assault on Mustafa Beşe's ship. Yorgi claimed that he had not even participated in the raid and that he had been chained hand and foot in Ak Mehmed's frigate at the time of the attack.[46] Yorgi's denial echoed that of countless pirates, who claimed that they were simple sailors who had no knowledge of what the captain had planned, or that they were prisoners forced to participate under duress.[47]

The documents produced by the Ottoman central administration shed little light on the motives of these raiders, whether economic or religious, personal or political, or some combination of all of them. Nor does the archival record tell us much, in most instances, about their background or origins. In the many decrees issued in the aftermath of an illegal attack—dispatched to provincial and district governors, local magistrates, fortress commanders, and naval leaders – it is often unclear where the implicated parties (most frequently referred to as *levend*s) fell on the legal and professional spectrum. Were they formally, or formerly, licenced corsairs, who were theoretically required to post a cash bond or name a guarantor in their home port to ensure their good behaviour, or were they just an amphibious gang stealing indiscriminately? The Ottoman administrative and legal response to maritime raiding hinged on the subjecthood and religion of

45 İz, "Makale-i Zindancı Mahmud," 129.

46 İSAM, Galata 40, fol. 67v (Evail/R/1025).

47 See, for example, the Venetian interrogation record of a diverse crew of accused pirates captured off Crete in 1610, in Horatio Brown, ed., *Calendar of State Papers Relating to English Affairs in the Archives of Venice* (London: His Majesty's Stationery Office, 1905), 12:559–563.

both the raiders and their victims, and the wrong combination at the wrong time resulted in official condemnation. No further distinction between the various species of Ottoman *levend* and *korsan* was necessary when the targets they chose ran counter to the Ottoman central government's wishes.

If Ottoman administrative documents were often vague in their description of piratical actors, it is worth noting that Ottoman court records and legal sources were intentionally obscure when it came to the actions of foreign Christians, in particular. In the disputes over captured ships and cargo heard in Ottoman courts, the question of whether the "enemy infidel" doing the taking had authorization – of whether they were pirates or privateers – was irrelevant, in contrast with many European courts, where determining the legitimacy of the taking decided the disposition of the property seized. Thus, in the court context, Ottoman scribes usually did not differentiate between European "enemy infidel" naval vessels, corsairs, and pirates, any of which might seize Ottoman ships and subjects, nor did they record the aggressor's geographic or national origin, except in rare instances.[48]

Therefore, while it is true that the designation of "pirate" is both a political and a legal one, there was in the Ottoman case a pronounced cleavage between the two arenas when it came to non-Ottoman sea raiders. Ottoman administrators might indeed brand them pirates (or "thieving corsairs") and reserve particularly harsh treatment for some, but to Ottoman jurists and judges, the home-country legal status of an "enemy infidel" ship that carried out attacks on Ottoman ships, subjects, and shores did not merit the slightest recognition. In terms of Ottoman Islamic law, there was no difference between the foreign Christian pirate and the foreign Christian corsair, even though in the secular realm of Ottoman international maritime law, enshrined in the *ahdname*s, those differences persisted.[49]

The shoals surrounding Mustafa Ali's jihad island were dangerous and constantly shifting. The risks were real; whatever their origin, pirates apprehended during local crackdowns on land or the navy's periodic sweeps

48 See Joshua M. White, "Litigating Disputes over Ships and Cargo in Early Modern Ottoman Courts," *Quaderni Storici* 51, no. 3 (2016): 701–725; Lauren Benton, "Legalities of the Sea in Gentili's *Hispanica Advocatio*," in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, edited by Benedict Kingsbury and Benjamin Straumann (New York: Oxford University Press, 2010), 269–282; Guillaume Calafat, "Ottoman North Africa and Ius Publicum Europaeum: The Case of the Treaties of Peace and Trade (1600–1750)," in *War, Trade and Neutrality: Europe and the Mediterranean in the Seventeenth and Eighteenth Centuries*, edited by Antonella Alimento (Milan: Franco Angeli, 2011), 171–188.

49 On Ottoman Islamic law concerning maritime violence, in theory and practice, see White, *Piracy and Law*, chs. 5 and 6.

of the Ottoman Mediterranean faced death, or a short, miserable life chained to the oar. Within the diverse maritime ecology of the Ottoman Mediterranean, the line between holy war and criminal rebellion, between legitimate and illegitimate sea robbery, was thin and easily crossed – the same individuals and groups could be responsible for both, not just at different stages of their career, but on the very same cruise. At the same time, the cessation of conflict instantly transformed privateers into pirates when they persisted in attacking their erstwhile enemies. This was certainly true for the Ottomans vis-à-vis Venice after 1573, just as it was for the English and Dutch vis-à-vis Spain after 1604 and 1609, respectively; what had been legitimate, respectable *korsanlık* became, in essence, piracy, to their former sponsors, even if we might hesitate to apply the label *pirate* to those Ottoman administrators called "people of corruption," "rebels," and "thieves." Nevertheless, disavowed Ottoman, English, and Dutch privateers all found refuge in North Africa, where they received the authorization they sought to continue their war under new banners. And yet, a significant number of those active in the early modern Ottoman Mediterranean whom we might call pirates were not engaged in predatory raiding full time – they were coastal guards, merchants, or fishermen who did so whenever it was convenient, profitable, and relatively safe. As we have seen, from the Aegean amphibious bandit to the Algiers-bound corsair, all such people could simultaneously fall into one or more of the categories of *levend* or *korsan*, bandit or rebel, holy warrior or thief, frigateer or evildoer. The diversity of the practitioners and expressions of maritime violence and the ambivalence of the authorities towards them are reflected in the diverse and frequently ambiguous Ottoman Turkish vocabulary employed to describe them. And so, when surveying the landscape of maritime violence in the sixteenth- and seventeenth-century Mediterranean, the right question may not be who or what was a pirate, but rather, at what point did raiding become piracy?

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8 Piracy, Empire, and Sovereignty in Late Imperial China[1]

Robert J. Antony

Abstract
A reminder of the hazards of a Eurocentric approach to the phenomenon of piracy, this chapter studies interactions between the Qing regime and pirates. Late imperial China saw the development of three overlapping maritime "regimes" along its coasts, namely, the imperial dynastic power, the European overseas enterprise, and the "pirates" themselves. Notably, the latter two regimes challenged the first in various ways. A reassessment of the Qing imperial claims of sovereignty in the face of activities labelled as piracy provides crucial understanding of the way empire was constructed. One may point at both parallels and dissimilarities between East Asian and Western forms of piracy, revealing how the various players off China's coasts contended with each other over maritime space.

Keywords: China, Qing Dynasty, maritime regimes, sovereignty, maritime space

Introduction

Piracy played an important role in the making of the Qing Empire (1636/44–1911). Such a premise at first may appear far-fetched. Not so long ago, China scholars paid little attention to the maritime, dismissing it as peripheral and unimportant. Although today maritime history is one of the hottest

1 The author wishes to thank colleagues at the Institute for Advanced Studies at Princeton for their critical comments and suggestions on an earlier version of this chapter while he was a visiting scholar in 2019.

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topics in Chinese history, few if any scholars would place piracy at centre stage. Indeed, no China scholar has examined the relationship that piracy had with empire building and the legal regime upon which the state rested. Important studies by Janice Thomson, Anne Pérotin-Dumon, Eliga Gould, Lauren Benton, Michael Kempe, and others, although adding greatly to our understandings about the role that piracy has played in the operations of empire and law, nevertheless are Eurocentric in that they focus on Western imperialism and say little about how non-Western imperiums and legal regimes developed or functioned. In this chapter, I shift attention to the construction and internal dynamics of the Qing Empire, sovereignty, and piracy between the seventeenth and early twentieth centuries. Put simply, this chapter takes a China-centred perspective.

This chapter builds on Benton's and other recent studies on European empires, legal regimes, and piracy by exploring how Qing rulers, scholar-officials, agents of foreign states, and pirates interacted with one another in the construction of empire and sovereignty. While my research has been inspired by Benton in particular, I nonetheless take her studies as my point of departure because there is so much that was different in China. She has persuasively argued that the expansion of law closely followed the expansion of European empires across the globe. Rather than viewing the oceans simply as empty, lawless space, she has shown how European explorers, government agents, merchants, and even pirates helped in the process of extending Europe's imperial and legal regimes across the seas. The extension of European law (and the concurrent creation of international law), however, took centuries and was never as complete as imperial states would have us believe. Because empires and sovereignty extended along narrow corridors and clusters of enclaves, they remained fragmented and uneven, or as Benton puts it, "lumpy." Nonetheless, as her studies clearly show, it was the intention of European imperial governments to impose European/international law across the oceans and to the far corners of the globe. China in the Qing period, however, followed a different trajectory, which both reacted and adjusted to Western encounters and to piracy.

What I see developing in China's late imperial age (roughly seventeenth to twentieth century) were three overlapping and competing legal regimes: first, that of the Qing imperium whose laws and jurisdictions stretched little beyond the shoreline; second, that of the European empires (particularly Portugal, the Netherlands, and Britain), which sought to impose their own universalistic laws and jurisdictions over all oceans; and third, that of the pirates themselves, who, as outlaws, were left to devise their own codes of

behaviour and self-regulation in the dark spaces of the outer ocean. The question of China's undisputable sovereignty was crucial to the construction and maintenance of its empire, as were its inalienable rights to enact and enforce laws. At crucial junctures in its long history both pirates and foreign imperialists challenged Qing sovereignty and thereby the legitimacy of empire. The key question, of course, was political – who exercised power and claimed sovereignty?

Sovereignty, however, is a slippery term. It was also one that changed over time and varied from place to place. Although scholars differ on definitions of sovereignty, for our purposes we can define it simply as the absolute right and power of a state to rule over its territory and population without interference from outside polities. Nonetheless, there were important philosophical differences between China and the West when it came to issues of international relations and sovereignty. At the time that the Manchus were consolidating their rule over China, in Europe the Peace of Westphalia in 1648 laid the groundwork for the modern international system that has come to dominate foreign relations across the globe today. Under what has become known as the Westphalian system, European powers gradually regularized and institutionalized new definitions of sovereignty, diplomacy, and commercial exchange. In contrast to what was happening in Europe from the seventeenth century onward, in China the emperor derived his sovereignty – and that of his state – from the cosmology of Heaven rather than from law. While the Qing state continued to adhere to the traditional Confucian worldview grounded on inequality and hierarchy, European states were aggressively promoting a new world order based on equality and balance-of-power among the various polities inside and outside Europe. What concerned China's imperial governments was not overseas colonialization but rather recognition from polities outside of China of the superiority of the Son of Heaven, thereby acknowledging China's politico-cultural pre-eminence. Unlike the European explorers in the Age of Discovery, the maritime expeditions undertaken in the early Ming dynasty under Zheng He between 1405 and 1433 neither aimed to discover new lands, nor seek territorial aggrandizement, but rather to reassert the Middle Kingdom's central, supreme position in what China referred to as "All Under Heaven" (*tianxia*). As long as the neighbouring states maintained stability and were not troublesome China was content to leave them alone. Throughout East Asia, before the late nineteenth century, China was recognized as the great hegemon, a status derived as much from its cultural achievements as from its raw size and military prowess. During the Qing dynasty, under duress from Western imperialist expansion after the first Opium War in 1839, the

state had to gradually adjust and come to terms with Western concepts of sovereignty.[2]

I divide this study into two main sections. In the first section I discuss one of traditional China's fundamental geopolitical conventions: the binary concept of inner and outer oceans. Traditionally, China conceptualized the water world as two vague spheres of inner and outer oceans, which had important implications on how imperial China ordered its laws and wars against pirates. In the second section, which is divided into three periods of piratical upsurges – early Qing (1630s–1680s), mid-Qing (1770s–1810s), and late Qing (1840s–1910s), I focus more specifically on episodes of piracy and the problems of sovereignty in the late imperial period.

Geopolitical Considerations

Although late imperial China's rule of law and sovereignty were, like Europe's, lumpy and uneven, even so the Qing Empire developed quite differently. Unlike European states which expanded their empires across the entire globe, Chinese states never attempted to extend their empires across the oceans; empire-building was always internal and territorial across contiguous areas of the continent (with the exceptions of Taiwan and Hainan islands, but they too were contiguous areas). Formally, both the Ming and Qing governments wanted to control and confine all outside contacts with rigid restrictions on maritime trade and communication, and at times they even completely banned their subjects from going out to sea or leaving China. Informally, however, private individuals and families – largely merchants, smugglers, pirates, and dissidents – extended the scope of China's activities far beyond its shores to fully participate in the nascent world system.[3]

Whereas European empires extended their legal regimes and chased after pirates across the globe, China's imperial governments treated pirates

2 See, for example, David Kang, *East Asia before the West: Five Centuries of Trade and Tribute* (New York: Columbia University Press, 2010); Yonghong Yang, *Sovereignty in China's Perspective* (Frankfurt am Main: Peter Lang, 2017); and Maria Adele Carrai, *Sovereignty in China: A Genealogy of a Concept since 1840* (Cambridge: Cambridge University Press, 2019).

3 See, for example, Wang Gungwu, "Merchants Without Empires: The Hokkien Sojourning Communities," in his *China and the Chinese Overseas* (Singapore: Times Academic Press, 1991), 79–102; Angela Schottenhammer, "The 'China Seas' in World History: A General Outline of the Role of Chinese and East Asian Maritime Space from Its Origins to c. 1800," *Journal of Marine and Island Cultures* 1 (2012): 63–86; Zhao Gang, *The Qing Opening to the Ocean: Chinese Maritime Policies, 1684–1757* (Honolulu: University of Hawaii Press, 2013); and Zheng Yangwen, *China on the Sea: How the Maritime World Shaped Modern China* (Leiden: Brill, 2012).

as a domestic problem. In Europe, legal authority became associated with the extension of sovereignty on the high seas. In fact, after 1673, at least in Britain, all cases of piracy had to be tried in admiralty courts, whose jurisdictions were restricted to the high seas, rather than to home or coastal waters. Sovereignty, in other words, followed the ship, so that mariners fell under royal jurisdiction even when far away from home.[4] Notions of law and sovereignty in imperial China, however, did not extend much beyond the littoral, at least not until the late nineteenth century. Piracy, especially large-scale piracy, posed threats to the imperium's internal security, domestic sovereignty, and ability to maintain law and order inside the realm, not on the high seas.

Seen fundamentally as an internal problem, what Europeans called piracy was considered a form of banditry in China. In the Qing, the primary anti-pirate law came under the statute on "mounted bandits" (*mazei*) of Manchuria. Qing law made clear, strict distinctions between leaders and followers in meting out punishments. Convicted pirate leaders received the harshest penalties afforded by the law: normally decapitation and exposure of the head or, in the most serious cases, death-by-slicing. Furthermore, since these criminals were considered guilty of committing such grievous offenses they were routinely executed right after trial in accordance with a special procedure known as "summary execution by royal mandate" (*wangming xianxing zhengfa*). This was an extraordinary legal procedure in that it allowed high-ranking provincial and military officials to side-step regular judicial procedures so as to expedite executions, without awaiting the required approval of the emperor. Convicted followers, however, were generally sentenced to exile as military slaves.[5] As China had no overseas colonies, unlike European governments that transported convicted pirates to penal colonies in remote areas of the globe, Chinese governments sentenced

4 Lauren Benton, "Toward a New Legal History of Piracy: Maritime Legalities and the Myth of Universal Jurisdiction," *International Journal of Maritime History* 23 (2011), 229, 238; and Lauren Benton, "Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism," *Comparative Studies in Society and History* 47, no. 4 (2005): 716–718. See also Anne Pérotin-Dumon, "The Pirate and the Emperor: Power and the Law on the Seas, 1450–1850," in *Bandits at Sea: A Pirates Reader,* C.R. Pennell (New York: New York University Press, 2001), 25–54; and Michael Kempe, "'Even in the Remotest Corners of the World": Globalized Piracy and International Law, 1500–1900," *Journal of Global History* 5 (2010): 370–371.

5 *Qinding da Qing huidian shili*, [Imperially endorsed supplement to the collected institutes of the Qing dynasty] (1899 ed. Fu Sinian Library, Academia Sinica, Nangang, Taiwan), vol. 783, 21b; in English, see George Thomas Staunton, tranls., *Ta Tsing Leu Lee: Being the Fundamental Laws, and a Selection from the Supplementary Statutes, of the Penal Code of China* (London: T. Cadell and W. Davies, 1810), 555.

thousands of convicted pirates to internal exile to the fringes of the empire in Manchuria and Xinjiang (Turkestan), where they played important roles in opening up new lands and thereby extending the boundaries of empire. Imperial regimes in both China and Europe viewed banishing pirates as a practical and inexpensive means of satisfying the labour demands that empire-building necessitated. Convict labourers worked the land, excavated mines, built roads, and expanded trade.[6] At the same time, reliance on convicts in extending the empire posed serious difficulties concerning security and allegiance, which only further exacerbated the Qing imperium's already patchy, uneven sovereignty.

In imperial China, scholar-officials have traditionally viewed the seas as divided into two spheres: inner ocean (*neiyang*, which appears similar to current notions of territorial waters) and outer ocean (*waiyang*, which appears similar to current notions of the high seas). This inner-outer binary concept was for the most part hierarchical. It was also quite inconsistent and clumsy. Qing maritime maps had no exact boundaries, but normally only inexplicit references to ambiguous zones labelled inner and outer oceans. Ocean spaces necessarily had to be vague because there were no clear physiographical markers, such as rivers, mountain ranges, and dense forests that could help demarcate one zone from another. There was no fixed distance of how far from the coast the inner ocean stretched, rather it was constantly in flux according to contingent circumstances and needs. Thus, in some coastal areas the inner ocean could be twenty miles offshore, while in others it seemed to hug the coastline. Inner and outer ocean spaces often overlapped. Map 1, which illustrates the coastal area of Lufeng county, in Guangdong province in the early 1820s, demonstrates how inner and outer ocean spaces closely intermingled along the littoral. The inner ocean marked the farthest extent of Qing maritime authority and sovereignty (at least before the late nineteenth century), while the outer ocean was considered an erratic void beyond the reach of the government and its laws. According to Ronald Po, "[t]he separation into inner and outer ocean functioned primarily

6 For Chinese convicts, see Joanna Waley-Cohen, *Exile in Mid-Qing China: Banishment to Xinjiang, 1758–1820* (New Haven, CT: Yale University Press, 1991). For European convicts, see Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010), ch. 4; Clare Anderson, *Convicts in the Indian Ocean: Transportation from South Asia to Mauritius, 1815–53* (London: Palgrave, 2000); C.M. Turnbull, "Convicts in the Straits Settlements, 1826–1867," *Journal of the Malayan Branch of the Royal Asiatic Society* 43 (1970): 97–103; and Christopher Munn, "The Transportation of Chinese Convicts from Hong Kong, 1844–1858," *Journal of the Canadian Historical Association* 8 (1997): 113–145.

Map 2. Inner and Outer Oceans on the Lufeng Coast, Guangdong Province, c. 1820
Source: *Guangdong tongzhi*. [Gazetteer of Guangdong province], comp by Ruan Yuan. (Canton, 1822).

to set limits on the reach and responsibilities of the state and to regulate government operations across the sea space." As the Qianlong and Jiaqing emperors repeatedly mentioned, officials in coastal areas dared not to

venture out into the outer oceans, often writing-off piratical incidents in those waters as beyond their jurisdiction and therefore inconsequential.[7]

The outer ocean, in a cosmographic sense, was the realm of pirates.[8] It was a boundless, nebulous, and unregulated space where pirates gathered and sought to maximize their autonomy and power.[9] As the author of the late eighteenth century edition of the maritime atlas *Qisheng yanhai tu* (*A coastal map of the seven provinces*) duly noted: "The sea off the [Chaoyang, Guangdong] coast at Qianyu, Jinghai, Che'ao, and elsewhere has the reputation of being a pirate stronghold. In the morning, pirates assembled their ships in the outer ocean, watching for the opportunity to plunder the coast [inner ocean] in the evening."[10] In the nearby coastal area of Lufeng in Map 1, it is also significant to note that the area marked "pirate bay" (*zei'ao*) was situated in the vicinity of a fort between inner and outer ocean spaces. Such pirate bays were normally regular anchorages for pirate and fishing junks, which were not only indistinguishable from one another but also often the same. China's outer ocean appears quite similar to Eliga Gould's description of the Atlantic's peripheral areas – referred to as a region "beyond the line" – as a violent, contested space with conflicting laws and sovereignties. It was a place where people were unhindered to engage in all sorts of despicable activities otherwise unacceptable back home on land.[11]

Islands were particularly troublesome as there was a constant give and take between the state and pirates. Pirate islands once subdued were incorporated into the legal realm of the inner ocean only to be later reoccupied by new gangs of pirates, thereby relegating them once again to the ambiguous realm of the outer ocean. Between Zhejiang and Guangdong there were several thousands of offshore islands, most of which remained uncharted and unnamed. Outside the gaze of the state, for centuries pirates established

7 Ronald Po, "Mapping Maritime Power and Control: A Study of the Late Eighteenth Century *Qisheng Yanhai Tu* (A Coastal Map of the Seven Provinces)," *Late Imperial China*, 37, no. 2 (2016): 112; and for an extended and insightful discussion about inner and outer ocean spaces in China's maritime history, see Ronald Po, *The Blue Frontier: Maritime Vision and Power in the Qing Empire* (Cambridge: Cambridge University Press, 2018), esp. ch. 2.

8 This of course was the view of the state. In reality, as discussed below, pirates could be found along the coast, in delta estuaries, as well as in inland river systems.

9 Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire* (Cambridge, MA: Harvard University Press, 2014), 103.

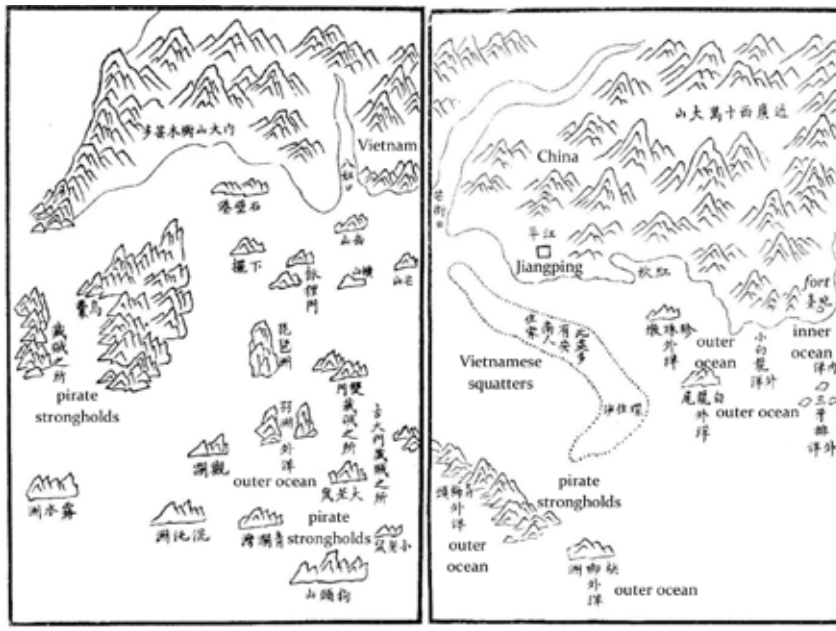
10 Po, "Mapping Maritime Power and Control," 113, Map 8.

11 Eliga Gould, "Lines of Plunder or Crucible of Modernity? The Legal Geography of the English-Speaking Atlantic, 1660–1825," in *Seascapes: Maritime Histories, Littoral Cultures, and Transoceanic Exchanges*, ed. by Jerry Bentley, Renate Bridenthal, and Kären Wigen (Honolulu: University of Hawaii Press, 2007), 474.

autonomous communities on remote islands, where they erected cottages, settled their families, and conducted business. The waters around the black market of Jiangping (Map 2), situated on the ill-defined Sino-Vietnamese border, had served for centuries as an important rendezvous for pirates, smugglers, and traders from China, Southeast Asia, and Europe. Jiangping was on the major trading route between northern Vietnam and southern China. The area's many craggy islands, sandy shoals, and hidden bays offered perfect hideaways for pirates and smugglers, yet were in easy reach of the black market in Jiangping. In the Ming dynasty, at the entrance to the harbour a large Vietnamese squatter population of fisherfolk had settled on the sandy shoals, and on the many islands dotting the outer ocean pirates established strongholds. Many of Jiangping's residents and fisherfolks actually specialized in handling stolen goods and provisioning pirates. Mindful of the issue of territorial sovereignty with its tributary neighbour, seldom did China's naval forces venture into these waters; as late as the 1820s, the nearest government fortification was several hundred kilometres to the east.[12] This was a troublesome area that the Qing government preferred to leave alone.

As far as the oceans were concerned, late imperial China's naval strategy (since the late fifteenth century, at least) aimed at coastal defence and protecting coastlines and hinterlands, rather than offensive campaigns beyond the inner ocean. The problem of fighting pirates, however, was systemic. Even in the best of times, the Qing military establishment was hard pressed to combat piracy. Imperial naval forces were neither structurally nor technologically equipped to handle pirates, particularly the large-scale pirate leagues that appeared several times during the period under discussion here. Military strategy was decisively land-centred, defensive, and highly localized. It consisted mainly of constructing and manning guard posts, batteries, watch towers, and signal posts at intervals along the coastline, as well as maintaining small flotillas of war junks for coastal patrols. In effect, the forts and coastal patrols marked the limits of Qing sovereignty on the seas. The Qianlong Emperor made it clear that his navy was only responsible for policing the areas of the inner ocean and that anything beyond that was

12 *Guangdong haifang huilan* [A conspectus of Guangdong's coastal defense] (Canton, nineteenth century ed.), vol. 26, 1b–2a; and Robert Antony, "Giang Binh: Pirate Haven and Black Market on the Sino-Vietnamese Frontier, 1780–1802," in *Pirates, Ports, and Coasts in Asia: Historical and Contemporary Perspectives*, ed. by John Kleinen and Manon Osseweijer (Leiden: International Institute for Asian Studies, 2010), 31–50. Based on the author's fieldwork in Jiangping in January 2010 and August 2011, the area is still a major smuggling zone and Jiangping remains an important black market.



Map 3. The Black Market of Jiangping and Surrounding Islands, c. 1800
Source: *Guangdong tongzhi*.

not its concern. The defensive land-centred strategy precluded building a blue-water navy capable of operating effectively on the high seas or outer ocean.[13] This, of course, was very different from European states, which at roughly the same time were earnestly building blue-water navies to protect their merchant fleets from pirates and rival countries in waters far away from home.[14] Thus from imperial China's perspective, oceans – especially the outer ocean – were a lawless, dangerous, and uncivilized space, a "dark realm" of pirates, rebels, and other lawbreakers.

