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Pirates and Piracy

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Editorial Notes: Pirates and Piracy – Material Realities and Cultural Myths

Andrew Opitz

This special issue of *darkmatter* sets out to examine the complicated and often incongruous cultural meanings assigned to pirates and piracy in the twenty-first century. Debates about piracy have long featured certain telling contradictions. At different times, pirates have been seen as both violent monsters and colorful folk heroes. They have been cast by historians and cultural critics as both capitalist marauders and militant workers fighting for a restoration of the commons. How can we account for these seemingly incompatible visions? Of course, it is important to observe that pirates were hardly uniform in their social and political orientations. Some were greedy opportunists. Some were desperate sailors and slaves driven to mutiny. Others were somewhere in-between. We should also recognize that our understanding of piracy is powerfully shaped by our economic interests and our relationship with the law. The propertied targets of piratical theft are quick to view pirates as criminal actors outside the bounds of civilized behavior, but the dispossessed are inclined to take a more nuanced approach that admires the defiance of the pirates at the same time as it fears their violence.

It is also important to note that pirates now have a symbolic importance that transcends the basic material conditions behind their banditry. Our enduring cultural fascination with pirates is tied to their status as celebrated figures of rebellion and nonconformity in popular novels and films. Although the actual history of maritime robbery is sordid and contradictory, the pirate has become a compelling symbol of freedom: freedom from oppressive work routines; freedom from polite behavior; freedom from institutional controls; freedom from restrictive property laws; freedom from unjust social conventions surrounding race and gender roles. We now apply the pirate label to an assortment of activities – from the formation of transgressive sexual identities to the technology-assisted defiance of copyright law – that have little or nothing to do with the sea or those who “go down to it in ships.” The articles assembled in this special issue take a broad approach to the study of pirates and piracy, examining diverse subjects ranging from the working-class politics of transatlantic piracy in the eighteenth century to the actions of Nigerian media pirates in the twenty-first century and recent debates about Somali pirates within East African immigrant communities in North America.

The authors who contributed to this special issue of *darkmatter* have approached the cultural politics of pirates and piracy from different angles. They are historians, literary critics, legal scholars and media/cultural theorists. However, their scholarship is linked by the shared understanding that modern piracy, like the modern world itself, is inextricably bound to the history of colonial and neocolonial relations of production and the legacy of racial and class conflict that they produced – a history that forged the global capitalist order that continues to shape our everyday relationships with other people. Pirates are often dismissed in the media as exotic anachronisms – colorful characters out of step with present realities. But the forces that produced and continue to produce pirates – global shipping, the extraction of resources from colonial and neocolonial holdings, the mobilization and control of labor in the service of investment capital – still drive our world today. Studying pirates and their ongoing cultural resonance is hardly a frivolous activity. It is necessary for a true understanding of the socially uneven, violent and unstable world in which we live – a world that is still very much at sea.
Notes

1. *darkmatter* would like to thank Sandra Abegglen for creating the image for this special Issue

2. For more on the labor-history approach to piracy, see Marcus Rediker’s *Between the Devil and the Deep Blue Sea*, (Cambridge: Cambridge University Press, 1987) 254-287. The pirate as capitalist approach has been most recently explored by economist Peter T. Leeson in *The Invisible Hook: The Hidden Economics of Pirates*, (Princeton, NJ: Princeton University Press, 2009)

3. Psalm 107:23

Revolution Bootlegged: Pirate Resistance in Nigeria’s Broken Infrastructure

Jason Crawford

When news of the M/V Maersk Alabama hijacking broke from Western media outlets, Americans scoffed at the notion of a forthcoming “War on Piracy” where the global shipping industry would be at the mercy of young Somalians dressed in second-hand clothes, wielding mended-together Kalashnikov rifles. The events were portrayed by recurring file photos that derided pirates for their inferior technology, juxtaposing dingy wooden fishing boats powered by deteriorated outboard motors against pristine 500-ft container ships that had been overtaken.[1] Despite jeers by the West, the hijacking also incited questions about whether the simplicity and effectiveness would lead to more attacks. If hijackings continued at an increasing rate then it could cripple the shipping industry and trigger further economic decline in a climate already fragile from a recession in the United States.

In an effort to flex their muscles without broader invasive commitment to the region that would cause setbacks in public approval experienced with the invasion of Iraq, the US government generated a simplified characterization of the pirates that could yield both their credibility as a threat but provide assurance that further provocation could be neutralized. The most readily reported characterization of the Somali pirates argued that they burgeoned merely from the simplicity of the action which appealed only to small-time Somali thugs who desired high payoffs for hijackings. It was akin to an accusation of being a street gang at sea. This characterization wasn’t troubling for Americans to process who were preoccupied by the idea that thoroughly organized “Muslim extremists” were the only hurdle in achieving lasting global security. A dismissal of their competence was projected by reports that they had failed to overtake the crew and successfully hijack the M/V Maersk Alabama. Their follies meant a less drastic intervention that the public could support with minimal action required to achieve an instantaneous and glorified outcome. Demonstrating this as one of his first examples of foreign policymaking, President Barack Obama was lauded for his composure and capability as commander-in-chief in ordering the sniper fire by Navy SEALs from the USS Bainbridge.[2] This marked public trust that the government could take any course of action to neutralize what were seen as bothersome thugs.

For Somalians the image pushed by the West of a greedy and inept thug-pirate wasn’t one they had associated with the conflict in the Gulf of Aden. While it was partly that in more recent time piracy grew in appeal to local gangs, it didn’t explain why piracy became so prominent to begin with. Every country with a coastline had some criminal underbelly but didn’t have the same piracy issue. Instead Somalia’s piracy came as a resistance by local fishermen against illegal fishing and dumping of nuclear and toxic waste off their coast.[3] When the dictatorial administration of Siad Barre came to power, it created a chain of post-colonial economic dependency aimed at beefing up the fishing industry to export seafood to Western nations. After Barre was ousted and the economy collapsed it brought down public infrastructure and protection, allowing multinationals to infiltrate the waters and continue to illegally fish. This collapse also occurred in other areas of Somalian industry previously held by post-colonial dependency and signified a shift where multinationals could abuse the absence of government protection. Piracy became an effort to detour and drive away foreign ships from abusing the coastline. Described by Somali hip-hop artist K’Naan, “one man’s pirate is another man’s coast guard.”[4] When a ship was captured, ransom money was seen as
levying a “tax” on the corporations that had illegally fished or dumped in their waters.\[^{5}\] Ransoms filtered through villages as pirates used this system of defense based on a trust network of local association an organization that protected the identities of other the pirates, uplifting them to Robin Hood-like celebrities where last year 70% of the country viewed the pirates as the “national defense” to their shores.\[^{6}\]

This pretext of how Somali pirates came to fill a void in national infrastructure to stop the abuse from post-colonial dependency will lend to a discussion of how piracy in the developing world has strove for sovereignty and contributed to generate cultural identity and practices that create autonomous networks to evade foreign influence. What is perceived by the pirate’s gangsterism and thuggish appeal has produced a negative characterization by the West but instead ultimately shows Somalians standing up and flaunting in the face of multinational interest by proclaiming that the waters are theirs.\[^{7}\] While the hijackings around the Gulf of Aden have generated momentum for a War on Piracy, it is important to look at concurrent discussions of piracy in the developing world to examine similarities in their emergence to understand how they too may be a victim of mischaracterizations by the West.

Just as there is a sense of ineptitude and ease in the operation associated as the economics driving vessel piracy in Somalia, so too are there portrayals by the West of inferiority and ease regarding media piracy in Nigeria. Piracy in Nigeria has been instrumental in shaping their home country’s Nollywood film industry. And like the Somali pirate’s “thugonomics at sea,” Nollywood’s perceived inferiority and amateurishness stands against the Western media model. As it relates to post-colonial struggles, the conditions for media piracy also run concurrent to Nigerian vessel piracy in the Niger Delta as groups such as the Ogoni people have used piracy to create networks of micro-politicization that serve as a resistance to preying oil interest. These conflicts exemplify how efforts to stop vessel and media piracy have merged the two issues into broader policy rhetoric to protect intellectual property in the developing world.

**Constructing the “War on Piracy”**

With fear of a weakening foothold in the global economy during the initial period of the Global War on Terrorism, policymaking in the United States began to seek legal protections against piracy as part of a larger strategy to safeguard against an oncoming recession. When the International Monetary Fund produced a survey in December 2001 that analyzed the state of the economic world in the wake of the September 11\[^{th}\] attacks, stabilizing markets from continued economic downturn and restoring market confidence were listed as top priorities for economic leaders. Their analysis contended that the greatest concerns came from burgeoning capitalist markets in developing countries, asserting that it would require greater attention to prevent them from becoming markets for bootleg products.\[^{8}\] The fear of clandestine piracy operations taking place elsewhere in the world not under the watch of American policy drove a panic manipulated by trade industries that terrorism would reinforce itself from illicit markets. Media conglomerates who were already embroiled in a battle at home over file sharing were recognizing the threat of copyright infringement in greater volume. It was a domino effect of fear that allowed trade groups to appeal for the federal government to weed out piracy at the domestic level and then vocalize stricter control of copyright in trade agreements with the developing world.
Since 1999 when the file-sharing program Napster first appeared on computers in homes and college dorms across the country, the Recording Industry Association of America (RIAA) and Motion Picture Association of America (MPAA) have taken an aggressive stride to combat illegal distributions of copyrighted media in the United States. A watershed victory came after years of single-infringement lawsuits by the trade groups when the US Supreme Court ruled in the 2005 case of *MGM Studios, Inc. v. Grokster, Ltd* that file-sharing clients and pirate servers were liable for infringement from their customers circumventing copyright protections. The decision gave a desired effect that the trade groups and their corporate partners would have an active role to self-police piracy. However, this often lead to compromises as many clients sold-out to become legal download services and settled without bringing rampant prosecutions against users who were now looking to alternative file-sharing methods as servers began to sprout up in countries where file-sharing was not viewed as an infringement of copyright.\[9\]

Focus of combating piracy turned to the international level, singling out nations who did not adhere to rigorous expectations that the United States wanted. The goal was to get countries to change file-sharing laws to be in line with the *MGM-Grokster* decision so rights holders could police against offenders by bringing them to trial in their system. For the most part this strategy worked to pressure other Western nations to comply and by late 2007 numbers began to favor the copyright holders as worldwide box office numbers climbed to an all-time high of $26.7 billion, nearly 5% more than the 2006 figure of $25.5 billion.\[10\] Regardless to content and other factors, the MPAA spun this as self-congratulatory and credited efforts to curb file-sharing for allowing increased creative output to happen.\[11\] However, much of the world did not have the infrastructural capacity to get on board with the file-sharing craze and still practiced hard copy exchanges of bootleg VHS and DVD. If Hollywood was to have a worldwide dominance and encapsulate every nation’s market, they would have to fight bootleg copies from circulating in the developing world. Their decision was to convince developing nations that they had more to lose from piracy than the Western nations whose bootlegged movies filled their store shelves.\[12\] The pirates were targeted as the reason such countries had not come to fruition in the promises that globalization would deliver uplifting prosperity. Much like the War on Terrorism, these clandestine operations were portrayed as what was in the way of Western liberalization.

Like the “with us or against us” hallmark that defined the War on Terrorism, the United States postured a de facto role to police against bootleg markets by asserting that countries could either agree to enforce intellectual property laws or be outcast as a target. Countries that did not conform would be shamed into accusations of being a “rogue nation” and even levied against by unilateral sanctions based under the authority in Section 301 of the United States Trade Act. Speculation of a War on Piracy being a proxy battle to the War on Terrorism was validated in early 2008 when United States Attorney General Michael B. Mukasey claimed that piracy and counterfeiting were directly tied with terrorist and similar criminal organizations. Speaking before the Tech Museum of Innovation, Mukasey demonstrated to the audience of tech corporations that the Justice Department’s commitment to protect their intellectual property was on the rise, citing a 7% increase in the number of intellectual property cases from the year before and a 33% increase since 2005.\[13\] Of those cases, an increased number of successful operations were spotlighted in the annual Special 301 report by the Office of the United States Trade Representative (USTR) and included examples with notorious street markets such as the Silk Street Market (Beijing, China) and
the Rubin Trade Center (Moscow, Russia) where mob-backed networks had long provided protection to street vendors of counterfeit goods and bootlegged media.

Similar statements supporting a War on Piracy were manipulated by media trade groups who protested before Congress that the threat against intellectual property was a matter of homeland security. Their argument utilized a statement delivered in 2003 by Interpol secretary-general Ronald K. Noble that argued before the House of Representatives’ Committee on International Relations that al-Qaeda, Hezbollah and other terrorist networks were profiting from media piracy. Noble cited the contribution of piracy as an “estimate that over a ten year period, al-Qaeda received between $300 million and $500 million, averaging $30 to $50 million a year” and that “according to the same source approximately 10% of spending went to operations while 90% was used to maintain the infrastructure of the network.” The only problem was that nothing indicated which markets were supporting al-Qaeda and it would require Congress to adopt a blanket policy to cover all threats.

In the year prior to Mukasey’s speech, the 2007 Special 301 Report highlighted a growing threat of piracy in Brazil, Indonesia, Malaysia, Nigeria, Pakistan, the Philippines, and Ukraine, who all had made enormous gains to catch up to usual threats China, India, Russia and Thailand. These parts of the developing world were moving at a much faster pace, which presented a challenge when their economic instability could hinder efforts to effectively police bootlegging when countries like China, India and Russia began to gain control over pirates as a result of modest infrastructural stability. Attention to building such infrastructure and financial strength in the developing world would be slow to mature and create the possibility of an economic adversary. But one thing favored Western powers to deal with these unstable climates, and that was to move forward using anti-terrorist rhetoric. A commitment to fighting against piracy as an appendage to the War on Terrorism meant the State Department could go after developing nations with more aggressive unilateral action. The characterization was that these “rogue nations” who lacked intellectual property protections did so at the hands of terrorist and criminal networks. Despite that there were no clear connection between the two, the USTR insisted that Nigeria’s media piracy had filtered through street gangs and made it’s way into the hands of terrorist groups who managed to promote a climate of lawlessness in the country. Terrorism in Nigeria had been synonymous with vessel piracy in the Niger Delta, an area with a history of conflict over oil control. Since oil has been the economic backbone to the West, Nigeria posed a risk of fueling similar economic fears that it could create an economic standstill to the West, particularly at a time when rising oil prices had speculators worried it may trigger a recession. Nigeria personified the ideal candidate as the rogue nation in the War on Piracy.

Nigeria’s Pirate Mobilization

Behind the rhetorical ambiguities of the rogue nation, piracy flourished in Nigeria through street vendors and corner shelves in stores to become the staple of media distribution in the country. Anthropologist Brian Larkin identifies the development of piracy in Nigeria as reflecting a paradigmatic shift in the Nigerian economy as an to gain autonomy through microcosmic controls of the economy against a trajectory of outside influence dating back to colonialism. Rather than be dictated to about copyright protections by Western nations who wanted to secure their global market footing, Nigerians have spawned a bottom-up structure comprised of pirate networks built on local pragmatism and a cultural logic of
repair. Their resistance to what cultural theorists often regard as the effect of Western hegemony in market globalization when many countries fought to gain screen time and control for their domestic product or be forced to seek foreign capital to adopt Westernized media, Nigeria has managed to evade these methods through piracy and not fall prey to an international dependency with media.\[18]\n
Like the Somali pirates, this piracy is traced to post-colonial impairment. When Britain formerly colonized Nigeria in 1885, they found new labor and an abundance of natural resources that would allow Nigeria to act as an epicenter for global trade. Britain constructed feudal practices that controlled Nigerians through indentured labor, and in some instances slavery, where Nigerians worked in mines, textile factories and on plantations to sustain the colonial trade system. The country acted as a mass manufacturing base for the British empire and powered trade with the wealth of oil that existed in the Southern region.\[19]\n
Daily oil spills combined with taxations on domestic products and services resulted in intense rioting, particularly by the Igbo and Ogonis villagers who began to formulate underground militias to rid the colonizers and adopt a sovereign identity. By 1960, Nigeria gained independence as the British empire began to fade away but the country did not achieve the autonomy that many had strove for as they had to still pledge economic loyalty to the Crown as a result of Britain inserting themselves throughout the Nigerian economy and infrastructure.\[20]\n
Turmoil within the nation continued years after independence when sectarian and tribal lines that were previously shoved together by colonialism caused the 1967 Civil War when the Igbo people attempted to secede from Nigeria and form the Republic of Biafra. Traditionally the Igbo had isolated themselves from other ethnic groups and constructed a highly visible and autonomous network of village governance based around their tribal kinship. They were also highly educated and politically like-minded compared to other Nigerians and sought to push for a republican national government composed of a decentralized Nigerian identity that could be governed by smaller autonomous networks divisive by different ethnic regions. The only problem was that the Igbo who wanted control of their region were also occupying a majority of the oil rich portion of the country and their political aspirations did not mesh with the Western Yoruba and Northern Hausa who were focused on developing a federalist theocracy that was dependent on the post-colonial servitude of Britain. In the North, the government had long been controlled by an autocratic hierarchy of Islamic Emirs who gained power through the British to act as an intermediary for colonial rule between Britain and the Nigerian people. To combat a Igbo secession and loss of oil interest, the British turned to the Emirs who ordered the federal Nigerian military invade the Southern region and regain control of Niger Delta. This began a system where Britain, and the West in coming decades, would act as an invisible hand to maintain an indirect control over Nigeria.\[21]\n
When the effects of Britain’s colonial legacy began to fade away, multinational corporations appeared in place and like their colonial predecessors, propped up autocratic regimes in Nigeria through indirect rule.\[22]\n
This was more often the case among Yoruba and Hausa regions where dependency by low income agrarian and working class populations relied extensively on Western corporations who presented the only line of scarce employment in the country. However in the Southern portion where Biafra would have been, there was still fierce resistance to outside influence. Immediately after the failure of Biafra, Nigeria saw a rise in the economy from the start of an oil boom in the 1970s, mobilizing the nation financially and bringing it international alliances through membership with OPEC. The
economic boom would bring about a shift towards consumption politics and the pursuit of consumer democracy, exemplified in the 1979 election of president Shehu Shagari, who encouraged Nigerian prosperity as a direction towards lifting the country to be a compatriot of the Western world. However as oil revenue increased the Nigerian economy, government opposition emerged from the Southern quarter due to devastation by new drilling opened up in the delta. Maintaining prosperity in what was seen as a never-ending struggle over the delta resulted in a military coup lead by General Muhammadu Buhari who overthrew Shehu Shagari which began a series of exchanges in military rule that would last until the Fourth Republican Constitution in 1999.

The consumer prosperity experienced during the oil boom began to dry up as the government focused nearly all the GDP on nationalization and military spending. However Buhari would soon get overthrown by Major General Ibrahim Babangida in 1985 and lead to even more unstable military spending. While the notion that a despotic government might pose a threat to the international community, Babangida reached out to the IMF to launch a Structural Adjustment Program in 1986 that deregulated much of the prior nationalization that Buhari had begun to build. Part of the program was aimed and bringing in more international interest through opening up public infrastructure to privatization and eliminating tariffs for multinational corporations. This outreach to the West also sweetened the appeal for more oil programs that could boost spending for Babangida’s regime. It appealed to both sides, Babangida could maintain control through increased support from the West and with a despotic leader in power, multinational oil companies wouldn’t have to worry about militants in the delta. As explained by environmental rights director Oronto Douglas, “there is a symbiotic relationship between the military dictatorship and the multinational companies who grease the palms of those who rule…. they are assassins in foreign lands. They drill and they kill in Nigeria.”