13 Robert Antony, "State, Community, and Pirate Suppression in Guangdong Province, 1809–1810," *Late Imperial China* 27, no.1 (2006): 7–10; Bruce Swanson, *Eighth Voyage of the Dragon: A History of China's Quest for Sea Power* (Annapolis, MD: Naval Institute Press, 1982), 55–58; and Po, "Mapping Maritime Power and Control," 98, 115. Even today, political and military analysts regard China's navy as being fundamentally defensive, but moving towards blue-water capabilities; see Eric McVadon, "China's Navy Today: Looking toward Blue Water," in *China Goes to Sea: Maritime Transformation in Comparative Historical Perspective*, ed. by Andrew S. Erickson, Lyle J. Goldstein, and Carnes Lord (Annapolis, MD: Naval Institute Press, 2009), 373–400; and Bart Dessein, *Interpreting China as a Regional and Global Power: Nationalism and Historical Consciousness in World Politics* (London: Palgrave, 2014), 175.

14 Peter Earle, *The Pirate Wars* (New York: St. Martin's Press, 2003), 183–208.

Piracy and Problems of Sovereignty in the Qing Dynasty

At key stages throughout the Qing dynasty's long history, well-organized and heavily armed pirates rose up to threaten the security and sovereignty of the state and well-being of society. For analytical purposes, I divide this section into three periods: (1) early Qing (1630s–1680s); (2) mid-Qing (1770s–1810s); and (3) late Qing (1840s–1910s). While each period had its own distinct characteristics, nonetheless there were certain recurring themes across each period. It should be emphasized, however, that the Qing Empire's maritime policies were never static or unresponsive, but rather continuously evolved to meet contingent circumstances and conditions. Over the course of three centuries of rule, the Qing state gradually extended law and made claims of sovereignty beyond the inner ocean.[15]

The early Qing (1630s–1680s) was a time of transition, political anarchy, and social unrest marked by the Ming-Qing dynastic wars. The Manchu conquerors not only had to contend with Ming pretenders and loyalist forces, but also other formidable groups of insurgents, bandits, and pirates. This pirate upsurge was symptomatic of the general crisis in China that accompanied the change in dynasties. Given the political and economic anarchy of the times, clear distinctions between piracy, rebellion, and commerce were impossible. It took the Manchus nearly fifty years to establish their control and sovereignty over all of China, which nonetheless remained patchy at best. In its struggle to create and consolidate a new Qing Empire, tenacious bands of pirates off the southern coasts of China (in the outer oceans) posed one of the most daunting challenges to the new regime, and in fact pirates were the last organized armed resistance to capitulate.[16]

From the perspective of the new Qing government, pirates were rebels and traitors; laws and official documents referred to them as "sea rebels/traitors" (*haini*). But from the perspective of the pirates and their supporters, they were righteous freedom fighters in opposition to the alien Manchu invaders. Many pirate leaders assumed roles as Ming loyalists (Ming *xiang*), which gave them a sense of legitimacy to cloak their otherwise nefarious business.

15 On Qing adaptability to change see, for example, Robert J. Antony and Jane Kate Leonard, "Dragons, Tigers, and Dogs: An Introduction," in *Dragons, Tigers, and Dogs: Qing Crisis Management and the Boundaries of State Power in Late Imperial China*, ed. by Robert Antony and Jane Kate Leonard (Ithaca, NY: Cornell University Press, 2002), 1–26.

16 For a useful collection of studies on the Ming-Qing transition from a global-maritime perspective see Tonio Andrade and Xing Hang, eds., *Sea Rovers, Silver, and Samurai: Maritime East Asia in Global History, 1500–1700* (Honolulu: University of Hawaii Press, 2016).

Southern Ming emperors bestowed on pirate leaders prestigious titles and ranks of office. The most prominent example is that of Zheng Chenggong, better known in the West as Koxinga (*Guoxingye*), which translates as "Lord of the Imperial Surname," a title granted to him by the Southern Ming Longwu Emperor for his allegiance. With the collapse of Ming resistance after the 1670s, several pirate-loyalist groups refused to capitulate and instead relocated themselves and their families to several locations in Vietnam, Cambodia, and elsewhere in Southeast Asia, where for generations they continued to adhere to Ming customs and dress.[17]

The most serious challenge to the Qing came from the Zheng clan – under the consecutive leadership of Zheng Zhilong, Zheng Chenggong, and Zheng Jing – which created a maritime empire and alternative state based first in coastal Fujian and later on the island of Taiwan. Seeing opportunity in the political instability of the period, the Zhengs constructed their new polity based on a combination of trade, piracy, and political manipulation. Indicative of the strength of their piratical/insurgent forces both the Ming and Qing governments had to come to terms with these powerful leaders by offering them pardons and attempting to incorporate them into the imperial navy. Unable to militarily defeat Zheng Zhilong, the Ming emperor in 1628 made him a naval commander. After the Ming collapsed he surrendered to the new Qing rulers, who quickly placed him under house arrest in Beijing, finally executing him 1661. Many of his clansmen, including his son Zheng Chenggong and grandson Zheng Jing, however, continued to resist the Manchus under the banner of Ming loyalism. Between 1651 and 1683 the Zheng clique oversaw a huge maritime empire whose core supporters came largely from the ranks of pirates. After Zheng Chenggong and Zheng Jing had refused to surrender, the Qing government made overtures to their subordinate Shi Lang, who accepted a pardon and helped the dynasty turn the tide against the Zheng regime on Taiwan, which fell in 1683. One year later, Taiwan was annexed into the Qing Empire.[18]

In the far southwest, in the Gulf of Tonkin, other pirates under Deng Yao, Chen Shangchuan, and Yang Yandi established fortified strongholds

17 See, for example, Charles Wheeler, "Identity and Function in Sino-Vietnamese Piracy: Where Are the Minh Hương?," *Journal of Early Modern History* 16 (2012): 503–521.

18 On the Zheng clique, see Patrizia Carioti, "The Zheng's Maritime Power in the International Context of the Seventeenth Century Far Eastern Seas: The Rise of a 'Centralized Piratical Organization' and Its Gradual Development into an Informal State," *Ming Qing yanjiu* (Napoli) 5 (1996): 29–67; Wei-Chung Cheng, *War, Trade and Piracy in the China Seas* (Leiden: Brill, 2013); and Xing Hang, *Conflict and Commerce in Maritime East Asia* (Cambridge: Cambridge University Press, 2016).

on Longmen Island that resisted Qing rule into the early 1680s. Under these charismatic strongmen, the once small-scale, dispersed piratical operations were transformed into a cohesive military force. Like the Zhengs, the ideal of Ming loyalism and resistance against Manchu invaders was an effective means of consolidation, especially in the face of harsh Qing restrictions on maritime trade and draconian policies against the coastal population. At the same time, pirate groups utilized their newly acquired power to expand both their commercial interests and political sphere of influence. The main thrust of these efforts centred upon the Gulf of Tonkin and Mekong delta, where pirate commanders became immersed in the complex web of political alliances and competition between Vietnam, Siam, and Cambodia. Once the pirates were soundly defeated in 1683, the Qing imperium quickly incorporated Longmen Island into the realm of inner ocean, thereby not only extending the empire's sovereignty but also integrating this bothersome area into its regular legal regime.[19]

The existence of such large groups of organized maritime raiders over such an extended period of time posed a serious threat to the Qing imperium's claim to sovereignty. But they were not the only ones to do so. Foreign threats also came from Dutch and Vietnamese agents, who in separate actions tried to co-opt Chinese pirates in resisting the Manchu takeover of China. Throughout this period, the Dutch vacillated back and forth between the Ming, Qing, and Zheng forces, always seeking their own best advantage. At the same time that the Ming and Qing were trying to co-opt pirates with rewards and titles, the Dutch on Taiwan also tried to convert pirates to serving their cause in forcefully winning trade rights with China. Clearly, all sides were interested in winning over pirates because they were formidable forces and serious threats to the political and economic stability of the whole region.[20] The Sino-Vietnamese maritime frontier was also a contested contact zone; for Qing officials the Gulf of Tonkin was a "turbulent

19 See Li Qingxin, *Binhai zhi di. Nanhai maoyi yu Zhongwai guangxi shi yanjiu* [The seaside world: Studies on the history of trade in the South China Sea and Sino-foreign relations] (Beijing: Zhonghua shuju, 2010), 267–279; Robert Antony, "Trade, Piracy, and Resistance in the Gulf of Tonkin in the 17th Century," in *Sea Rovers, Silk, and Silver: Maritime East Asia in Global History, 1550–1700*, ed. by Tonio Andrade and Hang Xing (Honolulu: University of Hawaii Press, 2016), 312–334; and Xing Hang, "Leizhou Pirates and the Making of the Mekong Delta," in *Beyond the Silk Roads: New Discourses on China's Role in East Asian Maritime History*, ed. by Robert Antony and Angela Schottenhammer (Wiesbaden: Harrassowitz Verlag, 2017), 115–132.

20 Tonio Andrade, "The Company's Chinese Pirates: How the Dutch East India Company Tried to Lead a Coalition of Pirates to War against China, 1621–1662," *Journal of World History*, 15, no. 4 (2004): 414–444; and John Wills, *Pepper, Guns, and Parleys: The Dutch East India Company and China, 1662–1681* (Cambridge, MA: Harvard University Press, 1974).

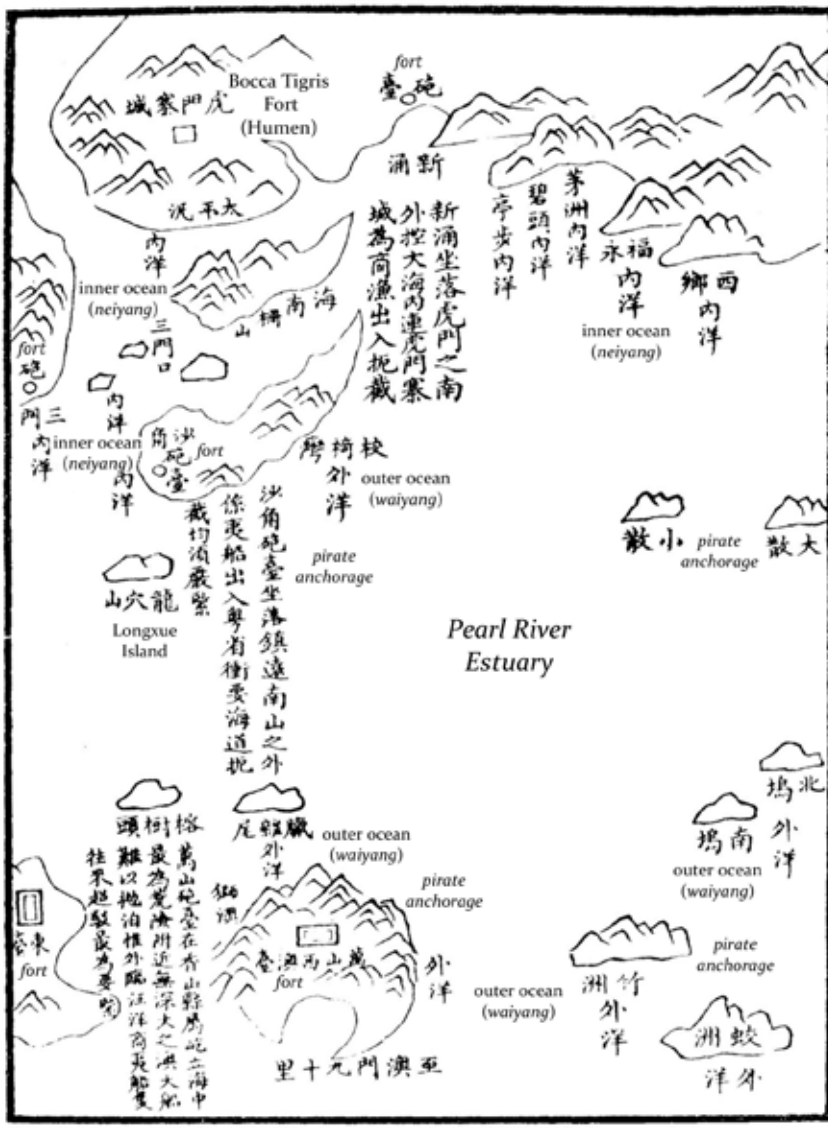
sea frontier" at the edge of its vast new empire. Not only were the Chinese and Vietnamese governments unable to curb illegal activities, but often, too, regional authorities and local strongmen actually cooperated with pirates in their struggle against the Qing. For example, in the 1660s, Gulf of Tonkin pirates under Yang Yandi and Xian Biao received protection and support from a Vietnamese hegemon named Phan Phú Quốc at his base in Hải Nha, likely in Hải Dương province. When the Qing demanded their extradition, Phan not only refused, but fired cannons from his fortress against the troops sent by the court to arrest them.[21]

In the mid-Qing (1770s–1810s), once again formidable groups of pirates confronted the Qing Empire. Initially under the protection and support of the Tay Son rebel regime in Vietnam, a new, even larger wave of piracy arose along the south China coast in the 1770s. The Tay Son Rebellion, which began in 1771 in the remote hill country of southern Vietnam, escalated into one of the largest and bloodiest upheavals in Vietnam's history. As the rebellion dragged on for over thirty years, the rebel leaders, in need of money and soldiers, turned to Chinese pirates, offering them safe harbours, weapons, ships, and a fair share of booty. Each spring and early summer, availing themselves of the southwest monsoons, Chinese pirates set off from their bases in northern Vietnam to plunder shipping and settlements on the south China coast, and returned to their bases in the late autumn, where they were protected from Qing military retaliation. Cognizant of the issue of sovereignty, in 1796 the Jiaqing Emperor ordered his navy to pursue pirates only as far as the border with Vietnam. Later, both sides agreed to mutually extradite captured pirates back to their respective countries for trial. Most of the Chinese pirates faithfully supported the rebel cause right up to the Tay Son defeat in 1802.[22]

By this time, the Qing state had made an important shift in its own perceptions of piracy: pirates were no longer simply treated as rebels and traitors but now they became more importantly predacious 'sea bandits'

21 Pan Dingqui, *Annan jiyou* [An account of travels in Annam], first published in 1689; reprinted in *Annan zhuan: qita erzhong* [Records of Annam: Two collections of other sources] (Beijing: Zhonghua shuju, 1985), 9; *Qing shilu Guangdong shiliao* [Sources on Guangdong from the Qing veritable records] (Guangzhou: Guangdong sheng ditu chubanshe, 1995), vol. 1, 96–97; and Li Qingxin, *Binhai zhi di*, 274–276.

22 Robert Antony, "Maritime Violence and State Formation in Vietnam: Piracy and the Tay Son Rebellion, 1771–1802," in *Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective*, ed. by Stefan Amirell and Leos Muller (London: Palgrave, 2014), 87–114; on the Tay Son rebellion, in general, see George Dutton, *The Tay Son Uprising: Society and Rebellion in Eighteenth-Century Vietnam* (Honolulu: University of Hawaii Press, 2006).



Map 4. Pirate Anchorages in the Pearl River Estuary, c. 1809
Source: *Guangdong tongzhi*.

(*haidao*). At the start of the eighteenth century, both in Europe and in China, respective central governments began transforming their judicial systems to protect private property in general and maritime trade in particular.[23]

23 For Europe, see Janice Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ: Princeton University Press,

In China, these changes in perception were also reflected in several new anti-piracy laws appearing between 1789 and 1813, which condemned pirates as robbers, kidnappers, extortionists, and murders. In other words, the emphasis in law had shifted from piracy as political crimes of rebellion and treason to economic crimes against property.[24]

Despite the setback in Vietnam, the pirates quickly recuperated and became even stronger. Numbering as many as 70,000 by 1805, several huge pirate leagues under Cai Qian, Zhu Fen, Zheng Yi, Wushi Er, and others dominated the littoral from Zhejiang province to northern Vietnam until 1810. The most formidable pirate group was what Qing officials described as a "pirate confederation" (*gegu feichuan lianbang*), which operated in Guangdong under six powerful fleets. They established numerous strongholds on offshore islands not only in peripheral areas, such as around the border town of Jiangping mentioned earlier, but also in core areas, such as in the Pearl River estuary and along a string of islands at its mouth that Europeans named Ladrones or Pirate Islands. Even deep within the Pearl River estuary, as depicted in Map 3, Qing officials made distinctions between inner and outer ocean spaces: the former tending to be closer to military installations while the latter were only slightly removed from them. The pirate base on Longxue (Dragon Cave) Island, for example, which was located in an ambiguous space between the inner and outer oceans, was along the major passage that Western trading ships plied when travelling between Macao and Canton. Thus, even in an area less than thirty kilometres from the provincial capital of Canton Qing rule was quite tenuous and erratic. Secluded in their island strongholds pirates set up trading posts, operated extensive protection rackets, and settled their families, thereby creating mini-states of their own.[25]

From those scattered island bases, the Guangdong pirate confederation created a state within the Qing state, or as one Western observer put it, a "piratical republic," which for a decade threatened the security and

1994), 46.

24 *Qinding da Qing huidian shili*, [Imperially endorsed supplement to the collected institutes of the Qing dynasty] (1818 ed., Fu Sinian Library, Academia Sinica, Nangang, Taiwan), vol. 619, 28b–29a; and Wu Kun, *Da Qing lüli genyuan* [Roots of the Great Qing Code] (1871 ed., Fu Sinian Library, Academia Sinica, Nangang, Taiwan), vol. 49, 10a–12b, 18b–19b, 39b–40a. Also see Robert Antony, "Pacification of the Seas: Qing Anti-Piracy Policies in Guangdong, 1794–1810," *Journal of Oriental Studies* 32, no. 1 (1994): 16–35.

25 Robert Antony, "Piracy and the Shadow Economy in the South China Sea, 1780–1810," in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. by Robert Antony (Hong Kong: Hong Kong University Press, 2010), 99–114.

sovereignty of the imperium. With tens of thousands of followers under their command, in 1801 leading pirate chiefs issued a proclamation directly challenging Qing rule: "We [pirates] should follow Heaven's will and rise up to restore the Ming dynasty. [...] On May 1, 1801, the following order has been distributed to our brothers on the sea in Guangdong and Guangxi: we will gather together all the ships on April 15, 1802, and move to conquer the two provinces." Pirates further infringed on the prerogatives of authority by mimicking the central government's administrative functions by operating their own tax offices, employing a bureaucracy of specialized personnel, manufacturing gunpowder and weapons, and organizing war fleets into "banners" (*qi*) in direct imitation of the Qing state.[26] Outside the purview of the government and its laws, pirates devised their own autonomous laws to maintain order among themselves. As outlaws they were at liberty to adopt any form of organization they wished. They opted to bind themselves with "compacts" (*yue*) that defined gangs as cohesive, self-governing bodies, detailed the allocation of booty, and the enforcement of discipline. One written compact, composed and signed by seven confederation chieftains in 1805, consisted of eight regulations designed to control and keep harmony among the various pirate gangs. The pact was mutually binding on all seven groups of pirates, whether large or small, weak or strong. Another compact, promulgated in 1807, stipulated procedures for settling disputes, guaranteed the equitable distribution of booty through a "common chest," and protected women from sexual abuse.[27] As outlaws they lived by their own rules and owed loyalty to no state.

Although in 1809 the pirates were at the height of their power and exercised hegemonic control over maritime China, within a year they had utterly collapsed.[28] As previously in the early Qing, the state's inability to militarily eradicate piracy inevitably forced officials to adopt an "appeasement" (*zhaoan*) policy whereby pirates who surrendered received generous pardons and monetary rewards. Pirate leaders, such as Guo Podai and Zhang Bao, were rewarded naval commissions and dispatched to attack other pirates; large numbers of rank-and-file pirates were resettled in inland frontiers

26 Wang, *White Lotus Rebels and South China Pirates*, 87, quote on p. 82.

27 *Zhupi zouzhe* [Original palace memorials], peasant uprisings (*nongmin yundong*) category (First Historical Archives, Beijing), dated JQ10.11.22 (1805); and *Chinese Repository* (Canton and Macao, 1834), vol. 3, 73.

28 On the collapse of the Guangdong confederation, see Robert Antony, "State, Community, and Pirate Suppression in Guangdong Province," 1–30.

where they helped open up new lands.[29] From the perspective of the state, the large-scale piracy of the mid-Qing period presented a formidable challenge both to the political sovereignty and economic health of the empire. It also exposed severe weaknesses in the dynasty's politico-military establishment that would lead to its near collapse during the onslaught of foreign wars and internal rebellions in the mid-nineteenth century.

The late Qing era began with the Opium War in 1839 and ended with the Revolution of 1911. Now, the Qing Empire not only had to deal with a series of internal uprisings (Taiping, Nian, Muslim, and Boxer rebellions), but also a much more aggressive foreign imperialism (both Western and Japanese) and foreign wars (with Britain, France, and Japan). Taking advantage of the chaos, new waves of piracy arose all along China's southern littoral with well-organized gangs numbering in the hundreds and sometimes in the thousands. As in the past, Chinese pirates set up strongholds on offshore islands in the lower reaches of the Pearl River estuary, Gulf of Tonkin, and elsewhere in the outer ocean and thus outside the effective reach of the state. Adding to the chaos, Western sailors and renegades also formed their own gangs or joined Chinese gangs.[30]

Foreign powers, especially the British in Hong Kong and the Portuguese in Macao, used the issue of piracy and the apparent inability of the Qing government to suppress it to demand new concessions or territorial extensions from China. Despite repeated protests from the Qing government, for example, in 1910 Portugal sent warships to quell pirates on the island of Coloane and afterwards fully incorporated the island into its Macao enclave, thus seriously disregarding China's sovereignty.[31] In the late Qing, the concerned parties each dealt with piracy in their own ways: Qing officials "pacified" and then commissioned a Cantonese pirate known as A'Pak to

29 *Shangyudang* [Record book of imperial edicts] (Palace Museum, Taiwan), dated JQ14.11.28 (1809), JQ15.1.12 (1810), and JQ15.2.15 (1810); and Wen Chengzhi, *Pinghai jilue* [A short record of pacifying the seas] (1842), 5a–7a.

30 Grace Fox, *British Admirals and Chinese Pirates, 1832–1869* (London: Kegan Paul, Trench, Trubner, 1940); Bruce Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," in *Piracy and Maritime Crime: Historical and Modern Case Studies*, ed. by Bruce Elleman, Andrew Forbes, and David Rosenburg (Newport, RI: Naval War College Press, 2010), 51–64; and Robert Antony, "Pirates, Dragon Ladies, and Steamships: On the Changing Forms of Modern China's Piracy," in *Beyond the Silk Roads: New Discourses on China's Role in East Asian Maritime History*, ed. by Robert Antony and Angela Schottenhammer (Wiesbaden: Harrassowitz Verlag, 2017), 165–188.

31 See Robert Antony, "We are Not Pirates: Portugal, China, and the Pirates of Coloane (Macao), 1910," *Journal of World History* 28, no. 2 (2017): 250–277. The Portuguese actually established several military posts on the island over the course of the late nineteenth century, giving the Portuguese de facto control of the island decades before 1910.

chase down pirates around Ningbo and Shanghai; the Portuguese in Macao organized convoys of privateers to protect shipping along the coast; and the British Royal Navy dispatched a squadron to chase down the notorious pirates Shap-ng-tsai and Chu-apoo from Hong Kong to the Gulf of Tonkin.[32] In the late nineteenth century, piracy was at the heart of bitter controversies involving sovereignty, extraterritoriality, legal and military jurisdictions, state-sponsored maritime raiding, and imperial expansion.

Over the course of the late Qing period, the state's policies regarding the dual threats of piracy and foreign imperialism were continually evolving. In dealing with the persistent problems of piracy at each stage the Qing imperium not only employed alternating – sometimes simultaneous – military extermination campaigns and appeasement measures, but also enacted stringent administrative laws to regulate maritime trade and policies to prevent pirates from receiving aid from people on shore (e.g. the *aojia* mutual responsibility system for fishing and commercial junks). Even though state and local strategies remained decisively defensive and aimed to handle pirates in coastal waters or once they came ashore, nonetheless at the same time – especially over the late nineteenth century – the Qing government became increasingly concerned with intrusions of foreign powers in the outer ocean. For example, Dongsha (Pratas) Islands, which lay some 340 kilometres off the Guangdong coast and had for centuries been an anchorage for both Chinese fishermen and pirates, became embroiled in international controversy between China, Britain, and Japan, and was only settled in 1909 with recognition of China's sovereignty over the tiny atoll.[33]

Conclusion

In this short study, I have attempted to demonstrate how piracy was a significant component in the making of the Qing Empire and its legal regime. I set out to fill a hiatus in existing studies on the interrelationships between empire-building, sovereignty, and piracy by examining the internal dynamics of China's Qing Empire between 1636 and 1911. Three overlapping and competing legal regimes developed at that time in China: first, that of the

32 George Cooke, *China: Being 'The Times' Special Correspondence from China in the Years 1857–58* (London: Routledge, 1858), 68–69, 130, 140–142; and Fox, *British Admirals and Chinese Pirates*, 128.

33 Edward Rhoads, *China's Republican Revolution: The Case of Kwangtung, 1895–1913* (Cambridge, MA: Harvard University Press, 1975), 140–141.

Qing imperium whose laws only slowly stretched beyond the coastline; second, that of the European empires, which sought to impose their own universalistic laws over all oceans; and third, that of the pirates themselves, who devised autonomous laws on island strongholds in the dark spaces that the state labeled the outer ocean.

The issue of sovereignty was crucial to the construction and maintenance of the Qing Empire. At key stages throughout the dynasty's history armed maritime organizations, what the state labelled as pirates, rose up to threaten the security and sovereignty of the state and well-being of society. Qing naval strategy steadfastly promoted coastal defence and protecting coastlines and hinterlands, at the expense of offensive campaigns beyond the inner ocean. By the late nineteenth century, however, in the face of mounting foreign aggression and the persistence of piracy, the Qing state gradually extended naval campaigns and claims of sovereignty into the outer ocean. Through battles with pirates and interaction with European maritime laws, the Qing imperium pragmatically adapted to changes and transformed its own notions of maritime sovereignty to extend its legal regime further and further into the outer ocean, especially over the course of the second half of the nineteenth century.

Chinese pirates, like their Western counterparts, formed "escape societies" to flee the coercion of the state and at the same time also engage the state in violent predatory opposition.[34] Though impermanent, pirate islands became autonomous outlaw communities – non-state spaces – beyond the reach of any polity. In their protected sanctuaries, pirates built shantytowns, settled their families, conducted trade, and made their own laws. As outlaws, they lived by their own rules and had no allegiance to any state. The existence of pirate communities on the coast seriously challenged Qing sovereignty along its maritime frontier. Even more threatening were the pirate groups that established strongholds inside river estuaries close to major urban centres, such as Canton, Macao, and Hong Kong. Operating from their lairs pirates held hegemonic sway over coastal communities and shipping through tax bureaus and protection rackets. Pirates constructed a novel socio-political identity for themselves, one that set them apart from and in contention with mainstream society and political institutions on shore.

Early modern piracy played a significant role in the intense economic rivalries and competing political claims over sovereignty not only between Western imperial powers, but also among indigenous Asian polities.

34 Joseph MacKay, "Pirate Nations: Maritime Pirates as Escape Societies in Late Imperial China," *Social Science History* 37, no. 4 (2013): 551–573.