Despite having some of the richest oil deposits in the world, Nigerians suffered the fate of national violence by Babangida’s regime which left the country’s infrastructure in shambles. Public energy, resources and social infrastructures fell into rapid decline as the poverty rates in Nigeria increased dramatically during the period. The main culprit had come from the IMF program that lead to privatization and the purposeful devaluing of the naira. From 1980 to 1996, the poverty rate in Nigeria increased from 28% to 66%, yet between 1970 and 1999, the country saw an estimated $320 billion in revenue from petroleum. It was a paradox that Nigerians had oil under their feet but lacked the infrastructure to continually power basic needs in their homes. As many Nigerians lost the little wealth they had, it became more problematic to pay the higher energy costs that had skyrocketed from multinational investment. Energy was the cornerstone to the Nigerian struggle. It was either gain control or be controlled.

With a lack of reliable infrastructure, micro-politics arose in much of Nigeria through a series of decentralized communication networks that mirrored the tribal kinship that the Igbo used to strive for an autonomous identity. Micro-politics existed through initial municipal barter economies that allowed Nigerians to communicate with peers their disdain about the powers that be. Nigerians could barter items and services without having to pay in or allow the economy to flow externally into the hands of the dictatorial government or foreign interest who were exploiting revenues for military gain. These markets also brought groundswells of opinion to support oppositional groups who were aimed at opposing the military
administration’s support system. Of such groups, the Ogoni people of the Southeastern region along the Niger Delta were one of the first to organize and resist the expansion of new multinational petroleum takeovers, namely Royal Dutch Shell. Tensions between these groups and oil companies like Shell exploded in the late 1980s when violence began to erupt. In 1990, the brutal and state-military infused Mobile Police Men (MPF) opened fire on Ogoni demonstrators who had launched a protest against plans for Shell to begin new drilling operations in the delta. The protest was organized by local political leaders and resulted in the death of 80 Ogoni people. Three years later, protesters began a campaign to sabotage pipelines that were laid in the region. The Ogoni saw sabotage as part of the long-standing belief that they were entitled to the oil on their land. Much like the Somalia pirates and their crusade against illegal international fishing, the Ogoni believe the oil interest was their lifeline to building their own economy. As a result of continued sabotage, the MPF were dispatched along with private mercenaries to suppress the Ogoni but their attempt to strike fear into the villagers resulted in a massive conflict that caused 2,000 deaths and the displacement of 80,000 Ogonis.\[27\] Events like this brought more support and the formation of militias such as the Movement for the Emancipation of the Niger Delta (MEND), Movement for the Survival of the Ogoni People (MOSOP) and the Niger Delta People’s Volunteer Force (NDPVF) who had been established as a militarized defense (and sometimes preaching non-violence like MOSOP leader Ken Saro-Wiwa) against violence brought on by the MPF, foreign oil interests and Nigerian government. Their was more reason for Nigerians to join their struggle and their growing numbers of attacks on foreign oil platforms caught the eye of Western nations who saw it as part of a rising threat by global terrorism.\[28\]

**Piracy in the rivers and on the streets**

It was clear that the heavily armed support of state and MPF forces would require more clandestine operations to occur if they oppositional forces wanted to drive out foreign control and prevent another massacre from happening. MEND implemented guerrilla tactics such as swarm based maneuvers, utilizing rundown single-engine outboard motorboats used by local fisherman to quickly attack or hijack an operation. Their boats were disguised from outsiders like the MPF who would go into the delta to look for militants. Only the villagers would be aware of who the pirates were or which boats were used. Outspoken and visible activists were detained, killed or like in the case of Ken Saro-Wiwa framed by the government and assassinated. Anonymity and organized guile were of the utmost important to keep their network alive. In a moments notice fishing activity could be halted in the delta and villagers would assemble to launch an attack that could disappear just as fast as it was constructed. Even though MEND would become more visible in patrolling the delta as they acquired greater financial support to buy better arms and faster boats from hijacking ransoms, they maintained the same system of tactics and structure that allowed them to effectively evade any formal policing presence.\[29\]

These micro-political forms of knowledge that were based in local resourcefulness to deal with the lack of protection were at the heart of the Nigerian “repair economy.” Much like the Somali pirates do-it-yourself approach of using their fishing boats as a tool for achieving sovereignty, the Nigerian pirates could use similar methods as a way to reorganize the political structures around them. Through economic pragmatism, they could be the unofficial protectors of the Niger Delta and devise a closed network population that could operate without reliance on the federal government. Since Nigerians lacked the policing apparatus to
protect their coasts, they created their own. This microcosmic attention of paralleling infrastructure with autonomous networks provided Nigerians a similar method to achieve market sovereignty in the realm of media.

At the heart of the repair economy is the practice of technological reproduction. What can be duplicated or produced for less cost meant less external reliance on energy resources that were already high cost and scarce. It wasn’t economically sensible to produce media in various languages or utilize Western spectatorship practices that would exhaust the already scarce infrastructural resources and make the country more economically dependent on loans from international entities who would in turn prop up their despotic government. So as an example, Nigerians in regions such as the Kano state made use of low energy electronics such as cassette records and VCRs to produce dubbed and subtitled copies of commercial films in the indigenous Hausa language. These devices were considered outdated and invisible in the eyes of the West but served an important purpose in allowing Nigerians to create pirated material. This system did not rely on dependency of the West to create media for them which they often did not distribute dubbed or subtitled copies to other countries. Instead it would be a wholly Nigerian product created through the act of piracy and distributed by pirate networks.

Formal distribution of Western media was suspended in 1981 when the MPAA established a trade bloc against Nigeria after the government seized MPAA assets in an effort to make a nationalized film industry. Their film industry immediately flopped due to the trade bloc removing the revenue and equipment support that had went towards Westernized film production. It also caused many to be upset when distribution was suspended by other trading nations such as India who sided with the bloc and prevented their popular Bollywood cinema from entering Nigeria. However, traveling salesmen took advantage of the bloc and brought VHS tapes to informally sell. Due to the trade bloc creating scarcity in the availability of any media, reproduction by consumer VHS tapes was the pragmatic outlet for Nigerians who could distribute the smuggled media. Literally one smuggled movie would be brought in and duplicated to the point that the original tape broke. These reproduction economics were at the heart of the repair ethos and above all the pirate model meant duplications wouldn’t result in debts to Western distributors.

Kano emerged as the epicenter for piracy due to the wide-ranging international trade that came through the city and brought with it salesmen who smuggled in their bags unavailable originals to be sold. Soon pirate networks ballooned across the country and created a nation of spectators that was beyond the MPAA’s wildest dreams of captivating a nation’s audience. But it was never in the terms of Westernized producers who often forced certain media to wide audiences. Without the infrastructure and energy resources to run cineplexes or protect large video chains in the country, Nigerians relied on an outdated method of VHS technology as a way to see movies in homes, stores and restaurants that made media a communal experience. Networks of boutiques and vendors specialized in providing VHS copies that would spread by word of mouth. Without Western marketing in print and theatrical advertising or a barrage of television commercials, Nigerians relied on gossip for their film choices. This was usually based on the way the films registered and appealed with the audiences own tastes and values. What was popular in the West and sold out showings across the United States for weeks might not have ever caught notice in Nigeria and likewise what may have been a total flop could end up being all the rage among locals who recognized the
film’s story for similarities with longstanding parables. Piracy gave the audience sovereignty in their choices and to not be interpolated by Western marketing that projected Americanized values in what popular media choices they should make.

Technological reproduction in Nigeria eventually was discovered by the West around the same time that power slowly shifted away from military despotism and into the hands of the charismatic General Olusegun Obasanjo, who promised a modernized technocracy that could mend trade terms with the international community. Despite Obasanjo’s past as an officer in the Civil War and active in the coups that installed military despotism, a few democratic changes did begin to happen in Nigeria. However this expansion into democratic liberalism was built on oil productivity and required more multinational investment. It was a better period for Western media because trade disputes like the 1981 trade bloc by the MPAA could be mended with a leader more open to negotiating with the West and willing to build a government with the infrastructure to police against piracy.

During the 1980s, the architects of the General Agreement on Tariffs and Trade (GATT) recognized a growing threat to intellectual property. These concerns centered around pharmaceutical patents and media in the developing world and eventually came to shape the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) that would govern all member nations of the World Trade Organization (WTO) through updated intellectual property laws that mirrored the legal landscape of the West. Prior to TRIPS, the private sector in the US under the International Intellectual Property Alliance (IIPA) relied on appeals to the USTR for unilateral trade sanctions on noncomplying nations through Section 301 of the US Trade Act. While this aspect of the USTR was formulated in the primary interest of serving pharmaceutical companies and growing semiconductor industries, Hollywood found the office to become their international legal arm. Member nations of the WTO had already been forced into most compliance by the USTR so adopting TRIPS only meant added incentive to adopt home offices and enforce intellectual property to prevent further sanctions.

Part of Obasanjo’s vision of a modernized technocratic Nigeria included the construction of regional copyright offices to aid international complaints against piracy. This was first tested in 2001 when the Nigerian Business Software Alliance (BSA) was created to protect the intellectual property rights of growing computer software use. Microsoft’s Nigeria distribution office filed complaints with the BSA who were able to prosecute offenders in courts. This began to yield results which lead to the formation of regional Nigerian Copyright Commission offices that were aided by Nigerian police in raiding boutiques who had supplied pirates material on the streets for the past decade. In a 2002 trade report, the USTR examined that the country had made strides to establish the start of effective copyright protection. The problem for Nigeria was making sure prosperity could grow and build the infrastructure that Obasanjo promised. In many cases this happened to build a stronger bureaucratic base in government but external programs like copyright protection moved very slow due the volume of piracy that existed in the country. Even though the USTR recognized their efforts as being on the right track, Nigeria was continually listed as a rogue nation threat because it was an uphill battle to deal with reappearing pirates. This standard for copyright protection marked the status of the country. If they couldn’t press forward and develop a complete system of protection that stopped offenders, they would become a target by the same countries they were trying to appease.
From Pirates to Producers

While there were initial uncertainties about whether the resourcefulness of piracy could survive with the copyright commissions, in a rather ironic situation the same transformation that lead to the commissions ended up giving pirates a lifeline by being a legitimate form of distribution. Along with the transformation of Nigeria from dictatorship to democracy under Obasanjo, filmmaking reemerged in Nigeria as public curfews and prohibitions on filmmaking instituted by the former military regimes were lifted. Consumer video technology emerged in Lagos where low cost equipment made its way onto store shelves. This boom in consumer video without a conglomerate structure like the West, lead to a loose collective of filmmakers that would later become colloquially known as Nollywood. Like the repair ethos, film distribution occurred through the process of reproduction. Pirate vendors who offered bootlegs of Western media now offered bootlegs of low-budget Nigerian films on the same shelves in boutiques. This caused a problem for the copyright enforcement in the country because now their own national product was built on copyright infringement. Busting pirate vendors that had dozens of blank VHS tapes could either be using them for bootlegging international movies or distributing Nollywood films. This became a central theme of tension in the legitimacy and autonomy of the industry.

Today Nollywood is the world’s fastest growing film industry, all on consumer-based video and digital, allowing it to have the fastest and highest rate of output in the world with hundreds of films being distributed in a year. A typical Nollywood film today is made for about about $10,000, shot on video in a few days and turned over in a week.[33] The low-budget and unprofessional productions reflect a lineage of the resourcefulness model of the Nigerian repair economy where filmmakers would often turn to unprofessional cast and crews and utilize whatever pragmatism that could work in the situation. A baker during the day with no formal training might be operating a camera at night for a friend’s production. This local knowledge and group dynamic parallels the guerrilla’s pirate readiness, establishing the Nollywood industry as a true form of “guerrilla filmmaking.” The money and resources that go into a production circulate and return within the community as producers make their money back in a matter of a few weeks to a few months depending on how far the film travels by word of mouth. A portion of the revenues return to filmmaking co-ops who maintain the source of financial and equipment assistance for production, allowing a wide range of amateurs the ability to make a film.

A phenomena of “Renaissance men” who took on all aspects of filmmaking emerged sell their names as a form of star power that could sell their films. Many would go to shops looking for the next film of a Renaissance man like Jeta Amata to come out. However these Renaissance men like Amata would also seek out international financing and turn go venture capitalists and smaller studios in the United Kingdom as a way to finance their name.[34] This was a threat to co-op system that wanted to protect Nollywood from multinational takeovers. Fears began over “vacation filmmmaking” where aspiring foreign filmmakers could come to use Nigerian resources and make a production in a short period while on vacation. Filmmaking co-ops considered outsiders to be a sacrilegious act to the identity and autonomy of Nollywood and created protectionist measures to begin to control productions. If a film did not acquire the proper paperwork or was turned down for being suspected of being a vacation film, the film would have the plug pulled on it financially from the co-op and in rare occasions the police would get involved to question the vacationers status in the country and
take them in for supposed passport complications. This created a more tight-knight network to enforce the rules of Nollywood at a time when co-ops took a more visible role and became a target for local gangs known as “area boys”, and some times police, who made a business of racketeering the blossoming industry. Money would be required to pay for access to locations in the streets and made it a problem for Nollywood productions to be shot outdoors. This is why many Nollywood films are set indoors and often utilize artificial outdoor scenery inside or use green screen to give the effect of a scene taking place outdoors. This lent to a common characterization that the films the films looked aesthetically amateurish to a Western audience or outside. Films often borrowed from Western narratives, creating re-worked stories of Hollywood movies that were infused with Yoruban, Christian or Islamic values that changed the endings to popular stories. When Hollywood might allow a character to cheat the system, Nollywood films would have these characters meet horrible fates. This came from the same belief in control over their product that existed with film selections through piracy. For all the campyness and production faux pas, it produced cinema the people wanted and meshed with the values they wanted portrayed that they felt contributed to national identity. Nollywood has become the national identity that Nigerians have long strove for in their struggle with post-colonial impairment.

**Conclusion**

The aesthetic byproduct of reproduction has contributed to the West’s negative opinion of Nollywood, fueling the characterization that Nollywood is an insignificant and illegitimate competitor to the West, worthy of questions whether it’s a ruse to protect piracy. Utilizing the structure of piracy as a blue print for Nollywood has contributed an added textual layer in the formation of Nollywood films, leaving a watermark of a duplicated look or a bootleg aesthetic. Much like the characterization of gangsterism that the Somali pirates rivaled and intimidated multinationals by, a similar power structure connotes these aesthetics of piracy as an identification of Nollywood that stand in opposition to the glossy look that characterizes Western media. It emphasizes the resourcefulness and reproduction ethos that Nigerians value as local knowledge and micro-political formation that harbors pirate practices in this sovereign media form. Nollywood is part of a trajectory in gaining an identity, sovereignty and self-reliance that dates all the way to the conflict over colonialism and through the struggles that faced their country in being ravaged by multinationals for oil. It might not be an endpoint in their identity but as the second largest employer in the country today, it’s of their first and few national products that has achieved prosperity without Western control. The future is only a question of what new technologies will reach Nigeria but it’s certain that their heart of reproduction and resistance will continue to persist.

**Notes**

Democracy Now!, April 14, 2009. 


Digital Pirates and the Enclosure of the Intellect

Irmak Ertuna

As the production of knowledge and information increasingly becomes the guiding force of capitalist expansion, legal structures transform to accommodate the consolidation of wealth and power in the hands of already powerful actors. Consequently, the digital terrain of cyberspace becomes a space of contestation in which, on the one hand amateurs, artists, and students of digital technologies develop new tools to share and distribute knowledge, and on the other, actors of capitalist governance such as the WTO, MPAA, RIAA struggle to enclose these spontaneous activities within certain legal limits. Social cooperation and production of our material and immaterial world— including production of science and technology – is rejected within a system that assumes the individual to be the main source of creativity. In order to establish the capitalist hegemony within the new matrix of knowledge, production, and power, states and international organizations that foster neo-liberal economic structuring push for legal actions against individuals and nation-states alike. The recent example of The Pirate Bay, although not unprecedented, can be treated as a microcosm that reflects the challenges posed to the capitalist system by a generalized piracy.

On April 17th 2009, the founders of The Pirate Bay, one of the largest online file-sharing databases, were sentenced to one year in prison and substantial fines for copyright infringement. On their website, the outspoken, self-declared pirates announced the news in an unsurprised tone and informed users that they would not retreat from their position: “The site will live on! We are more determined than ever that what we do is right. Millions of users are a good proof of that.”[1] Indeed, The Pirate Bay is more than just a torrent search website, more than a movement, even more than “a long running art project” of performance, as its founders have claimed. Instead, it is a symptom of the inherent contradictions embedded within capitalist society. The proposition that digital piracy might in fact be a righteous act can lead us to the core of the problem with the structure of the command imposed by the capitalist system today.

In order to counter the logic so adamantly protected by organizations like the MPAA that piracy is “simply theft,”[2] or, in other words, to de-mystify the neo-liberal ideology, one can only demonstrate the reality of the material processes of production. On the other hand, we need to investigate digital piracy with extreme caution in order to avoid romanticizing digital pirates or hackers. The Pirate Bay’s recent involvement in the civilian protest against the outcome of the 2009 Iranian elections, or their assistance to an anonymous website that criticizes the anti-internet stance of Scientology, should not make us assume that we are faced with high-tech democracy warriors. One of the founders of the website, whose financial support is crucial, is allegedly a neo-nazi. For those of us who have been following the discussions and lawsuits surrounding The Pirate Bay, this does not come as a surprise. Indeed, the initial mobilization against the F.B.I. backed police raid to the headquarters of the website has been framed around the question of Swedish autonomy and freedom with all the connotations of national pride.

Yet, the significance of digital piracy and intellectual property rights in understanding the contemporary capitalist structure does not permit us to dismiss The Pirate Bay affair neither as a front for neo-nazi propaganda nor as a manifestation of youth subculture. We are
encountering a pervasive mobilization based on the discontent of global capitalist governance. In Sweden, The Pirate Party has gained a seat in the parliament, paving the way for other pirate parties in Europe. Jonathon Thano of the UK Pirate Party expresses his surprise in an interview with Time Magazine:

We had expected to see 18-year-old computer science students as the first arrivals, but look at our forum and you’ll see a chartered accountant, a retired policeman, and a middle-aged punk all pulling in the same direction. A month ago getting our name on a ballot paper was a daunting task, today it’s an inevitability.\(^3\)

Moreover, digital piracy cannot but be thought in relation to the surge in the piracy “threat” that concerns the global capitalist governance. The question is: How does neo-liberal capitalism give rise to piracy? Here, I am not only talking about the Somalian pirates who captured the limelight in the majority of 2009, but also about the recent history of the WTO and its TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement as well as the MPAA (Motion Picture Association of America) and the RIAA’s (Recording Industry Association of America) billion-dollar crusade against copyright infringement. Apparently, we should treat online piracy as part of a larger phenomenon endemic to the capitalist system, as a specter that haunts global capitalism.

On the TRIPS website, the WTO puts forth the reasons why intellectual property is crucial in 21st century:

Ideas and knowledge are an increasingly important part of trade. Most of the value of new medicines and other high technology products lies in the amount of invention, innovation, research, design and testing involved. Films, music recordings, books, computer software and on-line services are bought and sold because of the information and creativity they contain, not usually because of the plastic, metal or paper used to make them.\(^4\)

To use a different terminology, contemporary capitalism is driven by “immaterial labor,” the labor that is based on knowledge production, including research, design, and services. Maurizio Lazzarato defines immaterial labor as “the labor that produces the informational and cultural content of the commodity.”\(^5\) The distinction between mental and manual labor is eradicated through the development of communication and information technologies that require the dissemination of knowledge and skill.\(^6\) However, in the current global division of labor, material labor is concentrated on the areas of cheap labor costs, leaving the Western world in charge of the production of knowledge. The TRIPS agreement is an important landmark in the structuring of the global division of labor and the assertion of the power of advanced capitalist countries.

Recent global struggle against the pharmaceutical monopoly on HIV/AIDS drugs is a proof that the TRIPS, instead of protecting human rights and creativity, is “a triumph for commercial interests and industry lobbyists (which) institutionalized a conception of intellectual property based on protection and exclusion.”\(^7\) In 2003, after years of negotiations monitored by the WTO, Brazil became the second country after Thailand to authorize the import of the generic version of HIV/AIDS drugs much to the success of the mobilization of Human Rights organizations. The history of the intellectual property related
to pharmaceutical production demonstrates that the issue is not as simple as “illegal downloading” and has far-reaching consequences.

If, as the WTO states, ideas and knowledge are at the center of 21st century trade and production, then contemporary enclosures take place not only around physical resources like land and water, but also at the immaterial level of the “intellect.” One aspect of the Somalian piracy that the media (who is more comfortable portraying pirates as young thugs with guns) ignores is the knowledge and skill that enables the high-tech operations of the pirates. In fact, the experts say that pirate groups are made up of three different types of individuals, all requiring a specific knowledge necessary for capturing the ships: Ex-fisherman “who are considered the brains of the operation” because of their knowledge of the sea, ex-militiamen “who are considered the muscle,” experienced fighters of the Somali clan warlords, and the technical experts “who are the computer geeks,” because of their expertise in satellite phones, GPS, and military hardware. [8]

The skill and expertise of the pirates, both on the oceans and on the web, should indicate that, despite all the attempts of the WTO to monopolize its production and use, there is a free circulation of knowledge. “Mass intellectuality,” arises as an antagonistic force to the same Post-Fordist production scheme that gave birth to it in the first place. [9] At the heart of the problem of intellectual property lies precisely this paradox: as capital expands into immaterial spheres of knowledge production and circulation, the commanding structure has to limit its movement through trade agreements and constitutional enforcements. Well-before the WTO realized the importance of the “immaterial part of the trade,” Marx pointed out the intrinsic tendency of capitalist expansion into the intellectual sphere. The term “general intellect,” introduced in Marx’s Grundrisse posits that social cooperation and production are at the heart of the development of science, technology, ideas, and in general our cultural and symbolic universe.

However, in order to fully grasp the political implication of the concept of general intellect, we need to refer to another premise crucial to Marx’s framework: that of the “social individual.” The mystified conception of individual genius, upheld by the neo-liberal juridical system that codifies intellectual property, can only be countered with reference to the essential sociality that defines individuals. In the 1844 Paris Manuscripts, Marx asserts, “It is above all necessary to avoid once more establishing ‘society’ as an abstraction over and against the individual. The individual is the social being.”[10] The same claim is also presented in Theses on Feuerbach when Marx states that the human essence is not an abstraction inherent in each single individual, but an ensemble of social relations. However, it seems that the most influential instance of Marx’s critique of the bourgeois economist’s idea of the individual comes from the notorious first chapter of Capital where Marx ridicules the myth of Robinson Crusoe – the idea of the self-sufficient individual.

But the myth of individualism is so essential to the functioning of the system that in 1970s, the celebration of the individual comes back with a vengeance in Margaret Thatcher’s insistence that there is no such thing as society, but only individuals. Indeed, neo-liberal ideology is based on this concept of the individual as over and against the society. The legal protection of intellectual property mobilizes this concept of the solitary individual, who is seen as the source of production and creativity. It is stated in the TRIPS website that “Intellectual property rights are the rights given to persons over the creations of their minds.
They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.”[11] Other leading lobbyists for exclusivity of the use of cultural production, like the MPAA and the RIAA, also appeal to the ideas of creativity, talent and genius to justify their vicious crusade. For example, Republican Senator Orrin Hatch, who spoke at 2009 World Copyright Summit, stated “We must ensure that our songwriters are not placed in situations where their property rights are ignored by infringers.”[12] One government-backed research project conducted in the U.S. maintains that limited access is an imperative for securing the “constitutional intent of promoting the progress of science and the useful arts.”[13] In other words, private ownership of intellectual property is seen as essential for progress.

In fact, RIAA’s lawsuits against individuals are clear proof of how falsified neo-liberal ideology is. Their inability to comprehend the spontaneous growth of technologies that evade legal structure as well as the generalized social nature of online piracy led the prosecutors to waste their precious time on individuals guilty of copyright infringement. Now the RIAA announces, “In light of new opportunities to deter copyright infringement, the record industry was able to discontinue its broad-based end user litigation program.”[14] Obviously the web became a much more controlled space as record companies saw profit to be made from legal downloading. Yet, the danger for them still lurks at the most surprising locations: At the 2009 World Copyright Summit Sen. Hatch announced, “This year, it was particularly disappointing to see that Canada, one of America’s closest trading partners, was listed on the Watch List.”[15] Now Canada is listed among the top five countries on the Watch List along with China, Russia, Mexico, and Spain.

In this context of generalized piracy the concept of “general intellect” becomes more transparent. In a passage that begins with the phrase “Nature builds no machines,” Marx introduces the concept:

These are products of human industry, natural material transformed into organs of the human will over nature, or of human participation in nature. They are organs of the human brain, created by the human hands; the power of knowledge objectified [...] The development of fixed capital indicates to what degree general social knowledge has become a direct force of production, and to what degree, hence, the conditions of the process of social life itself have come under the control of the general intellect.[16]

Here, Marx is concerned with the extent to which fixed capital (as machinery) confronts labor power as an alien power. That “living, form-giving fire”[17] becomes dispossessed when “the monstrous objective power which social labor itself erected opposite itself as one of its moments belong not to the worker, but to the personified conditions of production, i.e. to capital.”[18]

Indeed, advanced capitalist states and their trade organizations serve to guarantee this ownership of the products of social labor by capital. This is why the issue of piracy and intellectual property manifests itself as a crisis in the juridico-political structure. However, the keyword here is crisis. The crisis that piracy makes visible is the antagonistic power of what Marx saw as the effect of subsumption of labor power by capital (i.e. alienation, dispossession). Socially accumulated knowledge, skill and technical power confronts the current legal structure, revealing once again that the political structure based upon the
materiality of the general intellect “is in no way interstitial, marginal or residual; rather, it is the concrete appropriation and re-articulation of the knowledge/power unity which has congealed within the administrative modern machine of the States.”[19]

This is another moment of crisis in the history of capitalism where the legal system of the state intervenes to enclose what is common. The defiance exhibited by the digital pirates of The Pirate Bay, among others, is an expression of a resistance to the enclosure of the intellect. While offering their users merchandise with the logo of The Pirate Bay and disguising themselves under a democratic front, these pirates present the contradictions embedded in contemporary capitalism. The claim of righteousness of digital piracy needs to be taken seriously because today, thanks to a previous generation of free software developers, pirates, and hackers:

Record companies have licensed hundreds of digital partners that offer a range of legal models to fans: download and subscription services, cable and satellite radio services, Internet radio webcasting, legitimate peer-to-peer services, video-on-demand, podcasts, CD kiosks and digital jukeboxes, mobile products such as ringbacks, ringtones, wallpapers, audio and video downloads and more.[20]

The reluctant but inevitable commercialization of cyberspace has taken its cue from the spontaneous creation and innovation of masses. After all, it is the driving tendency of capital to expand, for as Antonio Negri writes, “capital appears as a force of expansion, as production and reproduction, and always as command. **Valorization is a continuous and totalitarian process**, it knows neither limit nor repose.”[21] However we now have to acknowledge that valorization functions in a contradictory way: As a constant reduction of everything to exchange value and as valorization of the social individual. Individuals and companies cannot claim exclusive rights of innovation as the production of ideas and knowledge is always social. In his dramatic representation of the dissemination of scientific knowledge and its social consequences, Brecht declares from Galileo’s mouth that, ”there is no scientific work that can only be written by one particular man.”[22]

Cooperation is at the heart of society and labor, which now includes what has been regarded as unproductive labor or even nonwork.[23] And the more the general social knowledge becomes a force in production, the more of a threat it becomes to the system. The recent surge of “piracy” and the virtual “commons” is not accidental. Now, there is a certain awareness of the dangerous scope of 21st century enclosures that attempt to confine production, circulation, and distribution of information and knowledge. Just like the 15th century enclosure acts that turned people into “free” workers, 21st century enclosures imposed by a variety of different lobby groups and organizations attempt to put fences around the digital commons. The juridical apparatus of the system functions to defend the present from the future.[24] However, the logic of the state, of capital, has always been countered by another logic of resistance and it seems, at least for now, that the digital terrain is not as smooth as the lawmakers would like.

Notes


6. For a similar definition, see Michael Hardt and Antonio Negri, *Labor of Dionysus: Critique of State-Form*, (Minneapolis: University of Minnesota Press), 1994, 281: In technico-scientific labor of artificial languages, complex articulations of cybernetic appendages, new epistemological paradigms, immaterial determinations, and communicative machine. The subject of this labor “is a cyborg, a hybrid of machine and organism that continually crosses the boundaries between material and immaterial labor, the conflict is social because more and more it is situated on the general linguistic terrain, or rather on the terrain of the production of subjectivity.


9. See for example Paolo Virno’s essay “General Intellect” and Maurizio Lazzarato’s “Immaterial Labor.”


17. Marx, 361.

18. Marx, 831.


23. For example, in *Labor of Dionysus: Critique of State-Form*, Hardt and Negri assert the need of an analysis of “the concept of labor across the spectrum of social production to include even the productive sphere that Marx called the horizon of nonwork” (7).


Where’s the Booty?: The Stakes of Textual and Economic Piracy as Seen Through the Work of Kathy Acker

Paige Sweet

“Once upon a Time, Not Long Ago, O…”: The title of the Preface to Kathy Acker’s Pussy, King of the Pirates at first may seem almost as trite as its pirate heroes. Almost, but not quite. Acker’s perverse juxtaposition of these sing-song fairy tale words with one of the most notorious female masochists of all time (O, of Pauline Reage’s The Story of O)\(^\text{(1)}\) indicates from the outset that this story will be both familiar and foreign to the reader’s storybook sensitivities. For in the timbre of “Ago, O…” one hears the telltale tremors of trouble: “uh-oh…”

Kathy Acker (1947 – 1997) drew inspiration from the Western literary canon as one draws blood from a body: to extract, study, and experiment. Many of her stories are appropriated from well-known writers of the nineteenth and twentieth century including Charles Dickens, Daniel Hawthorne, Cervantes, Celan, and many others. She also mined content from stories told by fellow strippers, popular romance books, and pornography. As the title to the Preface of Pussy indicates, Acker’s technique is an unequal and impure combination of cut-up, mash-up, transposition, and transfusion. Through this technique Acker makes the first moves toward the betrayal of established literary standards.

Exhibiting her penchant for piracy both in her methods of plagiarism and the bountiful pirate figures that populate her books helped her to earn the label “literary terrorist.” Acker shamelessly copied character names, plots, and even the exact language from any discursive field that interested her. She would change the location of the story or the setting of the scene, but she never hid the sites of her pillages. On the contrary, because she practiced piracy with a purpose, her intent was to reveal the spurious nature of ownership and property with an eye fixed on how these ideas are embedded in language and how language is implicated in them. Piracy, her self-described writing style, valorizes plagiarism as a technique which challenges the legal categories that protect and even sanction one kind of thievery (that which operates on behalf of capitalist accumulation) while criminalizing another (such as copyright infringement). One might thus read her piracy as a kind of taking back, a reclaiming of a previously stolen good. But it is not merely a restorative gesture. Rather, analyzing Acker’s stylistic and thematic tributes to piracy serve as a productive entry point into analyzing the relationship between ownership and property on the one hand and the social, political, and legal aspects of literary language on the other. Acker renders explicit the violence, perversity, and economic inequalities that are implicit in the texts she pirates. In this way she produces a literary event that is able to illuminate the injustices of the historical and political circumstances that inspire much of her fiction. Her piracy thus works to expose the hypocrisy of social norms and values that act in concert with literary traditions in masking the violence and perversity of economic and political inequalities.

By examining the implications of the themes of piracy and her piratical style I aim to approach the question of whether the fictionalizing of revolt against economic and sexual inequality provides a means to understand historical forms of resistance and fashion a response to their contemporary counterparts. Rather than positing the question of whether her fiction mirrors, reproduces, or intensifies the violence it critiques, I am interested in

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\(^\text{(1)}\) Reage, Pauline. The Story of O.
navigating Acker’s textual seascapes and exploring what pirates as outlaws and piracy as a tactic can show about the treasure hidden within the bloated belly of global capital.

The Lure of the Pirate: Stealing and Styling

Kathy Acker demonstrated more than a cool recital of the observation, which has become something of a truism of postmodern literature and poststructuralist theory, that all writing is a form of re-writing. The concomitant intertwining of reading and writing implied in this observation is manifest in Acker’s process of composition. But Acker had no anxiety about influence, which also means that she did not exhibit the appropriate deference to literary tradition. Rather than politely absorbing literary tradition into her stories and demonstrating masterful composition through oblique references or literary inside jokes, she irreverently turned the stories inside out. Instead stitching her stories seamlessly into an ever-forming intertextual unconscious, she harnessed her vast knowledge of literature to place into the foreground the ubiquitous patterns of sexual, economic, and political violence that lie just beneath the surface of the most revered narratives and myths of the West as embodied in the Western literary tradition.

Acker’s piratical method takes various forms. Her novels Great Expectations and Don Quixote are clear about who and what they plunder. Alternately, plagiarism invades identity and generic form in her books The adult life of Toulouse Lautrec, My Death, My Life by Pier Paolo Pasolini, and Hello, I’m Erica Jong where she challenges the assumed authenticity of memoirs, mocking the notion that they tell a truer story than novels and highlighting the textual production of identity. Her novel Blood and Guts in High School exemplifies her writing technique. Here the main character, Janey, is modeling Acker’s re-reading and writing strategy in the form of a book report on Nathaniel Hawthorne’s The Scarlett Letter. The authorial persona represented by the grammatical “I,” however, is torturously and continuously in question as the subject of the book report slips back and forth between Janey and Hester Prynne: [2]

I want to fuck you, Dimwit [Dimmesdale]. I know I don’t know you very well you won’t ever let me get near you. I have no idea what you feel about me. You kissed me once with your tongue when I didn’t expect it and then you broke a date. I used to have lots of fantasies about you: you’d marry me, you’d fuck me, you were going again with your former girlfriend, you’d save me from blindness. You’d. Verb. Me. Now the only image in my mind is your cock in my cunt. I can’t think anything else. [3]

This retelling of The Scarlett Letter brings to the surface not the scandal caused by Hester Prynne; rather, it explodes the social norms that insist on the containment of women’s sexual expression within the institution of marriage. In this sense, The Scarlett Letter is but one articulation of a dominant cultural narrative about women’s sexuality. This crass and concise version of the story also updates Hawthorne’s tale. By intensifying the sexual vocabulary, shrinking the plot to its most basic elements, and contracting the words to near grammatical and linguistic nonsense, Acker’s version demonstrates that the moral and social condemnation of explicitly sexual women has not completely abated. That is, if part of Hawthorne’s purpose was to reveal the lingering Puritanism in New England Society, Acker’s is to disclose the dirty secret that it lingers still. Defying the enduring contemporary
**mores** that constrict women’s sexuality to a few erotic venues, most of which are still tethered to reproduction, marriage, and heterosexuality, Acker’s texts reveal how feminine desire as masochism is culturally valued while disavowing the erotics of blood, pain, and filth on which it depends.

By making her version of the story about Hester’s sexuality (rather than about the moral and symbolic aftermath of her affair) Acker also exposes the prurient pulse that is enclosed within and drives the reader’s interest toward texts sanctified as classics. That is, in order to pass inspection of the unspoken literary laws that govern narrative propriety, so-called good literature is expected to abide by certain standards of sanitation; it is expected to purge any tasteless stimulation. As Acker explains,

> [t]here were two kinds of writing…: good literature and schlock. Novels which won literary prizes were good literature; science fiction and horror novels, pornography were schlock. […] Schlock’s content was sex horror violence and other aspects of human existence abhorrent to all but the lowest of the low, the socially and morally unacceptable.[4]

Acker not only rebuffs the idea that low literature is immoral whereas high literature is good and morally upright. Instead, she demonstrates how “good” literature harbors the same impurities as “bad” literature, but it disguises them in more socially acceptable linguistic signs. The way to unveil this sham, in Acker’s view, is to show how the language of “good” literature not only depends upon the same vulgar narratives and cultural codes as schlock, but also how they reinforce social and structural inequalities. For example, Acker states that she constructed her first story “by placing mashed-up texts by and about Henry Kissinger next to ‘True Romance’ texts. What was the true romance of America? Changed these ‘True Romance’ texts only by heightening the sexual crudity of their style.”[5] Acker maintains that turning the volume down on plot and amplifying the sexual undertones it seeks to keep at bay effectively exposes the way that plot conventions often function as a flimsy cover for the same kind of banal pornography endemic to dime store romance novels.

The piece in which these explanations appeared, “Dead Doll Humility,” was written by Acker in response to the demand made by Harold Robbins that she publically apologize for plagiarizing his work.[6] As reasons for her refusal to apologize Acker listed the fact that she did not feel any guilt, there was already a large body of criticism on her work and others who used plagiarism as a method, other writers were flattered by her pirating of their work, and that such appropriation is central to her political project. Acker argued, “if the writer or critic (deconstructionist) didn’t work with the actual language of these texts, the writer or critic wouldn’t be able to uncover the political and social realities involved.”

At issue is a scene from one of Robbin’s books in which a rich white woman walks into a disco, picks up a black boy, and has sex with him. Acker, in her fragmented, cut-up mode, explains it in this way:

> [When Robbins’ book had been published years ago, the writer’s mother had said that Robbins had used Jacqueline Onassis as the model for the rich white woman.] Wrote, had made apparent that bit of politics while amplifying the pulp quality of the style in order to see what would happen when the underlying presuppositions or meanings of
Robbins’ writing became clear. Robbins as emblematic of a certain part of American culture. What happened was that the sterility of that part of American culture revealed itself. The real pornography. Cliches, especially sexual cliches, are always signs of power or political relationships.

By extracting Robbins’ language and isolating specific linguistic cells Acker reveals the delivery system responsible for transmitting sexual and racial codes into narrative form: language. Consequently, Acker observes that the demarcations among various textual and linguistic systems (various genres from high to low) are quite fuzzy. Drawing on poststructuralist insights, in which just about anything can be read as a text, Acker’s comments disclose the secret of Robbins’ method: a raid on the textual body of Jacqueline Onassis and a foray into social codes about race and sex permit a mild transgression of the color line for the sake of sexual excitement. This transgression is acceptable because it is but a flirtation with taboo rather than a challenge to racial or sexual logic that underwrite it. (It is also worth pointing out that while Jacqueline Onassis was the model that Robbins used to construct the white woman, the fact that the black boy does not have such a model points to the fact that “black boy” is itself the prototype for the scene Robbins in constructing.) Thus, although this scene may play with the complexities of racial, sexual, or gender dynamics, Robbins uses them to heighten sexual tension, which, in the end, reiterates and reinforces social inequalities. In contrast, Acker’s mash-up challenges the social and linguistic codes that make such a scene sexy.

Acker’s appropriation of Robbins’ work is threatening because its defiance of property law is accompanied by a defiance of the laws of propriety. Although “Dead Doll Humility” is itself a brilliant mash-up of artistic techniques, which include the construction of various dolls by an artist named CAPITOL, autobiographical elements, a quote from a Rilke letter to Cezanne, and conversations with her publishers, agent, and solicitor, the heart of the matter is crystallized in the following statement: “Deconstruction demands not so much plagiarism as breaking into the copyright law.”