European powers, Chinese imperial states, and various groups of pirates, therefore, continuously contended with each other over maritime space. Piracy was both a form of economic predation and political subversion that no sovereign could afford to ignore. Both in China and in Europe this period saw their respective governments universally condemn piracy with the enactment of increasingly harsh laws and military build-ups that aimed to eradicate the pirate menace. The careful examination of anti-piracy measures and extension of sovereignty into the outer ocean provides a useful window for viewing the authority of the Qing imperium and its limits, as well as the overlapping spheres of influence and contestations between foreign, national, and local constituents.

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9 Persistent Piracy in Philippine Waters

Metropolitan Discourses about Chinese, Dutch, Japanese, and Moro Coastal Threats, 1570–1800

Birgit Tremml-Werner

Abstract
The chapter focuses on how piracy was rendered in Spanish records from the Philippine Islands from around 1570 to 1800. The author demonstrates that the label "pirate" was used to denote a wide range of hostile elements or peoples, including other Europeans, Chinese, Japanese, and indigenous Philippine groups. Several of these alleged pirates have been largely overshadowed by later, mainly nineteenth-century, accounts that focused exclusively or overwhelmingly on the maritime raiding of indigenous Muslim "Moro piracy." The chapter thus demonstrates the complex nature of piracy and the multiplicity of actors, practices, and representations of the phenomenon during the long period under study.

Keywords: Philippines, Early Modern, conceptual plurality, Moros, Spanish colonialism

Introduction

In the early seventeenth century people of Mindanao apparently "helped those of Sulu in their piratical excursions, frequently invading the beaches of our islands, destroying their fields and forests, burning their villages, forcing them into a fortress or to flee into the mountainous region of the interior."[1] These lines were not recorded by contemporaries, however,

1 Pio de Pazos y Vela-Hidalgo, *Jolo, Relato Historico-Militar. Desde su Descubrimiento por los Españoles en 1578 a Nuestros Dias* (Madrid: Imprenta y Estereotipa de Polo, 1879), 12; author's translation.

Amirell, S. E., B. Buchan, and H. Hägerdal (eds), *Piracy in World History*. Amsterdam: Amsterdam University Press 2021
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rather they were penned by a nineteenth-century Spanish historian of military background, Pio de Pazos y Vela Hidalgo (1841–1913), who personally participated in an expedition against Mindanao rebels in 1866. They were part of a chronological account of what he called a *Military History of Jolo.* It is an apt introductory quote reflecting both the key topoi and muddled chronologies of the history of piracy in the Spanish Philippines.

The main goal of this chapter is to highlight the discursive power of piracy and coastal raids in Spanish colonial reports produced in the Philippines between 1570 and 1800, with the key focus on roughly the first hundred years. The chapter focuses on the margins of the South China Sea or the waters and coasts of what is nowadays referred to as the Philippine, Sulu, and Indonesian seas. Discourses of external threat played an important role in both establishing sovereignty and in creating a sense of common political interest among different subordinate groups. For maritime Southeast Asia, non-European understandings of maritime violence and the relationship between those who talked and wrote about it and those who were accused of committing it are essential yet remain understudied. Approaching the theme through the lens of concurrent concepts of piracy can contribute to nuance long-held misconceptions of either religiously motivated raiding or spontaneous acts by opportunist seafarers. The perspective of concurrences, moreover, reminds us of the many unheard voices in these unequal encounters and the slippery recording by contemporaries and later historians.

In response to the edited volume's appeal to revisit the role of maritime violence in asymmetrical settings, this chapter reflects on the contradictions between the power discourses of land-based elites and the experiences of various maritime actors and the coastal population. For that purpose, it compares a plethora of sources, mostly produced by land-based authorities, in different languages. A central point of departure is that the Filipino-Spanish discourse on piracy was co-produced: It entailed European legal concepts, East Asian views of sovereignty and local maritime practices. In this sense, examples from the Filipino coasts and its surrounding waters inform us about non-European understandings of piracy and maritime security policies and more generally, about the attitudes of land-based centres towards seagoing-people and their efforts to control the ocean. What was considered maritime violence and who was persecuted for committing it? Selected case studies of prominent pirate attacks against what is conventionally known as the colonial Philippines will help to answer these questions.

The article contextualizes the multi-ethnic embeddedness of pirates, who challenged Spanish sovereignty. This way, it highlights the concurrent

relationship between perceived security threats and discursive strategies from a global perspective. The normative character of documents produced by the ruling elite suggests a heavy bias of "othering"; in other words the administrative elite made ample use of the language of "piracy", referring to any source of irritation coming from the sea as pirates or corsairs without particularly distinguishing ethical or political factors. Moreover, within the Spanish Empire the threat of piracy was an effective way to receive approval or financial support from the metropolis in Spain or Mexico and evidence seemed easy to get by. Such sources need to be read both along and against the grain.[2] Examples of Sino-Japanese maritime violence gradually overlapped and were eventually replaced by reports of Muslim ("Moro") and Dutch *corsarios*. The latter usually referred to private merchants and seafarers, often sponsored by the Dutch East India Company (VOC). In its narrowest definition, corsair (*corsario*) was a term originally used for privateers (entitled to attack ships of hostile nations), however the Spanish colonial records indicate that the term was used flexibly and was often interchangeable with heretics, as the compound *corsario luterano* (Protestant corsair) used for freebooters and privateers sailing the Atlantic indicates. The religious connotation of pre-modern European visions of piracy is also manifest in what the self-proclaimed Catholic Iberian authority spotted in the Mediterranean, e.g. navigators along the Barbary Coast in the sixteenth century.[3] Scholars exploring the links between piracy and the development of international law have thus persuasively shown that when the Iberians referred to hostile privateers or corsairs, the latter were not necessarily involved in systematic sea robbery but rather jeopardized what the Catholic powers had come to believe as their exclusive seascape.[4]

Like European perceptions of sea robbery and piratical activities, Asian perspectives have equally been challenged over the past decades. For a general understanding of raiding, it is important to challenge the biased

2 As employed in Bradley Camp Davis, *Imperial Bandits: Outlaws and Rebels in the China-Vietnam Borderlands* (Seattle, WA: University of Washington Press, 2016); For methodological considerations, see Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2010).

3 Amedeo Policante, *The Pirate Myth: Genealogies of an Imperial Concept* (London: Routledge, 2016), 41–46.

4 Lauren E. Benton, *A Search for Sovereignty. Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010); Michael Kempe, "'Even in the Remotest Corners of the World': Globalized Piracy and International Law, 1500–1900," *Journal of Global History* 5, no. 3 (2010): 353–372.

land-based interpretations of piracy, a point made by Peter Shapinsky.[5] Shapinsky has shown that feudal Japanese lords increased their economic and political power by sponsoring piratical activities since the fourteenth century. Another crucial point is that piracy cannot be understood independently of early modern political economies or as a self-sufficient or autonomous phenomenon. In his work on early modern piracy in the China Seas, historian Robert J. Antony has stressed the importance of the clandestine economy as a by-product of piracy, providing many illuminating examples of flourishing black markets in late imperial China. Throughout history, any larger maritime movement needed services and infrastructure provided by the coastal populations, port communities and strategically located islands.[6] The complicated socio-economic web of supply and demand thus provided plenty of room for collaboration between alleged enemy groups.

The effects of a growing global economy provide a further essential theoretical frame for reflection. In that regard, the Sulu Zone, a term coined by historian James Francis Warren, is of major significance. He mapped out how, from the 1770s onwards, social and personal ties in the maritime landscape south of Manila, including Sulu, Borneo, the Celebes, and the Malay Peninsula, enabled the Sultan of Sulu and his network of outlying chiefs and diverse maritime actors to take advantage from the expanding China trade. The integration of the region's trade in sea and jungle products in the global commercial exchange led to an increase in coastal raidings since around 1770.[7] Charismatic local Taosug *datu* (chiefs) created a cross-regional system of distribution that rested on the labour of people captured by Iranun and Balangingi Samal raiders.[8] Within the long-term perspective of this article it is crucial to note that these systematic, large-scale processes of the late eighteenth and nineteenth century differed significantly from the coastal raids and illegal maritime

5 Peter D. Shapinsky, "With the Sea as Their Domain: Pirates and Maritime Lordship in Medieval Japan," in *Seascapes, Littoral Cultures and Trans-Oceanic Exchanges*, ed. by Kären Wigen, Jerry Bentley, and Renate Bridenthal (Honolulu: University of Hawaii Press, 2007), 221–238.

6 Robert J. Antony, "Maritime Violence and State Formation in Vietnam. Piracy and the Tay Son Rebellion, 1771–1802," in *Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective*, ed. by Stefan Eklöf Amirell and Leos Müller (New York: Palgrave Macmillan, 2014), 113–130; Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley, CA: University of California, 2003).

7 James Francis Warren, *The Sulu Zone: The Dynamics of External Trade, Slavery and Ethnicity in the Transformation of a Southeast Asian Maritime State, 1768–1898* (Singapore: Singapore University Press, 2007).

8 *Ibid.*, 149–97.

operations around Luzon in previous centuries. However, while Warren claims that no regular commerce existed between the Catholic Spanish Philippines and Moro territories (Sulu), Eberhard Crailsheim has collected bits and pieces suggesting the opposite. He traced how both Spanish and Muslim traders invested in maintaining profitable trade relations between Luzon, Visayas, Mindanao, and Borneo.[9]

Piracy as empirical narrative in colonial Philippine history

In recent years, scholars have begun to study socio-political developments through an examination of rivalry *and* collaboration between Europeans in Southeast Asia.[10] The role of indigenous populations is increasingly integrated in such research despite obvious challenges arising from imperial archives and their normative accounts.[11] Now, to overcome culturalist explanations it helps to apply a maritime or "intertidal" perspective, to cite Jennifer Gaynor.[12] In addition to scholars' persistent refusal to refer to the Moro raiders as pirates, maritime-centred approaches towards island Southeast Asia started to further change definitions of piracy and piracy discourses around Philippine and Indonesian waters. Ariel Lopez's research on Maguindanao's raiding in the late eighteenth century examines the socio-economic conditions resulting from Spanish and Dutch rivalry in the southern Philippines.[13] Emphasizing the socio-cultural factors of Islam and kinship with regard to the activities of Maguindanao – a traditional rival of the leading regional Islam polity of Sulu – in the Dutch-claimed territories up to the 1780s, he shows how the endemic Islamic practice of selling of Christian slaves legitimized raiding in the multi-cultural and multiply contested maritime region. While both religion and raiding practices

9 Eberhard Crailsheim, "Trading with the Enemy. Commerce between Spaniards and 'Moros' in the Early Modern Philippines," *Vengueta. Anuario de La Facultad de Geografía e Historia* 20 (2020): 81–111.

10 See, for instance, Ariel C. Lopez, "Kinship, Islam, Raiding in Maguindanao," in *Warring Societies of Pre-Colonial Southeast Asia: Local Cultures of Conflict within a Regional Context,* ed. by Michael W. Charney and Kathryn Wellen (Copenhagen: NIAS Press, 2018), 73–100.

11 Hans Hägerdal has shown that there are ways around the expected bias. See, Hans Hägerdal, "The Colonial Official as Ethnographer: VOC Documents as Resources for Social History in Eastern Indonesia," *Wacana: Journal of the Humanities of Indonesia* 14 (2012): 405–428.

12 Jennifer L. Gaynor, *Intertidal History in Island Southeast Asia: Submerged Genealogy and the Legacy of Coastal Capture* (Ithaca, NY: Cornell University Press, 2016).

13 Lopez, "Kinship, Islam, Raiding"; Laura Lee Junker, *Raiding, Trading, and Feasting: The Political Economy of Philippine Chiefdoms* (Honolulu: University of Hawaii Press, 1999).

connected the Southern Philippines to the broader Islamic world, Chinese maritime networks including private merchants, captains, and outlaws ("pirates"), who operated in reaction to the initiatives of trade monopolies and state control, connected the East and South China Seas to Southeast Asia. The basic argument goes back to Philippine historian Cesar Adib Majul, whose studies on the "Moro Wars" have shown that piratical activity in the Southern part of the Philippine archipelago peaked in the midst of the eighteenth century.[14]

It goes without saying that most coastal raids and maritime attacks in Philippine waters prior to the late eighteenth century were economically motivated; however, prior to the eighteenth century, they differed in scale and regularity from pre-modern raids in the East China Seas or the Caribbean. That said, the intention is not to downplay the impact of naval expeditions for the sake of securing the waters or the sufferings caused to coastal populations by various maritime groups.[15] Maritime raiding had by any means a lasting psychological effect on the islanders.[16] However, it is important to unpack the different layers of perceptions, timelines and imaginations within the colonial Spanish piracy discourses and thus question the substance of piracy panic in the official sources. It can, moreover, be helpful to contrast them with other biased narrations. In regard to the many unauthorized seafarers landing in Manila, Catholic authors liked to stress their struggle to survive in their homelands as main motivation for their deeds. An account by Padre Juan de Medina, based on hearsay and first published in 1630, illustrates the fate of the Fujianese immigrants' in China, suggesting that over-population forced people to live on the sea. Joint enterprises with other seafaring groups would have guided these "floating people" to the Philippines as soon as they got wind of easy gains or a better living.[17] In the fashion of promoting a glorious life under Christian rule, the Catholic friar insisted that roaming around the South China Sea would make their lives a misery, but once they came to Manila they were assured a prosperous future.[18] In short, the complex combination of lawlessness and

14 Cesar Adib Majul, *Muslims in the Philippines* (Quezon City: The University of the Philippines Press, 1999), 121–190.

15 Warren, *Sulu Zone*, 166–171.

16 Cf. Domingo M. Non, "Moro Piracy during the Spanish Period and Its Impact," *Southeast Asian Studies* 30, no. 4 (1993), 401.

17 BR 10: 212–213.

18 Juan de Medina, *Historia de los Sucesos de La Orden de N. Gran P. S. Agustin de Estas Islas Filipinas, Desde que se Descubrieron y no Poblaron por los Españoles, Con las Noticias Momorables* (1630) (Manila: Biblioteca Histórica Filipina 1893), 68–69. For the original, see Ng Chin-keong,

lack of central power stimulated the development of flexible commercial networks that changed the nature of regional trade.

A cross-regional view shows how the Spanish fear of Chinese, Japanese, Dutch, and "Moro" maritime attacks triggered the construction of fortification and surveillance architecture. Even the built environment of the colonial capital reflected the everyday fear of piracy: the sturdy fortification of Manila dated back to rumours spreading after threats of a Japanese invasion in the 1590s; previous encounters with Japanese pirates and the simultaneous prolific maritime violence in the China Seas turned vague rumours into effectful fear in Manila and real concern in Madrid and Mexico, from where defence architecture was financed in this period. During the eighteenth century, the built environment of Luzon and Mindanao was complemented with watchtowers and sanctuary stone churches for the protection of the local population against coastal raiding. Some of them serve as witnesses of this age of fear until today.[19] However, at that point, neither Manila nor imperial centres in the Americas or Spain were able to assist financially. The fact that the majority of surveillance constructions and means of defence were not financed by the colonial centre in Manila but grew out of local initiatives and private donations tells us a lot about the social and political implications of coastal raids' accompanying discourse of permanent threat.[20] The fort of Zamboanga (first built in 1634) in Mindanao is a prominent landmark reminding of Spanish counter measures against coastal raids.[21]

The Spanish colony and Sino-Japanese piratical raids, 1570–1610

All things considered, the very existence of a unified Spanish colony on the Philippines can be linked to the earliest signs of a shared sense of sovereignty. This sense of a common colonial project that needed to be defended against the outside world, developed with pirate raids along the coasts of Luzon,

"Maritime Frontiers, Territorial Expansion and Hai-Fang During the Late Ming and High Ch'ing," in *China and her Neighbours: Borders, Visions of the Other, Foreign Policy 10th to 19th Century*, ed. by Sabine Dabringhaus and Roderich Ptak (Wiesbaden: Harrassowitz, 1997), 244. Censor Yüan-ch'u described the situation in 1639 as one in which the "sea is the paddy land for the Fukienese [...] the poor joined the sea bandits and connected to the overseas barbarians"; BR 7: 214.

19 Non, "Moro Piracy," 412–414.

20 Warren, *Sulu Zone*, 174.

21 Non, "Moro Piracy," 410; 413; Eberhard Crailsheim, "Las Filipinas, Zona Fronteriza. Algunas Repercusiones de Su Función Conectiva y Separativa (1600–1762),"in *Intercambios, Actores, Enfoques. Pasajes de la Historia Latinoamericana en una Perspectiva Global*, ed. by Aarón Grageda Bustamente (Hermosilla, Sonora: Universidad de Sonora, 2014), 133–152.

which had turned into the centre of Spanish colonial rule, in the decade following Spanish conquest in 1565. The most famous coastal assaults of this early period were carried out by Chinese and Japanese mariners.[22] The most prominent example in this regard are the accounts of a pirate attack from Southern China by an outlaw, referred to as *haikou* 海寇 in Chinese sources, from Chaozhou in Guangdong province known as Lin Feng or Limahong.[23] In 1574, he commanded a large group (varying accounts speak of several hundreds or even several thousands) of maritime marauders of multi-ethnic origin around Hainan, Taiwan and Penghu. After having captured a richly laden Fujianese merchant vessel on its return from Manila, the attacked crew informed Limahong about the riches carried to Manila onboard of the galleons from Mexico. Arriving in the Bay of Manila in late 1574, Limahong and his people boldly went ashore where subsequent battles led to deaths on both sides, including the Spanish commander Martin de Goiti. Limahong and his people fled thereupon to Pangasinan to prepare for another attack. In March 1575, a joint force of Spanish soldiers and indigenous warriors led by the Spanish admiral Juan de Salcedo set out to destroy Limahong's camp on the Agno river in Pangasinan, roughly 200 kilometres north of Manila. The Spanish expedition seriously decimated the Guangdong raiders but was unable to drive them off the island. Negotiations followed between the Spaniards on the one side and Lin Feng and his surviving men on the other.[24] A few days later, according to Spanish reports, Limahong managed to escape just days before the arrival of a fleet under the command of admiral Wang Wanggao (王王郜), who had been sent from Ming China.[25]

An official Chinese record of the year 1572, three years before Limahong's Luzon expedition, shows illuminating parallels in the pirate leader's strategies towards central authorities:

> The Censor Yang Yi-gui, regional inspector of Guang-dong, memorialized: '[…] There has been proposals to pacify the pirate Lin Feng through

22 Birgit Tremml, "Waren Sie Nicht Alle Piraten? Mit Den Wakō Durch die Chinesischen Meere, ca. 1400–1660," in *Schrecken der Händler und Herrscher. Piratengemeinschaften in der Geschichte*, ed. by Andreas Obenaus, Eugen Pfister and Birgit Tremml (Wien: Mandelbaum Verlag, 2012), 144–167.

23 林鳳, known as Limahong or Limajon in European sources.

24 Miguel de Loarca, "Relacion del viaje que hezimos a la China desde la ciudad de Manila en las del poniente año de 1575 años, con mandado y acuerdo de Guido de Lavazaris governador i Capitan General que a la sazon era en las Islas Philipinas,". 1575, Capítulo 1, Folio 115 (136) a, in "La China en España," transcribed by Dolors Folch. Available at: 13 October 2019.

25 See Manel Ollé, *La Empresa de China. De la Armada Invencible al Galeón de Manila*. (Barcelona: Acantilado, 2002), 56–57.

> negotiation and settle him in Hui-zhou. Feng's gang does not exceed 500–600 persons, but without a major force it will be difficult to exterminate it. [Lin] urges the government to arrange negotiated pacification, but still appears and disappears, plundering and killing as he goes. In such a situation, wanting to pacify him through negotiation again is like raising a tiger, and will lead to future calamities."[26]

In Western-centric history, the story of Lin Feng/Limahong has mostly been presented as an attempt by a Chinese outlaw to conquer the fledgling Spanish settlement.[27] It came to be remembered as the Battle of Manila, in which joint Spanish forces under the command of Juan de Salcedo heroically defended the young colony and defeated Limahong's pirate force of seventy ships and more than 3,000 invaders.[28] While Igawa Kenji emphasizes the broader East Asian dimension by introducing evidence for Limahong's incorporation into *wakō* networks, represented by a Japanese general called Sioco,[29] others point at the missing trans-imperial narrative.[30] The arrival of Wang Wanggao in Manila was the first direct encounter between the Ming state and the overseas Spanish Empire and challenges persistent views on a passive and inward-oriented Chinese empire. The pursuit of the "Guangdong bandit," as Limahong is called in Chinese sources, all the way to Luzon by Ming forces resulted in the first, albeit from Ming perspective, unofficial negotiations between Spain and China.[31] Luzon-based Spaniards conclude that Wang Wanggao was sent by the viceroy to sign peace ("para firmar la paz") with the Spanish in Manila.[32] A common interest in law and peace in the South China Sea where the participation in commercial exchange should

26 Geoff Wade, transl., *Southeast Asia in the Ming Shi-lu: An Open Access Resource* (Singapore: Asia Research Institute and the Singapore E-Press, National University of Singapore, 2005). Available at: http://epress.nus.edu.sg/msl/reign/long-qing/year-6-month-8-day-27; last accessed 22 September 2019.

27 See Francisco de Sande, "Relation of the Filipinas Islands," in *The Philippine Islands 1493-1803, Vol. IV*, ed. by Emma H. Blair, James A. Robertson and Edward Gaylord Bourne (Cleveland, OH: The Arthur H. Clark Company, 1903) (hereafter: BR).

28 Archivo General de Indias (AGI) Filipinas 34, n. 18, 4 June 1576.

29 Kenji Igawa, "At the Crossroads: Limahon and Wakō in Sixteenth Century Philippines," in *Elusive Pirates, Pervasive Smugglers. Violence and Clandestine Trade in the Greater China Seas*, ed. by Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), 80.

30 Travis J. Shutz, "Limahong's Pirates, Ming Mariners, and Early Sino–Spanish Relations: The Pangasinan Campaign of 1575 and Global History from Below," *Philippine Studies: Historical and Ethnographic Viewpoints* 67, nos 3–4 (2019): 315–342.

31 AGI Filipinas 34, n. 18, 4 June 1576.

32 *Ibid.*

remain in the hands of manageable actors resulted in mutual recognition of two governments on either end of the South China Sea. This can be seen in the fact that official China initially approved of the measures taken by the "yi troops of Luzón" burning ships of the bandit Lin Feng.[33]

The arrival of the Chinese officials nourished Spanish hopes to get access to China by establishing official relations with the Ming court.[34] From his communication with Wang, Governor-General Guido de Lavezaris (in office 1572–1575) concluded that the "king of China" was interested in friendship with the Spaniards and subsequently dispatched two Augustinian friars as official delegation to the viceroy of Fujian.[35] Martín de Rada and Jeronimo Marín were chosen to carry Levazaris' letter to the emperor – translated by the Chinese Manila-merchant Sinsay – soliciting friendship and trade.[36]

Two Spanish accounts, one by the Spanish soldier Miguel de Loarca and a later copy by missionary ethnographer Gaspar de San Agustín, describe the diplomatic dimensions arising from Limahong's assaults on the fledgling Spanish colony in the Philippines.[37] In the manner of instrumentalizing foreign maritime threats for the sake of affirming Spanish military power both Spanish narrations memorialize Spanish successes on the coastal battlefield. Moreover, all Spanish accounts are suspiciously silent about the participation of the Chinese navy in fighting the raiders.[38] One should add that such Spanish descriptions ignored Chinese participation in fighting organizations like the one controlled by Limahong, but also failed to identify the pirates as political actors within Asian trading networks.[39]

33 Wade, *Southeast Asia*.

34 What shaped this narrative was Governor Francisco de Sande's bold plan of the year 1576 to conquer China with a force no larger than 6000 men, as well as restless attempts by Padre Alonso Sanchez to establish missionary posts in China. AGI Filipinas 6, r. 3, n. 26, 7 June 1576.

35 W. E. Retana, ed., *Archivo del Bibliófilo Filipino. Recopilacón de Documentos Históricos, Científicos, Literarios y Políticos y Estudios Bibliográficos*. 3 vols (Madrid: Impr. de la viuda de M. Minuesa de los Rios, 1895–1905), vol. 1, 30; Gaspar de San Agustin, *Conquistas de las Islas Filipinas, 1565–1615*, libro 2 (Madrid: Imprenta de Manuel Ruiz de Murga, 1698), 301–303.

36 AGI Filipinas 34, n. 12, 1575. "Sinsay" may well be a mispronunciation of the Japanese *sensei* meaning teacher.

37 The letter is reproduced in San Agustin, *Conquistas de las Islas Filipinas*, 305–306.

38 Shutz, "Limahong's Pirates," 327–329.

39 For the lack of recognition of pirates as political actors in colonial documents, see Sebastian Prange, "A Trade of No Dishonor: Piracy, Commerce, and Community in the Western Indian Ocean, Twelfth to Sixteenth Century," *American Historical Review* 116, no. 5 (2011), 1269–1293.

Sino-Japanese pirates: *wakō* 倭寇

While the Spaniards in Manila distinguished between Chinese corsairs ("corsario chino") and Japanese enemies ("enemigo" or "corsario Japon"), both private maritime initiatives were part and parcel of a broader phenomenon. Since the fourteenth century, Ming Chinese and Chŏson Korean official reports mention maritime intruders along the East Chinese and Korean littoral. They call them *wokou* (chin) or *waegu* (kor.). Indeed, from the mid-fourteenth century onwards, groups of Japanese sailors and mariners from Tsushima, Iki and Gotō islands made landfalls on the Korean peninsula and the eastern Chinese coast, robbing, raiding, and burning settlements. The scale of these operations must have been significant and soon became a diplomatic matter and subsequent joint intervention between the Ming Court (1368–1644) and the Ashikaga Bakufu (1338–1573). They are referred to as *bahan* 幡船/八船 or *kaizoku* 海賊 in Japanese accounts of the time. Both combinations of Chinese characters are source terms and appeared in descriptions of unlawful maritime operations in waters surrounding the Japanese isles much earlier than the emergence of the *wakō* phenomenon. The genealogy of *wakō* is another example of misguided discourses of pirates as an evil "Other" from a foreign, less civilized origin. On the Chinese side, the othering was articulated by the use of the ideographic symbol for "Japanese" and bandit (occasionally also translated as dwarf) happened in normative accounts of imperial China since the early Ming times. The Japanese-ness of these so-called Japanese bandits bore little resemblance with the actual composition of these groups, or with contemporary perceptions of the multi-ethnic raiders of the East China Sea. Even Ming Chinese official accounts confirm that these pirate associations included people coastal provinces such as Fujian and Zhejiang.[40] Nevertheless, from the 1890s onwards even Japanese nationalist historians overemphasized the homogenous Japanese expansionist spirit in relation to the pirate groups.[41] Moreover, these groups made up of Cantonese, Fujianese, Korean, Ryukyuan and at times even local Southeast Asian and European outcasts not only engaged in plundering and murdering (as stipulated by the accounts of their victims) they also

40 Geoff Wade, transl., *Southeast Asia in the Ming Shi-lu: an open access resource*, Singapore: Asia Research Institute and the Singapore E-Press, National University of Singapore, http://epress.nus.edu.sg/msl/reign/wan-li/year-10-month-11-day-3, accessed September 22, 2019.

41 Birgit Tremml-Werner, "Narrating Japan's Early Modern Southern Expansion," *Historical Journal* 64, no. 1 (2021): 1–23 (open access).

participated in peaceful commercial transactions and the offering of intermediary services to land-bound communities. In the closing decades of the sixteenth century, socio-economic developments in both China and Japan led to an increase in *wakō* attacks both on the Chinese coast and along the route to Luzon lured by the riches of the Manila Galleon. As a result of their unpredictability – both Chinese and Spanish observers describe their ability to switch between raiding and trading – a discourse of external danger nourished fears all over the China Seas.[42]

Colonial Spanish accounts describe how Japanese pirates (*gente con poderosa armada*, *corsario* or *gente de mar*[43]) carried out their operations from a settlement in Cagayan on their northern edge of Luzon in the 1580s.[44] Cagayan was also the point of entry were Spanish missionaries and officials feared the invasion of the Japanese commissioned by Toyotomi Hideyoshi (1537–1598).[45] In 1592, news arrived in Manila that if the Japanese were to land in Cagayan (via Taiwan or Ryukyu), the natives of Cagayan would deliver the Spaniards to them.[46] A Chinese Christian based in Hirado (a small island in Kyushu not far from the above-mentioned pirate hubs Tsushima and Gotō, which turned into a thriving international port with significant "piratical" Chinese and European settlements in the second half of the sixteenth century[47]) declared that even pilots of regular mercantile vessels used to stop at Cagayan to plunder on their

42 Charles R. Boxer, *Great Ship from Amacon: Annals of Macao and the Old Japan Trade, 1555–1640* (Lisboa: Centro de Estudos Históricos Ultramarinos, 1963), xxiv: "the 'wa' (Japanese) were shrewd by nature; they carried merchandise and weapons together, and appeared here and there along the sea-coast. If opportunity arrived, they displayed their weapons, raiding and plundering ruthlessly. Otherwise they exhibited their merchandise, saying that they were on their way to the Court with tribute. The south-eastern coast was victimised by them." Boxer's account is based on an entry in the official Ming Annals (Ming Shi).

43 AGI Filipinas 18 B, r. 7, n. 6, 19 May 1597; AGI Filipinas 6, R. 4, N. 52, 1 July 1582.

44 AGI Filipinas, 18 A, r. 5, n. 31, 26 June 1587. The existence of a settlement of Japanese sojourners in Cagayan, on the northern edge of Luzon, which according to contemporary records hosted the unlikely number of several hundred Japanese, also proves the existence of early links between Japan and Luzon. See Iwao Seiichi, *Nanyō Nihonmachi* (Taipei: Taihoku Teikoku Daigaku, 1937), 245–247. See also Pastells, *Historia General de Filipinas. Catálogo de Los Documentos Relativos a Las Islas Filipinas Existentes En El Archivo de Indias de Sevilla* (Barcelona: Compañía General de Tabacos de Filipinas, 1925), vol. 1, 294: He mentioned a report by the conqueror of Manila and first governor general, Miguel Lopez de Legazpi, who noted in the late 1560s that Japanese came together with the Chinese on the same trading vessels and went as far South as Mindoro.

45 AGI Filipinas 29, r. 4, n. 92, 2 October 1595.

46 BR 9, p. 39.

47 Iwao Seiichi. "Li Tan, Chief of the Chinese Residents at Hirado, Japan, in the Last Days of the Ming Dynasty." *Memoirs of the Research Department of the Toyo Bunko* 17 (1958): 27–83.

return to Japan from Manila. Indeed, Japanese researchers have suggested that private traders from Japan frequented Cagayan and the Pangasinan region – perfectly located for the Japanese – even before the arrival of the Spaniards.[48] This assumption is supported by the existence of an outpost of Japanese sojourners in Cagayan. In 1581, the Spaniards would uncover the existence of what they considered an illegitimate Japanese village with Japanese and indigenous residents, which they entitled Puerto de Japón.[49] According to Spanish records, this Japanese settlement in Aparri hosted six hundred residents who traded weapons for gold under the command of their captain Taifusa.[50] Understanding this as challenge to the sovereignty of the king in Spain, Governor Peñalosa urged a military strike against the Japanese settlement in 1582, which resulted in around 200 Japanese deaths.[51] After the Japanese defeat at the hands of Captain Carrion, the Spaniards founded the city of Nueva Segovia using the remains of the Japanese fortifications.[52]

The example of 1582 indicates that during that period the Illocos and Cagayan were of similar importance to Sino-Japanese trading networks as the Manila Bay area. Reports of Japanese settlers from Cagayan coming on friendly trade missions to Manila to sell their weapons prove how the adaptable nature of these organizations meant potential rivalry with Spanish traders.[53] The situation only changed gradually after 1587 when Japanese elites began to formalise trade relations with the Spaniards. In a next step, military overlords such as Toyotomi Hideyoshi and Tokugawa Ieyasu (1543–1616) were eager to gain control over Japan's external relations and maritime trade. Their efforts led to a major decline in maritime plundering and raiding but likewise nurtured the piracy discourse in colonial Southeast

48 Kenji Igawa, *Daikōkai jidai no Higashi Ajia. Nichiō tsūkō no rekishiteki zentei* (Tokyo: Yoshikawa Kōbunkan, 2007), 252; Maria Grazia Petrucci's research embeds this sort of business arrangements in a broader Southeast Asian context; "Pirates, Gunpowder and Christianity in Late Sixteenth Century Japan," in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. by Robert Antony (Hong Kong: Hong Kong University Press, 2010), 59–72.

49 The term was probably coined by Miguel de Loarca, who reported that Japanese traders visited Pangasinan regularly for trade. Cf. Iwao, *Nanyō*, 250.

50 Iwao, *Nanyō*, 245–247; See also José Eugenio Borao, "La Colonia de Japoneses en Manila en el Marco de las Relaciones de Filipinas y Japón en los Siglos XVI y XVII," *Cuadernos CANELA* 17 (2005), 25–53.

51 AGI Filipinas 6, R. 4, N. 52, 1 July 1582.

52 Iwao, *Nanyō*, 246. Other sources claim that Nueva Segovia was founded in 1581, in face of the shortage of building material some doubt remains regarding the credibility of the records about the event. AGI Filipinas 6, r. 4, n. 49, 16 June 1582.

53 A Japanese attack on a Chinese trading ship with food supply for Luzon, caused great harm to the colony. See Iwao, *Nanyō*, 249; AGI Filipinas 18 A, r. 5, n. 31, 26 June 1587.

Asia: After coming into power in 1600, the Tokugawa Shogunate sent letters to foreign rulers, denouncing Japanese private seagoing merchants as pirates and inviting foreign regimes to collaborate in fighting and punishing Japanese outlaws. Several such letters were addressed to the Spanish governor general in Manila and contributed to existing stereotypes about Japanese pirates.[54]

Inspired by an allegedly universally understood vocabulary, the incumbent Philippines' governor general Acuña used a piracy analogy in a letter to Tokugawa Ieyasu in June 1602. He described Dutch mariners in the China Seas as rebelling vassals of the king of Spain, compared them to pirates and boldly asked that the Dutch were sent to the Philippines where they would receive just trial.[55] Although similarities to a previous Japanese request to send all *wakō*-pirates from the Philippines to Japan were obvious, Ieyasu did not give in to Acuña's demands arguing that the Dutch were very committed to him.[56] Ieyasu, knowing the Dutch version of the story, counted on potential future collaborations and soon equipped them with official Japanese trading licences: In 1604, captain Jacob Quaeckerhecq sailed on behalf of Tokugawa Hidetada to Patani, an act that marked the beginning of lasting, albeit convoluted Dutch-Japanese relations for the following 260 years.[57]

After being rebuffed by the ruler of Japan, Acuña repeated the anti-Dutch mantra in a letter sent to Southern China in 1606. Thanking the Viceroy of Fujian for his punishment of joint Sino-Dutch piratical operations along the Fujianese coast, he remarked that the "Dutch are not friends of the Castilians, but bitter enemies; for, although they are vassals of the king of the Hespañas, my sovereign, they and their country have revolted, and they have become pirates like Liamon [Lin Feng] in China. They have no employment, except to plunder as much as they can."[58] The Chinese authorities had already made their own observations about the red-haired barbarians' (a common and widespread East Asian label referring to the Dutch) practices offshore and remained on alert. What is noteworthy in the

54 Hayashi Akira, ed., *Tsūkō Ichiran* (Osaka: Seibundō, 1967), 179, 575.

55 AGI Filipinas 19, r. 3, n. 35, 1 June 1602.

56 This argument has been developed further in Adam Clulow, "Like Lambs in Japan and Devils Outside Their Land: Diplomacy, Violence, and Japanese Merchants in Southeast Asia", *Journal of World History* 24, no. 2 (2013): 335–358.

57 The important pepper port Patani in present day southern Thailand played a crucial role in early Tokugawa foreign relations. The sultan of Patani was the first recipient of a Tokugawa diplomatic letter in 1599.

58 BR 14: 46.

letter from Manila is the reference to Limahong, more than three decades after his attacks in the south. It shows that uses of the past such as "the time of Limajon" became an emblematic moment in Spanish colonial correspondence; having turned into a temporal marker in colonial security politics, Limahong's political impact was much greater than the short-term economic harm he caused.

Speaking of the Dutch

Soon after Dutch vessels first arrived in Southeast Asian waters in 1596, Spaniards feared Dutch privateering around the Philippines and Maluku. Indeed, in the year 1600, Olivier van Noort successfully crossed the Pacific and upon arriving in the Bay of Manila he made attempts to capture vessels coming and going from the Spanish port city. Bothered by what they identified as acts of piracy, the Spanish took action against Van Noort and his people. In a naval battle commanded by Antonio de Morga, they were able to capture one of Van Noort's two remaining ships, but lost their own flagship.[59] At that time, the Spanish colonial administration cared less about the threat of Dutch competition than about the loss of the Spanish ship and the 120 people on board.[60] The image of the Dutch raiding Asian waters circulated with Morga's bestseller *Events in the Philippine Islands* (*Sucedos de las Islas Filipinas*, first published in Mexico in 1609). Morga described in detail the naval battle against the Dutch *corsario* Van Noort and how apt Spanish naval forces fended off enemy personnel before elaborating that the Dutch *corsario* would have caused more harm had he been allowed to roam the seas.[61] Ever since, the book became an important reference for the early Spanish history of the Philippines and thus shaped the reputation of the Dutch as pirates. Complementary to the Spanish interpretation a powerful visual source has left a strong imprint on popular and scholarly discourses: a son of the famous Frankfurt-based Southern Dutch illustrator

59 For Van Noort and Dutch global maritime ventures prior to the establishment of trading companies, see Kris E. Lane, *Pillaging the Empire: Piracy in the Americas, 1500–1750* (Armonk, NY: M.E. Sharpe, 1998); Peter Gerhard, *Pirates of the Pacific 1575–1742* (Glendale, CA: A.H. Clark Co, 1990).

60 In fact, one contemporary source refers to Van Noort as Irish corsair. See, AGI Filipinas 19, R. 2, N. 21, 13 July 1601.

61 Antonio de Morga, *Sucesos de Las Islas Filipinas* (*Historical Events of the Philippine Islands*) *published in Mexico in 1609 recently brought to light and annoted by Jose Rizal* (Manila: National Historical Institute, 2008), 158–163.

Theodor de Bry (1528–1598) produced an engraving of Van Noort's landing in the Bay of Manila with clear references to a maritime clash between two maritime rivlas.[62]

Van Noort's circumnavigation of the world was a harbinger of the rise of the Dutch East India Company (VOC) in the China Seas. In the decades to come, the systemic use of monopoly, coercion, private investment and complete ignorance of Luso-Spanish spheres of influence would become much more difficult to deal with than occasional plundering of ships.[63] After the founding of Batavia in 1619, and permanent East India Company factories in Japan (1609) and Taiwan (1624), interventions in Maluku (since 1599), and the triumphant expulsion of the Portuguese from Melaka in 1641, Spanish-Dutch clashes intensified in the Southern parts of the Philippines in the course of the seventeenth century. Regular Dutch contact with the Muslim coastal domains around Jolo/Sulu and Maguindanao/Mindanao alerted Spaniards on Luzon, Cebu, and the Visayas. Accusing the Dutch of privateering and other maritime threats, Spanish contemporary authors emphasized the need for military defence.[64] Indeed, in their opportune attempts to secure access to spices and marginalize Spanish influence in the region, Dutch private traders and company officials collaborated with local rulers.[65] Nevertheless, for the first half of the seventeenth century, the role of the Dutch in the vicinity of the Philippine archipelago should not be overestimated, despite a short-lived collaboration with Rajah Muda of Jolo.[66]

62 Copper engravings of the battle including a detailed illustration of the sinking of Morga's flagship were published in Isaac Commelin, *Begin ende Voortgang* (Amsterdam: Johannes Jansonius, 1646), vol. II, "Beschrijvinge van de Schipvaerd by de Hollanders gedaen onder 't beleydt ende Generaelschap van Olivier van Noort" between fols. 46 and 47; cf. Peter Borschberg, ed., *The Memoirs and Memorials of Jacques de Coutre. Security, Trade and Society in 16th and 17th-Century Southeast Asia* (Singapore: NUS Press, 2014), 159. See also Michiel van Groesen *The Representations of the Overseas World in the De Bry Collection of Voyages (1590–1634)* (Leiden: Brill, 2008).

63 For the Dutch in the surrounding waters of Taiwan, see Wei-chung Cheng, *War, Trade and Piracy in the China Seas, 1622–1683* (Leiden: Brill, 2013).

64 AGI Filipinas 28, n. 44, 28 August 1645. This is one of the rare Spanish documents using the term *corsario holandes* in the 1640s–60s.

65 Ruurdje Laarhoven, *Triumph of Moro Diplomacy: The Maguindanao Sultanate in the 17th Century* (Quezon City: New Day Publishers, 1989).

66 Pazos y Vela-Hidalgo, *Jolo, Relato Historico-Militar*, 25–29.

No such thing as Moro pirates?

Towards the end of the nineteenth century, the term "pirate wars" (*guerras piraticas*) was coined by a new generation of Spanish historians. The term came to refer to clashes between what they thought of as "Moro" inhabitants of the south and Spanish colonial troops.[67] The term Moro was introduced to Philippine contexts by early Spanish colonizers to distinguish between Muslim and non-Muslim local populations and had originally been used for Islamic inhabitants of Southern Spain and North Africa.[68] Exploring new avenues in the history of the Muslim Philippines beginning from the period prior to any form of colonial contact, Isaac Donoso sees parallels in the way the Spanish perceived Muslims as alien to the territory, both in the case of Andalusia and in the Southern Philippines. This perception of the Other came to support the concept of the Reconquista (reconquest).[69] As a result, local Muslim sultans campaigned in insular Southeast Asia to gain support in striking back the spread of Christianity.

Most rulers of port entities in insular Southeast Asia had adopted Islam in the centuries prior to 1500: Sulu, Maguindanao, the Moluccas, and Brunei/Borneo followed the logics of Malay port states' tactics in militarily protecting external trade.[70] They were well linked to maritime trading networks with the Malay peninsula and China since the tenth century. In the century prior to the Spanish arrival, trade in luxury items for the ruling elites had emerged.[71] The arrival of the Spaniards caused a climate of mutual distrust, envy, antipathy, and aggression and hence affected the Chinese supply of these Muslim territories.[72] The sultan of Brunei sent a fleet of about hundred galleys to attack the Spaniards in Manila in 1574.[73] Similarly, in 1599, when Datu Salikula of Maguindanao and the Rajah of Buayan "with fifty sails and about 3,000 warriors and

67 Vicente Barrantes, *Guerras Piraticas de Filipinas Contra Mindanaos y Joloanos* (Madrid: Imprenta de Manuel G. Hernandez, 1878); José Montero y Vidal, *Historia de la Piratería Malayo-Mahometana en Mindanao, Joló y Borneo* (Madrid: n.p., 1888).

68 Ethan P. Hawkley, "Reviving the Reconquista in Southeast Asia: Moros and the Making of the Philippines, 1565–1662," *Journal of World History* 25, no. 2–3 (2014): 286.

69 Isaac Donoso, "The Philippines and Al-Andalus: Linking the Edges of the Classical Islamic World," *Philippine Studies: Historical & Ethnographic Viewpoints* 63, no. 2 (2015): 247–273 (here: 256).

70 Anthony Reid, *Southeast Asia in the Age of Commerce 1450–1680. The Lands below the Winds* (New Haven, CT: Yale University Press, 1993).

71 Junker, *Raiding, Trading, and Feasting*, 189–204.

72 This point has already been made by Majul, Non, and others.

73 Majul, *Muslims*, 93.

rowers attacked coastal towns in Panay, Negros, and Cebu, carrying back with them 800 captive Visayans."[74] Majul summarizes these activities as the first four stages of the "Moro Wars" (1565–1663), implying that Spanish motivation was fending of piratical incursions into what they perceived their sphere of influence. In cases when Spanish natives were among the captives, Muslim negotiators tended to free them upon payment. Majul thus countered the narrative of punitive expeditions of the Spaniards against Muslim piratical actions, providing an important analysis of the complex nature of maritime violence and raiding in Philippine waters following the arrival of the Spaniards.[75] More importantly, for an understanding of the long-term consequences is Ethan Hawkley's distinguished argument that parallel to Moro-Christian antagonism the early Spanish colonizers relied on Moro intermediation in social, political, and all above commercial matters.[76]

It has also been argued that raiding and capturing practices existed prior to the Spanish arrival in the island world. Also, until the eighteenth century, neither colonial officers nor inhabitants of the islands applied the term "Moro pirate" (i.e. *corsario moro* or *pirata moro*). Instead, they would write about *enemigos mindanaos* or about the harm caused by attacks carried out by *indios mahometanos* de Mindanao.[77] Notwithstanding the historical evidence for raids and captures on behalf of Muslim rulers, the way people remembered these incursions (piracy in the Philippine south) was influenced by concurrent events of the past. The double-biased term "Moro piracy" refers to incursions of Muslim seafarers in the Christian communities in the Visayas, Luzon and parts of Northern Mindanao. Like other pre-modern piratical associations, the so-called Moro pirates were multi-ethnic and heteroogeneous. Raiders originated from Maguindanao, Malanao, Lanun (Iranun), Sangil, Tausog, Samal, Badjao, and Balinguigui (from Sulu), occasionally to people from the Moluccas or Borneo; moreover, Christian renegades and Chinese adventurers got involved on various occasions.[78] Cesar A. Majul argued in this regard that piratical associations directed their blundering and raiding expeditions as often against territories that were not under Spanish colonial control and captured many coastal inhabitants that were

74 *Ibid.*, 131.
75 *Ibid.*, 121.
76 Hawkley, "Reviving," 296–298.
77 AGI Filipinas 27, n. 64, 4 July 1607.
78 Non, "Moro Piracy,", 405–408.

not even Christians, some even fellow Muslims.[79] The label Moro/Muslim is inaccurate not only because of the involvement of many non-Muslim indigenous people but also because of the absence of notions of inside and outside in Southeast Asian political geographies.[80] Hence, equal to the prototypical *wakō*, the Moro pirate was rather a discursive construct than a historical individual.

All said, one has to avoid the tendency to lump together different types of maritime raiding. The situation differed significantly over the centuries; it is crucial to distinguish between small-scale, semi-independent raiders and well-organized expeditions financed by Muslim rulers including the Sulu sultan or rajahs of island entities in the south of the Philippines. For the early seventeenth century, it has been estimated that slave raids would capture an average of 800 people annually from territories nominally under Spanish control.[81] During the early parts of the seventeenth century, "Sulu marauders on their own initiative and without the sanction of their sultans, attacked villages in Borneo to plunder them and carry away captives for sale to other Muslim lands."[82] This is one example of a private, profit-driven enterprise, neither explicitly targeting non-Muslims or Christians, nor necessarily carried out by Muslims – as discussed above. In the last three decades of the eighteenth century, Iranun-Samal marauding encouraged by the high demand for slave labour both in the colonial domains and Muslim realms caused estimated population declines up to forty per cent in certain coastal regions in the Camarines and Albay Provinces.[83] This was also the period when continuing coastal raids hampered the economic development of the affected regions, where marauders burned down entire settlements, for instance on the islands south of Luzon, the Visayas and the northeast coast of Mindanao where the Iranun operated up to two hundred raiding vessels (*prahu*) at a time.[84]

79 Barbara Watson Andaya, *To Live as Brothers: Southeast Sumatra in the Seventeenth and Eighteenth Centuries* (Honolulu: University of Hawaii Press, 1993); Majul, *Muslims*, 139: "As non-Muslim people, the Camucones were often prey of the Sulus who sometimes sold them as slaves in Zamboanga and other Muslim principalities."

80 Jennifer L. Gaynor, "Piracy in the Offing: The Law of Lands and the Limits of Sovereignty at Sea," *Anthropological Quarterly* 85, no. 3 (2012): 817–857.

81 Majul, *Muslims*, 136–137.

82 *Ibid*., 122.

83 Warren, *Sulu Zone*, 295–296.

84 *Ibid*., 168–170.

Concluding remarks

For many land-based powers, extending sovereign control over the sea was a necessary consequence for controlling navigation and trade and the people in charge of it. The tools and practices of control, however, could differ significantly. In Asian waters, non-European regulations regarding piracy and related forms of maritime violence in the early modern era met with the Spanish understanding or the idealized forms of it. This complex process started with ambiguities such as the colonial administrators' overemphasis on military defence. Regardless of the importance of foreign trade for the survival of the colony, high-ranking Spaniards preferred strong military command to liberal trade. Such a view not only misinterprets East Asian foreign policies but also ignores the colonial discourses on masculinity. This discourse flourished among the many soldiers involved in fending off aggression from neighbouring Muslim communities, Dutch maritime attacks, and became moreover handy when refusing to give up its claims on the Moluccas to which the Spaniards held commercial and territorial interests into the 1660s. Piracy not only described a profit-seeking enterprise but also a socio-economic phenomenon. As indicated above, many such enterprises were sponsored by local authorities. Hence, the Spaniards were not all wrong when they unilaterally referred to them as corsairs.[85]

The article has argued, moreover, that any history of piracy is also a history of languages and labels operating in different power discourses. As such it too easily dismisses the veto of chronology. In pre-modern records, controversial labels and their genealogies merged with ethno-centric biases and the burden of mercantile rivalries. In later centuries, such terms have developed new notions and have become important instruments for imperial expansion, nation building and local identity politics. During the nineteenth century, when many of the treatises dealing with sixteenth- and seventeenth-century piracy in Philippine waters were drafted, these accounts got mixed up with contradictions and notions of untapped possibilities of the Spanish colonial state in Asia. Narratives of the historical Spanish presence in the East were constructed discursively around the lack of security, leading to a peculiar self-awareness of a permanently besieged territory. A blend of these interpretive layers has come to determine the memories of the people and the interpretation of the historian. In the age of expansion and conquest, violence determined all relationships between subjects and sovereigns.

85 AGI Filipinas 6, r. 6, n. 61, 26 June 1586.

The perspective of concurrent piracy of the early modern Philippines has pointed at several issues: First, the complex nature of piracy, differing depending on actors, their geographic origin and their objectives; second, the multi-layered historiographical nature of these events; third, the unprecise terminology in both sources and scholarship, with corsair or *wakō* being often only hollow terms lacking any analytical value; and fourth, a distinction into a pre-Spanish and Spanish type of piracy makes little to no sense: in all periods, plundering and raiding were a part of much broader phenomena than just a reaction to new political circumstances. Moreover, from the point of view of a social history of sea-raiding – an implicit demand of the concurrency approach – the introduced examples, brief as they were, lack one key element: actual actors. Most recorded episodes provide little else than the scattered biographical data on the "pirate" leader and hardly anything on the many hundreds of ordinary rowers and sailors participating in these operations; not to mention the thousands of coastal inhabitants who became involved, either when being captured and sold as slaves, when having to find new ways of lives after fleeing their native lands or by fighting or collaborating with the intruders. The representative imbalance of the humans behind and within these piracy stories resulted in an overemphasis of economic, military, and religious aspects. A similar point could be made for the relationship between the role of maritime actors in official foreign relations and how the appearance and shared concept of piracy turned into common point of departure for less-violent, but more abstract negotiations and treaty making between land-based authorities. None of these aspects are exclusive for the case of the early modern Philippines, but perhaps more pronounced than in the early modern Atlantic or in contemporary Southeast Asia.

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10 Sweden, Barbary Corsairs, and the *Hostis Humani Generis*

Justifying Piracy in European Political Thought

Joachim Östlund and Bruce Buchan

Abstract
In this chapter, the intersection of piracy with scholarly discourse and state policy is traced through a period of acute political crisis in Sweden in the early years of the eighteenth century. By focusing on one student dissertation presented at Uppsala University in 1716, it is argued here that Sweden's then precarious position necessitated a delicate navigation of piracy in both the Baltic and the Mediterranean. While the scholarly traditions of natural law provided ample resources to condemn pirates as mere sea robbers, this one dissertation illustrates how moral, philosophical, and historical arguments could be marshalled in defence of a more equivocal attitude to piracy, which also reflected the delicate balancing act performed by the Swedish state.

Keywords: Sweden, natural law, Barbary states, hostis humani generis, diplomacy

The definition of piracy has long been a matter of interest to philosophers and politicians alike. In this chapter, we consider the philosophical and political interest in piracy by focusing on a dissertation published in Uppsala, Sweden, in 1716 by Magnus Thelaus (1687–1765), entitled: *Dissertatio gradualis de piratica* [*On Piracy*].[1] Of Thelaus himself very little is known, beyond the

1 *Dissertatio gradualis de piratica, quam … sub præsidio viri amplissimi & celeberrimi, mag Fabiani Törner, … Ad publicum examen modeste defert Magnus Thelaus Helsingus. In audit. Gustav. maj. die 14. Maji anni MDCCXVI. horis pomeridianis*. The dissertation consists of fifty

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fact that after taking his Master's degree he became a lecturer in oriental languages and theology at Uppsala in 1733, and eventually rose to become a Dean of the Lutheran church.[2] In this chapter, we use Thelaus's *De piratica* to explore the malleable meanings of piracy in eighteenth-century Swedish philosophical and scholarly discourse against the backdrop of Sweden's dire diplomatic situation. Various chapters in this book have considered the striking concurrence that characterized European and non-European notions of piracy in the seventeenth and eighteenth centuries. This was not simply a matter of the coexistence of divergent understandings and cultural practices around the world, but, as we show here, of the entanglement of different discourses of piracy within one state. In this chapter, we reveal how a conventional scholarly articulation of the pirate as a "common enemy of all humankind" coexisted with an urgent but almost secret debate about the uses that may be made of pirates in statecraft.

The timing of *De piratica* in 1716 was especially significant. The early decades of the eighteenth century were a pivotal period in the extension of European state sovereignty at sea and with it, of the claims of European international law.[3] As European states were intensifying their war-making powers throughout the late seventeenth century, so war itself came to be defined existentially in terms of the elimination of an enemy's war making capacity.[4] In this context, as Marcus Rediker and Peter Linebaugh have argued, the legal definition of piracy provided a rationale for this war-making ethos at sea; pirates were "denounced [...] as sea monsters, vicious beasts, and a many-headed hydra – all creatures that [...] lived beyond the bounds of human society."[5]

In this pan-European discourse, Sweden's position was especially urgent. A monarchical state and an empire centred on its precarious Baltic possessions, by 1716 Sweden had been exhausted by near constant military deployments

quarto pages and was written in Latin. Hereafter we use the short title *De piratica* to refer to the text.