The distinction between plagiarism and copyright law is the difference between taking something and having that taking codified as a crime. The simple definition of plagiarism designates plagiarism as the passing off of another’s work as one’s own. This understanding of plagiarism derives from the intersecting ideologies of eighteenth century Romantic ideas of the genius and capitalist logic of the commodity. Romantic writers (specifically English Romantic writers building on the philosophies of Rousseau and Kant) held that authors were guided by their intuition and were divinely or naturally inspired. Ideas or artistic creations were believed to originate in an individual person; talent was not something one could learn or absorb from one’s environs. Although many tenets of Romanticism strove to oppose capitalism, it nonetheless shared capitalist ideas about private property. The shared scaffolding of private property linked the Romantic genius to capitalist logic and tether both to the commodity form. Over time, the laws that protected private property were adapted to protect the much less tangible products of the intellect, which contributed to the idea of intellectual property that underwrites copyright.

Prior to joining forces with Romantic genius theory, copyright had functioned to ensure that printers maintained the rights over the works they published. Although the long and complicated history of copyright passes through many legal forms, it has consistently proven
to benefit the printers (or publishers) to a much greater extent than writers. Despite the material form of the book, copyright, historically, has sought to establish ownership over ideas.\[9\]

The prototype for copyright was property rights, which, traditionally recognizes the possession of something by one to the exclusion of others. The logic that analogizes property rights to amorphous materials such as language is faulty yet revealing. Firstly, ideas are not alienated in the same way as property. One person’s use of an idea does not preclude another person from using the same idea, which raises the question of whether an idea can really be stolen and, if so, what’s the damage? Moreover, ideas and their manifestation in various media (art, literature, music, film, digital code, etc.) are products of specific cultural moments. They are therefore inherently social, collaborative, and collective. But the extension of private property to include ideas is telling in another respect. To consider John Oswald’s motto, “if creativity is a field, copyright is the fence,”[10] is to recall the great enclosure of land, particularly agrarian farmland, that played a key role in primitive accumulation in early capitalism.[11] Thus, to the extent that copyright bears any comparison to property rights, that is, to the forcible or fraudulent enclosure of a resource for one person’s exclusive use, copyright infringement (i.e., plagiarism, literary piracy) steals back the goods of an earlier theft.

Piracy on the high seas and piracy of artistic work both have a foothold in theft; however, there is a crucial distinction. Whereas maritime piracy steals goods for sustenance or material gain, copyright infringement is more concerned with the distribution of the stolen goods. Even as this difference highlights the fact that piracy does not produce its own goods,[12] it also illuminates the crude reality that copyright is primarily concerned with who can legally reap the profits of trade and distribution. Although “aesthetic merit” has ostensibly taken prominence over the concept of “originality,” copyright remains a mere cover for the protection of private property and profit margins—for capitalist thievery.

Clearly, from Acker’s perspective, the crime is the idea that language is a property that can reside in any one person’s possession. By undermining the notion that anyone can enclose language in categories of property, Acker interrogates the nebulous boundaries etched around language, the pretensions of such linguistic commodities, and the legal fictions that sanction this charade.

To call copyright infringement “piracy” is to join the moral panic that renders equivalent the copying of language (or other media) and thievery on the high seas. Although there are certainly similarities between the two, there are important differences as well. The word plagiarist, which derives from the Latin word plagiary and means kidnapper is mobilized to conflate the stealing of language with the stealing of a person. Although the semantic cousin of plagiarism, “pirate,” was first used in reference to printed works in the early seventeenth century (the first entry in the OED dates it at 1603), it morphs into a different beast when nurtured on the jurisprudential milk of the state. Piracy defined as copyright infringement functions as the legal protection of property on behalf of capital. Although definitions of plagiarism vacillate between framing it as an affront to aesthetic values or an attack on profits, the law is clearly more attuned to the criteria associated with economics rather than bad writing or deficient talent.[13]
One could valorize Acker’s writing practices and link them to an impressive aesthetic genealogy including William S. Burroughs, the surrealists (especially Tristan Tzara), T. S. Eliot (whose compositional style Burroughs cited as an influence), and Julio Cortázar (especially his novel *Hopscotch*). But it should also be remembered that ideas about plagiarism are also linked to a long history of attitudes toward mimesis: Plato barred copying in the name of the good, the true, and the beautiful; neo-classical writers championed copying on behalf of enhancing the modern world with gems from the ancient world; the Romantics shrouded the genius in a cloak immune to the influence of copying; and modernist (and post-modernist) writers from T. S. Eliot to Borges explored various methods of copying.\[14\] Moreover, imitation has been the primary rhetorical pedagogical method at least since Aristotle. Creativity has always been polluted with aesthetic antecedents; every literary (and scholarly) tradition is predicated on some methodological form of appropriation. As Acker says succinctly in a random heading in the middle of a chapter, “The Beginning of Poetry: The Origins of Piracy.”

Although legitimate appropriation is rendered through citation, quotation marks, or some other gesture of attribution, Acker’s sources are often recognizable by virtue of their canonical status—would anyone confuse her *Don Quixote* with Cervantes’? But more than a simple copy or mere methodological exercise, Acker rips passages from such a wide range of sources and leaves the seams exposed as she stitches it into her own pattern; she unravels the authority of the author in order to re-author authority. Thus, while she plunders the conceptual foundations of intellectual property, piracy as a mode of composition also shows how the given (textual) materials must be broken down and reconfigured.\[15\] The proliferation of pirate characters in her texts furthers this objective by reduplicating the stylistics of piracy in piratical motifs. Acker’s texts thus become archaeological sites open to the reexamination of piracy in all its sordid and assorted forms. Through her texts the pirate reemerges to proffer other perspectives on already-familiar stories. Her pirates call to mind a history of imperial relations with deep roots in maritime trade and a proliferation of inequalities spawned by global capital.\[16\] Acker’s complicated figuration of piracy invites us to reexamine the buried remnants of a different economic structure, alternate modes of circulation, and a radically different conception of social organization. The pirate forces law to confront its outside. Whether as the law of the father in a psychoanalytic sense or the Law of the Father(s) as codified in the juridical system, the pirate reveals (as Derrida has also demonstrated),\[17\] that the logic and legitimacy of the law is tautological. The law self-referentially establishes its legitimacy, and, ultimately, law is always exercised through force of one kind or another.

The encounter with the pirate, a figure on the juridical horizon, provides a way to re-examine how law establishes its own legitimacy and how it legitimates its use of force. In fact, maritime piracy occupies a unique legal category. Until recently, piracy was the only crime that fell under universal jurisdiction.\[18\] The idea of universal jurisdiction is premised on the idea that the crime is universally recognized as extraordinarily heinous.\[19\] What distinguishes piracy is that it is committed on the high seas (beyond the twelve nautical miles that extend a nation’s border) by actors seeking private, economic gain. This definition excludes actions by governments (which distinguishes it from military operations) and actions with political motivation (which differentiates it from terrorism). Although the definition proffered fails to clarify how piracy is different from plain old robbery, it is often the case that pirates either do not claim any nationality or they are citizens of countries with relatively impotent governments. In the first case, pirates historically exhibited primary allegiance to the sea and
to their fellow pirates. As Marcus Rediker notes, “[t]hough evidence is sketchy, most pirates seem not to have been bound to land and home by familial ties or obligations” (260). Moreover, despite popular images of anarchy and chaos, pirates exhibited what Rediker calls a “highly developed consciousness of kind” (275), which was strikingly communitarian. They often cooperated with one another, rarely attacked other pirate ships, collectively made decisions, avenged the abuses perpetrated by merchant sea captains, and distributed booty according to a pre-capitalist share system.\(^{[20]}\) Secondly, given the absolute exclusion of pirates (or often their countries of origin as well) from the protection or enforcement of international law, piracy becomes one of the few response mechanisms available to crimes committed by more powerful countries on less stable ones (i.e., poaching of fish or dumping of toxic waste, two factors said to contribute to the rise of Somali piracy in the past fifteen years).\(^{[21]}\)

Even from this brief sketch it is easy to see why pirates, as a figure for all social outcasts, appeal to Acker. But as Thivai comes to understand in Empire of the Senseless, the violence and thievery that fertilized the early seeds of capitalism have now come full bloom into the sterile, technocratic rationality of the multinationals that run the world: “By murdering raping and looting men get gold ’n jewels ’n engraved stationery ’n corporations ’n hospitals” (186). Empire tells a dystopic, futuristic tale set in Paris. Thivai, a pirate, and Abhor, his sometimes girlfriend and partner (who is part robot, part black), are revolutionaries involved in the takeover of Paris by the Algerians. The seizure of Paris is one way of re-writing the repeated drama of primitive accumulation, which began in the colonial period but reduplicates itself in ever newer guises. But there is also the slow realization that the shift in the seedy methods used by the multinationals to amass resources, wealth, and power require new tactics by the (literary) revolutionaries. As Abhor says, “Ten years ago it seem possible to destroy language through language: to destroy language which normalizes and controls by cutting that language. Nonsense would attack the empire-making (empirical) empire of language, the prisons of meaning. But this nonsense, since it depended on sense, simply pointed back to the normalizing institutions.”\(^{[22]}\) Although Abhor’s words at first seem to go against Acker’s piratical style by questioning the efficacy of the cut-up method, they actually demonstrate a deeper engagement with the same ideas. Acker exhibits this in two ways.

First, in the section of Empire called “Pirate Night,” the focus shifts from the manipulation of language to its codes and, specifically, to the breaking of the code. The code is comprise of the atomic linguistic units that support and are supported by culture. The presupposition (as put forth by Levi-Strauss) is that the incest taboo is the thread that stitches the code together; the incest taboo is believed to be universal and essential for the birth and continued existence of culture. Moreover, it is specifically the circulation of women beyond the family that secures the functioning of the code. Acker tests this theory by injecting incest (usually, but not only, father-daughter incest) into her narratives and assessing the consequences. The violence and mayhem of her stories may seem to support the thesis that civilization does indeed collapse when the incest taboo is violated. A closer look, however, reveals that while civilization as we know it may have fallen to ruins, another culture or civilization may still be possible.

Like all pirate tales, this story also fantasizes about hidden treasures. The route to the treasure in this novel requires that the Algerians succeed in taking over France (they do). They then must become terrorists and criminals, but “[t]his criminality, being not the criminality of the
businessman or of society, but that of the disenfranchised” is only another phase of their journey. \[23\] Finally, they become pirates. As Michael Clune argues, in this novel the transformation of terrorists into pirates is the “movement from no to yes.” \[24\] Piracy is figured as a hybrid identity assembled from the linguistic scraps and left-over detritus of the post-industrial ruins of civilization. It is a subjectivity posterior to a terroristic zone of degree zero; it is, as Clune also argues, the transformation of nihilism and negativity into affirmation. The pirate becomes the antidote to capitalism, the one who witnesses and assists in its dismantling. The pirate uncovers the treasures that capitalism has stolen, and steals them back.

The second way that Acker intensifies her language play is illustrated by the penetration into the body. Pussy, King of the Pirates, for example, features a different route to lost treasure. Rather than traversing national territories attempting to right the wrongs of colonialism, O and Ange’s search for the pirate map, which requires that they traverse the (dead) body of Ange’s mother. When they find the key to her box, they must then find the box. Ange opens the box, “the threshold of the unknown” \[25\] If there is any doubt that this box is a double for the body of Ange’s mother, or the female body, one need only recall a similar scene at the beginning of the novel where O opens her mother’s jewel case, which “had insides of red velvet. O knew that this was also her mother’s cunt”. \[26\] Although Acker’s penchant for displaying what good girls should keep hidden (menstrual blood, tampons, bodily scents, prostitution, desire for pain), was well established by the time Pussy was written, what becomes more pronounced in this novel is a kind of disemboweling of the body. Blood and Guts in High School (1978) actually pales in comparison to Pussy, King of the Pirates (1996) in terms of the display of all that comes out of the body. For example, a section in Pussy titled “Dreaming Reality,” contains a poem by Ange (“cause poetry is what fucks up this world”) in which she writes, “the moon cracks my cunt” next to an image that ostensibly illustrates her point. There are cracks through the poem and throughout this chapter:

The whole rotten world
come down and break
and I'm crawling
through these cracks.
[…]
While the world cracks open
and all the rich men die,
and all the fucks who've sat on my face,
those sniveling shites.

We come crawling through these cracks, orphans, lobotomies;
if you ask me what I want I'll tell you
I want everything.

whole rotten world come down and break.
let me spread my legs. \[27\]

The cracking of the code has far-reaching metaphysical implications. The crack rips through the woman’s body (“the moon cracks my cunt”), it cracks the world, which releases her along with orphans and lobotomies, and it splits open the moon breaking open the heavens. The
woman’s body oozes (so impolitely), it spreads its legs and demands recognition of its guts. But in addition to the shameless excretion of bodily fluids, it is also the birth of the world—how not to think of Courbet’s L’Origine du monde? Finally, the poem evokes everything that orbits around the moon: the feminine, death, night, and creativity. Its placement in the narrative relative to Ange and O’s search for the pirate treasure, and in the context of the theme and style of the text, also suggests this cracking, which is ultimately the cracking of the code, results in the releasing of the rejected, the outlawed, and the abject—the repressed, disavowed, imprisoned, of abandoned fragments of the semiotic, cultural, and corporeal code.

This pirate language is ripped from various sources, pasted into syntactically torturous fragments, punctuated erratically, spliced with fluctuating fonts, illustrated with drawings or maps and seems bent at times on refusing any semiotic or epistemological cohesion. Set against the textual seascape of Acker’s novels, such linguistic experiments can extract the ubiquitous violence that works through real time historical situations. It can also isolate the variables involved in the cultural production of knowledge. These variables may involve naming (whore, criminal, Pussy); they may mark territorial boundaries around linguistic units, geographical space, and appropriate behavior; or they may express degrees of power, force, or fraud. In her view, “an attack on the institutions of prison via language would demand the use of a language or languages which aren’t acceptable, which are forbidden. […] Nonsense doesn’t per se break down the codes; speaking precisely that which the codes forbid breaks the codes”.[28] Speaking the taboo: the language of pirates.

Acker’s piracy and her pirate characters generate a textual and imaginative space in which to analyze conditions that are at once remote and intimate to Western readers. Remote because pirates, whether historical, contemporary, or fictional, are often viewed only as spectacle; to the Western gaze they are but inert images always situated elsewhere. Intimate because piracy laws, as they pertain to copyright and maritime robbery, fortify relations of dominance and submission that underpin all notions of property writ large (global capital) and small (erotic relations). Literary piracy is not equivalent to historical piracy, but there is a logic common to both that pulls on ideological, juridical, and rational presuppositions that often go unanalyzed. The textual, sexual, economic, and epistemological systems of global capital invade (Acker’s) pirates and piracy as ubiquitously and insidiously as blood flows through the body. Yet Acker’s pirates persevere. Refusing to cede belief in a buried treasure, they scrape together an identity and existence from remnants of the blood, guts, and debris found among the ruins of civilization.

Notes
1. O could also refer to Orpheus, Or, Poe, Jell-O, Joan Crawford, Ostracism, or Antigone. At one point in the novel Acker explicitly associates O with many other characters, no one in particular, but all conspicuously women: “Her name’s not important. She’s been called King Pussy, Pussycat, Ostracism, O, Ange. Once she was called Antigone...” Ange is mostly likely short for anger. Acker was fond of dropping letters or reconfiguring them to draw out multiple possible meanings.
2. In another section, with regard to the pronoun “I,” Janey says, “I wish that there was a reason to believe this letter” (108). Acker was already using such mash-up and cut-up methods to explore the schizo and multiple forms of identity when she discovered Deleuze and Guattari. But, as she discusses in her interview with Sylvère Lotringer, Deleuze and
Guattari’s thought, especially *Anti-Oedipus*, explained to her what she had been doing and thinking all along.

3. 95


5. ibid.

6. Incidentally, the title of Robbin’s book is *The Pirate*.

7. The form of “Dead Doll Humility” is one of two intersecting and dialogic stories: one documents the Harold Robbins issue, the other presents the situation (always told in all caps) from the perspective of CAPITOL. This style of presentation emphasizes the confrontation between the law and art. It also shows that while they seem to use the same language they use it in radically different ways, which reveals their different stances on the relationships among language, politics, and reality.

8. This paragraph and the next are indebted to an anti-copyright piece titled “Copyright, Copyleft and the Creative Anti-Commons” by “Anna Nimus.”

9. In its early manifestations, copyright focused on the form that the writing took rather than the actual content because the writer’s way of communicating his or her idea is what distinguished it from previous ideas. Although contemporary copyright law retains some sense of these Romantic filiations to originality, it shifts the legal protection to the content of the artistic expression rather than its form.

10. Quoted in Anna Nimus

11. Enclosure primarily means “surrounding a piece of land with hedges, ditches, or other barriers to the free passage of men and animals, the hedge being the mark of exclusive ownership and land occupation. Hence, by enclosure, collective land use, usually accompanied by some degree of communal land ownership, would be abolished, superseded by individual ownership and separate occupation” (G. Slater quoted in Sylvia Federici’s *Caliban and the Witch: Women, the Body and Primitive Accumulation* (Brooklyn: Autonomedia, 2004): (122 n. 24). Thanks to Morgan Adamson for this reference. For a detailed discussion of enclosure and early capitalism see also Jane Whittle, *The Development of Agrarian Capitalism* (Oxford: Oxford University Press, 2000). Also, in his book *Between the Devil and the Deep Blue Sea* (Cambridge: Cambridge University Press, 1987), Marcus Rediker discusses how enclosure and dispossession contributed to the influx of men into cities and, specifically, into maritime labor and, later, piracy.

12. Rediker also makes this point (285).

13. For a longer discussion of the aesthetic and juridical aspects of plagiarism in various historical incarnations see Marilyn Randall *Pragmatic Plagiarism: Authorship, Profit, and Power*. (Toronto: University of Toronto, 2001).


16. For an analysis of how the history of piracy and property relations are deeply interwoven into current trade policies see Vandana Shiva’s essay “The Second Coming of Columbus:


18. Universal jurisdiction allows states to claim criminal jurisdiction over crimes that were committed outside the boundaries of the prosecuting state, regardless of nationality, country of residence, or any other relation with the prosecuting country. It is premised on the idea that the crime committed is erga omnes (in relation to everyone), which any state is authorized to punish.


20. Rediker presents a meticulous account of how piracy looked from the inside with particular attention to how the social organization of pirate life developed in contradistinction to traditional forms of authority.

21. Images from the recent kidnapping of Captain Richard Phillips by Somali pirates perversely show the power differential. Size may not be the determining factor in such standoffs, yet the images do offer a brutal metaphor of the economic and military disparity. The USS Bainbridge (charged with the rescue mission) is about 509 feet, six inches in length; the Somali pirates operated from a 28-foot lifeboat.

22. Empire 134.

23. Empire 124

24. Michael Clune. “Blood Money: Sovereignty and Exchange in Kathy Acker.” Contemporary Literature. 45.3 (2004), 486. Clune offers a provocative analysis of monetary theory from a range of perspectives and Acker’s notion of blood as money (in Empire of the Senseless). However, by over-literalizing Acker’s rich language, he misses the vast network of metaphorical associations bound up in the notion of blood, which leads him to conclude that Acker’s (linguistic and consanguineous) economies are commensurate with capitalist economies in advanced form. A more productive analysis of blood, circulation (of various kinds), and value, in my view, would be to examine the alternate economies (à la Bataille) created in Acker’s work.


26. Acker, 4

27. Italics in original. The image of the cracked moon comes after the second line in the first stanza.

28. Empire 134

In November 2009, PM Press released Gabriel Kuhn’s *Life Under the Jolly Roger: Reflections on Golden Age Piracy*, a study analyzing the most legendary pirate era from ethnographic, sociological and political angles. Gabriel Kuhn is a writer and translator who currently resides in Sweden. He holds a Ph.D. in philosophy from the University of Innsbruck, Austria. Nora Räthzel, sociologist at the University of Umeå, Sweden, has interviewed him about his upcoming book.

For those not too familiar with pirate history: what is the golden age?

The golden age refers to the heyday of the piracy that emerged in the Caribbean in the late 17th century before spreading to the Indian Ocean and eventually to the west coast of Africa. Basically all of the popular Euro-American pirate images derive from this era, whether we encounter them in Robert Louis Stevenson’s *Treasure Island* or in Disney’s *Pirates of the Caribbean*. The Jolly Roger, the most powerful of all pirate symbols, stems from the golden age too. Historians give the era different frames, but we are roughly looking at the period from 1690 to 1725.

Why did piracy become so strong then?

Sea robbery had occurred in the Caribbean for more than a hundred years prior to the golden age. In the 16th century, when the run for the colonies in the Caribbean and in the Americas began, European powers sent sea robbers as a sort of unofficial mercenary force to the region to plunder ships of their colonial rivals. As legend has it, Francis Drake was called “my pirate” by Queen Elizabeth.

In the 17th century, an outlaw hunting community gathered on the island of Hispaniola, today divided into Haiti and the Dominican Republic. The community consisted of marooned or shipwrecked sailors, runaway servants and slaves, adventurers and dropouts. They were called the buccaneers after a meat-smoking practice they adopted from the indigenous Carib Indians. When they took to sea robbery to supplement their income, they began serving a similar role to the likes of Drake, being issued with a “letter of marque” by one colonial power and attacking ships of another. Eventually, some buccaneer expeditions gained military-like dimensions, the successful 1671 attack on Spanish-ruled Panama under Henry Morgan serving as the most famous example.

By the end of the 17th century, colonial policies had changed enough to render the buccaneers’ services increasingly less important. This left many of them without an income. As a consequence, they continued their attacks on merchant ships indiscriminately and turned, in the words of some historians, into “pirates proper”: a community of sea robbers who would no longer serve a particular master but who “waged war on the whole world,” as
Captain Charles Johnson’s *General History of the Pirates* famously puts it. This was the beginning of the golden age.

For three decades the golden age pirates were surprisingly successful. Then they were crushed by combined efforts of the powers that had created them. It’s a scenario very similar to many we see today: governments equip men to fight in their interests – and then criminalize and persecute them when they are no longer useful.

**So golden age piracy is directly bound to colonialism?**

Most certainly. Without European colonization there wouldn’t have been a golden age of piracy. And not only because Europeans wouldn’t have traveled to the Caribbean or to the Indian Ocean, but also because golden age piracy was a direct result of activities that were financed and encouraged by colonial powers.

The relations between the golden age pirates and the colonial era are complicated, because once pirates started to prey on ships of all nations they began to pose a threat to the economic profitability of the colonies and therefore to the colonial enterprise itself. However, this doesn’t change the fact that they are an inherent part of the colonial legacy. To portray golden age pirates as some kind of anti-colonial force seems misleading. Many of the pirate strongholds of the golden age – in the Caribbean, on Madagascar and along the West African coast – functioned as renegade colonial outposts. True, they were not established under the flag of any European nation state, but they still reinforced the control of Europeans over native populations.

**Can you elaborate on this? Some historians have claimed that pirate crews overcame the racial prejudices of their times?**

Whenever we talk about what golden age pirate crews did or did not do, we are facing a serious problem, namely a lack of reliable sources. We have no logbooks, diaries, letters – not a single document that would provide an “authentic” image of what life was like on their ships. All we have is what in a court of law would go as “circumstantial” evidence: newspaper articles, court transcripts, governmental records.

This leaves the role that non-Europeans played on golden age pirate ships very unclear. On the one hand, there are indications that some Caribbean Indians and Africans who sailed on pirate ships were full crew members, sometimes very respected ones. On the other hand, there are many indications that Indians and Africans were used as laborers or servants. It is interesting to note that when the British Navy hunted down the most notorious of all golden age pirate captains, Bartholomew Roberts, basically all of his nearly two hundred European crew members were brought to trial, while the seventy-five Africans were sold into slavery. This might just reflect the attitudes of the British officials at the time – but it might also indicate the status these men really had.

I think it is true that pirate crews offered a chance for non-Europeans to live relatively free lives when this was practically impossible anywhere else within European society. It must also be true that the lure of freedom that drew Europeans to piracy drew runaway slaves to piracy too. So I’m not denying that there has been an element of transgressing racial
limitations in the pirate experience. However, to portray golden age pirate communities sweepingly as “multiracial” or “post-racial” seems very bold to me.

**Can you say something about the relations between the golden age pirates and the slave trade?**

Again, it’s not a clear-cut issue. It seems well documented that some of the golden age pirates’ strongholds doubled as slave trading posts, especially in Madagascar and West Africa. According to the records, it also seems likely that slaves were mostly considered cargo like any other when pirates took a slave ship and that they were sold at the next best opportunity.

At the same time, it is unlikely that all golden age pirates were involved in the slave trade. Some Africans sailing as full crew members makes it appear improbable that slaves would have been treated as mere commodities on their ships. Then again, freeing some slaves didn’t end slavery in the US-American South either… We simply don’t know.

Some historians have suggested a strong anti-slavery moment among golden age pirates because they disrupted the slave trade that developed in West Africa. This is a questionable conclusion. It is true that the pirates’ activities disrupted the slave trade and that this was one of the reasons why the authorities became ever more determined to hunt them down. However, we are not talking about an interference based on enlightened moral values here. The pirates interfered with the slave trade in the same way that organized crime interferes with alcohol or tobacco sales: the pirates hurt the official slave trading industry by claiming a share of its profits – not by challenging the trade per se.

It has also been suggested that some golden age pirates attacked slave ships to free all Africans on board. Even if this is true – and the stories don’t seem very convincing to me – such events must have been exceptional.

**Golden age pirates have been described as communities transcending national boundaries too. Would you agree?**

The concept of the nation is a difficult one to deal with. If we speak of nation states, yes, the golden age pirates defied this concept and all that goes with it: citizenship, borders, administrative rule. The Jolly Roger remains a powerful symbol in this sense alone. Did the golden age pirates lose all sense of national identity, though, as in: all sense of belonging to a particular group of people united by language, geography, heritage, or whatever else can be used to construe a “nation”? Hardly so.

It is true that in certain ways golden age pirates overcame the national boundaries that were still characteristic of the buccaneer communities. In the golden age, Anglo-American, French and Dutch pirates fought together rather than against one another. However, most other nationalities remain conspicuously absent from golden age pirate ships, most notably the Spanish. The main colonial rivalry of the Americas was hence still reflected in the makeup of the pirate crews. In general, the multinational melting pots that golden age pirate crews are sometimes made out to be seem overrated. The overwhelming majority of golden age pirates were Anglo-American. There were significant numbers of French and Dutch pirates, but only
a smattering of pirates from other European nations, and some Indians and Africans. Arguably, the population of most colonies at the time was more diverse than golden age pirate crews. True, national identity among the pirates might have been more flexible, horizontal and egalitarian, but prejudices and conflicts certainly remained.

In short, given the absence of a nation state as an authoritarian unifying concept, there was definitely an anti-national streak in golden age piracy and its political significance must not be neglected. Yet, to imagine a utopian paradise where national allegiances of all sorts had evaporated seems to simplify matters.

**It appears, though, that this anti-national streak was a very characteristic feature of golden age piracy – also one that would distinguish the golden age from other pirate eras.**

It is at least related to what I would call the most distinguishing feature of golden age piracy, namely its nomadism. This aspect is missing in all other great eras of piracy, whether we are talking about piracy off the North African coast in the 16th century, piracy in the South China Sea in the 1800s, or piracy along the Somali coast now. Golden age pirates had no home, no permanent land base, no community they were part of, could retreat to and disappear in. When asked where they came from, they famously replied “From the Sea.” They had safe havens, allies and business partners on land, but these ties were merely pragmatic and very fleeting.

The nomadic aspect of golden age piracy is very unique – and very fascinating, in many ways. It is the reason why all of our popular pirate images relate to this era: the golden age pirate, more so than any other pirate, is the ultimate outlaw, one who has cut of all ties with the conventions of a bourgeois life: home, security, stability. No surprise then that he’s been such a common focus of projection: both by the bourgeois who sees his secret desires fulfilled, and by the radical who finds her dreams of liberation materialized.

**The final part of your book discusses the political legacy of golden age pirates and whether they can inform contemporary radicals. Can they?**

Well, they obviously do. Look at how present the Jolly Roger is in radical circles: it adorns autonomous spaces, appears on anti-globalization rallies and is a favorite in any radical art show. The question is whether this is mere romanticism or whether there is any substance to back up such adaptation. I think this is an important distinction to make. Nothing against romanticism, but when it becomes a dominant force in politics it can prevent both complex analysis and convincing vision.

I do believe that there is substance behind the radical embrace of golden age pirates. Certain characteristics must appeal to any radical endeavor: 1. an uncompromising defiance of authority; 2. risking one’s life for freedom rather than saving one’s life in chains; 3. setting a remarkable example of direct democracy (the egalitarian organization of pirate crews is not disputed even by the most conservative historians).

However, golden age pirates were no model revolutionaries, no principled socialists, no perpetrators of a class war. I think that we can learn much more from golden age pirates if we
take their shortcomings into account rather than making unsupported claims. The most important shortcomings seem to be: 1. a lack of moral perspective beyond an immediate group of peers; 2. a lack of social organization beyond the confines of one’s own ship; 3. a lack of long-term political vision; 4. an economic dependency on one’s enemies. In short, the golden age pirate communities were not sustainable. They had no inherent mechanisms for reproduction, preservation, progression. It is telling that they lasted for but one generation.

**Your book covers a lot of ground – we have talked about colonialism, nationality, race, radical politics, and there are chapters on gender, sexuality, disability, Friedrich Nietzsche etc. How do all these parts tie together?**

By reflecting upon golden age piracy from many angles, I’m trying to add perspectives that might not have been voiced before. Due to the mentioned lack of first-hand sources, the study of golden age piracy involves endless speculation. Of course certain theories are much more plausible than others, and spouting random nonsense is as meaningless, boring and offensive as claiming a truth that isn’t there. But the inevitability of speculation is part of the pirate mystique and an important factor for our never-ending fascination with the subject.

It is really important to note, though, that this is not a historical book. I am no historian and by no means do I want to compete with the people who have done marvelous work in the field, scholars like Marcus Rediker, David Cordingly and others. My work is entirely indebted to theirs. They’ve unearthed the material that I’m using for my interpretations. Some of my interpretations might differ from theirs, but how are you going to contribute to a debate if you don’t dare to differ?

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Hostis humani generis. History of a multi-faceted word

Salvatore Poier

Introduction[1]

The semantic richness of the word “pirate” – which has been applied indifferently to sea criminals, copyright infringers, and hit-and-run drivers – is based on an assumption to which it seems every person could agree: crimes committed by pirates are hateful because they are against the current order of society. For this reason the famous definition of pirates, in Latin, seems to fit perfectly: pirates are simply hostis humani generis (enemies of humankind), who are outside society, and whom we can all fight without any further justification because they act against “us.” But pirates have also been seen – and still they are, thanks to recent Blockbusters – as bloodthirsty but also romantic heroes. The myth of piracy still exerts its influence on people and researchers, leaving pirates in the ambiguous position to which they are so accustomed: if, on the one hand, pirates are those who damage cargoes or coastal zones, on the other hand they represent redemption for those among the poorest who cannot have other opportunities but to become pirates.

Piracy has often been considered an epiphenomenon of sea commerce. However, in at least three cases in the history of Modern Western piracy, it has assumed more stable forms of social organization. At these important moments, pirates came to represent also valid and possible alternatives to the traditional forms of government and economic exchange. Further, it is precisely when piracy assumed that stable form of organization that pirates acquired the status of global enemies. We are going to analyse here those moments, in which people who were technically competent but organized independently from the mainstream were identified as pirates and came to represent a threat to the status quo of both politics and economy. This definition is not necessarily based on the actual consciousness and self-identification of these people as “pirates,” but rather on an ascribed label and a protracted process of criminalization that political and economic society enacted against them.

In this article I will demonstrate how the status of “pirate” is not related to a specific set of activities that are, in and of themselves, “criminal.” Rather, this category took shape through the relationship between those who were labelled “pirates,” the constituted power, the mob, and the future of a newly discovered territory. Then I will underline how, even if the word ‘piracy’ had been applied to many different activities in totally different contexts, the social and political core of its meaning has been unchanged since the very beginning.

Sea Pirates and their Golden Age

Pirates have long had a counter-hegemonic role. But even if the status of pirates expressed a counter-hegemonic attitude also in the Classical Age,[2] sentiments toward pirates were diverse depending on the age and the place in which they were acting and the population which they were affecting.[3] While before the “discovery” and conquest of America pirates were marginal – although very interesting – communities based on plundering, trading, and patrolling their territory of influence, with the development of more resistant ships, the
improvement of navigation techniques, and the richness and vastness of the newly “discovered” territories, the European centre of trades and military efforts shifted toward the Atlantic. Piracy in the Mediterranean sea – often locally established for decades – was destined to a secondary role, from then on, while a new form of piracy – more global in routes and composition of the crew – was going to affirm itself in the Atlantic and the Caribbean.

A crucial element for the settlement of pirates in the Atlantic and the globalization of piracy emerged from the wars among European kingdoms, fought mainly in order to define the areas of influence overseas. The Spanish wielded their supremacy thanks to their long experience in ocean navigation, deep knowledge of the conquered zones, and strong military presence on the seas and colonies. The British and French – but also Dutch – attempts to undermine the power of the Spanish empire in Central America was only slightly successful, since their military power was extremely weak, compared with the overwhelming naval power and experience of the Spanish. Mainly for this reason those states formed an alliance to sap the Spanish supremacy, and to strengthen their fleets they issued a number of ‘letters of marque’, which enabled a large number of boats manned by privateers to lawfully attack and plunder Spanish merchantmen.

It has been a widely accepted hypothesis that the sudden discard of privateering generated a large amount of unemployed adult males who had been accustomed to cruelties, robberies, and suspension of legality. These people would greatly increase the number of pirates. While these marginal people were useful to the institutionalised power when enlisted against the monopoly of Spain, they suddenly became unwelcome when the French, Dutch, and British wanted to set up their areas of influence, colonies, and overseas markets directly. While, before then, these barely legal privateers were considered intrepid merchants, with the coming to peace, their presence was not just unwelcome to the kingdoms, but also embarrassing for their international relationships. Most of these unemployed young people, accustomed to violence and often desperate, became pirates both because the alternative was often a poorly paid and highly risky job, and because the life on a pirate ship was often better than other jobs at sea.

If spirit of adventure, democratic consultation of the crew, equally divided pay, and good food were reasons enough for most of the former privateers to become pirates, they were also useful for the constituted power, which needed an external menace, a kind of scapegoat, to close the ranks of the colonies and colonialists and make them more loyal to their homelands. Colonies were, in fact, tempted to proclaim their autonomy from their homelands, both to increase their economic power and to facilitate trading with more buyers. Against this risk, the protection against an external, unpredictable, and bloodthirsty menace was a good strategy to keep the colonies tied to the metropole, and governors loyal to the crowns. On the other hand, pirates served local government interests, since governors could trade their goods using pirates’ violence as an ostensible reason for their untrustworthiness. Since borders, territories, and laws in the “new world” were undefined and under constant negotiation, pirates were the indispensable public enemies, the external menace to the unquestioned colonization and market, a threat which everyone had to fight but which had to be kept alive in order to justify another embedded violence – colonization.
But if this danger and menace was clearly defined by the European states and courts, in sites where pirates and colonists were in daily contact, the situation was not so clear. As already mentioned, pirates were often commercial partners of the colonies: smuggling goods for cheaper, they were broadly welcome all along the Central America coast, with some preferred ports (the island of Tortuga, for instance). Smuggling and trading goods for cheap was one of the most appreciated benefits of proximity to pirates, and it has been one of the strongest reasons why piracy was so difficult to eradicate. While from abroad the activity of pirates was perceived just as criminal and harmful for commerce, for those who were facing piracy on an every day basis – governors, merchants, and people in the colonies – collaboration with pirates was, most of the time, a fruitful deal. In a game of hearing the motherland and accomplishing the will of the court on the one hand, and trafficking and trading with pirates on the other hand, colonial governors were often exploiting the slowness of communication and uncertainty of the legal framework overseas in order to make their settlements flourishing commercial ports.

We can now comprehend better that pirates during the so called Golden Age of piracy (1650-1720) were not simply criminals who were attacking and plundering ships and rich ports. Rather they were highly skilled seamen and entrepreneurs who were immersed in a network of people, deals, traffics, and political struggles in which colonists were fighting sometimes for and sometimes against the metropole in order to make their settlements into rich towns in the new world. If pirates were actors in a more broad fight between states, they were playing an important role also in the conflicts between the states and their own colonies. Furthermore, they were even more threatening for the established power since they were also experimenting a democratic way to manage their communities. The Brethren of the Coast, for instance, was speaking a language which was a medley of different European languages and if asked from where they came from, they answered “from the sea”. They were autonomous and independent, belonging to no state and with no common language, refusing sometimes the slave trade and permitting freed slaves to join the crew, people who had refused any legality in order to devote themselves completely to their freedom. The way in which pirates managed life on the ship was particularly interesting, considering the level of participatory democracy of that time. Pirates were recruited mostly voluntarily, signing a list of duties and rules to which they had to be loyal and law-abiding. The booty was divided on the basis of predetermined shares, and the captain was elected democratically. Captains had power during the attacks and when the ship was in trouble, but as counter-posed power a quartermaster was elected, whose role was to govern the ship in peace-time and to question the captain’s behaviour, if it was damaging to the crew. The quartermaster could then issue a court against the captain, which could decide to dismiss the captain for abuse of power or actions against the interests of the ship.

As we can imagine, the democratic management of the ship, the balance of powers aboard, the equally distributed booty, and the promise of an easy and satisfying life on the sweet beaches overseas had been for both young, unemployed, poor people and seamen working in the commercial or military navy an irresistible call. Pirates began to represent the poor redeemed, demonstrating that an egalitarian society based on few and unanimously approved rules was possible. In the alternative society signified by pirates, everybody – no matters which race or skin colour – could join and have a successful career based on his own merits.
and skills.\[14\] Piracy was the occasion to grasp something good from life, the opportunity to finally gain a respected status thanks to hard work, not because of rights of birth.

Piracy represented an alternative way to manage living together, and for this reason it threw deeply into question the old, stale, and corrupt European oligarchies. This new form of piracy – grounded on democratic principle and shared values – was for the instituted power the flick of the tail of the beast of the English Revolution, which had been defused at once by its own promoters, but was then presenting again its ideals and principles in a more flexible – both economically and legally speaking – social context.\[15\] Thus pirates and piracy during the Golden Age were not just the umpteenth example of economic re-appropriation and re-distribution of goods and resources (or criminal behaviour, depending on the point of view), but also a moment of experimentation in new legal and social forms of organization. Those who had been exiled or reduced to silence after the Restoration were then speaking again miles away from their hometown, contributing to building a new society based on democratic principles and egalitarian ideas. This was probably a criminal society – on the edge between legality and illegality, much like the governors and people who were helping them – but it also represented an effective alternative to monarchy. And this aspect – the actual and operative possibility of an alternative society – was what was so frightening to the constituted power in Europe. Pirates were not simply a problem of control over a territory which was, by definition, uncontrollable; or an element of disturbance in the setting up of new markets and colonies: they were the example of an alternative way to responsibly manage living together.

This social and political consciousness was acquired by pirates at the very moment in which they could realize that their navigation skills, courage, and entrepreneurship were seen as actions performed by a mate in a collaborative environment rather than as a duty to a king. Meritocracy, expertness, responsibility, and sense of belonging to a community of peers were transforming pirates from a problem in the sea market to a threat for the status quo of political power.