2 *Upsala Ärkestifts Herdaminne*, (Upsala: Wahlström & Låstbom, 1842), 60–61.

3 Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009), 152–154.

4 M. Foucault, *'Society Must be Defended', Lectures at the College de France 1975–1976*, edited by M. Bertani and A. Fontana, transl. by D. Macey, (New York: Picador, 2003), 59–60. See for example, Matthew Tindal, *An Essay Concerning the Laws of Nations and the Rights of Sovereigns, with an Account of What was Said at the Council-Board by the Civilians upon the Question, Whether their Majesty's Subjects Taken at Sea Acting by the Late King's Commission, Might Not be Looked on as Pirates* ... (London: Richard Baldwin, 1694).

5 Marcus Rediker and Peter Linebaugh, *The Many-headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic*, (Boston, MA: Beacon, 2000), 173.

in the Great Northern War (1700–1721). King Karl XII's (r. 1697–1718) attempt at Baltic mastery had only recently ended in catastrophe at Poltava in 1709. Over the following years, he lived as a monarch in exile in the distant Ottoman Empire. Sweden's once mighty army meanwhile had been dispersed and all but destroyed, state finances were in ruin, and the navy decayed. Swedish merchant shipping, so desperately important to restore national finances, lay exposed to piratical threats and to rivalry with other European powers. In this context, Thelaus's choice of dissertation reflects a concern not just for scholarly rhetoric but contemporary national and world events. So desperate had Sweden's plight become that state officials were considering collaborating with the pirates of Madagascar to secure ships and to protect foreign trade, even perhaps gaining a pirate colony in the bargain. Hence, Thelaus's argument in *De piratica* that attitudes to piracy should be shaped by both moral stipulations *and* expedient calculations of advantage is of significant interest.

De piratica was one of only a small number of other dissertations commenting on Sweden's maritime activities and its contemporaneous interactions with non-Christian states and empires. What makes *De piratica* so unusual was that it openly considered the moral justification of piracy and its political expediency. Historians of Sweden's imperial and maritime ambitions in the period rarely use dissertations as source material.[6] This omission seems all the more striking given the sensational subject matter in *De piratica*. Three layers of analysis will need to be traversed to fully unveil its significance. The first involves the political context of European experiences of piracy exacerbated by the desperate political and economic situation Sweden faced in the first decades of the eighteenth century. The second connects this context to the genre in which Thelaus wrote and published, the scholarly dissertation. The third involves an investigation of Thelaus's use of the major philosophical and historical works on piracy and pirates.

From Madagascar to Barbary: Sweden and the Pirates

Thelaus lived at a time when piracy was rampant in every sea, and for that reason it was a well-known problem. By the second half of seventeenth century for example, buccaneering in the Caribbean had evolved from

6 Peter Sjökvist, "Att förvalta ett arv: Dissertationerna på Södertörn, nylatin och exemplet Harald Vallerius," *in En bok om böcker och bibliotek. Tillägnad Louise Brunes*, edited by Erland Jansson (Huddinge: Södertörns högskola, 2009), 117.

small-scale operations to massive land raids involving large ships with over a hundred crew, and sometimes whole fleets.[7] By 1700, the first reports were recorded of pirates flying the Jolly Roger (by captain Emanuel Wynn), the infamous black flag that soon came to signify pirate identity. By the end of the War of Spanish Succession (1701–1713), piracy reemerged. In 1716, the year Thelaus published his dissertation, Caribbean pirate activity reached previously unknown heights of intensity emanating from headquarters on New Providence in the Bahamas.[8] Already European pirate crews, estimated to number more than a thousand, were hunting in the Indian Ocean, setting up bases on the northeast coast of Madagascar and on the islet of Santa-Maria.[9] Some among them petitioned Sweden in May 1714 for protection against persecution. Through the Swedish ambassador in Hanover, a messenger was sent to ask for king Karl XII's clemency.[10] The pirates argued that there were not many Swedes among them, and that they had never attacked Swedish vessels. Negotiations rapidly stalled until Kaspar Wilhelm Morgan, who presented himself as a pirate captain, was sent directly to Strömstad in Sweden with a petition to Karl XII in early June 1718. Morgan offered the king riches collected by the pirates, as well as the use of their ships, and a colony they had founded on Madagascar. In return, the pirates asked for asylum and to become Swedish subjects. Remarkably, Karl agreed to these terms on 24 June 1718.[11]

To understand why Sweden's king was so sympathetic to the pirates, it is worth remembering that, in addition to many other European states, the Swedish made use of semi-reputable privateering ships and crews. Privateers were nominally distinguished from pirates by raiding under sovereign warrant or "letters of marque." Between 1709 and 1721, the Swedish privateer fleet numbered no less than 156 ships. They attacked foreign merchant ships in the North Sea, operating in close proximity to the port cities of Gothenburg, Karlskrona, Stockholm, and Helsingfors.[12] Yet, the

7 Mark G. Hanna, "Well-Behaved Pirates Seldom Make History: A Reevaluation of English Piracy in the Golden Age," in *Governing the Sea in the Early Modern Era*, ed. by Peter C. Mancall and Carole Shammas, (Berkeley, CA: University of California Press, 2015), 129–168.

8 Robert C. Ritchie, *Captain Kidd and the War against the Pirates* (Cambridge, MA: Harvard University Press, 1986).

9 Jan Rogoziński, *Honor Among Thieves: Captain Kidd, Henry Every, and the Pirate Democracy in the Indian Ocean*, (London: Conway, 2000).

10 Finn Bergstrand, "Då Madagaskar skulle bli svenskt–och England katolskt," *i KFÅ* (1997), 31.

11 Carl Sprinchorn, "Madagaskar och dess sjöröfvare i Karl XII. S historia," *Karolinska Förbundets Årsskrift 1921* (1921); Finn Bergstrand, "Då Madagaskar skulle bli svenskt–och England katolskt," *i KFÅ* (1997).

12 Lars Ericsson Wolke, *Kapare och pirater i Nordeuropa under 800 år* (2014), 232.

threat that Sweden's king was most worried about lay with another kind of privateering, that of the so-called Barbary Corsairs operating from the North African coast. European powers wavered on the issue of whether the Barbary Corsairs were pirates or barely reputable privateers. The question hinged on the degree to which the Barbary states managed to control their corsair fleets. Complicating the question, however, was that although the corsairs were nominally subject to the Ottoman sultan (or his regional emirs) and professed Islam, many among their crews were European Christians, including Swedes.[13]

The expansion of Sweden's seaborne trade to the Mediterranean had intensified from the middle of the seventeenth century, when Swedish economic policies were formulated around new interests: the need for cheap salt and the development of markets for Swedish staple commodities in southern Europe.[14] Rising salt prices in Setubal and Lisbon pushed Swedish merchants into the Mediterranean, a region characterized by warfare and struggle for control between the Habsburg Empire and Ottoman Empire. Tensions between them simmered in coastal raids, semi-official privateering, and outright piracy. Throughout the latter seventeenth century, Constantinople's control over its North African vassals declined and the Barbary Coast became a base of operations for corsairs whose activities spread to Malta and Livorno in Italy. Swedish losses were considered so serious that a first attempt to negotiate peace with the most powerful North African state, Algiers, was proposed in 1667.[15] An agreement never materialized however, in part because it was feared that a peace treaty between Sweden and Algiers might have caused irritation among other European powers. Hence, by the time Thelaus came to write his dissertation in the early eighteenth century, the problems of Barbary attacks on Swedish shipping, the taking of ships and enslavement of crews, were so well-known in Sweden that it was frequently reported in newspapers. Nationwide calls for alms were made to collect ransoms, and the fear of pirates was a feature of prayer books and other religious writings, denouncing them as robbers without a land.[16] Given its prominence, Thelaus's decision to discuss piracy might not seem surprising. Yet, *De piratica* needs to be understood in relation to its

13 Joachim Östlund, *Saltets pris. Svenska slavar i Nordafrika och handeln i Medelhavet 1650–1770* (Lund: Nordic Academic Press, 2014), 96.

14 Leos Müller, *Consuls, Corsairs, and Commerce: The Swedish Consular Service and Long-Distance Shipping*. (Uppsala: Acta Universitatis Upsaliensis, 2004), 50.

15 Östlund, *Saltets pris*, 104; D.Hj.T Börjeson, *Stockholms segelsjöfart. Anteckningar om huvudstadens kofferdiflotta och dess män … minnesskrift 1732–1932* (Sjökaptens-societeten, 1932), 294.

16 Östlund, *Saltets pris*, 246–258.

unusual genre, Swedish scholarly dissertations in the eighteenth century, which makes this choice of topic all the more remarkable.

Swedish Dissertations

In requiring a public defence of a dissertation by students, Swedish and other European universities maintained a venerable scholastic tradition. Based on medieval standards of university education that presupposed Latin as the language of approved knowledge, and the authority of the Bible and Christian scripture, scholastic methods of enquiry involved a rigorous but highly structured process of dialectical question and response seeking resolutions of apparent contradictions. Scholasticism infused all branches of knowledge from theology to medicine, in which the emphasis was placed on the practitioner's ability to navigate within the bounds of accepted sources of knowledge to clarify meanings through exegesis, exposing faulty definitions to logical analysis.[17]

It has been estimated that almost 25,000 dissertations were defended at Swedish universities between 1600 and 1855. Almost all of them were written in Latin.[18] Scholars defended their dissertations publicly, not only to qualify for a Master's degree (*pro gradu*), but to perform a highly structured, formal scholarly exercise (*pro exercitio*). This meant that the majority of the dissertations did not make original contributions to knowledge, because the emphasis was placed on competence in argument and presentation within the confines of approved knowledge. The dissertations provide a unique window into what it was acceptable to claim or to propose within a scholarly setting.[19] Their purpose was to show that the respondent mastered contemporary knowledge and could defend arguments in good Latin.

Thelaus's dissertation had been preceded by others highlighting the salience of the problem of piracy in Swedish intellectual and diplomatic

17 See for instance: Marcia L. Colish, *Medieval Foundations of the Western Intellectual Tradition, 400–1400* (New Haven, CT: Yale University Press, 1999), 265–273; Daniel Patte, *The Cambridge Dictionary of Christianity.* ed. by Daniel Patte (New York: Cambridge University Press, 2010), 1132–1133; Edward Grant, *God and Reason in the Middle Ages* (Cambridge: Cambridge University Press, 2004), 159.

18 Sjökvist, 98. Peter Sjökvist, "Att förvalta ett arv: Dissertationerna på Södertörn, nylatin och exemplet Harald Vallerius," i *En bok om böcker och bibliotek. Tillägnad Louise Brunes*, ed. Erland Jansson (Huddinge: Södertörns högskola, 2009), 95–119.

19 Sten Lindroth, *Svensk lärdomshistoria. Vol. 2. Stormaktstiden* (Stockholm: Nordstedts, 1975), II, 30 ff.

circles. In February 1699, Johannes Heldingh's dissertation *Mauritaniam Seu Regna Fes: Maroccanum Et Algier …* [*On the Mauritanian Kingdoms of Fez, Morocco, and Algiers*] provided a detailed description of the so-called pirate nests along the North African coast. Johannes Reftelius returned to the same question in his dissertation of October 1700, *De pactis cum barbaris* [*On Treaties with Barbarians*]. Reftelius considered the legitimacy of treaties with non-Christian states, as Thelaus was later to do, but he stayed closer to questions framed by earlier scholastic theologians, namely: whether Christian nations could make pacts or treaties with so-called barbarians who had no knowledge of, or disdained the Christian god?[20] Thelaus also framed his dissertation as a contribution to the natural law tradition of thought, but his argument was not so conventionally constrained.

The foundations of natural law reasoning lay in an emphasis on the divine gift of reason with which humans were to discover universal laws embodying both an imperative for self-preservation and the utility of sociability.[21] Thelaus made plain his debt to natural law in the introduction to his dissertation where he argued that because the universal aspiration to friendship and peace was regularly distorted by greed and vice, humans could not rely on reason alone to realize them. Too often, he reasoned, humans became fierce beasts to one another. Here, he cited Juvenal's deployment of non-human animals as moral example: "When has a stronger lion ever taken a weaker lions' life? In what meadow has a boar ever perished by the teeth of a bigger boar?"[22] Thelaus' rhetorical strategy here was to emphasize the unnaturalness of human unsociability by contrasting it to Juvenal's beasts who were better exemplars of natural fellow feeling. Unlike the beasts, humans were apt to be led astray from reason by their greed and vanity, and thus induced to prey upon one another like pirates. In other words, Thelaus framed piracy as a crime against natural law, human nature, and international law.[23] Having established his moral framework, Thelaus divided the rest of his discussion in *De piratica* into three parts. In the first, the concept of piracy was defined. The second part focused on assessing moral arguments about pirates and piracy from the standpoint of natural

20 Francisco Vitoria, "On the American Indians," in *Francisco de Vitoria, Political Writings*, eds. Anthony Pagden and Jeremy Lawrence, (Cambridge: Cambridge University Press, 1539/1991), Q 1, § 7–24, 243–251.

21 Samuel Pufendorf, *The Whole Duty of Man According to the Law of Nature* [translated by A. Tooke 1691], ed. Ian Hunter and David Saunders, (Carmel, IN: Liberty Fund, 2003), 55–56.

22 Translation of Juvenalis from Catherine Keane, *Juvenal and the Satiric Emotions*. (New York: Oxford University Press, 2015).

23 Heller-Roazen, *The Enemy of All*, 147–151.

law. The practical implications of this reasoning were then explored in the third part, which considered piracy in the Mediterranean in relation to international law.

Defining Piracy

Thelaus's opening discussion of definitions predictably proceeds by way of amassing textual authority on the etymology of "pirate" and "piracy," beginning with Cicero's definition in *De Officis* [*On Duties*] of a pirate as a faithless enemy, one with whom no oaths could be kept.[24] Thelaus then raised a series of related meanings including, "the one who does evil at sea," "sea robbery [...] in German Meer-Räuberei, See-Räuberen, and in Swedish sjöröveri," "the enemy of all," "common enemy" and "Sea thief."[25] He then juxtaposed the ubiquity of these definitions with an ethnographic discussion of different examples of pirate communities and nations, as described by a variety of classical sources: Homer, Thucydides, Philostratus, and Apollonius of Tyana. Of them all, Thelaus used Philostratus's writing as a tool to present a rather unusual view on the identity of the pirate and the activity of piracy. Philostratus recounted the story of Apollonius who asked an "Indian" king "where he acquired his knowledge in Greek and in philosophy." To this question the king replied:

> In old times when a ship was put unto port, the people used to ask its crew if they were pirates, piracy was then so common. But now, though philosophy is God's most precious gift to man, the first question you Greeks put to a stranger, even of the lowest rabble, is 'Are you a philosopher?' And in very truth with you Greeks [...] philosophy is much the same as piracy, for the many who profess it, it is like an ill-fitting garment which they have stolen, and in which they strut about awkwardly, trailing it on the ground.[26]

Here, Philostratus used the position of a cultural outsider to reflect critically on the practice of Greek philosophy as nothing more than a kind of

24 Cicero, *De Officis* [*On Duties*], edited by M.T. Griffen and E.M. Atkins, (Cambridge: Cambridge University Press, 44BCE/1991), Book III, § 107, 141.

25 Thelaus, *Dissertatio gradualis de piratica*.

26 English translation from: de Beauvoir Priaulx, Osmond, *The Indian Travels of Apollonius of Tyana and the Indian Embassies to Rome from the Reign of Augustus to the Death of Justinian*, (London: Quaritch, 1873), 19–20.

intellectual piracy. Both piracy and philosophy required a life of robbery. Though a trite example, Thelaus was prepared to substantiate it by detailing a number of examples drawn from more sources to show that piracy was not only a common but widely accepted practice in the classical Greek world as well as in Europe's Middle Ages. He cited the example of the Vikings, who had practiced piracy and encouraged or enforced it from father to son. The Normans also had plundered the seas so successfully the King of France gave them part of his realm: Normandy. Plutarch had even claimed that the Arabs and Spaniards considered piracy as the most beautiful of arts. Thelaus's sources on the widespread practice of piracy included Julius Caesar (*De Bello Gallico* 6, 3), Aristotle (*Politics* 1, 5), and the English political philosopher, Thomas Hobbes (*On the Citizen*, 5, 2). Hobbes had referred to the ubiquity of piracy in human history as evidence for his own controversial argument that the insatiable acquisitiveness of human nature, coupled with constant fear, resulted in a war of all against all.

Despite both of them working within the premises of natural law, Thelaus took the time to criticize Hobbes's reasoning. In particular, he denounced Hobbes's depiction of "everyone's right to everything" and "war as is of all men against all men" as a godless dogma rendered "obsolete by the supreme authorities."[27] Thelaus's rebuttal of Hobbes was entirely conventional. The English philosopher's doctrines were widely attacked by contemporaries as leading to atheism and the rejection of a divine basis for earthly power. Yet, in mounting another attack on Hobbes, Thelaus pivoted his argument towards the need for a more careful moral evaluation of piracy. If Hobbes had been right, and the war of all against and all was universal, then piracy would be no more than expected; nor would there be any reason to suppose that piracy ended when states and empires began. In this respect, Thelaus reflected on the famous speech of Calgacus, the leader of last free Celts in Britain confronting the armed might of Rome. Calgacus and his speech were a rhetorical device of the Roman senator Tacitus, who invited his readers to reflect nostalgically on the heroic Celts. To them, the Romans were merely "robbers of the world" whose "robbery, slaughter, plunder, they give the lying name of empire; they make a solitude and call it peace."[28] Thelaus's point

27 Thomas Hobbes, *On the Citizen*, edited by R. Tuck and M. Silverthorne, (Cambridge: Cambridge University Press, 1647/1998), ch. V, 69–70.

28 Cornelius Tacitus, *The Life of Agricola*, in Moses Hadas (ed.), *The Complete Works of Tacitus*, Translated by W. J. Brodribb, (New York: The Modern Library, 1942), ch. 30. Available at: http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.02.0081%3Achapter%3D30; last accessed 10 February 2020.

here was that empires and kings, even whole nations, might be construed as pirates, and their laws merely so many expedients to excuse piracy.

To elaborate the point, Thelaus discussed Augustine's dialogue in the *City of God* between Alexander the Great and a pirate. The dialogue famously depicted the double standards by which emperors and rulers could wage war and practice pillage legitimately, while mere pirates without the dignity of law were condemned. As the pirate in this dialogue saw it, kingdoms were only "great robberies," and there was no essential difference beyond scale between the robberies of pirates in "a petty ship" and the robberies of emperors armed with "a great fleet."[29] For Augustine, the dialogue served as a parable of the tainted justice available in the godless *Civitas Terrena* (earthly city). All earthly justice was compromised by human vanity and pride and therefore was inseparable from violence, resulting in the futility of making a distinction between pirates and emperors. Augustine's solution consisted in human submission to divine order manifested in the *Civitas Dei* (city of god).

Thelaus's discussion in this second part of the dissertation seemed therefore to have arrived at a paradox. Piracy was both common and an evil, and pirates even though they masqueraded as monarchs and emperors should be judged. That judgment required the invocation of higher standards of moral reasoning than human laws alone. Thelaus returned his readers to the moral stipulations of natural law and the divine injunction to use reason to promote friendship and sociability. Yet, this rather conventional moral argument, studded with references to a host of well- (and less-) recognized authorities drawn from Europe's classical and more recent history, from Homer to Grotius, was merely a prelude to what followed. Here, Thelaus considered the problem of Sweden's policy toward the pirates of the Mediterranean, and he therefore confronted once again the uneasy relationship between moral reasoning and political expediency.

Barbary Corsairs and European States

The focus of discussion in the final part of the dissertation was placed on the Barbary pirates. Operating from the Mediterranean coast of Africa

29 Augustine, *The City of God Against the Pagans*, edited by R. W. Dyson, (Cambridge: Cambridge University Press, 426/1998), Book IV, ch. 4, 148. Augustine's source was Cicero, *De Republica* [*On the Commonwealth*], transl. and edited by J.E.G. Zetzel, 2nd edition, (Cambridge: Cambridge University Press, 2017) Book III, § 14, 67.

and centres such as Fez, Tunis, Algiers, and Tripoli, Thelaus noted that the Barbary corsairs were active throughout the Mediterranean and into the Atlantic. All of the corsairs' cities, except for Fez, were provinces paying tribute to "the powerful sultan" in Istanbul, but each of them retained considerable independence from his control. Thelaus wrote that the evident dangers along this coast, from Egypt to Gibraltar, were the reason why it was referred to as Barbary, since the corsairs like "ferocious harpies" had infested the coast, and "you would rightly not compare them with people but with lions, tigers, wolves and foxes." Thelaus's focus on the evil embodied by these "corsairs" was evidently narrow. They "violate human laws when praying on European shipping," he argued, seemingly indifferent to piracy committed against non-Europeans. Thelaus then provided a series of descriptions of Barbary cities and of their activities. Their distinguishing feature, he argued, was that they mastered a trade in slaves taken from European ships captured at sea and even from raids on land. Thelaus described the Barbary slave system, its rules on the ownership of goods and captives and the nature of their servitude; he outlined the numbers of slaves held in Barbary, and the arrangements in place for ransom. All of this was informed by references to contemporary European authors, notably Johan Ludwig Gottfried (1584–1633) and Olfert Dapper (1636–1689).[30] Both published important collations of information about the Ottoman states along the coast of northern Africa. What he took from these sources was an uncompromisingly harsh judgement of the corsairs' barbarity. Yet, Thelaus also drew out some ameliorating evidence, as he showed in discussing slavery:

> Although historians agree that the slaves [...] are treated harder than in Algiers, nevertheless, there are sources claiming that the conditions of the slaves in Algiers do not feel as bad as their reputation tells us. The fact that some prisoners are whipped horribly depends on the slave, on their own stubbornness, resilience, and obnoxious minds. Even Turks, especially those who rise above the common people, are said to treat their servants as family members, so that many servants in this situation feel better than one might think. There are even those who are so pious that they do not want to buy any slaves, because they think it's inhuman to consider and treat people like animals.[31]

30 Johan Ludwig Gottfried, *Neuwe archontologia cosmica,* (Franckfurt-am-Mayn: Merian, 1638); Olfert Dapper, *Naukeurige Beschrijvinge der Afrikaensche Gewesten* (Amsterdam: Van Meurs, 1668).

31 Thelaus, *Dissertatio gradualis de piratica*.

Thelaus explained that "although the Algerian state was very powerful, it cannot be feared by any European neighbor." He opposed contemporary scholars, this time historians and geographers from the University of Leiden, Philipp Clüver (1580–1622) and Georg Horn (1620–1670), who argued that the city of Algiers with its walls and defenses was impenetrable. Thelaus's counter-argument drew on "modern authors" who pointed out that:

> [...] the land side is not so well protected, and that the security of the defense facilities is not particularly effective [...] Contemporary writers think it is beyond doubt that Europe's kings and states, that has brought so many serious injuries to this pirate nest, would crush Algiers like a second Carthage, so that there would be no stone on stone if attacked by a united force.

The question of a united force in opposition to the corsairs presented the most innovative feature of Thelaus's analysis. The reason why Europeans had not collaborated in a united attack on Algiers, he argued, was because of competition within Europe. Powerful states he did not name, "are pleased" to see some other European states and traders suffer from the uncertainty of piracy in these waters. The problem of Mediterranean piracy was therefore made worse by the mutual competition among "European states," especially those that could protect their shipping from attacks while growing their own wealth and power. "Therefore, the rivalry of Europeans is the best protection" for the impunity of the Algerian pirates. This, along with the corsairs' trust in aid from neighbouring Barbary cities, explained why the Algerians were so "confident, insolent and rude," why they ignored treaties, and instead relied on plunder. What was significant in this analysis was that Thelaus remained clear-eyed about Mediterranean maritime diplomacy. In this domain, moral argument cut little sway and the dynamics of warfare and competition had to be understood rationally. Thelaus presented a strikingly modern analysis of the diplomatic problem of Barbary corsairs. The problem was that both European states as well as the Barbary corsairs pursued their own interests. Although Thelaus did voice dismissive sentiments about the Turks having "no skills whatsoever," he also recognized that the corsairs should not be understood solely by reference to the religious and cultural divide between the Muslim Mediterranean and Christian Europe. Thelaus in fact had little to say on Islam, noting only that the corsairs attacked Christian ships and took Christian captives, while also acknowledging that the pirates' motivation was not doctrinal. As Thelaus put it, "anyone can indeed become a pirate" so long as they agree to abide by the decrees of the

Ottoman courts and the prescribed allocation of shares to the local ruling Bey and the Sultan's viceroy. He also recognized the important role that European navigators and shipbuilders played among the corsairs.

Pirates in the System of International Law

In the last chapter of the dissertation, Thelaus returned to the moral implications of the problem of piracy. Thelaus's reasoning was once again based on the stipulation that "natural reason" and the "natural law" was inscribed in every human heart. These principles underlay his advocacy for "compassion" and "community among humans." The problem was that people seldom followed the universal principle of "common sense," and therefore the "rule of the natural law has been wiped out by bad customs." While bad customs sustained the evil of piracy, the slender hope was that bad customs could, over the course of time, be changed into better ones. It was on this basis that Thelaus argued it might be possible for European states to negotiate treaties with peoples he described as "barbarians and less civilized peoples" in order to oblige them into "friendship." One may detest having to make such treaties, he reasoned, but by doing so they become instruments of "security," and a weapon to force the recalcitrant to give up their piracy.

Having thus argued that pirates could be made amenable to natural law, the next important question was whether they might also fall within the umbrella of international law? Thelaus here confronted head on the conventional definition of pirates as common enemies of humankind. If this definition were sustained, pirates could have no recourse to international law because being "enemies to all, they are not a part of the human species." By invoking the authority of Cicero, Grotius, and Pufendorf, Thelaus explained that pirates could never constitute legitimate states or governments. Pirate gangs were established with the purpose of robbery, while governments were founded with the intention to establish justice, to live honourably, and to respect property. In other words, Thelaus accepted Grotius's reasoning that pirates may not appeal to international law.[32] Once again however, Thelaus was prepared to leave the door slightly ajar. Though he accepted there was a "formal difference between [gangs of] looters and states," he nevertheless conceded that sometimes pirates did constitute a kind of power to rival states.

32 Hugo Grotius, *The Law of War and Peace*, transl. by. F.W. Kelsey (Indianapolis, IN: Bobbs-Merrill, 1925); Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*, (Oxford: Oxford University Press, 1625/1999), 78–108.