These characteristics blended together to make the “Golden Age” far different from other moments of piracy. In order to support this hypothesis we will analyse two main aspects. The first will show how the myth of piracy was seen by people of those times with fear but also admiration, a sense of danger but also hope for redemption. The second will demonstrate the semantic shift of the word ‘pirate’ to completely different contexts, which underlines that pirates were more than simple ‘criminals on a ship’, and that their social resonance was much deeper than a momentary wave of criminality.

**Sea Pirates in Popular Culture: fear and redemption**

A mysterious Captain Charles Johnson\[16\] wrote an account of pirates’ ventures, extremely popular since its first edition in 1724, giving an important “insider” account of pirates’ lives, social organization, rules, and customs. Despite his assertions that he disapproves of the piratical life, Johnson\[17\] describes pirates as adventurers who decided to live their life free and according to their principles, accepting the risk of being caught and hanged but acquiring a kind of freedom which was not even contemplated by other forms of government. While the Author formally condemns pirates’ behaviour, it is evident from the tone of the narration, the depth of the details, the description of pirates’ reasoning not just that the Author was most likely a pirate himself, but also that pirates’ choices were often taken with consciousness,
pride, and a highly specific ethic. This ethic was grounded on absolute respect for the bravery of peers but also of enemies; the voluntary submission to the rules – accepted and signed by every member of the crew – and to the procedures that those implied; and finally the conscious acceptance of the risk of being hanged if caught by the Navy and put on trial. The risk of being punished was pretty high, but it was just one among a range of risks that life as a pirate entailed, such as dying on the sea or in battle, or simply having no “preys” to plunder for a long, long time. But on the other hand, the alternatives that many of these people had were very few. To underline how easy the life of pirates was compared to that of other seamen, Johnson\[18\] reports the last words of Captain Bartholomew Roberts – known afterwards as Black Bart – who in his trial affirmed:

In a honest Service there is thin Commons, low Wages, and hard Labour; in this, Plenty and Satiety, Pleasure and Ease, Liberty and Power; and who would not ballance Creditor on this Side, when all the Hazard that is run for it, at worst, is only a sower Look or two at choaking. No, a merry Life and a short one shall be my Motto.

The popular image of pirates as dangerous but also free people started to circulate, increasing the number of people who desperately wanted to join them. A life in which hard work was rewarded, in which the risk of being punished followed a life of happiness and success was more than most of the poor could ever experience. Pirates were not seen just as the dangerous criminals who were attacking ships and almost paralysing the market in the late Seventeenth century; they became a symbol of the possibility of redemption which was offered to everybody, even to the poorest and most miserable. They were an example of an alternative way of living – uncertain and risky, but also free and potentially satiated by treasures and food. Piracy represented for many of the poor the opportunity to get out of an unavoidable life of deprivations and misery, taking control over their lives bravely and with pride.

This sentiment of rebellion against an unjust society, and redemption from a socially inescapable situation, is a common feeling also in other piratical situations. The recent phenomenon of piracy out of the Somali coast seems to share those roots. On the one hand there is the weakness of a state, enfeebled by years of internal fights, which cannot ensure the protection of its own coasts. On the other hand, there is social approbation of a behaviour which is simultaneously seen as a pay-back for pain and deprivations suffered in the past. And this is not just socially accepted, but is rather a fairly “cool” thing to do, as a New York Times journalist points out:

He said that so far, in the eyes of the world, the pirates had been misunderstood. “We don’t consider ourselves sea bandits,” he said. “We consider sea bandits those who illegally fish in our seas and dump waste in our seas and carry weapons in our seas. We are simply patrolling our seas. Think of us like a coast guard”. [...] In Somalia, it seems, crime does pay. Actually, it is one of the few industries that does. “All you need is three guys and a little boat, and the next day you’re millionaires,” said Abdullahi Omar Qawden, a former captain in Somalia’s long-defunct navy. People in Garoowe, a town south of Boosaaso, describe a certain high-rolling pirate swagger. Flush with cash, the pirates drive the biggest cars, run many of the town’s businesses — like hotels — and throw the best parties, residents say. Fatuma Abdul Kadir said she went to a pirate wedding in July that lasted two days, with nonstop dancing and
goat meat, and a band flown in from neighboring Djibouti. “It was wonderful,” said Ms. Fatuma, 21. “I’m now dating a pirate.”[19]

Pirates then presents – in the past as nowadays – an opportunity, for those who are at the bottom of the society to climb up toward a decent and respected life.

**Semantic shift of the word ‘piracy’**

We have seen how the counter-hegemonic image of sea pirates and piracy has been interpreted and elaborated in popular consciousness. We are now moving toward the shift in meaning which the word sustained in the past three centuries. The fact that, when we are talking about piracy, we are often asked which type of piracy we mean should make us think that something important has pushed people not to adopt a new or more precise term to define those criminals and crimes (counterfeiters and counterfeited goods), but to adapt an old term for a new situation. For which reason do we call those people who illegitimately copy a book, a CD, a DVD, or a file ‘pirates’? And why are counterfeited products named ‘pirated goods’?

After the statute of Anne (1709), the protection of copyright was granted by the state to the author of books and to the first printer who bought the right of print from the author. Those printers who were illegitimately printing and selling the book became liable to prosecution. Those printers were called ‘pirates’, and their products called ‘pirated books’.

There is no room here to even summarize the history of copyright and how it changed the way in which authors produced the fruits of their intellectual labour,[20] but the semantic extension to a completely new field of human experience cannot be ignored by those who want to have a comprehensive understanding of piracy and its relationship with society. This (mis)use of the word, in fact, suggests that there are important similarities between copyright infringers and pirates. These similarities were especially evident to those who had experience of both pirates of the sea and counterfeiters.

In *Donaldson v. Beckett*, a case on copyright on which the English House of Lords ruled in 1774, the books illegitimately copied were called “pirated”, and the illegal printer a “pirate”.[21] There is no clear explanation as to why both the product counterfeited and the counterfeiter himself were categorized in such a way, indicating that these terms were probably used by the people to define the books illegally printed in Scotland and sold in London for a few pennies less than the “original”.

But what makes the two types of “pirates” similar? Both of these ‘pirates’ pillage and take possession of the work and sufferings of others in order to have a personal advantage. However, we can also say that both categories of pirates were fighting for a cause considered by some to be “noble.” Sea pirates were fighting for their booty, of course, but also to make their existence worth living, gaining the respect of peers; illegal printers were fighting for personal gain, of course, but also against the unreasonable (in their perspective) privilege of copyright and in order to make the knowledge accessible to everybody.

However, the most probable reason why those illegal printers were called pirates can be retrieved in a media move by the legitimised printers in order to depict the competing printers as a public enemy, plundering the honest work of those who had legitimately acquired the
rights to print and reprint a book. Further, pirate printers were often framed as external threats (most were Scottish) pillaging the culture and the literature of the people. With the many threatening images associated with “piracy” in Eighteenth-century England, the use of the word out of context was a precise rhetorical stratagem to conjure this dangerous image in the public consciousness. The memory of pirates – who were almost completely eradicated after 1726 – and their allegedly horrible actions were still vivid. Pirates were a rhetorically effective image to be evoked in order to focus the public attention on a problem which was a great economic advantage for most of the people (cheaper books for everybody) but an economic disadvantage for a small part of the population (London’s printers). In addition to the difficulty in regulating print piracy, judges were also not recognizing and effectively protecting the copyrights (Donaldson v. Beckett was controversially debated up to the House of Lords and finally decreed the non-existence of perpetual copyright). As such, the crusade against print piracy emerged largely as a battle for public opinion. If the public could be convinced to perceive pirated copies of books as illegal, and their purchase disgraceful, the actual decisions of judges regarding copyright were almost irrelevant for the market of legitimate printers. The creation of a public enemy was then a good strategy to make a law that protected a privilege on an immaterial goods comprehensible to everybody as reasonable and just compensation for immaterial work. When this operation had been successful conducted, the analogy between pirates and illegal printers was established. As pirates, the illegitimate printers were plundering not just an ethereal right conceded by the queen to a specific and limited category of workers – as copyright could have been perceived – but rather a real and touchable good. Pirates – both of them – were depicted as those who were undeserving, having acquired a prize without the effort, the meal without the hard work. This was the most important aspect that the legitimate printers wanted to make evident: inducing in customers a sense of antipathy, even loathing, for the illegitimate printers.

On the side of this self-promotional activity, there is a set of other characteristics that we can find in the semantic association between sea-pirates and counterfeiters. To buy a book was, in the eighteenth century, not anymore an unreasonable expense. Books were printed and sold for little money, compared to the previous century. Printing was becoming a good profession to practice, and thus the competition was pretty high. People were reading more and more, and the market for newspapers, pamphlets, and books was growing. Most of the products, anyhow, were destined for a short life. Authors could print just some copies of their books, and most of the time authors could not even pay for those few copies. Printers began to understand that, in order to print successful books, they had to become publishers, and so commission writings directly from the authors after paying for their best works. This investment needed to be protected. Moreover, authors were asking for protection of their work too: if a book was particularly successful, for example, they should be able to gain more money; likewise, if they did not want to reprint a book which had been already published, they wanted the power to prohibit that. Copyright was born of the demand for protection of both new forms of entrepreneurship. On the one hand, we have printers who invested in a project; on the other hand, authors, who were now independent writers – no longer fed by patrons and kings – who needed a way to ensure income. Thus, illegitimate printers were not just a problem for the legitimate ones, but also for authors.

However, as we mentioned above, copyright was, in the Eighteenth century, a newly issued law which protected an immaterial good never considered before. Copyright was opening a new chapter in legal history. The statute of Anne was founding a new legal territory, as well
as setting up and sketching out the first cartography of it. Illegitimate printers, as pirates before them, could be considered pioneers in newly discovered and settled territories. Those territories were potentially extremely rich and vast – even if it was not clear to anyone exactly how rich and vast they were. Authors, but especially printers, wanted to monitor this new activity and set up clear laws which could punish those who were not following the terms of the pact among printers. The definition of the illegitimate printers as pirates then is not just a rhetorical stratagem, but shows us that pirates and counterfeiters have in common more than the plundering of rich merchants: they reveal an attitude of criminalization activated by markets and governments.

When pirates were trading with the colonies, and their governors were protecting them, their political status was still not clearly defined – even if legally they had been already labelled outlaws. They were seen by societies of the colonies as good customers and great dealers, and so politically important characters in the local scenario. Even if in Europe pirates were already condemned as outlaws, in the colonies they still were often respectable merchants who could even become esteemed citizens. Likewise, illegal printers were competing in a very cutthroat environment, and their ability to make political and economical connections was crucial to their survival in a newly administered world. As such, even while they were framed as legally illegitimate, their activities and products were often appreciated by people, and so they often became politically important.

But printers shared another important characteristic with pirates: both had expertise in their fields. Sea pirates’ strong technical skills and deep knowledge of the ocean-routes, coasts, and ports, accompanied by an inestimably vast experience, was one of the primary reasons why they were considered criminals to be feared. Because of their skills and military preparation, pirates could have brought to their knees the armies of England, of France, and even of Spain, if they would been able to aggregate into an organized power. Similarly, illegitimate printers had strong technical competence, money, and resources, and so they often could afford to ignore the newly–devised rules, forcing de facto the state to rule in their favour. As pirates, in fact, the printers had the privilege of being out of range of the state’s censure, and in fact, could have simply ignored the laws and kept printing their pirated books freely. But they did not. They preferred to establish an agreement with the state and the other printers, gaining then also approval in terms of recognized social norms. Thus the use of the word “pirate” and “piracy” to criminalize illegitimate printers brought to the legitimate printers not just a success in achieving their interests, but also catalyzed the creation of a new juridical object: intellectual property.

The application of the term ‘pirate’ and ‘piracy’ to counterfeited goods has been, since then, useful in the affirmation of copyright legislations and extensions. For instance, the first radio broadcasters were defined ‘pirates’ by the publishers of music sheets; audio tapes were depicted as threats to musical creativity; video tapes and VCR were seen as the end of both the cinema industry and television. None of these scenarios happened, and instead, the objects of “creativity” have multiplied in the past forty years: more music, movies, and TV shows are made, published, bought, enjoyed, and often forgotten. Internet by itself – the copy-machine par excellence – while often facilitating copyright infringements, is also providing tools for new media and making these available to an increasing number of people/authors. [22]
Thus, if pirates challenged the status quo of the forms of government on the one hand, they also helped to legitimate that very status quo retreating from the political battle on the opportuneness and fairness of a choice (colonize a continent; create and protect a privilege), rather discussing the ways in which these choices were going to be applied.

Internet piracy and the case of “The Pirate Bay”

The battle for the affirmation of the necessity of copyright legislation has been a long one, and it is not over yet. In the past century the extensions and expansions of its limits were numerous. Even if sea pirates are still present and active in our society, in the past forty years the label “piracy” has been increasingly applied to copyright infringers. With the revolution of the Internet this type of piracy has been both easy to commit and increasingly appreciated by users. Not just downloading, but also uploading music, videos, and movies on-line has shown to people how culturally enriching and socially engaging is an almost forgotten activity such as sharing. De facto on-line piracy is shifting the discourse from a legal one (protection of copyright) to a cultural one (cultural and social enrichment).

The case of the website “The Pirate Bay” (TPB hereafter) is representative of this shift. Peer-to-peer, the technology which makes possible the sharing of large files over the Internet, is grounded on the willingness of participants in the community to share files they are downloading from other users, or which they have already downloaded in the past. TPB is an on-line database through which is possible to know if a file is already shared and thus join the group which is sharing it, or if it is not shared yet, to put it on-line for sharing. TPB is maintained in Sweden, where copyright violations over the Internet were not clearly indictable (until April 2008) as in other countries (especially USA). As a result, even if the owners of the website have been sued multiple times, the website was never forced to definitively close. Enforcing copyright legislation against a website which is situated in a physical space but spread its action globally, it has been a puzzle for lawyers since the beginning of the Internet. An effective legislation would surpass, in fact, the jurisdiction of single states, and needs a strong coordination between governments. The website has been locally obscured multiple times, but the nature of its directory list always freed it from attachments. For years, the website represented an active and increasingly popular way to make available new releases, but also old movies and songs, which are otherwise inaccessible. Furthermore, the website has been a catalyst for questioning copyright issues in lots of states. While governments are organizing and orchestrating a common response to them, these modern pirates actually mock lawyers and big corporations which have been threatening legal actions and enormous fines. Letters sent by lawyers around the world to order the website to shut down a particular page – because it was damaging the copyright of their clients – have been published in TPB, alongside the replies mocking them. TPB has in fact been sued – without success – multiple times, but in 2008 a trial took place, bringing TPB’s owners to court and finally condemning them to a fine of thirty million Swedish kronor (around 2.7 million Euros – 3.5 million US dollars). Both before the sentence was read and after the actual condemnation, numerous people demonstrated in front of the tribunal and sent letters to the Swedish minister of justice.

TPB never withdrew from its role as a provocative mobilizer for anti-copyright and pro-anonymity movements. The fine of 2.7 million euros stopped neither the people at TPB nor their supporters. On the contrary, the trial was a boost for the Swedish political party which
sympathizes with the website and is focused on Internet freedom of speech. The group of people assembled around TPB has been invited multiple times to Art exhibitions and, lately, to the Venetian Biennale[28] in order to set up installations about freedom of speech and expression, using, mixing, and producing new content. Using the enormous number of people who connects daily to it, TPB has in fact started to gather supporters all around the world, underlining that their fight is not for something purely illegal or illegitimate, but rather, is related to the freedom of speech.[29] The website has continued to grow in both number of visitors and uploaders. Furthermore, a movement of people concerned about freedom of speech and sharing over the Internet started to gather around the three primary maintainers of the website in order to devise social and political actions to undertake. The result of this activity and cultural ferment has been a political party which, in the European elections held in June 2009, brought one candidate of the party to the European Parliament, collecting more than 7% of the votes in Sweden.[30]

The most interesting aspect of this controversial behaviour is the fact that the people supporting TPB are not proposing a limitation on copyright or a more equitable legislation which could take in consideration the technological contributions of the last century, but rather, they are putting in question copyright itself. They are asking if legislation devised to regulate the printing books in the Eighteenth century still makes sense with the new directions of contemporary technology.[31]

Organizing its activities around the right of free speech and sharing ideas, TPB started to support and organize multiple websites which claim to be uncensored hosting for texts, images,[32] blogs,[33] a service of temporary mailbox to avoid spam and privacy intrusion,[34] and a service for anonymous Internet connection.[35]

Freedom of speech and anonymity over the Internet are the most important themes that the group is promoting, and their campaign is meant to mobilize a broader group of people around the world aimed toward identifying governments’ restrictive legislations on the freedom of speech over the Net, promoting protests and demonstrations against those rules, and supporting – with both technical competence and banners on blogs and website – the people living in countries where censorship is broadly performed.[36]

“The Pirate Bay” and modern cyber-piracy, refusing the traditional rhetoric associated with piracy and stressing the fight for freedom embedded in image of Golden Age piracy, are hitting the goal of being provocative about a fundamental political issue. Moreover, accepting the epithet and reframing it as symbol of political engagement, they question what had remained largely unexamined for at least three centuries: who is protecting copyrights? At what price do we enforce a law which privileges someone and penalizes the majority? Who are the real “pirates” in a context where creativity and freedom of expression are penalized by the very same laws which were issued to protect them?[37]

The politically engaging problem represented by the very status of pirates – after centuries of criminalization and condemnation without appeal – comes back to the core of the question of legitimacy: “because I do it with a petty ship, I am called a robber, while you who does it with a great fleet are styled emperor.”[38]
Conclusion

In this article, I have briefly examined the semantic expansion of the word “piracy” in popular discourse, from the first media characters (pirates of the Golden Age) to the context of print capitalism and copyright, and finally, the current debate regarding cyber-piracy. We demonstrated how criminalization is a strong social weapon through which markets and governments have shaped a new juridical institute whose existence and utility by itself was under question. The use of the legal definition of *hostis humani generis* had the result of taking pirates out of society, with the consequence that they were no longer carriers of rights, and thus, could be eradicated without further questions. In terms of social control, pirates are the great enemy who mobilize forces and armies against them, dangerous outsiders who threaten the “rest of us”. The fact that pirates call into question a dominant system of consumption, production, and regulation is rarely taken into consideration. But modern cyber-pirates, accepting and reorienting this epithet traditionally considered a symbol of criminal activity, revitalize the revolutionary spirit of the Golden Age of piracy, embedded in the cultural and religious movements emerging before and during the English Revolution; reinterpreting and reframing this epithet, they question the fundamental rules that set the parameters of social legitimacy.

Notes

1. This article was possible thanks to the hospitality of Bill and Susie Tyne, and the precious help of Heath Cabot.
2. The well-known quotation in Saint Augustine, (City of God, book 4, chapter 4) about the pirate caught by Alexander the Great offers an important aperture on this topic
4. “And it was the rise of that Europe with its Atlantic horizons that was to decide the destiny of the inland sea.”, Fernand Braudel, *The Mediterranean in the Age of Phillip II*, (New York: Harper & Row, 1966), I:24
5. On the side of the formal recognition given by the Pope Alexander VI with the Bull *Intra Caetera* and ratified with the Treaty of Tordesillas (1494) and then the Treaty of Zaragoza (1529)
8. Two treaties of peace have to be underlined, here: the Treaty of the Pyrenees (1660) and the Treaty of Utrecht (1713). After both treaties the number of privateers dropped, while the number of pirates considerably increased.