They could at times marshal substantial numbers and some had proven themselves able to command mighty military forces. What is more, he argued, in order to do that, those pirates maintained a kind of order that might just barely be described as honourable. Echoing Augustine's description of the attenuated honour among thieves as an analogue for pagan justice, Thelaus wrote of the pirates that "they respect between them a certain justice without which their society would be only brawls." This comment appears to echo Alexandre Exquemelin's description of buccaneer and pirate crews in the Caribbean organizing themselves according to strict codes of honour among themselves.[33] It is worth noting here that honour was also a principle that was also invoked to convey a distinctly European understanding of the elaborate but largely unwritten standards of conduct between states in order to ensure trust.[34] In the same year that Thelaus defended his dissertation, François de Callières (1645–1717) published what was to become a foundational text in European diplomacy, *The Art of Negotiating With Princes*. Callières spoke of the art of diplomacy as a delicate balance between deceit and honour necessary to maintain the peace between "all the States of *Europe*" who may "be look'd upon as Members of one and the same Commonwealth."[35] Significantly, Callières remained focused on diplomatic relations between European states. Many of those same states through a mix of economic necessity and geopolitical interest, had long-established relations with the Barbary corsairs, and some among Europe's philosophers were prepared to consider them at least as lawful combatants in war.[36]

Sensing perhaps the widening tension in his argument between distinguishing states from pirate bands on the basis that the former honourably pursued justice while conceding that pirates who were not quite states yet pursued an anomalous justice of their own, Thelaus allowed his argument to slacken. Having reached this impasse, he then claimed that not only were pirates not states, they were not even a people or nation, had no standing in "the law of war", and were hence "enemies common to all" having "abhorred

33 A. O. Exquemelin, *The Buccaneers of America*, W. S. Stallybrass (ed. and transl.) (London: Routledge, 1684–85/1924). For more on this, see Bruce Buchan, "Pirate Oaths, Mutinous Murmurings, and British Counter-civilities at Sea in the Eighteenth Century," *Cultural History* 9, no. 1, (2020): 1–25.

34 Bruce Buchan, "Pandours, Partisans and *Petite Guerre*: Two Dimensions of Enlightenment Discourse on War," *Intellectual History Review* 23, no. 3 (2013): 329–347.

35 F. de Callières, *The Art of Negotiating With Princes*, (London: Printed for Geo. Strahan, 1716), 7, 16–17.

36 W. Rech, "Ambivalences of Recognition: The Position of the Barbary Corsairs in Early Modern International Law and International Politics," in M. Klarer (ed.), *Piracy and Captivity in the Mediterranean 1550–1810* (Abingdon: Routledge, 2018), 76–98.

humanity." Having argued himself back into the conventional condemnation of piracy, he concluded by citing the authority of a Dutch scholar, Van der Müelen (1635–1702), that extending diplomatic recognition to barbary pirates may be expedient even though not properly respectable. On that basis, Thelaus was prepared to ask whether it was "possible to negotiate with the Barbary pirates?" He seemed to concede the de facto autonomy of the Barbary cities and kingdoms from the Ottoman court. While formally part of a vast and powerful empire, the Barbary cities and kingdoms constituted a "form of state although aberrant and vitiated," and though "not being a people" united in their observance of law and justice, they were still "united" if by nothing else than their shared "rascality." Thelaus's casuistry led him into a seeming paradox: piracy was undoubtedly an evil, yet the necessity of diplomacy, war, and foreign trade required that expedience should perhaps be allowed to trump natural law in certain circumstances.

Conclusion: Justifying Piracy

Assessing the significance of Thelaus' dissertation brings us back to its context. Though the topic of his dissertation was not entirely novel, its construction, location, and timing made it distinctive. As a student attending one of the premier institutions of learning in the country, Thelaus could hardly have been ignorant of the dire situation of Sweden's teetering empire and beleaguered foreign trade. Piracy was a topic widely discussed in both popular culture and high politics; it was also a frequent topic among philosophers of law. A distinctive feature of Thelaus's dissertation is his interweaving of an entirely conventional moral framework for assessing piracy, with a much more pragmatic interpretation of the place of the pirates in European affairs. The familiar natural law premises of Thelaus's arguments rendered pirates as common enemies, barely recognizable as part of the human race. Yet, Thelaus's discussion of the corsairs manifested a much more pragmatic awareness that the pirate cities and kingdoms of the Barbary coast could be accommodated. This accommodation was nothing like the recognition due to other Christian, European kingdoms or republics. Nonetheless, he was prepared to concede that even the barbary corsairs maintained a kind of piratical order that imbibed something akin to honour. The Barbary corsairs were analogous yet anomalous in comparison to European states. His argument might be regarded as merely an obscure instance of scholastic expression, were it not for Thelaus's context which illustrated a concurrent development – seemingly in isolation one from the

other, yet parallel. Thelaus entangled the moral and pragmatic arguments around piracy at a climactic moment in Sweden's imperial decline. In the years immediately following his dissertation, these same arguments were entwined in formal debates within Sweden's halls of power.

Only a few years after publication of *De piratica*, Swedish authorities established a state commission to investigate the proposal to make a favourable deal with the pirates of Madagascar. According to a protocol held in a Council of State on 20 April 1719, the issue was debated in the form of "pro et contra." Among the many arguments expressed and evaluated the one concerning "honour" is of interest. One member of the Council, Johan August Andersson Meijerfeldt (1664–1749), argued that if Sweden did proceed to deal with the Madagascar pirates: "the whole world would become our enemies, and it would be an everlasting dishonour for our country." This argument was countered by Daniel Niklas von Höpken (1669–1741), who maintained that, by letting the pirates live in Sweden, the state would provide a great service for Europe because they would be pirates no more. The debate concluded that the question should be further discussed in a Secret Committee (Sekreta utskottet) where similar "pro et contra" arguments were raised about the integration of pirates into the Swedish state, and the danger that if Sweden were too slow the pirates might make a deal with their rivals, Denmark.[37]

Just as Thelaus considered piracy from both a moral and pragmatic perspective, so, too, did the Swedish Council of State and Secret Committee. In both the scholarly dissertation and in the halls of power, the question of piracy encroached upon another to do with national honour. Would Sweden's employment of pirates besmirch or enhance its honour? As Thelaus and the statesmen recognized, the question of honour was inseparable from considerations of national interest and both were entangled by the persistent image of the pirate as a faithless foe, "the scum of the earth." There is no evidence that Thelaus or his arguments were ever employed in service to the Swedish state. It is telling that this one Swedish scholar was willing to address in a very deliberate way a delicate question of state policy, almost in the same terms as Swedish officials were later to rehearse. *De piratica* was thus a most unusual dissertation. It was prepared to concede intellectual cover to a desperate Swedish state forced by necessity and interest to negotiate with the Barbary corsairs, and offer asylum to the Madagascar pirates, as desperate means to win back its fading empire.

37 Sekreta utskottets protokoll 1719. Handel och sjöfart, Rel med Madagaskar 1718–1728. Kommission ang exp t Madagaskar 1721 (ÄK 539), Riksarkivet Stockholm. Wachtmeister, Hans, *Om Sveriges planer och åtgärder rörande Sjöröfvarne på Madagascar 1718–1727*, Stockholm 1848. Transcription from Rådsprotokollet den 20 april 1719.

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11 "Pirates of the Sea and the Land"

Concurrent Vietnamese and French Concepts of Piracy during the Second Half of the Nineteenth Century[1]

Stefan Eklöf Amirell

Abstract
This chapter turns to the prominent role of "piracy" in French colonial expansion in Vietnam in the late nineteenth and early twentieth century. The author demonstrates how the long-standing European fascination with pirates in popular culture made it expedient for French colonial officials to label anyone who resisted French colonial expansion in Vietnam as pirates, even if this meant that the concept was stretched to its limit and applied to bandits as well as Vietnamese court officials who had never set foot on a sea-going vessel. Amirell also juxtaposes the French and Vietnamese concepts associated with piracy, banditry, and subversion and shows how the Vietnamese king Tu Duc, not unreasonably, accused the French navy of piracy.

Keywords: France, Vietnam, colonial expansion, Tu Duc, concepts of piracy

For at least three hundred years, since the heyday of Atlantic piracy in the early eighteenth century, pirates have been the object of a particular fascination for Europeans. As a result of this long cultural historical development, today, the word "pirate" conjures up a vast array of associations that are partly based on historical events and personalities and partly based on imagination, such as fictive accounts, songs, poems, paintings, films, and games. On the

1 This chapter is an outcome of the research project Sovereignty and the Suppression of Piracy, financed by Riksbankens Jubileumsfond (2013–2017). For a more extensive study of the role of piracy in the context of the French colonization of Indochina, see Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press 2019), ch. 4.

Amirell, S. E., B. Buchan, and H. Hägerdal (eds), *Piracy in World History*. Amsterdam: Amsterdam University Press 2021
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one hand, throughout European history, pirates have been associated with defiance, subversion, and rebellion, and have often been seen as constituting existential threats to society, peace and order, international trade, and the security of seafarers and coastal communities around the world. On the other hand, pirates, both historical and fictional, have also been seen as romantic heroes and non-conforming revolutionaries or champions of the common people. The word pirate, in the modern European understanding of the word, thus has a wide range of social, cultural, and political connotations that by far transcend its generic meaning of a robber or bandit operating at sea.[2]

Against this background, the concept of piracy has been used for centuries in numerous contexts, often far removed from the original meaning of the word. This chapter explores one such case, in which the concept of piracy was stretched to its limits, namely, when the French invaded and subsequently colonized Vietnam in the second half of the nineteenth century. In Vietnam, the French or European concept of piracy took on a special significance, and was used extensively to denote not just pirates at sea, but also bandits on land and all members of the Vietnamese anti-colonial resistance movement. This development was not just the result of a discourse or political developments in France. It was at least as much the result of a meeting, or perhaps entanglement, between two concurrent concepts related to subversion and brigandage: *pirate* in French and *giặc* in Vietnamese.

Classical and European Concepts of Piracy

Etymologically, the word pirate can be traced to Marcus Tullius Cicero's writings in the first century BCE. Unlike earlier Greek words usually translated as piracy or pirates, such as *lēistḗs* (λῃστής), the Latin word *pirata* only ever referred to maritime marauders and not to robbers or brigands on land.[3] Pirates, according to Cicero, were not subject to the Roman law of nations (*jus gentium*), according to which an oath sworn to a legal enemy must be kept: "[A] pirate is not included in the number of lawful enemies, but is the

2 E.g. Marcus Rediker, *Villains of All Nations: Atlantic Pirates in the Golden Age* (London: Verso; 2004); Peter Earle, *The Pirate Wars* (London: Methuen 2003); Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009).

3 Philip De Souza, "Piracy in Classical Antiquity: The Origins and Evolution of the Concept," in Stefan Eklöf Amirell and Leos Müller (eds.), *Persistent Piracy: Maritime Violence and State-Formation in Global Historical Perspective* (Basingstoke: Palgrave Macmillan, 2014), 49 n. 67; see further Paul McKechnie, *Outsiders in the Greek Cities in the Fourth Century BC* (London: Routledge, 1989), 101–141.

common foe of all the world [*communis hostis omnium*]; and with him there ought not to be any pledged word or any oath mutually binding."[4]

In several of his texts and speeches, Cicero described pirates as a pervasive evil. For example, in his spirited defence of the Roman General and Statesman Gnaeus Pompeius Magnus, who supposedly cleared the Mediterranean of Cilician pirates in just three months in 67 BCE, Cicero presented the situation as one of unprecedented crisis, which could only be solved by immediate and decisive military action.[5] The tendency to securitize piracy – that is, rhetorically presenting it as a grave security threat requiring extraordinary measures[6] – thus accompanied the concept of piracy from the time it was first used in the last century BCE.

Already during the following century, however, pirates, in the Roman imagination, became charged with additional connotations that foreshadowed the later, modern European understanding of piracy. The Cilicians – who were regarded by the Romans as the Mediterranean pirates par excellence – were described as exotic outlaws with a weakness for drinking and ostentatious displays of wealth – an image not unlike our understanding of the classic Atlantic pirates of the seventeenth and early eighteenth centuries.[7] The concept of piracy thus has a long history of a double and partly contradictory association, both with loathsome and subversive criminals and with colourful and exotic libertarians.

Cicero's famous description of pirates as the enemy of all (*communis hostis omnium*) became the starting point of the international legal discourse on piracy that developed in Europe during the Renaissance, when Cicero's writings on piracy (among other things) were rediscovered. In particular, the concept of piracy developed as a legal concept during in the Early Modern era, as recounted by Michael Kempe in this volume. In addition, there was a concurrent development by which popular cultural understandings of piracy emerged, particularly in England from Elizabethan times, and subsequently throughout Europe. This development occurred simultaneously and in conjunction with the growth of the international legal discourse about piracy, but in some respects it also stood in opposition to the hegemonic

4 Cicero, *De officiis* III, xxix; English translation by Walter Miller (London and New York: G. P. Putnam's Sons 1928), 385–387.

5 De Souza, "Piracy in Classical Antiquity," 39–40.

6 Securitization is used here in the sense of Barry Buzan, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998).

7 De Souza, "Piracy in Classical Antiquity," 43.

discourse, according to which pirates were described as the enemies of mankind (*hostis humani generis*, a paraphrase of Cicero's formulation).[8]

Challenging official claims that pirates, by definition, were the enemies of mankind, popular notions of piracy instead suggested that they were bold and daring heroes. Such is the impression that emerges from Douglas Burgess's study of the popular reception of the pamphlets summarizing the proceedings of the trial against the pirate John Avery (aka Henry Every) and his crew in London in the late seventeenth century. Contrary to the intention of the authorities and the directors of the East India Company, the pamphlets were read by many people in England and the colonies as heroic adventure stories. Avery's aura was enhanced by his escape from justice in 1696 and the mystery of his subsequent whereabouts. Popular poems and songs were composed in his honour, and in 1712, a theatre play called *The Successful Pyrate*, written by Charles Johnson, a British playwright, opened in London, loosely based on Avery's adventures. Although Johnson was chastised by critics for glamourizing Avery and his piratical exploits, the play was a great popular success.[9]

The eighteenth century saw the establishment across Europe of this image of pirates as both subversive criminals prone to excessive violence and debauchery and as romantic heroes and freedom fighters. At times, they could even be associated with social banditry in the sense of Eric Hobsbawm.[10] Such images were largely based on two purportedly true accounts of the lives and deeds of actual pirates, mainly in the Caribbean, during the second half of the seventeenth and the beginning of the eighteenth century: Alexander O. Exquemelin's *De Americaensche zee-rovers* (The Buccaneers of America, 1678) and Charles Johnson's *General History of the Pyrates* (1724). Both of these books became very popular and were widely translated and disseminated in several editions across Europe shortly after their publication. The latter book in particular continued to command great popularity throughout the eighteenth and nineteenth centuries (and beyond). In addition, several popular adventure novels featuring pirates were published during the eighteenth and nineteenth centuries, such as

8 For the theoretical framework of Concurrences, see further Diana Brydon, Peter Forsgren and Gunlög Fur (eds.), *Concurrent Imaginaries, Postcolonial Worlds: Toward Revised Histories* (Leiden: Brill, 2017).

9 Douglas R. Burgess, "Piracy in the Public Sphere: The Henry Every Trials and the Battle for Meaning in Seventeenth-Century Print Culture," *Journal of British Studies* 48 (2009), 887–913.

10 Hobsbawm, *Bandits* (New York: Delacorte Press, 1969); see further Rediker, *Villains of All Nations*; Christopher Hill, "Radical Pirates?," in Margaret C. Jacob and James R. Jacob (eds.), *The Origins of Anglo-American Radicalism* (London: Allen and Unwin 1984), 17–32.

Daniel Defoe's *Captain Singleton* (1720), Walter Scott's *The Pirate* (1822), James Fenimore Cooper's *The Red Rover* (1827) and Robert Louis Stevenson's *Treasure Island* (1883), further adding to the popularity and aura of the pirate in European culture.

During the nineteenth century, many of the popular English pirate novels were translated into French, such as *The Pirate* (1822), *The Red Rover* (1827), and *Treasure Island* (1885). In addition, several successful French authors and playwrights, such as Gustave Aimard and, above all, Édouard Corbière, contributed to popularizing the image of the adventurous and a bohemian pirate in France around the mid-nineteenth century.[11] In this cultural context, the word pirate came to be used occasionally to describe not only bandits at sea, but also to refer to bandits on land, such as in Aimard's novel *Les pirates des prairies* (1858) and in the theatre play *Les pirates de la savane*, which opened in Paris in 1859.

However, despite these attempts to extend the piracy label to land-based marauders, the French word *pirate* – like its equivalent in English and other European languages – was used in principle to denote illicit maritime raiding and violence.[12] This would change with the French invasion of Vietnam in the 1880s, in part for domestic French political, rhetorical, and cultural reasons, but also as a result of the encounter between the French understanding of piracy and the Vietnamese concept of *giặc*.

Giặc and the French in Vietnam

French interests in Vietnam dated back to the seventeenth century, when French Jesuits and missionaries established themselves in the country. It was only towards the end of the eighteenth century, however, that the French were able to gain more influence in the country by helping Nguyen Phuc Anh (who later became the Gia Long King) in defeating the Tay Son Rebellion. His ascension to the throne in 1802 marked the beginning of the Nguyen Dynasty in Vietnam. As ruler, however, he distanced himself from his former French allies and sought instead to diminish the European influence in the country, particularly that of the Christian missionaries.

11 Cf. Sylvie Requemora-Gros, "Généalogie de la figure littéraire du pirate du XVIIe au XIXe siècle," in Michèle Battesti (ed.), *La piraterie au fil de l'histoire. Un défi pour l'État* (Paris: PUBS 2014), 450.

12 E.g. M. Pierre Larousse (ed.), *Grand dictionnaire universel du XIXe siècle*, T. 12 (Paris 1874), s.v. "pirate."

His successor, Minh Mang (1820–1841), was even more strongly anti-Western and anti-Christian. He dismissed all French advisers to the court and had a number of French missionaries and Vietnamese converts to Christianity executed.[13]

The persecution of Catholic missionaries and Christians triggered calls in France for military intervention in Vietnam, and from the 1840s French commercial interests in East Asia increased as China was forced to open up to foreign trade. The French began to make more frequent naval visits to Vietnam and to pressure the Nguyen Dynasty to establish diplomatic and commercial relations.

In 1856, a French embassy to the court was turned away under humiliating forms on the orders of King Tu Duc (r. 1847–1883). Ahead of the embassy, he ordered all senior officials to deny the French any official honours.[14] In a circular to his officials Tu Duc expressed his contempt for the French:

> In effect, these barbarians are very ignorant and very corrupt; they do not worship their ancestors; with regard to religion, they resemble dogs; with regard to courage, they are goats. They roam the seas like pirates, establishing their lair on deserted islands, or hide in ambush on the coasts, in the depth of valleys, and from there foment troubles and revolutions in the neighbouring countries.[15]

The French responded to the insult by attacking and seizing the fort at Tourane (Da Nang), but were forced to withdraw after a month without having secured any concessions from the Vietnamese. As they withdrew, Vietnamese officials displayed large signs saying: "The French bark like dogs and flee like goats."[16]

The following year, the French Emperor Napoleon III decided to despatch a naval expedition to Vietnam in order to force the country to open up to trade and diplomatic relations. The plan was to conquer a token territory, including Tourane, and to force the king to sign either a protectorate treaty

13 John F. Cady, *Roots of French Imperialism in Eastern Asia* (Ithaca, NY: Cornell University Press, 1967), 9–15.

14 Pierre Brocheux and Daniel Hémery, *Indochina: An Ambiguous Colonization, 1858–1954* (Berkeley, CA: University of California Press, 2009), 17–24.

15 "Lettre de Mgr Retord," *Annales de la propagation de la foi*, 30 (1858), 226. This and all other translations from French are by the author, unless otherwise state.

16 *Ibid*.

or an unequal treaty similar to the ones that had been imposed on China by Great Britain, France, and other countries after the Opium War.[17]

The expedition, which consisted of fourteen vessels and 2,500 men under the command of Admiral Charles Rigault de Genouilly, reached Tourane in August 1858. The French quickly seized the town, but the Nguyen Dynasty still refused to sign a treaty with France. Rigault de Genouilly tried to add pressure on the Vietnamese by attacking Saigon, but in March 1860 the operation was cancelled due to the renewed hostilities in China during the Arrow War (1856–1860). The Vietnamese, however, interpreted the French departure as another victory. In a decree Tu Duc announced:

> So, now they have departed, these barbarians, these depraved and greedy creatures, who do not have any other inspiration than evil, no other goal than profit; these monsters who nourish themselves by human flesh, and who make their clothes from the skin of those whom they have devoured! Pirates, equally foolish and cowards, they have been defeated by our valiant soldiers, and have saved themselves like dogs with their tail between their legs.[18]

This quote from the decree was translated by a French missionary, and it is not clear which word in the original corresponded to the French *pirates*. There were terms in both Mandarin and Vietnamese, however, which carried several of the connotations associated with the European understanding of the word. In Mandarin, the word *hǎifěi* (海匪) – literally sea bandit or sea traitor – for example, was highly securitizing and condescending, implying that such individuals had placed themselves outside the borders of humanity and deserved to be put to death.[19] Similarly, the Vietnamese word *giặc* – meaning war, enemies, taking up arms, pillaging with direct

17 Brocheux and Hémery, *Indochina*, 24–25.

18 "Cochinchine," *Annales de la propagation de la foi*, 33 (1860), 71. The quote here is based on the French translation of the decree.

19 Robert J. Antony, "Introduction: The Shadowy World of the Greater China Seas," in R. J. Antony (ed.), *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas* (Hong Kong University Press 2010), 7–8; cf. also the contribution by Antony in this volume; Patricia Risso, "Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century," *Journal of World History* 12:2 (2001), 293–319; Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press 2019), 34–40, on different concepts and understandings of piracy in some major Asian languages.

force, rising up against the established authority[20] – also implied a person who was beyond the borders of law and civilization. The term, however, did not necessarily imply an activity at sea or close to the sea, and, as with the word *hài* [sea] in Mandarin, it was added as an affix to *giặc* in order to mark that such a person or activities occurred at sea. According to a late nineteenth-century Annamite–French dictionary, the term *hài giặc* was thus translated to French as "maritime war, pirates, corsairs."[21]

From the Vietnamese point of view, the French interventions and aggression from the mid-nineteenth century onwards obviously merited the use of the term *giặc*.[22] Interestingly, the French and the Vietnamese connotations associated with *pirates* and [*hài*] *giặc*, respectively, had several points of commonality, particularly the implication of subversion, treason, war, and rebellion, in addition to simple theft and banditry. The main difference between the French colonizers and the Nguyen Dynasty with regard to the label *pirate* or *giặc* seems above all to have concerned the question of to whom it was best applied, rather than the relevance of the terms as such.

Piracy and Banditry

For the Nguyen Dynasty, the problem (or rather problems) of *giặc* was serious and existential. Several outbreaks of piracy, banditry, and rebellion in different parts of the country greatly weakened the Dynasty from the mid-nineteenth century. In the long run, the French incursions would prove to be the most serious threat to the regime, eventually leading to its downfall and the colonization of Vietnam in the 1880s. Nevertheless, there were several other groups of pirates, bandits, rebels, and invaders that caused serious trouble for the regime in different parts of Vietnam from the 1850s to the 1880s.

One of the main threats was from sea piracy and coastal raiding, both of which the Vietnamese authorities became increasingly unable to control as the nineteenth century proceeded. In the first decades of the nineteenth century, in the aftermath of their victory over the Tay Son, the Nguyen

20 This translation is based on an Annamite–French dictionary, which translates *giặc* as "La guerre, les ennemies; prendre de haute lutte, piller à force ouverte; se soulever contre l'authorité établie"; Jean Bonet, *Dictionnaire annamite-français. Langue officielle et langue vulgaire* 1 (Paris: Ernest Leroux 1899), 212. The word *giặc* is of Sino-Vietnamese origin, derived from 賊 (*zéi* in Mandarin), meaning thief, bandit, or robber.

21 "guerre maritime; pirates, corsaires," in *ibid.*, 213.

22 Brocheux and Hémery, *Indochina*, 51, 57.

Dynasty presided over a formidable navy, which it used to suppress the Chinese pirates who had allied with the Tay Son rebels during the upheaval of the previous decades.[23] In the 1820s, the Vietnamese navy reportedly consisted of around 200 large boats armed with between 16 and 22 cannons each, in addition to 100 large and 500 small galleys armed with cannons and catapults. By the 1850s, however, the maritime forces had deteriorated to the point that they were unable to fend off the depredations of Chinese and Vietnamese pirates.[24]

The surge in Chinese piracy in Vietnamese waters and in the South China Sea and parts of Southeast Asia from the 1840s onwards was linked to the weakening of the Qing Dynasty in the wake of the Opium War and the subsequent civil unrest in China, particularly the Taiping Rebellion (1850–1864). During the first years of British rule in Hong Kong in the 1840s, moreover, the British government and the Royal Navy largely ignored the problem of piracy, and corrupt officials and merchants in the colony even colluded with the pirates.[25] From the middle of the century, however, the Royal Navy began to take more oppressive measures against the pirates in the vicinity of Hong Kong. From the 1860s, the Qing authorities regained control over southern China and its coasts, and collaboration between the British and Chinese to suppress piracy in and around China improved after the end of the Arrow War. Around the same time, the British and Dutch increased their efforts to stamp out piracy in and around the Strait of Malacca. Thus, pressured from both sides, many of the remaining pirates seem to have taken refuge in Vietnamese waters, where they met with little resistance from the authorities. Chinese and Vietnamese pirates thus congregated in large numbers off the north Vietnamese coast, and many of them established permanent bases in the archipelago close to the Red River delta.[26]

From their bases, the pirates attacked junks carrying cargo between Southeast Asia, Indochina, and China, but their most lucrative activity was

23 See Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley, CA: University of California, 2003), 40–43.

24 A. Girard, *Étude sur la Tourane et la Cochinchine* (Paris: Corréard 1859), 34.

25 A. D. Blue, "Piracy on the China Coast," *Journal of the Hong Kong Branch of the Royal Asiatic Society*, no. 5 (1965), 72–73; Grace E. Fox, *British Admirals and Chinese Pirates* (London: K. Paul, Trench, Trubner 1940), 86–87; see also Bruce Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," in B. A. Elleman, A. Forbes and D. Rosenberg (eds.), *Piracy and Maritime Crime: Historical and Modern Case Studies* (Newport, RI: Naval War College Press 2010), 51–78.

26 Amirell, *Pirates of Empire*, 120; cf. Nicholas Tarling, *Piracy and Politics in the Malay World* (Nendeln: Kraus Reprint 1978 [1963]), 206–231.

the abduction and trafficking of people. Thousands of Vietnamese men, women, and children were seized or tricked into captivity and trafficked to China or colonial ports, particularly Hong Kong and Macau, where they were sold off as coolie labourers, domestic servants, concubines, or prostitutes.[27]

Catholic missionaries drew the attention of the French public to the problem, and French naval vessels occasionally undertook anti-piracy cruises off the Vietnamese coast. Compared with the other major colonial powers in Southeast Asia at the time – Great Britain, the Netherlands, and Spain – however, the French did relatively little to suppress piracy at sea before the 1870s. In the 1860s, the main priority of the French navy was instead to establish order and control over French Cochinchina (southern Vietnam), which the French had seized from the Nguyen Dynasty in 1858.[28] Security conditions were anything but good in Cochinchina during the first years of French rule, when river piracy and brigandage were rife.