9. For an impressive analysis of the social composition of piratical crews and the reason of the choice of becoming pirates, see Rediker 1987, 10-152

10. Emblematic was the case of Henry Morgan, appointed to a public office in Jamaica – where he had bought wide sugar plantations thanks to his attacks – after a career between piracy and privateering; see Cordingly, 43

11. see Rediker 2004

12. The refusal to take part in the slave trade is still controversial. Some pirates were actually attacking slave ships in order to sell the “cargo” by themselves, but there are multiple example of crews incorporating former slaves: see Kenneth J. Kinkor, “Black Men under the Black Flag”, in Bandits at Sea. A Pirate Reader, ed. C. R. Pennell, (New York and London: New York University Press, 2001), 195-210


16. a pen name for Daniel Defoe, according to John R. Moore, one of the most famous biographer of the English writer. The attribution has been contested in favour of an actual former pirate, maybe helped by Defoe since the second edition of the book, since which numerous biographies, some of them invented, were added.

17. we are here referring to the edition edited by Schonhorn, above quoted as Defoe [1724] 1972

18. Defoe, 244


20. for those who are interested in this aspect, see Paul Goldstein, Copyright’s Highway: From Gutenberg to the Celestial Jukebox, (New York: Hill and Wang, 1994); Luman Ray Patterson, Copyright in Historical Perspective, (Nashville: Vanderbilt University Press, 1968); Mark Rose, Authors and Owners: The Invention of Copyright, (Harvard: Harvard University Press, 1995)

22. The most recent example is Amazon’s Kindle device, which can download books, newspapers, magazines, and other contents paying a little fee.


27. see The Pirate Bay, *Hey, send support to The Pirate Bay!*, http://trial.thepiratebay.org/ (August 2009)


29. The harsh reaction of the website to the Italian interim injunction collected more than five hundred comments in few days: see The Pirate Bay, *Fascist state censors Pirate Bay*, http://thepiratebay.org/blog/123 (August 2009)


31. see, for example, the website http://iwouldntsteal.net/ (August 2009) and the project-documentary *Steal this film*, http://www.stealthisfilm.com/Part1/ (July 2009)

32. see http://pastebay.com/ (August 2009)

33. see http://bayimg.com/ (August 2009)

34. see http://baywords.com/ (August 2009)

35. see http://slopsbox.com/ (August 2009)


38. Those arguments can be traced both in TPB websites and in ‘brother-sites’, and are anyway corollary of the more general discourse about the freedom of the Net.

39. Saint Augustine, *City of God*, Book 4, Chapter 4

URL to article: http://www.darkmatter101.org/site/2009/12/20/hostis-humani-generis-history-of-a-multi-faceted-word/
Atlantic Orientalism: How Language in Jefferson’s America Defeated the Barbary Pirates

Angela Sutton

“In this work, I have most attempted a full description of the many hellish torments and punishments those piratical sea-rovers invent and inflict on the unfortunate Christians who may by chance unhappily fall into their hands…”[1] wrote John Foss, an American sailor captured by pirates off the coast of North Africa and sold into slavery in 1793. Many other captives were not as reserved, describing the pirates’ bloody attacks with colorful, titillating language that provoked outrage in early America. Although often exaggerated or forged, the Orientalist stereotypes perpetuated about the Barbary Pirates by captives such as John Foss would resonate in the minds of early Americans and shape American foreign policy.

The legend of the Barbary pirates[2] is one that even today is shrouded in countless American-centered misnomers.[3] Many of the negative stereotypes perpetuated by the eighteenth and nineteenth century Americans persist. Countless popular books written about the North African corsairs, for example, emphasize the “avowed Islamic” pirates who were part of “a medieval autocracy whose credo was piracy and terror,” and who “professed to despise Christians.” These works compare the Barbary Powers to modern terrorists, claiming that “while the Barbary War resembles today’s war on terror tactically and strategically, it resonates most deeply in its assertion of free trade, human rights, and freedom from tyranny and terror.”[4] With the rising prevalence and accompanying media coverage of Somali pirate attacks, even more misinformed parallels are drawn between Barbary pirates, Fundamentalist Muslim terrorists, and the Somali pirates: groups of people in separate times, circumstances, and spaces unified in American popular culture only by vague notions of Islamic Otherness.

These first pirate encounters with North Africa set a precedent for how the young nation would engage with belligerent powers in the future. While European superpowers paid tribute and appeased the Barbary nations in order to incapacitate their economic rivals on the seas[5] the American Congress commissioned a naval fleet and prepared for war.

If, as Marwan Obeidat claims, “the ‘Barbary pirates’ affair sums up what Americans knew of the Muslim World until the 1970s,”[6] then understanding what it was that the Americans thought they knew of the Muslim World becomes of utmost importance. Who were the Barbary pirates, and why did America go to war with them? This article offers an in-depth historical analysis of accounts of the pirates to demonstrate how the Orientalist language used in these exaggerated accounts shaped American opinions and policies regarding these fierce corsairs of the Maghreb. It becomes evident that the American public supported the military operations against the Barbary powers in the Tripolitan War of 1801 and the Algerine War of 1815 in part because of the constant, widespread, and inaccurate Orientalist and overtly racist portrayals of the Barbary pirates. The language used in the accounts of the Barbary captives, in the colonial American newspapers, and by the founding fathers demonstrates that the legend of the Barbary pirates shaped American views of the Orient, which led to the acceptance of aggressive foreign policy in the Mediterranean. In dehumanizing the exotic and terrifying Other, the writers of the Barbary pirate slave narratives convinced the
American public of the young nation’s need to assert itself and triumph over a barbarous oppressor, heralding the stirrings of imperialism that had already awakened in the young Republic’s interactions with its own native populations.

I. The Barbary Pirates and their Christian Slaves

The term *Barbary pirate* was a blanket term invented by Europeans with a poor understanding of the variety of people and cultures present in the North African Mediterranean. These corsairs worked for their respective rulers, (called deys, beys, and bashaws/pashas) selectively and legally incapacitating the vessels of the nations on which their ruler declared war. The corsairs were “operating within the limits of then current international practice, much like their contemporaries in America, Britain, France, Holland, Italy and Malta, among other places,”[7] and were largely tolerated by Europe.

Europe’s refusal to collectively stamp out the Barbary threat can thus be understood within context; while the Barbary pirates were formidable enemies, they did not devastate Mediterranean trade. In the 1790s, the Barbary pirates captured fewer than thirty ships. During this time France was undergoing its own revolution, and French privateers, by comparison, captured three hundred vessels.[8] During the American Revolution just a few decades before, America relied heavily on privateering to weaken Great Britain and to plunder supplies desperately needed to sustain the war. The Barbary pirates committed similar acts to those of John Paul Jones, for example, America’s celebrated naval hero who was lauded and promoted to admiral. The Barbary pirates, too, had permission from their governments to plunder vessels of those powers with which they warred, and like the American and French privateers, they often gave their governments a predetermined share of the spoils.[9]

For the deys, beys, and pashas in control of the various North African regencies, a tribute system was a fair way to finance nations. Both the United States and the Barbary powers wanted stable economies, and each side operated under their own cultural assumptions to try to achieve this for themselves: Americans through more free trade and commerce, and coastal North Africans through agriculture and wartime spoils.[10] Despite their goals for economic stability, each economy had developed in part through the riches of privateering.

The eighteenth and nineteenth-century American and North African economies also had a dependence on slave labor in common. Because their families or communities often paid the ransom demanded by North African captors, white Christian slaves were the most profitable cargo for the Barbary pirates.[11] In fact, Christians with status or wealthy families were often bought from the Barbary pirates at the North African slave markets for the specific purpose of holding out for ransom from families or governments. While the Christians waited for their freedom, they were put to work to earn their keep and profit for their masters. They did any number of things: rowing on the galleys, working on a chain gang performing construction work, or using their skills (sailing, literacy, sewing, mathematics, etc.) to do more specialized work. “Barbary economy and society rested on slavery, and slaves could be found in practically every occupation.”[12]

Humphrey Fisher, in his study of slavery in Muslim Africa, found that while the Barbary corsairs took slaves from the ships they preyed on in the Mediterranean or Atlantic, Christian
whites were a very small minority of the slaves taken for ransom.\footnote{13} Despite this, their experiences comprise the loudest slave voices from North Africa. Their disproportionately represented accounts were reproduced en masse and serve to reveal their experiences, and more importantly, their impressions of the region and its inhabitants\footnote{14}

Many of the Christian-American slaves experienced tremendous hunger, and feelings that they were left to “rely on the mercy of sanguinary barbarians.”\footnote{15} They were often confined to long hours of harsh, physical labor, and subsisted off of a limited diet of coarse bread, vinegar, and olives. They slept in overcrowded bagnios\footnote{16} and were vulnerable to harsh corporal punishment by arbitrary drivers for minor infractions. Because of these conditions, they were the most susceptible to communicable diseases, and many died before returning home.

Other white Christian slaves had better experiences in captivity. Peter Earle found evidence of some slaves that did so well in Barbary that they did not want to return home. They had the option of converting and then were free to live as any North African Muslim would. They could marry, hold titles, and bequeath family fortunes to their Muslim children. The slave who did not wish to convert could succeed in business, pay off his ransom and continue as a free Christian merchant. Some slaves even became Barbary corsairs themselves, opting for the risky yet opportunistic lifestyle. Two captives, Dr. Cowdery and William Ray, both mention a “renegado Scotchman” by the name of Lysle/Lysh, who converted to Islam, took the Tripolitan name of Murad Rais, married the Bey Jussef Bashaw’s sister and worked as a Barbary corsair for the regency.\footnote{17}

Several of the slave narratives mention certain freedoms they held despite their subservient status. If a slave did have the money or leisure, he was free to enjoy the amenities of the city. Dr. Cowdery, for example, was treated reasonably because his medical skills had saved the Bashaw’s son. He enjoyed a varied diet including North African treats like dried fruits and nuts, and was permitted to wander the marketplaces and purchase “figs, watermelons, muskmelons, and cucumbers,” in addition to being “plentifully supplied with squashes and cucumbers” and being treated to food “prepared in the Turkish style” that was “simple and good.”\footnote{18}

American sailor James Leander Cathcart, who served on an American privateering vessel during the Revolutionary War, was another slave whose experiences in Barbary were not wholly negative. Cathcart thrived in North Africa, and in his eleven years as a slave in Algiers, he became an entrepreneur. He owned taverns in the bagnios, financed maritime adventures, and obtained the enviable paid position of Chief Christian Secretary to the Algerian dey. In his position, he was able to help resolve diplomatic crises between Algiers and America, and intervene on behalf of the other American slaves. After negotiating his release, Cathcart voluntarily returned to North Africa as the US Consul to Tripoli and Tunis. A similar arrangement had occurred earlier, in 1690, when Rene Lemaire, a French slave in Algiers, was nominated acting consul and acted as a go-between for Dey Cha’ban of Algiers and King Louis XIV.\footnote{19}

There are no doubts that most captives taken by the Barbary pirates and enslaved in North Africa yearned for their freedom and homeland. Nevertheless, “…both white and black slaves in North Africa lived more diverse lives, and sometimes much freer lives, than the majority
of plantation slaves in the Caribbean or American South.”[21] Slavery in urban North Africa and that under the Anglo-plantation model of the New World cannot be likened at all. Paul Baepler makes the point that “on the surface, the Barbary Captivity narrative appears to invert the situation of the American slave narrative by presenting the testimony of a white slave under African domination rather than a black slave subjugated by a white owner,”[22] but the basis for comparison is spurious at best. North African slavery, while full of hardship and misery, was not institutionalized chattel slavery like in the plantations of the Americas.

By the 1620s, the Barbary captivity narrative had begun to establish itself as a recognizable genre in Europe. The genre gained height of popularity in the colonies during the American Revolution and were soon thereafter compared with black American slave narratives, such as that of Frederick Douglass.[23] They were usually published in broadsides, pamphlets, almanacs or as short novels and plays, but the occasional poem or newspaper article also brought the Barbary captivity narratives to an American audience. In the Pennsylvania Gazette, the most prominent newspaper of early America, there are several instances of books about the Barbary pirates or the North African regencies and kingdoms, printed in Britain, for sale in the colonies.[24]

II. Orientalism and the Barbary Captivity Narratives

Many of the captivity accounts were published multiple times in different places and formats. In total, tales of American captives would eventually appear in over one hundred editions and in several languages, and the majority of early Americans were aware of and outraged by the actions of the Barbary pirates. The citizens as a whole eagerly followed news of their captured countrymen and celebrated their returns.[25]

Slaves that made it back to America were usually left destitute from paying their ransom, so “one of the ways in which they could restore their fortunes was to publish their tales, in the hope of earning a few shillings.”[26] Although labelled as eyewitness accounts, these stories invariably sold better if embellished for the audience. Baepler points out that most writers of these fantastic tales referred to previous captivity narratives and what had already been written about Africa for advice on how to construct their accounts.[27]

Due to this new-found popularity, several fictional captivity narratives began to surface, and some, like that of Maria Martin, were passed off as nonfiction at the time of their publication and dissemination in the hopes of forthcoming profitability. As Baepler advocates, “if the fictional was sometimes read as true, then fiction helped to shape history, and we need to view these narratives side by side.”[28] Both are equally useful in describing the impact the Barbary pirates had on the American psyche. Whether fiction or forged, the accounts have much to tell us about how the American public conceived of the Barbary pirates, and of North Africans. Furthermore, the presence of fictional accounts attests to the demand for the Barbary captivity narratives, and demonstrates that the American audience was hungry for more details of the exotic Other.

The labels of debauched and cruel pirates are repeated, in one form or another, throughout all of the captivity narratives. In fact, this repetition of stereotypes and likening of pirates with American Indians is the one thing the varied narratives all have in common. The accounts “were never simply stories about individuals under stress, but commentaries on, and by-
products of changing power relations over time."[29] When read in order, the narratives build upon one another, and function as reactionary compasses of American attitudes.

The narratives also served as some of America’s first impressions of Islamic Africa. They were riddled with certain myths that reinforced the negative Orientalist[30] stereotypes. In his significant work, Edward Said mentions the Barbary pirates as part of the limited American experience of the Orient.[31] The Orient itself, he argues, was almost a European invention, and had been “since antiquity a place of romance, exotic beings, haunting memories and landscapes, remarkable experiences.”[32] European and early-American culture managed and produced the Orient and gained in strength by defining itself in opposition to it.[33] This is why the Barbary narratives of European and American captives say more about early-modern Europe and America and Western intentions regarding the Orient than they do about the actual Barbary pirates and their cultures.

In this instance, Orientalism functions as the exchange between the individual writers of the texts about the Orient (i.e., the authors of the captive narratives) and the political concerns shaped by the “three great empires” (Britain, France, and America).[34] These concerns were largely imperial and determined by Western expansion in search of markets, resources and colonies. In the denunciations of Barbary, Americans could see the North African cultures in terms of backwardness and immorality. By projecting this divide between East and West, or between themselves and North Africa, it became justifiable to invade and dominate. Mary Louise Pratt agrees that accounts by Westerners about non-European parts of the world created the domestic subjects of imperialism, as types of writings later similarly legitimized the Western aspirations of economic expansion and empire.[35]

Colonial and early Americans were already aggressively expanding borders and fighting Indians in bloody territorial skirmishes. They had inherited primarily British ideas and attitudes towards non-Europeans and non-whites. Everything Americans wrote or read of the Orient, or the Barbary Coast in this example, was written from this viewpoint. It caused the American and European writers to generalize, stereotype, and denigrate the Orient and its people in their accounts. This phenomenon of Western writings about the Barbary pirates and powers reinforced the stereotypes Americans believed about North Africa and the Muslim corsairs of the Barbary Coast. The public acceptance of these Orientalist stereotypes led to the dehumanization of these people in the American mind, and to public acceptance of the Tripolitan and the Algerian wars.

Frank Lambert points out that Americans tried to make sense of North Africa by exploring the differences between the United States and the Barbary Pirates. In the captivity narratives, American ideals were often pitted against the stereotypical views of the people of the Barbary Coast: lawless versus lawful, freedom versus despotic oppression, and Protestantism versus Islam. These narratives “singled out the most despicable pirate behavior and compared it with the loftiest American ideals… the United States was locked in a struggle of liberty versus tyranny and good versus evil.”[36] Therefore, the same types of ideas and language crop up in nearly all of the captivity narratives.
### III. Common Themes in the Christian Slaves’ Accounts

One of the first popular myths that can be found throughout the captivity narratives is that all non-European or non-Americans are “barbaric,” and that all “Barbarians” are the same. Take, for example, an excerpt from John Foss, the American sailor mentioned earlier:

The turks are a well built robust people, their complexion not unlike Americans, tho’ somewhat larger, but their dress, and long beards, make them appear more like monsters than human beings.[37]

Foss was captured off the coast of Algiers. Undoubtedly, there were some ethnically Turkish people of the Ottoman Empire present, but Foss referred to everyone in the area as Turkish, indicating that he knew little of the ethnic makeup of the region and was unable to tell apart the various peoples residing in Algiers. From the extract, it is also apparent that his criteria for what qualifies as a “human being” is decidedly Anglo-centric, and those that do not conform are portrayed as monsters. The dehumanization of the Algerians due to Orientalist ideas is strongly evident. Thomas Pellow’s earlier account from the 1730s is similar. He wrote: “The enemy seemed to me as monstrous ravenous creatures, which made me cry out ‘Oh Master! I am afraid they will kill us and eat us!’”[38]

The fear and accusation of cannibalism is one that is echoed numerous times with regard to Native Americans as well as Barbary pirates, and the presence of constant derogatory comparisons between various North Africans and American Indians are another indicator of American captives’ belief that non-Westerners were barbaric and homogenous. Dr. Cowdery, for example, wrote:

> Marriages are proclaimed in Tripoli, by one or two old women, who run through the streets, making a most hideous yelling, and frequently clapping their hands to their mouths, similar to the American Indians in their pow wows.[39]

William Ray was onboard the same ship as Dr. Cowdery when captured by the Barbary pirates. He makes a similar disparaging comparison to a woman he encountered in his captivity:

> In the morning, about eight o’clock, an old sorceress came to see us. She had the complexion of a squaw, bent with age, ugly by nature, and rendered frightfully by art.[40]

This rhetoric evokes the same types of derogatory language as that surrounding the Indian Wars. America at this time was expanding borders and commercial realms across the continent, and Christopher Castiglia’s analysis of Native American captivity narratives reveals that this assertion of Native American inferiority suggested an excuse for their routine extermination.[41] Early Americans developed a similar idea in their comparisons of the Barbary powers with the Native Americans; in denigrating the Other, they could justify the wars that Europe was unwilling to fight.

Another theme that most of the captivity narratives share is the portrayal of the Barbary pirates as capricious, childlike, and cruel. In Maria Martin’s account, she describes the pirates
as “barbarians” who “began their favorite work, cutting maming [sic] and literally butchering, all that they found on deck.”

Dr. Cowdery describes the pirates’ actions:

After the flat of the Philadelphia was struck, and the officers and crew were awaiting the pleasure of their new masters, the Tripolitan chiefs collected their favourites, and, with drawn sabers, fell to cutting and slashing their own men, who were stripping the Americans and plundering the ship. The cut off the hands of some, and it is believed several were killed. After this battle amongst themselves was a little over, we were ordered into the boats to be carried on the shore.

Cowdery’s crewmate William Ray, however, denies Cowdery’s accusations of death and amputation during the corsairs’ infighting:

It is true there was a sort of mutiny and clashing of arms amongst them; but for my part I never saw any hands amputated, nor do I believe there were any lives lost.

Dr. Cowdery made many such accusations about the Barbary pirates and the North Africans in Tripoli. Interestingly, another excerpt of his journal demonstrates that he was as capable as they of cruelty:

August 5. The American squadron anchored off Tripoli. I was ordered to dress the wound of a Mameluke, who had his hand shattered by a bursting of a blunderbuss. I amputated all his fingers but one, with a dull knife, and dressed them in a bungling manner, in hopes of losing my credit as a surgeon in this part of the country, for I expected to have my hands full of wounded Turks in consequence of the exploits of my brave countrymen.