From the early 1870s, the French began to take more control over the colony and leading colonial officials started to advocate further intervention in the region and the annexation of the rest of Vietnam. The prevalence of piracy in Vietnamese waters seemed to provide a legitimate reason for such intervention. On two occasions in 1872 the dispatch boat *Bourayne* was sent to northern Vietnam, officially for the purpose of collecting geographical and political information, but covertly in order to prepare for a possible French military attack. On her second expedition, the *Bourayne* had several encounters with pirates based off the north Vietnamese coast, resulting in the sinking or burning of altogether seven pirate junks crewed by 700–800 men, more than 500 of whom were killed. The exploits of the *Bourayne* gained much attention in France and were celebrated as glorious victories, much in contrast to the country's embarrassing loss in the war against Prussia the previous year. An outcome of the publicity given to the *Bourayne* expeditions, moreover, was to establish an image in the mind of the French public of the otherwise largely unknown Vietnam as a lawless and pirate-infested country.[29]

Although piracy in the Gulf of Tonkin was a nuisance to the Nguyen Dynasty, it was generally of less concern than banditry and disorder on land.

27 See Micheline Lessard, *Human Trafficking in Colonial Vietnam* (London: Routledge 2015).

28 See Milton Osborne, *The French Presence in Cochinchina and Cambodia* (Ithaca, NY: Cornell University Press, 1969).

29 E.g. Senez, "Rapport nautique sur l'exploration des côtes de Cochinchine et du golfe du Tonquin (octobre et novembre 1872)," *Revue maritime et coloniale* 37 (1873), 5–32; "Le 'Bourayne' et les pirates chinois," *L'Illustration: Journal universel*, no. 61 (1873); "L'aviso Le Bourayne et son commandant," *Le Voleur* (28 March 1873).

Large parts of northern Vietnam were outside of the direct control of Hué and the regime instead relied on a group of mainly Chinese brigands, the Black Flags, in order to uphold a measure of order and influence in the region. The Black Flags had emerged in the aftermath of the Taiping Rebellion, and they took refuge to Vietnam in 1865 as the Qing forces regained control of southern China. The Black Flags allied themselves with the Nguyen Dynasty and helped the Vietnamese government to maintain control over the mountainous region in the north. In exchange, they were given a safe haven in northern Vietnam and the right to collect tolls on the Red River.[30]

The French, meanwhile, hoped that the Red River would provide a trade route to China's interior Yunnan province and, in that context, the Black Flags stood in the way. A French businessman, Jean Dupuis, managed to secure the support of the French colonial government and decided to force open up the Red River to commerce. He bought two gunboats, a steamship, and a junk and assembled a small private army of 130 men to take a shipment of arms to Yunnan. Without bothering to seek permission from the Vietnamese authorities, Dupuis proceeded with his expedition up the Red River. He managed to reach Yunnan and sell his cargo, but on the way back he was harassed by the Black Flags, whom, according to Dupuis were, for most part, "pirates or bandits, who spread their terror among the wild tribes."[31]

Upon his return to Hanoi, Dupuis was promptly arrested, his ships were seized, and the Vietnamese government asked France for help to expel him.[32] The Governor of French Cochinchina, Marie Jules Dupré, sent a small and ill-equipped force under the command of Lieutenant Francis Garnier, one of the most vigorous public proponents of further French colonization in the region. Officially, the purpose of the intervention was to assist the Vietnamese authorities in dealing with Dupuis, but covertly the objective was to pressure the Nguyen Dynasty to agree to a settlement of an unresolved territorial border in the wake of the French annexation of Cochinchina in 1858. Garnier was also instructed to suppress piracy, but only as a secondary task, to be carried out if the opportunity arose.[33]

Garnier reached Hanoi and managed to occupy the citadel, but the expedition ended in disaster for the French as Garnier, along with three French soldiers, was killed in a skirmish with the Black Flags at the end

30 Bradley Camp Davis, *Imperial Bandits: Outlaws and Rebels in the China–Vietnam Borderlands* (Seattle, WA: University of Washington Press, 2017).

31 Jean Dupuis, *L'Ouverture du fleuve rouge au commerce* (Paris: Challamel aîné 1879), 41.

32 Amirell, *Pirates of Empire*, 178, Davis, *Imperial Bandits*, 55–61.

33 Dupré to Garnier, 10 October 1873, in Dutreb, *L'Amiral Dupré et la conquête du Tonkin* (Paris: Au siège de la Société, 1924), 48.

of the year. The defeat triggered the withdrawal of the French forces. The Black Flags were widely reported in the colonial and metropolitan press as being Chinese pirates.[34]

Combined with the well-published anti-piracy operations of the *Bourayne* the year before, the failed intervention contributed to strengthen the image in France of Vietnam as a country teeming with pirates. The image drew on a discourse that linked piracy both to the unrest in China in the wake of the Opium War and to the notion that an inclination to piracy was a hallmark of certain, allegedly less civilized, "races." Such views were widespread among the British, for example with regard to the Malays and other ethnic groups in the Malay Archipelago, as evidenced by the writings of self-proclaimed authorities on the subject such as John Crawfurd and James Brooke.[35]

A similar view of piracy as linked to race developed among the French with regard to the Vietnamese during the second half of the nineteenth century. For example, according to Henry Frey, a colonel in the Marine Infantry, who served for several years in Vietnam: "The number of Vietnamese and Chinese who engage in piracy in Tonkin [northern Vietnam] is considerable. Above all, the taste for plunder and pillage [...] assumes this particular character that makes it part of their behaviour and as if in the blood of the race."[36]

French Colonization and the Suppression of Piracy

For the advocates in France of further colonial intervention piracy became increasingly important in the wake of Garnier's death. In 1874, the French government sought to convince a reluctant Parliament to ratify a treaty between France and Vietnam, and the treaty was, among other things, presented as essential in order to suppress piracy in the Gulf of Tonkin. The government argued that the pirates formed veritable naval squadrons and obstructed commerce on the Vietnamese coast, a circumstance that on several occasions had forced the French to undertake costly and bloody expeditions. The government further argued that the suppression of piracy was part of the work of civilization and that the French navy would swiftly be able to eliminate the pirates, who, since time immemorial, had carried

34 E.g. *Courrier de Saigon* (5 January 1874); *Journal officiel de la République française* (27 February 1874).

35 Amirell, "Civilizing Pirates."

36 Henri Frey, *La Piraterie au Tonkin* (Paris: CreateSpace 2018 [1891]), 7.

out their ravages on the Vietnamese coast and prevented both merchants and fishermen from travelling at sea.[37]

The rhetoric contributed to the government's success in getting Parliament to ratify the treaty, and the year after it was followed by a commercial treaty in which the need to suppress piracy was further emphasized. The commercial treaty extended the French obligation to suppress piracy to comprise pirates on land, in addition to those at sea, stating that France was obliged to "make all efforts to destroy the pirates of the land and the sea, particularly in the vicinity of the towns and ports open to European commerce."[38] Neither treaty mentioned the word "protectorate," but for practical purposes the treaties seemed to establish such a relation between the two countries.

In accordance with the treaties, French naval vessels undertook several anti-piracy operations in Vietnamese waters in the second half of the 1870s and the beginning of the 1880s. The result was that some of the piratical depredations were contained, but the French navy's capacity to suppress piracy in the region was insufficient and the abductions and trafficking of Vietnamese to China, Hong Kong, and Macau continued. For those who favoured a more aggressive colonial policy in Indochina, the need to suppress piracy and trafficking provided a strong argument for intervention. Paul Deschanel, an influential French Republican Party politician and author, for example, argued that it was a matter of dignity for France to uphold maritime security in Vietnamese waters. He also worried that the prevalence of piracy might induce another foreign power, in the first place Great Britain or Germany, to intervene and thus threaten French interests in Indochina.[39]

Indochina occupied a central role in the great debates in France about colonial expansion in the 1870s. Despite strong resistance from some politicians, particularly on the left, the momentum gradually shifted in favour of a more interventionist policy during the 1870s. In 1881, the more assertive French policy in the region manifested itself in the approval by Parliament for an increase in the funds for the navy's operations in Indochina. The funding allowed for a substantial increase in the number of vessels available for anti-piracy operations, signalling that the country would take a more proactive role in upholding law and order at sea and on the rivers, particularly

37 *Journal officiel de la République française* (4 August 1874).

38 Article 28, Treaty of 31 August 1874, in Ministère des affaires étrangères, *Affaires du Tonkin*, 1 (Paris: Impr. nationale 1883), 23.

39 Paul Deschanel, *Question du Tonkin* (Paris: Berger-Levrault 1883), 66–67.

the Red River, which still, by the early 1880s, was under the control of the Black Flags.[40]

In French Cochinchina, pro-interventionist sentiments were even stronger than in France. In 1882, the Governor of French Cochinchina, Charles Le Myre de Vilers, largely on his own accord, but believing that his actions were in accordance with those of the metropolitan government, dispatched a military expedition to Vietnam. Officially, the purpose was to protect the life and property of French citizens in the country, but covertly the intention was to take control over the Red River delta in order to formalize and strengthen the implicit French protectorate over Vietnam.[41] Like ten years earlier, piracy once again figured in the Governor's instructions to the commander of the expedition, Captain Henri Rivière: "You must not have any relations, direct or indirect, with the Black Flags. To us, they are pirates, and you shall treat them as such [...]."[42]

The French troops – who were more numerous and better equipped than Garnier's force ten years earlier – quickly seized the citadel at Hanoi but were again unable to move against the Black Flags. Rivière was also unable to undertake an intended survey of the Red River because the water was too low for the French gunboats. Forced to wait for the rain season the French troops were thus confined to the citadel, where they were besieged by the Black Flags. An obviously despondent Rivière wrote in a letter to one of his sub commanders that the country seemed to be teeming with pirates and that more or less everybody was a pirate.[43]

In May 1883, Rivière met a similar fate as Garnier at the hands of the Black Flags. In contrast to what happened after Garnier was killed ten years earlier, however, Rivière's death did not trigger a withdrawal of the French troops. Instead, there was a massive outpouring of support in France for a military intervention in Vietnam, in part because Rivière was not only a soldier, but also a well-known author and journalist. Consequently, in Parliament all but a few Socialists and Radicals came to strongly support the plans for further colonial expansion in Vietnam. The need to suppress piracy – particularly with reference to the Black Flags – was invoked as a major reason for the intervention, but more fundamentally, the calls for

40 *Journal officiel de la République française* (13 May 1880).

41 Brocheaux and Hémery, *Indochina*, 42.

42 Governor of Cochinchina to M. Rivière, 17 January 1882, in Georges Taboulet, *La Geste française en Indochine*, 2 (Paris: Librairie d'Amérique et d'Orient, 1955–1956), 767.

43 Lettre particulière du Commandant Rivière, 4 June 1882, in Taboulet, *Geste française*, 781; Rivière to the Commander-in-charge of Nam-Dinh, 18 May 1883, in Henri Rivière, *Correspondance politique du commandant Rivière au Tonkin* (*avril 1882–mai 1883*) (Hanoi: Le-Van-Tan, 1933), 252.

intervention were aimed at restoring the hurt national pride of France and avenging the killing of Rivière.[44]

Pirates, Bandits and National Resistance

In August 1883, a French contingent of around 4 000 men was dispatched from Cochinchina to northern Vietnam with instructions to occupy Hanoi and the Red River delta and to set up a French protectorate in the region. In response, China – which since ancient times regarded Vietnam as a tributary state – sent regular troops to reinforce the Black Flags, which led to the Sino–French War of 1883–1885. Despite some victories on the ground, the Chinese troops proved inferior to the French. The outcome of the war was that the Qing Dynasty was forced to give up its claim to sovereignty over Vietnam and acknowledge the French protectorate, which had been formally established in a treaty signed by the Vietnamese court in June 1884.[45]

The French victory over the Nguyen Dynasty, China, and the Black Flags did not mean that the new colonial masters controlled the country. The French had little influence outside the principal towns and ports of northern Vietnam and the Black Flags and other bandit groups still controlled most of the countryside. In addition, the French invasion triggered the rise of an armed anti-colonial resistance movement Can Vuong ("Help the King"), which constituted a veritable national insurrection against the new foreign regime.[46]

Moreover, the withdrawal of the Black Flags from Vietnam had been implied but not explicitly regulated in the peace treaty between China and France. Many of them thus remained in northern Vietnam, where they continued to control large parts of the country and to levy toll on the rivers. There are even indications that the French invasion aggravated the security situation. For example, in June 1885, shortly after the end of the Sino–French war, an official report on the "Piracy Situation" (*Situation de la Piraterie*) described those part of the country that were beyond the French lines as given to anarchy after the evacuation of the Chinese troops, with numerous bands of pillagers committing frequent depredations.[47] The "piracy situation"

44 Amirell, *Pirates of Empire*, 191–192; Brocheux and Hémery, *Indochina*, 47.

45 See Michel Bodin *Les Français au Tonkin, 1870–1902. Une conquête difficile* (Saint-Cloud: Èd. Soteca 2012).

46 *Ibid*., Brocheux and Hémery, *Indochina*, 51; see further Charles C. Fourniau, *Vietnam. Domination coloniale et résistance nationale (1858–1914)* (Paris: Les Indes savantes 2002).

47 Situation de la Piraterie, 9 June 1885, GR 15 H 93, Service historique des troupes de la Marine, Service historique de la Défence, Vincennes.

continued to be problematic on land for another ten years, although the sea pirates in the Gulf of Tonkin – who, a couple of decades earlier, had flourished on the trafficking of Vietnamese to China and European ports in East Asia – by the early 1890s were described as consisting of very small and poor groups and lacking in maritime capacity.[48]

The Vietnamese word that most closely resembled the French *pirate* was, as discussed above, *giặc*, and by associating all those who resisted French colonisation – including both the Black Flags and other bandits and the Can Vuong movement – the French could tap into a long-standing tradition among Vietnamese mandarins of defaming any rebellion or challenge to the established order and authority. By framing the military operations against all who resisted French colonisation as anti-piracy or anti-*giặc* operations, the French thus aimed to legitimise their repression in Vietnam with reference to the Confucian order.[49]

In France, meanwhile, labelling the Black Flags pirates was a rhetorical device that served to drum up support for the military intervention and conquest of Vietnam, particularly in the wake of the death of Rivière. The association between the Black Flags and piracy was facilitated by the fact that their very name – *Pavillons noirs* in French – readily evoked visual and symbolic associations to the Jolly Roger, the well-known pirate flag of the eighteenth-century Atlantic. Moreover, by describing Vietnam as a pirate-infested country and by shouldering the responsibility for suppressing the supposedly ancient scourge in the region, the proponents of colonisation could tie the colonial venture to a progressive vision of peace and progress – that is, the French *mission civilisatrice*.[50]

The rhetoric, however, was not accepted uncritically by all in France. Some people who had some knowledge of the situation in Vietnam questioned the use of the label piracy to describe the Black Flags. Shortly after the death of Commander Rivière, the Chinese Ambassador to France, Zeng Jize (Marquis de Tseng or Tseng Chi-tse), said in an interview in *Le Figaro*:

> The Black Flags [...] are what is left of the Taiping rebels. They are in the service of Annam [Vietnam]. In France, they are turned into a bogeyman and the Black Flags are used to fool the French people. In Paris, they are

48 H. Charles-Lavauzelle (ed.), *La Piraterie au Tonkin* (Paris and Limoges: H. Charles-Lavauzelle, 1891), 44–45.

49 Brocheux and Hémery, *Indochina*, 51; cf. Davis, *Imperial Bandits*, 20, about the concept *giặc* in the context of the French repression against the Black Flags.

50 Amirell, *Pirates of Empire*, 192.

> called pirates. Well, they are neither pirates nor bandits outside the law. They are regular soldiers in the service of King Tu Duc [...].[51]

Colonel Henry Frey also questioned the use of the label piracy to designate the Black Flags and virtually anyone who defied the authority of the French in Vietnam:

> [I]n Indochina, Europeans indiscriminately mix up under the label "pirate" not only marauders, highway robbers and smugglers, but also adventurers of all sorts who, yielding to the lure of a roaming life and defying the impotence of the laws, carry out their depredations, in armed bands, on land, on the coast or on the rivers of Tonkin; but also the natives who, rising up against the French domination, fight to regain national independence.[52]

On a somewhat different note – and without explicitly referring to the Black Flags – a former governor general of French Indochina, Ernest Constans, said in the Chamber of Deputies that the label pirate often was used in a somewhat "pompous" way in Indochina to describe what often was nothing but instances of petty theft, similar to what happened regularly in the *faubourgs* of Paris. Such rhetoric, he said, was reminiscent of the language of comic opera.[53]

Constans's reference to comic opera pointed to a further dimension of the discourse of piracy in the context of French colonisation in Indochina, namely, the role that pirates played in popular culture in France. The last decade of the nineteenth century and the first decade of the twentieth century saw an unprecedented output in France of novels and short stories about piracy set in Indochina, in addition to numerous purportedly true accounts by French *colons*, soldiers, and travellers of their encounters with pirates in the region. The subject offered a fruitful terrain for the authors of the genre to explore, and the books and stories were often successful in terms of sales and public appreciation. The scene was an exotic and ominous country, far from France both culturally and geographically. There was a wealth of dramatic effects that could be exploited and associated with

51 "Une entrevue avec le marquis de Tseng," *Le Figaro* (16 June 1883); translated to French and reprinted from the *New York Herald*.

52 Henri Frey, *Pirates et rebelles au Tonkin* (Paris: Hachette 1892), 39–40; cf. *idem*, *Piraterie au Tonkin*, 7.

53 Cited in Jules Ferry, *Le Tonkin et la mère-patrie* (Paris: V. Havard 1890), 269–270.

the allegedly primitive nature of the Asian soul, such as cunning, deceit, vengeance, hate, dissimulation, and cruelty.[54] *La grande piraterie* thus established itself as a popular genre of French fiction and became part of the horror literature (or Gothic fiction) that was widely popular in Europe during the nineteenth and early twentieth centuries. In this and many other senses, Vietnam took on the quality of a "dreamed elsewhere" (*ailleurs rêvé*) in the French imagination, as Historian Nicola Cooper suggests.[55]

Concluding Remarks

The suppression of piracy was a major aspect of the process of colonization in Southeast Asia during the nineteenth century, not only for France, but also for other colonial powers in the region such as Great Britain, the Netherlands, Spain, and the United States.[56] However, only in the context of the French colonization of Indochina did the label piracy take on such a broad significance as to include virtually any act or person that resisted French colonization, regardless of the motivation, location, or modus operandi. By contrast, in other parts of Southeast Asia, and indeed in other parts of the world, the term piracy continued, for the most part, to be reserved for raiders or rebels that used some form of maritime transportation.

Lumping together pirates at sea, bandits on land, petty thieves, and national resistance fighters and calling all of them pirates obviously served rhetorical purposes in France, particularly in the context of the campaign to drum up support for the annexation of Vietnam after Henri Rivière was killed by the Black Flags in 1883. As the discourse took hold and seemed to have the desired effect on public opinion, it continued to be used long after most anti-colonial resistance, as well as banditry and piracy at sea, had been suppressed or defeated by the mid-1890s.

The discourse on piracy was not only a French colonial or metropolitan phenomenon, however. In Vietnam, the term *giặc* had similarities with the French and European concept of piracy. Just as a *pirate* was seen in Europe as an enemy of society and mankind as a whole, a *giặc* in Vietnam was a person who engaged in subversive and illegitimate hostilities. As such, the concepts may

54 Louis Malleret, *L'Exotisme indochinois dans la littérature française depuis 1860* (Paris: L'Harmattan, 2014 [1934]), 88.

55 Nicola J. Cooper, *France in Indochina: Colonial Encounters* (Oxford: Berg, 2001), 2.

56 Stefan Eklöf Amirell, "Pirates and Pearls: Jikiri and the Challenge to Maritime Security and American Sovereignty in the Sulu Archipelago, 1907–1909," *International Journal of Maritime History* 29, no. 1 (2017), 1–24; *idem*, "Civilizing Pirates"; *idem*, *Pirates of Empire*.

have had similarities, but there were great differences in the understanding of who deserved to be labelled a *pirate* or *giặc*. Whereas the Nguyen Dynasty regarded the French encroachments and aggression as such subversion, the French were convinced that the Black Flags were the main pirates or *giặc*, and later this scope of the term was expanded further to include anyone who resisted French colonization of Vietnam, regardless of their motives. In several respects, the use of the terms *pirate* and *giặc* in Vietnam during the second half of the nineteenth century demonstrates the concurrent nature of the concepts, including simultaneity, contradiction and entanglement.

There was also a degree of common ground between the Vietnamese and French in the decade before the French conquest of Vietnam with regard to the need to suppress *pirates* or *giặc*. In the 1870s and early 1880s, the French and Vietnamese made some efforts to collaborate in the suppression of piracy in Vietnamese waters, mainly with regard to the Chinese pirates who plagued the islands and coasts of the country and abducted thousands of Vietnamese who were trafficked to China or colonial outposts.

These efforts, however, were soon overshadowed by the French discourse on piracy, which was mobilized to drum up support for the colonization of Vietnam. In the French metropolitan context, the discourse of piracy thus took on a different guise, serving, above all, to link the French colonial project in Indochina to a vision of peace and prosperity and to the French *mission civilisatrice*. Finally, the image of Vietnam as country teeming with vicious and racially inferior "pirates" also served to fulfil the cultural appetite among the French public for stories of adventure, the horrific and the exotic. In doing so, *la grande piraterie* both satisfied the desire among the French for entertainment and contributed to sustain the image of the pirate as a racialized other.

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12 Pirate Passages in Global History

Afterword

Lauren Benton

Abstract
This Afterword describes some limitations of conceptual histories of piracy and critiques the field's enduring emphasis on pirates as *hostes humani generis*, enemies of all mankind. The volume's chapters show a wide range of representations of pirates and move beyond the idea of a single or uniquely European perspective on piracy that can be compared or contrasted with other approaches. The Afterword summarizes key insights from the chapters and sketches several promising trajectories in research on piracy, including studies of global patterns of maritime violence, analyses of the spatial and political contexts of piracy, and new approaches to piracy in the history of international law.

Keywords: Historiography, historical conventions, theory, conceptual critique, global history

Piracy should be an ideal subject for world historians. Sea raiding occurred in every region, some piracy spanned interconnected oceans, and anti-piracy campaigns aimed eventually at global prohibition. Still, broad or comparative accounts of piracy in world history have been surprisingly elusive. The problem in part reflects maritime historians' traditional focus on the study of seaborne trade and navies and the relative neglect of broader political contexts.[1] The study of piracy has helped to produce its own isolation, too,

1 Nathan Perl-Rosenthal and Lauren Benton, "Making Maritime History Global," in *A World at Sea: Maritime Practices and Global History*, eds. L. Benton and N. Perl-Rosenthal, (Philadelphia, PA: University of Pennsylvania Press, 2020), 1–16.

Amirell, S. E., B. Buchan, and H. Hägerdal (eds), *Piracy in World History*. Amsterdam: Amsterdam University Press 2021
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through a persistent attachment to representations of pirates as stateless rogues operating in opposition to forces of regional and global integration.

Piracy in World History helps to move the history of piracy more firmly into the realm of world history. The volume features an expansion of the geographic and chronological contexts of sea raiding and inquires whether finding patterns of "concurrence," synchronous approaches to piracy in different social arenas and linguistic traditions, can alter well-established Eurocentric accounts. Taken together, the chapters offer some interesting answers, and one goal of my essay is to highlight these insights and to sketch the outlines of ongoing programs for research that come into clear view when the chapters are read together.

The exercise requires first registering some points of critique. I am claiming for the volume a more expansive set of goals and accomplishments than those outlined in the editors' introduction. Amirell, Buchan, and Hägerdal describe the volume as contributing to the global history of piracy mainly by offering a "conceptual history of piracy" that is global in scope, with an emphasis on "encounters between different concepts."[2] Many of the chapters take a different tack or go much further, and some show the difficulties of a focus on concepts in interaction. Authors analyse the dynamic and fluid production of multiple discourses about piracy in relation to layered and complex political contexts. They contribute to a critique of the idea that a single or uniquely European perspective on piracy existed that can be compared or contrasted with other approaches. Most of the works follow recent trends in global history in analysing intellectual currents and social relations as interrelated phenomena, a perspective also endorsed by the editors.

If pointing out the wider ambitions of the volume resembles a friendly amendment, a second line of criticism might land more forcefully. This volume is haunted, as is the subfield of piracy studies more generally, by an enduring emphasis on European understandings of piracy centering on representations of pirates as *hostes humanis generis*, enemies of all mankind. The bias towards this discourse – sometimes explicit but also often implicit – can introduce distortions into comparative analyses of European and non-European representations of piracy. It privileges a narrow reading of a handful of European legal tracts over both vernacular discourses on sea raiding and maritime practices. These dangers, and the evident attraction of this perspective, by no means apply across the chapters in this volume. But

2 Stefan Amirell, Bruce Buchan, and Hans Hägerdal, "Introduction: Piracy in World History," in this volume, 15.

lurking assumptions need to be called into the open. Only then can readily available alternatives, many strongly supported by authors represented here, take their place.

After reviewing these points, my essay turns to a summary of some of the many valuable insights from the chapters and sketches several promising trajectories in research on piracy. Much like the editors' and authors' focus on "convergence," a first direction for research identifies global patterns of discourse and practice in maritime violence. A second pathway opens new lines of inquiry about the relation of maritime violence to spatial and political change on regional and global scales. A third suggests new approaches to the history of international law, advancing the non-Eurocentric study of interpolity law and replacing a focus on piracy with a broader analysis of raiding as a legal phenomenon. The essay's title, "Pirate Passages in Global History," refers both to this set of pathways and to the still-incomplete transition towards a global history of sea raiding.

Beyond *hostes humani generis*

There is clearly something powerfully seductive about the association of piracy and universal criminality. The assumption of a strong link has found echoes in romanticized representations of pirates as proto-revolutionary actors standing in opposition to organized political power.[3] It has been reinforced through the revival of interest in the work of Carl Schmitt, who promoted a view of piracy as "the archetype of the so-called world crimes" and portrayed pirates as stateless actors.[4] The view aligns, too, with a tendency among some scholars to emphasize connections between a strand of European legal discourse that labelled pirates as *hostes humani generis*, enemies of all mankind, and recent definitions of terrorism.[5] The

3 The classic example is Marcus Rediker and Peter Linebaugh, *The Many-Headed Hyrdra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, MA: Beacon Press, 2000).

4 The phrase of Schmitt is quoted without challenge by Kempe in this volume Michael Kempe, "'Publique Enemies to Mankind': International Pirates as a Product of International Law," 41.) Also in this volume, Buchan discusses Schmitt's view of pirates as stateless (Bruce Buchan, "All at Sea: Locke's Tyrants and the Pyrates of Political Thought," in this volume, 62). On the links between Schmitt's representations of the sea to his support for Nazi ideology, see Lauren Benton and Nathan Perl-Rosenthal, "Land-Sea Regimes in World History," in Benton and Perl-Rosenthal, eds. *A World at Sea*, 186–192.

5 Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009).

opening chapter in this volume follows the well-worn tradition of tracing discourse on pirates as universal criminals, even though the author also mentions in passing evidence of other ways of representing pirates.[6]

Unquestionably, a strand of legal discourse did exist in Europe that classified pirates as the enemies of all; political advantage often lay in labelling sea raiders as men operating beyond the reach of law. Yet other representations of sea raiders and pirates flourished alongside this discourse. Few mariners labelled themselves as pirates, even when they were undertaking raids of questionable legality. In fact, raiders and their sponsors routinely engaged in "legal posturing" to represent their actions as lawful.[7] In most cases, states treated piracy as a common crime under municipal (domestic) law. Jurisdiction over pirates' actions was not universal but depended on their subjecthood, religious identification, diplomacy, the location of ship captures, prevailing conditions of war and peace, and other factors.[8]

The sources of this complexity cannot be reduced to a gap between theory and practice—as an effect, that is, of a relatively settled theory of piracy as a universal crime contrasting with the practical realities of blurred distinctions between piracy and warfare, and between pirates and common criminals.[9] The idea of a gap between theory and practice is somewhat useful (though still imperfect) for framing the politics of piracy suppression after the late nineteenth century.[10] In the long, earlier period covered by this book, definitions of piracy remained unsettled in both theory and practice, within and beyond Europe.

The supposed gap between theory and practice recedes when we take a closer look at classic texts about law and piracy, including writings that serve as touchstones for narratives about pirates as *hostes humani generis*.

6 Kempe, "'Publique Enemies to Mankind'."; for an overview of this tendency, see Mark Chadwick, *Piracy and the Origins of Universal Jurisdiction* (Leiden: Brill, 2019).

7 Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010), 24-25, 113-116.

8 See Lauren Benton, "Toward a New Legal History of Piracy: Maritime Legalities and the Myth of Universal Jurisdiction," *International Journal of Maritime History* XXIII, no. 1, (2011): 1–15.

9 The editors of this volume repeat this common framing. Amirell, Buchan, and Hägerdal, "Introduction," in this volume.

10 Even for the late nineteenth and twentieth centuries, we should not exaggerate the effects of an emerging consensus about universal jurisdiction and piracy. See James Thuo Gathii, "The Use of Force, Freedom of Commerce, and Double Standards in Prosecuting Pirates in Kenya," 59; *Am. U. L. Rev.*, 1321 (2009–2010): 101–139; Eugene Kontorovich, "'A Guantánamo on the Sea': The Difficulty of Prosecuting Pirates and Terrorists," *California Law Review* 98, no. 1 (2010): 243–275.

Hugo Grotius and Alberico Gentili, for example, analysed legalities of the sea both in relation to natural law and as a function of limited but important rights to cast jurisdiction across sea space. In justifying the strike by a Dutch captain against the Portuguese ship *Santa Catarina* in the Indian Ocean, Grotius affirmed that the seas could not be owned, but he also allowed that they could be lawfully controlled through the staging of ships on the sea. The presence of ships served to extend jurisdiction over particular stretches of ocean space, from proximate seas to jurisdictional corridors established "when a Fleet, which is a Sea-Army, is kept in any Part of the Sea."[11] Grotius's description of jurisdiction on the seas echoed the writings of his near-contemporary, Alberico Gentili, another jurist often credited with embedding Roman definitions of pirates as enemies of all into early modern European jurisprudence. For Gentili, too, piracy was no easy "jurisdictional trigger."[12] In his work as an advocate in admiralty cases, Gentili argued for the recognition of jurisdiction by states over proximate seas and over the actions of subjects on ships far from home coasts. He offered contradictory arguments about whether the capture of ships and cargoes by Barbary states could be classed as piratical or defended as the actions of legitimate polities regulated by treaty.[13]

As these and other European legal tracts show, jurists were operating with a repertoire that encompassed both rhetorical references to piracy as a violation of natural law and recognition of the legal foundations for state regulation of sea space. When judges described piracy as a natural crime but failed to assert that their courts had authority to try pirates, as occurred with most British jurists in the eighteenth century, they were not just responding to practical pressures.[14] They were also recognizing fundamental legal ambiguities. Put differently, it was precisely because theory was every bit as complex and contradictory as the world of practice that debates about legalities at sea continued for centuries to roil European strategies of sponsorship and containment of sea raiding.

11 Hugo Grotius, *The Rights of War and Peace*, vol. 1, ed. Richard Tuck (Indianapolis, IN: Liberty Fund, 2005), 470; and see, Benton, *A Search for Sovereignty*, 132–136; see also Annabel Brett, "The Space of Politics and the Space of War in Hugo Grotius's *De iure belli ac pacis*," *Global Intellectual History* 1 (2016): 1–28.

12 The phrase is from Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law* (New Haven, CT: Harvard University Press, 2016), 131.

13 Lauren Benton, "Legal Problems of Empire in Gentili's *Hispanica Advocatio*," in *The Roman Foundations of the Law of Nations*, eds. B. Kingsbury and B. Straumann (Oxford: Oxford University Press, 2010), 269–282.

14 Benton and Ford, *Rage for Order*, 134, n. 80.

The error of reading the history of piracy as a genealogy of international criminality is compounded when historians assume that early modern courts were in fact invoking universal jurisdiction. In his chapter in this volume, Kempe illustrates this problem when he asserts that George Cusack was charged in a British court for crimes against the laws of nations.[15] The quote comes from a pamphlet about the case, one of two that, as Kempe notes, reproduced inflammatory rhetoric about pirates as enemies of all and highlighted Cusack's indiscriminate raiding in order to ratchet up popular enthusiasm for his prosecution and punishment. Yet, as Kempe also seems to acknowledge without foregrounding, English courts were not in the business of enforcing "international" law, and judges, even if they referenced piracy as a violation of natural law, could not characterize "international" law consistently. Prize courts did not offer greater clarity. Although operating according to law with elements shared across European borders, prize courts did not bring criminal charges but adjudicated the ownership of captured ships and cargoes. British admiralty courts could try mariners for piracy, but in the long eighteenth century they seemed to grasp at "any excuse not to convict foreigners of piracy."[16] Jurisdictional puzzles pervaded actions against piracy across centuries. In Cusack's case, although the judge alluded to the universal nature of piracy as a crime, he also grasped the necessity of establishing the foundations for the court's jurisdiction over Cusack's acts of mutiny and robbery at sea.[17] No amount of rhetoric about Cusack's depravity or pirates' calumny could convert his prosecution into an act of "international" justice.

Overly literal readings of the rhetoric of pirates as the enemies of all mankind would matter less if they did not obstruct our view of the tensions pervading European imperial policies. Consider the multiplicity of views among Europeans in discussing piracy and anti-piracy measures in early nineteenth century Southeast Asia. An uptick in sea raiding and slaving prompted British and Dutch officials to voice concerns about the effects

15 Kempe, "'Publique Enemies to Mankind'," in this volume.

16 Benton and Ford, *Rage for Order*, 134; Alfred Rubin, *The Law of Piracy* (Honolulu: University Press of the Pacific, 2006), 122–123, 232–233.

17 Although he is also too generous in assigning Cusack's and Kidd's cases an instrumental role in urging a shift in British opinion towards universal jurisdiction, Chadwick notes the judge's focus on jurisdictional arguments. Mark Chadwick, *Piracy and the Origins of Universal Jurisdiction* (Leiden: Brill, 2019), 147–170; cf. Robert C. Ritchie, *Captain Kidd and the War against the Pirates* (Cambridge, MA: Harvard University Press, 1986); Benton, *A Search for Sovereignty*, ch. 3.

on commerce in the region.[18] British officials sometimes described piracy as a universal crime, but they were reluctant to assert jurisdiction over foreigners, especially in Dutch spheres of influence, and they pressured local polities to aid in policing proximate seas.[19] The complexities of jurisdiction came out clearly in 1838, when the British ship *Diana* seized about 30 men for an attack on a junk serving the valuable trade between Singapore and China. Only about half the men brought before the British admiralty court in Singapore were sentenced, and when many of them claimed to be lawfully raiding on behalf of the Sultan of Sulu, the court wavered, declaring that the case was evidently "beyond the jurisdiction and powers of a Court of Justice."[20] A few years later, British naval officers asked fewer questions when they were exhorted by the entrepreneurial James Brooke to attack "pirate" enclaves on the coast of Borneo.[21] Facing harsh criticism in London, officials expressed uneasiness about incentives to label the victims of naval violence "pirates" so that captains could claim head money under the Piracy Act of 1825. A commission that travelled to Singapore in 1854 to investigate whether Dayaks targeted by British navy captains were in fact pirates found that some Dayaks conducted piratical raids against local enemies but not against British ships – a conclusion that spoke volumes about the challenges of defining and punishing piracy under law.[22]

Such episodes – and there are many more, in the British empire and in other empires – confound any assumption that a single European concept of piracy existed or that Europeans defaulted to definitions of piracy as a universal crime. For most of its long history, piracy's regulation relied on actions by states and courts reluctant to claim the right to exercise universal jurisdiction. Campaigns against "pirates" depended on an unstable mix of diplomacy, interpretations of treaties, regional political dynamics, and inter-imperial jockeying. Decisions were undoubtedly influenced by

18 James Francis Warren, *The Sulu Zone: The Dynamics of External Trade, Slavery and Ethnicity in the Transformation of a Southeast Asian Maritime State, 1768–1898* (Singapore: National University of Singapore Press, 2nd edn, 2007); see also Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia* (Cambridge: Cambridge University Press, 2019).

19 Nicholas Tarling, *Piracy and Politics in the Malay World: A Study of British Imperialism in Nineteenth-Century South-East Asia* (Melbourne: F.W. Cheshire, 1963), ch. 2.

20 The convicted mariners were sent to Bombay as punishment and hanged only after they revolted on the ship taking them there and killed its captain. Benton and Ford, *Rage for Order*, 134–137.

21 The actions produced hundreds of civilian casualties in aid to Brooke's delicate position as both "rajah" of Sarawak and erstwhile British official. Tarling, *Piracy and Politics*, 115–128; Benton and Ford, *Rage for Order*, 140–145; Amirell, *Pirates of Empire*, 108–111.

22 Benton and Ford, *Rage for Order*, 138–145.

pronouncements about the evils of piracy and the notoriety of individual sea raiders such as Cusack or Kidd. But contradictions and complexities pervaded questions about jurisdiction over pirates – in theory as well as in practice. Regulatory regimes were assembled through maritime practices, jurisdictional politics, and interpolity conflicts, in Europe and the wider world.

The politics of piracy

We are now ready to survey some of the valuable contributions to the global history of piracy in this volume. Multiple authors observe the way a cacophony of pronouncements about piracy informed fluid legal strategies. Several probe the relation of piracy to political contexts, including consolidating empires and pluri-political regions. Still others demonstrate the value of histories of piracy to understanding the social and temporal dimensions of global and regional ordering in the early modern world.

Authors consistently note the variability and multiplicity of representations of piracy. Angles of vision mattered. North African city states developed different perspectives on piracy from those of Venice or of Ottoman officials at the centre of the empire, as White shows.[23] Positioning in hierarchies of power in turn influenced discourses about piracy. White comments on the different views of collaboration with pirates by "governors, fortress commanders, and customs officers" of Ottoman ports.[24] The subjecthood and religion of raiders and their victims influenced judgements about whether raiding was legal or illegal, and "the wrong combination at the wrong time" could prompt the labelling of raiders as pirates.[25] As a rule, Gaynor concurs, we must be attentive to perceptions of piracy other than those originating with states.[26]

Discourses evolved in dynamic relation. Tremml-Werner, for example, observes that a "Filipino-Spanish discourse on piracy was co-produced," and Subramanian finds that Indian and Asian views of piracy were not "hermetically sealed off from European" discourses.[27] Nor, as we have seen,

23 White, "Holy Warriors, Rebels, and Thieves," in this volume.

24 *Ibid*, 161.

25 *Ibid*, 166.

26 Gaynor emphasizes the importance of being "open to the question of whether one could analyse piracy without adopting statist perspectives." See Gaynor, this volume, 92.

27 Birgit Tremml-Werner, "Persistent Piracy in Philippines Waters: Metropolitan Discourses about Chinese, Dutch, Japanese, and Moro coastal Threats, 1570–1800," in this volume, 200;

were European representations of pirates singular or stable. On the Western Indian littoral, European portrayals of sea raiding along the Indian coast shifted as they encountered resistance to their schemes for ordering coastal waters.[28]

These and other observations take us, as the volume's editors note, beyond the "alleged opposition between piracy and state power."[29] The chapters reveal the striking variety of political contexts that prompted waves of maritime violence, and they offer a series of incisive observations about the relation, sometimes counterintuitive, between political power and piracy. Everywhere we find a "porous line between state-condoned warfare and sheer piracy."[30] Further, anxieties about piracy did not consistently align with political disorder since it was often in moments of consolidating power that it became expedient to label maritime raiders as pirates and take action to suppress them, as Antony shows for China.[31] Parallel or intersecting discourses about land- and sea-based raiders were politically consequential, especially when keyed to representations of bandits or sea robbers as rebels.[32]

Political contexts shifted in subtle ways over interconnected, pluri-political regions in which empires operated in a sea of smaller polities of flexible allegiance. The eastern Mediterranean, the Western Indian littoral, the Indochinese coast, the "Sulu zone" and its borders – these interpolity zones channeled opportunities for raiding and composed a regulatory regime influenced by European power without being subject to European political governance and without being fully incorporated into an emerging 'international' legal order.[33] There was nothing necessary about bids for

Lakshmi Subramanian, "Piracy in India's Western Littoral: Realty and Representation," in this volume, 130.

28 Europeans applied the label of piracy to any Indian/Asian actors, "who bypassed or flouted the cartaz-cafila-armada system and who occasionally even adopted an aggressive policy of retaliation." Subramanian, "Piracy in India's Western Littoral," 144.

29 Amirell, *et al.*, "Introduction," in this volume, 10.

30 Hans Hägerdal, "The Bugis-Makassar Seafarers: Pirates or Entrepreneurs?," in this volume.

31 Robert Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," in this volume.

32 Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire* (Cambridge, MA: Harvard University Press, 2014); Stefan Eklöf Amirell, "'Pirates of the Sea and the Land': Concurrent Vietnamese and French Concepts of Piracy during the Second Half of the Nineteenth Century," in this volume.

33 Writing in this volume, White, Subramanian, Amirell. Tremml-Werner and Gaynor contribute relevant points and underline the importance of James Francis Warren's *The Sulu Zone: The Dynamics of External Trade, Slavery and Ethnicity in the Transformation of a Southeast Asian Maritime State, 1768–1898* (Singapore: National University of Singapore Press, 2nd edn, 2007).

political autonomy by sea raiders, or about particular patterns of subordination to or alliance with powerful governments.

Maritime patrolling and violence concentrated in corridors and the waters around ports. The irregular distribution of sea raiding did not equate to claims of ocean sovereignty but, as Joshua White succinctly puts it in this volume, supported "exclusive claims to policing" in certain sea spaces.[34] In some cases, as when the Mughal empire pressured the British to take responsibility for punishing sea raiders in sea lanes connecting the Western Indian littoral to ports for the embarkation of pilgrims to Mecca, European powers assumed jurisdiction at sea with some reluctance.[35] Sea raiders, too, could change their stripes. Various groups of raiders in Southeast Asia rotated between "plundering and murdering" and "peaceful commercial transactions," sometimes combining pillaging and trade in the same voyages.[36] Even the very rare sea raiders of the Caribbean who flew the black flag and turned down British offers of amnesty cultivated ties to ports where they could sell plundered goods, and they manoeuvred to keep open avenues for acceptance into port society.[37]

Sea raiding was closely paired with slaving across ocean regions. Plunder for slaves in waters off the Philippines and "slaving piracy" off Indochina illustrate the way sea raiding was integral to vast complexes of captivity.[38] Such systems had distinctive regional dimensions, but the widespread interdependence of slaving and sea raiding also created continuities across regions. Sojourners, merchants, naval captains, and slave owners deployed knowledge gained in one region when maneuvering in newly encountered political landscapes. If all politics is local, then all piracy politics was local *and* regional.

34 Joshua M. White, "Holy Warriors, Rebels, and Thieves: Defining and Regulating Maritime Violence in the Early Modern Ottoman Mediterranean," 132; see also Robert J. Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," both in this volume.

35 Lauren Benton, "Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism," in *Comparative Studies in Society and History*, October 47, no. 4 (2005): 700–724.

36 Tremml-Werner, "Persistent Piracy," in this volume, 209-210.

37 Mark G. Hanna, *Pirate Nests and the Rise of the British Empire, 1570–1740* (Chapel Hill, NC: University of North Carolina Press, 2017); Benton, *A Search for Sovereignty*, ch. 3. For a careful account of the way popular and scholarly agendas blended to invent episodes of flying the black flag, see Sarah Craze and Richard Pennell, "The Pirates of the Defensor de Pedro (1828–30) and the Sanitisation of a Pirate Legend," *International Journal of Maritime History* 32, no. 4 (2020): 823–847.

38 Jennifer L. Gaynor, "The Colonial Origins of Theorizing Piracy's Relation to Failed States," in this volume; Hägerdal, "The Bugis-Makassar Seafarers," in this volume, 122.

Alignments and interconnections extended, with great consequence, to state policies. A number of the chapters in this book show the intersection of policies occurring well before the mid-nineteenth century international movement to ban piracy.[39] Robert Antony notes the convergence in China and Europe of "the enactment of increasingly harsh laws and military build-ups that aimed to eradicate" piracy in the early nineteenth century, and he describes the regulatory environment of the South China Seas as one of "overlapping and competing legal regimes."[40] Here and elsewhere, layered and overlapping projects of maritime regulation gave shape to interpolity regional regimes. As objects of analysis, such regimes represent a welcome replacement for encounters of Europeans and non-Europeans or efforts to trace the spread of Western prohibitions of piracy.

New pirate histories

The findings I have surveyed illustrate several new directions in histories of sea raiding in general, and piracy in particular. Many of the chapters point to the importance of histories of piracy for understanding the spatial dimensions of sea raiding and its regulation. Others open new vistas on the politics of piracy and its relation to processes of forming and sustaining varieties of political communities across the globe. Still others support the movement towards new approaches to the history of international law.

Consider piracy's spatial dimensions. Gaynor points to the way references to piracy represented land-sea connections. She describes "the offing" as a space literally and figuratively at the edge of the field of vision of land-based authorities and at the point where for mariners the unsurveilled ocean ended.[41] Spatial patterns of raiding reflected pirates' positioning not beyond but "at the limits of sovereignty."[42] Land-based labour practices structured seaborne capacity by releasing and reabsorbing men as part-time raiders. Other spatial patterns, such as the location and concentration of prize courts or the replication of coastal forts and townscapes designed to be visible

39 The classic account of this nineteenth-century transition is Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns* (Princeton, NJ: Princeton University Press, 1996).

40 Antony, "Piracy, Empire, and Sovereignty," in this volume, 193, 174.

41 Jennifer L. Gaynor, "Piracy in the Offing: the Law of Lands and the Limits of Sovereignty at Sea," *Anthropological Quarterly*, 85.3 (2012): 846–850.

42 Gaynor, "Colonial Origins,", in this volume, 90.

from maritime approaches, influenced the character of ocean regions.[43] As Nathan Perl-Rosenthal and I suggest elsewhere, such connections comprised "land-sea regimes," assemblages of political and cultural processes and practices spanning terrestrial and maritime spaces.[44]

These insights about the spatial and regulatory contexts of piracy point in two further research directions. One is towards an understanding of maritime politics in relation to vernacular political thought and imperial constitutionalism; another is towards a new narrative of the history of piracy in international law. Perhaps these aspects of repositioning the history of piracy smack of overreaching; certainly, their full discussion belongs in another venue. But numerous findings in the chapters of this volume accelerate these analytical moves.

If we situate the labelling of pirates and their treatment squarely in the realm of politics, then we do not have far to move to position the history of piracy within imperial legal politics, including imperial constitutionalism. Consider the central insight of Buchan's analysis of piracy in English political thought in this volume. Moving well beyond the usual story of a tradition of marking pirates as the enemies of all, Buchan notes that piracy came to signify "a convenient analogue for illegitimate power over another."[45] The labelling of individuals as pirates affected not only the legitimacy of sea raiders' sponsors but also the legality of arrangements delegating the authority to seize ships. Pirates might operate both as the "embodiment of illegitimate power" and as usurpers of legitimate sovereign power committing violence "without sovereign sanction."[46] The shorthand for the constitutional danger posed by these conditions together was petty despotism. The association of piracy and tyranny converted campaigns to control sea raiding in remote seas into constitutional crises, a pattern illustrated with particular clarity in British nineteenth century campaigns against piracy.[47]

The threat of pirates as usurpers of sovereign authority loomed in other empires, too. The perceived danger paints a different picture of pirates'

43 On geographies of prize courts, Lauren Benton, "Legal Spaces of Empire"; on coastal forts, Subramanian, "Piracy in India's Western Littoral," in this volume. Mosques in Indian Ocean ports were designed to be prominently visible from proximate seas; Sebastian R. Prange, *Monsoon Islam: Trade and Faith on the Medieval Malabar* (Cambridge University Press, 2019).

44 On the concept of "land-sea regimes," see Lauren Benton and Nathan Perl-Rosenthal, "Land-Sea Regimes in World History," in Benton and Perl-Rosenthal, eds. *A World at Sea.*

45 Bruce Buchan, "All at Sea: Locke's Tyrants and the Pyrates of Political Thought," in this volume, 68.

46 *Ibid.*

47 Benton and Ford, *Rage for Order*, ch. 5.

maneuvering for political autonomy. Historians toggle between portraying pirates' experiments in self-governance as oppositional acts of stateless men and characterizing communities of sea marauders as aspirational states. Such alternatives are too limited.[48] Maritime raiders fitted into broader political patterns when they embraced a modicum of autonomy without necessarily opposing the power of empires. As several chapters in this volume affirm, even when sea raiders acted to found independent polities, the political arrangements they helped to craft were fluid, as they were in the negotiations between Madagascar pirates and the Swedish King.[49] Further, sea raiders not only routinely retained economic ties that bound them to powerful polities, but they also found it useful to rekindle claims to "nested rights" or to plead for protection – as individuals, clients of powerful states, or as allies within confederations.[50] Like others within composite political systems of the early modern world, mariners could reconcile visions of semi-autonomy and necessary acts of subordination.

Repositioning sea raiders as full participants in regional politics supports alternative narratives of piracy in international law. The term "international law," used frequently by authors in this volume, is an anachronism for the period under analysis. There was no settled European law of nations, no singular legal approach to piracy, and no professional group of international lawyers in the early modern world. An alternative focus on "interpolity law" can open analysis to legal practices across political communities rather than beginning with past or present doctrines.[51] This approach examines sets of legal practices across political divides, with "law" defined broadly as a medium of imperial, regional, and global ordering.

Jurisdictional conflicts and protection arrangements were salient within interpolity law, as were patterns of violence and peacemaking. Tremml-Werner and Gaynor point to longstanding practices of raiding in Southeast

48 See Gaynor in this volume on the unstable correlation of piracy and state formation; see also Stefan Eklöf Amirell & Leos Müller (eds.), *Persistent Piracy: Historical Perspectives on Maritime Violence and State Formation* (Basingstoke: Palgrave Macmillan, 2014).

49 Joachim Östlund and Bruce Buchan, "Sweden, Barbary Corsairs, and the 'Hostes Humanis Generis': Justifying Piracy in European Political Thought," in this volume.

50 The phrase is from Subramanian, "Piracy in India's Western Littoral," in this volume, 133. On protection and piracy, see Lauren Benton and Adam Clulow, "Empires and Protection: Making Interpolity Law in the Early Modern World," *Journal of Global History* 12, no. 1 (2017): 74–92; and on protection in French Indochina, see Amirell, "'Pirates of the Sea and the Land'," in this volume; and see Amirell and Antony in this volume on "pirate" confederations.

51 On interpolity law, see Lauren Benton and Adam Clulow, "Legal Encounters and the Origins of Global Law," in *Cambridge History of the World*, eds. J. Bentley, S. Subrahmanyam, and M. Wiesner-Hanks, Vol. 6 Part II (Cambridge: Cambridge University Press, 2015), 80–100.

Asian waters, Subramanian describes raiding as endemic on the Western Indian littoral, and the editors remark on the ubiquity of raiding in Europe.[52] "Slaving piracy" was a particular and widespread kind of raiding.[53] Broadly, raiding was associated with coastal militarization and the construction of forts – both trends that predated European maritime violence and also intensified as a result of European incursions.[54]

As chapters in this volume show, such patterns made Portuguese and Maratha power, Chinese and European, and Spanish and Philippine "Moro" power mutually legible, a condition that differed sharply from mutual acceptance. Truces and treaties tamped down raiding at intervals without eliminating it. Commerce almost always continued alongside it. Religious solidarities and differences shaped opportunities and outcomes. Recognizing this complexity, Hägerdal notes that piracy covers a "broad spectrum of activities" and was a product of "a volatile intermixing of devastating war, weaponized religion, and aristocratic ambitions, in an archipelago offering multiple opportunities for trade and profit.'[55] It was not, however, limitless in is varieties or disconnected from institutions. Raiding was a part of the legal world of mariners and their sponsors. Bringing its rhythms into view places piracy and its politics within a truly global legal panorama in which universal criminality and other set pieces of the history of international law figure on the margins.

Conclusion

I have highlighted some of the numerous contributions of the chapters in this volume to new directions in the history of piracy. The contributions go far beyond – and in some cases tilt against – conceptual histories of piracy. At one level, in analysing discourses about piracy, the authors not only investigate how "the essentially European concept of 'piracy' was translated and perceived when different cultures came increasingly into contact" but also probe the way representations of piracy entered into the

52 See chapters by Tremml-Werner, Gaynor, Subramanian, and Amirell, in this volume.

53 Hägerdal, "The Bugis-Makassar Seafarers," in this volume, 122; and on raiding, see Lauren Benton, "The Legal Logic of Wars of Conquest: Truces and Betrayal in the Early Modern World," *Duke Journal of Comparative & International History*, 28 (2018): 425–448.

54 See especially Subramanian, in this volume.

55 Hägerdal, "The Bugis-Makassar Seafarers," in this volume, 110.

"regionalization and localization of power."[56] The authors peer through and beyond the politics of labelling raiding as piracy to glimpse the workings of "littoral politics" and other assemblages of land-sea regimes.[57]

Most pirates feature in history as the enemies of some, not the enemies of all. We cannot tell piracy's history through genealogies of universal criminality. The global imprint of maritime violence was produced instead through repeating patterns of interpolity engagement. Diverse political communities followed a range of interests and impulses in sponsoring violence, asserting jurisdiction on parts of the seas, and permitting or enjoining others to do the same. Interpolity regimes worked both to contain maritime violence and to make space for it, rendering piracy a protected but always controversial and unstable phenomenon. Historians exploring such practices and patterns are writing new, truly global histories of piracy.

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56 "Introduction,", in this volume, 14; Subramanian, "Piracy in India's Western Littoral,", in this volume, 135.

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