Dr. Cowdery’s matter-of-fact tone at this action connotes underlying sadism. The act of purposely using his reputation as a doctor to harm instead of heal is on par with the most striking acts of brutality in all of the readily available captivity narratives.

The varied slave narratives also share the impression that Islam itself is antiquated, barbaric, backward, or somehow the reason for the Barbary pirates’ plundering behaviors. William Ray’s surprise at the kindness of the religious figures (“Mahometan saints of Anchorites,”) who “offered me a piece of bread in the name of the prophet, pitied my situation, and really appeared to possess philanthropy,” demonstrates early Americans’ negative assumption of Muslims and Islam. Antagonism is more apparent in the narrative of Francis Brooks, an Englishman held captive in Morocco whose account was reprinted in Boston for the colonial American public. He wrote about his “confinement among those barbarous savages…whose Religion was composed of cruelty, whose customs were extravagant, and whose usages almost intolerable…” These quotes shed light on the American views of Islam and the corsairs, rather than on the religion itself. Later in the formal struggle against the Barbary powers, American leaders made a larger point to denounce religious and civil oppression. They equated Islam to Catholicism as tyrannical, and in opposition to the Protestant American values of freedom.

While there was an antagonism between Christianity and Islam centuries before and during the Crusades and again during the Reconquista when Muslims and Christians were in more
direct competition,\textsuperscript{[49]} by the late eighteenth century, riches became more important than religious fervor in the antagonism between the two religions. “One American captive concluded in the 1790s that money was the Algerine god, that the pirates were far more interested in taking prizes than in waging holy war.”\textsuperscript{[50]}

Islamic zeal actually had very little to do with the Barbary pirates’ actions. They plundered Christian ships and took Christian slaves not because of holy war (\textit{jihad}), but because according to Qur’anic law, other Muslims could not be enslaved in this way. The pointed aversion within the captivity narratives to all things Islamic contributed to the gradual Orientalist dehumanization of the Barbary powers and their corsairs.

\textbf{IV. Orientalist Language Surfaces in American Newspapers}

The antagonistic language used to describe the Barbary pirates and regencies/kingdoms in the captivity narratives also surfaces in early American newspapers such as the \textit{Pennsylvania Gazette}. In the 1750s (with the Tripolitan and Algerine Wars fifty or more years in the future) the language concerning the Barbary pirates is predominately neutral, and the corsairs are mentioned with impartiality. The tone of the articles implies the purpose of imparting news, and little more. As the conflicts with the corsairs escalate, and more Americans become aware of the incidents between their kinsmen and the North African pirates, the language begins to mimic that of the slave narratives.

From 1750 to 1785, the \textit{Pennsylvania Gazette} is filled with reports of the Barbary corsairs and their regencies. The Christmas edition of 1758, for example, mentions that the last letters from Barbary reported two English vessels being taken by the corsairs off the coast of Sale (Sallee). The current letter is written to inform the American colonies that

\begin{quote}
the Emperor… is greatly incensed at the taking these Vessels, and that he had sent an Alcayde, with a Party of Horse, to bring in Chains the two Captains of the Cruizers [sic] who took them; that he intended to write a Letter to Lord Hume… assuring him that these Captures were contrary to his Orders, and that he will chastise his Captains; for that he is perfectly inclined to keep Peace and Friendship with us.\textsuperscript{[51]}
\end{quote}

Another letter published in 1763 mentions the corsairs engaged in plunder. Still, the language is decidedly neutral:

\begin{quote}
Captain Shearman Clarke, arrived here last Week from Teneriffe, in 35 Days Passage, and advises, That the Trade there has been for some Time much infested by three Barbary Corsairs, viz. Two Chebecks and a Galley, who had made many Captures, and continued to take all Vessels they met with, that were not provided with a Mediterranean Pass.\textsuperscript{[52]}
\end{quote}

These examples demonstrate objectivity with the sole purpose of conveying news. There is a distinct lack of value judgments placed on the corsairs’ activities in the Mediterranean. The very choice in language—the use of “corsairs” instead of “pirates” implies an understanding of these men as working under an authority, and in the first example, the authority figure in question is perceived as someone that America can maintain friendship with, implying an inherent equality in status.
In the mid-1780s, however, the letters and articles in the *Pennsylvania Gazette* begin to reflect the type of language found in the captivity narratives. The July 26 edition of 1786 marks the first time the sea-rovers off the coast of North Africa are referred to in the newspaper as “pirates” instead of “corsairs.” After 1786, the term “Barbary pirate” appears with regularity. This marks a change in the American perception of these men. Corsair implies a legal, state-sanctioned status, while pirate draws parallels between the cutthroat outlaws of the Caribbean who could be hung at will by sheer virtue of being a pirate. The shift in terminology reflected a transformation in the Americans’ view of the Barbary pirates, from men that had to be treated honorably to men that could be violently terminated.

Another comparison from the captivity narratives that made its way into the early American newspapers was that between the Barbary corsairs and the Native Americans. In numerous instances the Barbary corsairs are compared to the “savages of the frontier”, implying that non-Europeans/Americans are all barbarous, all similar, and all deserve the same bloody fate. A March 22, 1786 entry in the *Pennsylvania Gazette* reads:

…and rescue it from the predatory invasions of the Barbary states. The hostile conduct of the savages on our frontiers – the unexampled behaviour of our late enemy, in holding our posts contrary to the treaty, bridling the country, and depriving us of the advantages which would otherwise arise from it; and above all, that due and sacred regard which a nation ought ever to pay to her engagements…

One might wonder, given America’s history of broken treaties with its native populations, if the irony of this statement occurred to contemporary readers.

Another entry from 1794 makes a similar comparison: “Our savage enemies in the Western Territory, and on the coasts of Barbary, are evils of the most painful nature…”

Again the Barbary pirates are perceived as the same type of impediment to American progress as the Native Americans.

In reflecting the language of the captivity narratives, the articles in the *Pennsylvania Gazette* draw parallels between the Barbary corsairs and the pirates of the Caribbean as well as the Native Americans. They intimate that the corsairs of the North African Mediterranean could be treated as actual pirates or as Native Americans, rather than as the naval forces of established regencies. “In viewing the pirates as barbarians, Americans evoked dark images from antiquity that they reserved for their worst enemies.” The implications of this are sinister: in the American mind, the corsairs no longer belonged to states that could be diplomatically reasoned with, but to a menace to be exterminated through warfare in the name of American freedoms.

**V. Jefferson’s and Adams’ Use of Orientalist Language in the Prelude to War**

The Orientalist stereotypes perpetuated first by the captivity narratives and later reproduced in early American newspapers was replicated by the American Founding Fathers as they contemplated war. Although Thomas Jefferson had a republican reputation for noninterventionism and pacifism as president, he believed that a naval squadron in the Mediterranean would be a more cost efficient means to protect American shipping in the
area. At the beginning of the war, his message was clear: “Unlike tribute-paying Europeans, freedom-loving Americans would rid themselves of the piratical pestilence.” [58]

Thomas Jefferson’s language linked the imprisonment of the captives to that of the nation. [59] He provided six reasons for going to war. Firstly, justice demanded that the captors of American citizens be punished. Secondly, America’s honor as a free nation required defense. Jefferson was also adamant that going to war would cost less than paying tribute and that war was at least “equally effectual” as negotiation in the short term, but with a higher long-term potential. Furthermore, going to war would centralize and therefore strengthen the federal government by providing it with “the instruments of coercion over its delinquent members.” By fighting Algiers the United States would earn respect in Europe, which would lend an advantage in future economic dealings with the current European superpowers. [60] One might ask: would these expansionist objectives have seemed plausible in justifying war with a European nation?

John Adams, who ardently opposed warring with the Barbary powers, nevertheless looked upon North Africa through Orientalist eyes as well, presuming that “If we could even send a force sufficient to burn a town [61] … their unfeeling governors would only insult and deride.” [62] Thomas Jefferson’s reply to such ideas was that it would be humiliating to the United States to treat with “such enemies of the human race,” [63] as if the Barbary pirates or their regencies/kingdoms were not a part of that race.

Thus the bellicose words of the founders, as well as those in the Pennsylvania Gazette, echo the Orientalist concepts of the captivity narratives. In their use of language, the founding fathers implied that the rulers of the Barbary Coast were cruel, even regarding their own citizens, and that they were subhuman. These ideas function as a justification for retribution and military action, and made Jefferson’s commerce and status-oriented reasons for declaring war more palatable to an American public that was accustomed to the North Africans being depicted as backward savages from reports of the very first encounters.

VI. Conclusion

“By constructing North Africa as monstrous and by combating this so-called ‘barbarity’, Anglo-America and later the U.S. were able to portray their country as just and honorable.” [64] This type of dichotomy is precisely what the captivity narratives and the Pennsylvania Gazette created with their language. The principle of Orientalism and Orientalist language is that the other is constructed in opposition to the self. The way in which American viewed the Barbary powers, therefore, allowed the young republic to construct itself as a free and commerce-based nation. The idea of the American identity as superior to that of the Barbary States allowed for America to invoke principles in its proto-imperialistic wars with North Africa. Although America did not go on to colonize North Africa, it did inherit the European mentality of imperial expansion, and the Barbary Wars were one of the early manifestations of this mindset.

It is important not to underestimate the power of words. “The horrid proceedings of these merciless barbarians,” [65] elicits a profoundly different set of assumptions and emotions than a more neutral phrase would. The captivity narratives titillated and enraged readers, and shaped their condescending views of North Africa, leaving “a lasting impression on the
American psyche.” [66] These views can be traced in the evolution of their mimicry in the Pennsylvania Gazette, and in the language used by the policymakers throughout the course of the Barbary conflicts. This in turn helps to explain why the revolutionary American foreign policy did not face tremendous opposition from the public.

“The Tripolitan War (1803-1805) marked the first prolonged engagement of the new U.S. Navy and demonstrated the nation’s ability to exert its will across the Atlantic.” [67] Lambert agrees: he understands the conflicts between America and Barbary as a struggle for the fledgling country’s prominence in the Atlantic World. It “pitted two marginal players in the Atlantic World against each other as each sought to better its position vis-à-vis Europe’s maritime powers.” [68] The American captures and enslavements of the late eighteenth century exposed the United States as weak and disjointed ex-colonies of Britain. The outcome of the wars demonstrated the young nation’s viability and would earn it the recognition it craved on the international stage. This recognition, however, came at a price: Americans came to rely on the employment of Orientalist tropes to justify violent and reactionary responses towards a vaguely defined Islamic Other that continues into the present day.

Notes
2. Both the terms “Barbary” and “pirate” in this context require explanations. Barbary was the accepted British and American all-purpose term used for the entirety of the North African region, excluding Egypt. Ann Thompson in Barbary and Enlightenment: European Attitudes Towards the Maghreb in the 18th Century, (Leiden: E.J. Brill, 1987) p. 6 maintains that “…it is possible to discern a set of attitudes and reactions concerning Barbary in general. It was felt to possess a certain unity, despite the differences which were seen to exist between the different Regencies…” The term does not acknowledge the diverse people of this broad region: Arabs, Berbers, Jews, Moriscoes, expatriate Europeans, Levantines, Turkish/Ottoman soldiers, and other various tribal people. Despite the problematic nature of the term, it is used often in both the primary and secondary sources, and so I use it as well to avoid confusion. The term “pirate” in this context is also controversial. Pirates of all sorts had been pillaging ships and making slaves of the crew and passengers onboard for as long as people have sailed on the Mediterranean. The Barbary corsairs were a fraction of the various people making their fortunes through plunder rather than through trade, and also served as merchants, privateers and various North African Naval forces.
7. Parker, 6
9. Earle explains the institutionalized rules of plunder. According to the Qur’an, one-fifth of income should go to God, or to God’s representative on earth: the head of state. Other proportions of the loot went for the upkeep of the port. After this, half of it went to the owners of the ship (which could be again the state, or a private owner, or occasionally a Barbary pirate who had invested well), and the other half was divided among the crew according to an agreement that was satisfactory to all involved in obtaining the spoils. See Earle, 72-75.
10. Lambert 100-115
11. Earle 12, 76
12. Ibid., 77-82
14. For a detailed analysis of the dispersal of these captivity narratives and news from the Barbary states, see Lawerence Peskin’s new release titled *Captives and Countrymen: Barbary Slavery and the American Public, 1785-1816.* (Baltimore: Johns Hopkins University Press, 2009).
16. The bagnio was the slave prison where slaves that were not kept with their owners at night could sleep and store their belongings. Reports of the bagnios range from reasonable but sparse accommodation, to filthy holes in the ground, and in all likelihood, the conditions varied from bagnio to bagnio.
18. For exploration of a similar story, see Margo Todd, “Puritans, Pirates, and the Drama of Reconciliation,” in *The Seventeenth Century,* 11 (1997), 37-56.
19. Cowdery, 170
20. Clissold, 51-52
21. Colley, 59
24. For example, see the May 30, 1751 edition of the Pennsylvania Gazette, entitled “Just Imported in the Wandsworth, Capt. Smith, and to be Sold.”
28. Ibid., 12.
29. Colley, 98
30. Edward Said’s theories on Orientalism remain some of the most influential ideas regarding Western dialogue about the Middle East. His main point is that the imperialistic and colonizing behaviors of Europe and later, the United States, can be explained through the ways these deep-seated assumptions and stereotypes were made to justify imperial expansion. In other words, Europeans and Americans remained ignorant regarding the Middle East and Islamic Culture (which they have traditionally grouped together as simply “the Orient”), and based their assumptions on a series of stereotypes which later helped them to justify the brutalities of empire-building.


32. Ibid, 1.

33. Marwan Obeidat agrees that “in their perception of the Barbary Wars, American writers generally relied on traditional European views and stereotypes…” in Obeidat, 257.

34. Said, 15.

35. Pratt, Mary Louise. *Imperial Eyes: Travel Writing and Transculturation.* (London: Routledge, 1992), 4-5

36. Lambert, 105-106

37. Foss, 92.

38. Thomas Pellow as cited in Milton, 58

39. Cowdery, 184

40. Ray, 190.


42. Maria Martin. *History of the Captivity and Sufferings of Mrs. Maria Martin, Who was Six Years a Slave in Algiers: Two of Which She Was Confined in a Dark and Dismal Dungeon, Loaded With Irons: To Which is Annexed a History of Algiers, a Description of the Country, the Manners and Customs of the Natives-Their Treatment to Their Slaves-Their Laws and Religion &c, &c.* (Boston: W. Crary, 1807) in Baepler, 149.

43. Cowdery, 161.

44. Ray, 188

45. Cowdery, 171

46. Ray, 201


48. Lambert, 112-120. It is important to note here that the stereotype of Catholicism as oppressive was inherited from the British perpetuations of the Black Legend. This perpetuation was responsible for a large part of the anti-Catholic sentiment in early America
and functioned as justification for British and later American encroachment onto Spanish territory.


50. As cited in Lambert, 8.


55. “No. 1 The Farmer’s and Improver’s Friend,” *Pennsylvania Gazette*, July 9, 1794.

56. Lambert, 119

57. For more information regarding the ways in which Native Americans were perceived and treated by Americans while Americans were in conflict with the Barbary Pirates, see the collection of essays edited by Richmond Brown entitled *Coastal Encounters: Confrontations, Accomodations, and Transformations in the Eighteenth-Century Gulf South*. (University of Nebraska Press, 2006).

58. Lambert, 129


61. The United States frequently burned Native American settlements and tribal lands under a “scorched-earth policy” as part of the routine ways of dealing with Native American resistance to Anglo-American expansion, and I believe this is what John Adams is referring to here.


65. Thomas Nicholson. *An Affecting Narrative of the Captivity and Suffering of Thomas Nicholson [A Native of New Jersey] Who Has Been Six Year A Prisoner Among the Algerines, And From Whome He Fortunately Made His Escape A Few Months Previous To Commodore Decatur’s Late Expedition. To White Is Added A Concise Description of Algiers Of the Customs, Manners &c of The Natives- and Some Particulars of Commodore Decatur’s Late Expedition, Against the Barbary Powers*. (Boston: G. Walker, 1816), 9.


68. Lambert, 200.
URL to article: http://www.darkmatter101.org/site/2009/12/20/atlantic-orientalism-how-language-in-jefferson%E2%80%99s-america-defeated-the-barbary-pirates/
Voyage of the Black Joke: Piracy and Gallows Humor in an Era of Primitive Accumulation

Andrew Opitz

In 1827 there was a bloody mutiny aboard the slave ship *Defensor de Pedro* sailing from Africa to Brazil. The mutiny was successful and the leader of the revolt, a Galician sailor turned pirate named Benito de Soto, reportedly renamed the ship “The Black Joke” (*La Burla Negra*) and, after selling its human cargo in the West Indies, proceeded to terrorize commercial shipping in the South Atlantic. I mention this incident here both because it encapsulates the violent logic of an Atlantic world forged by the slave trade and because the chosen name for De Soto’s ship, *The Black Joke*, is in many ways emblematic of the combination of dark humor and spirited anti-authoritarianism found in pirate communities and in the maritime proletariat at large in the eighteenth and early nineteenth centuries. Although this piratical sense of humor is frequently celebrated and is probably at least partially responsible for the continued fascination with pirates in Hollywood and popular fiction, it does not often receive the type of serious critical attention it deserves.

Some attempts have been made understand pirate pageantry and gallows humor through Russian literary critic and semiotician Mikhail Bakhtin’s notion of carnival and/or his analysis of the figure of the rogue and the fool in picaresque novels. However, I would argue that theorizations of pirate contrarianism through these Bakhtinian categories, which are rooted in Bakhtin’s analysis of folk humor in feudal Europe, fail to adequately account for the uniquely modern features of a working-class sense of humor closely linked to the rise of mercantile capitalism. Historians Marcus Rediker and Peter Linebaugh have observed that sailors were one of the first work forces organized around wage labor, and that this organization both facilitated their exploitation and created new opportunities for rebellion. This article will examine the ways pirate humor both grew out of and resisted the wage discipline imposed by maritime capitalism. As part of this investigation, I will pay special attention to a 1721 incident in which Captain Thomas Anstis’ pirate crew convened a mock Admiralty court to “try one another for Pyracy.” This article will also analyze some of the ways that eighteenth century pirate humor expresses an emerging working-class consciousness that intersects with the revitalization of European satire as practiced by bourgeois writers such as Jonathan Swift, Voltaire and Montesquieu.

In a characteristically provocative note on satire entitled “Juvenal’s Error” in his 1951 collection of aphorisms *Minima Moralia*, critical theorist Theodor Adorno observes that “he who has laughter on his side has no need of proof.” Perhaps recalling the cruel humor and racist caricatures he witnessed firsthand in inter-war Germany, Adorno is deeply suspicious of satire and its contributions to public debate. He contends that satirical uses of irony have historically been conservative and reactionary rather than progressive or revolutionary. In order to function, satire relies on public consensus — on commonsense notions of what constitutes normal behavior. Satire of this type then commonly ridicules those who transgress, or can be made to seem to transgress, the boundaries of these commonsense norms. The implicit and sometimes explicit message of this satire (of which the Latin satirist Juvenal is a classical example) is that one must “check oneself,” stay within the lines of
decorum and social convention, avoid blatant hypocrisy and thereby escape the acid gaze of
the satirist. With a few exceptions, this has been the conservative function of literary satire
for much of its history—for example, its role as an aristocratic literary form was to ridicule
the rustic peasantry and the rising bourgeoisie as well as any “deviant” members of high
society left open to attack. Satire has thus traditionally held hostility for those who step out of
line, especially if they appear to be “putting on airs” or otherwise exceeding their station in
life. Though Adorno argues that satire never completely loses its conservative and
authoritarian inheritance, he also observes that it seems to acquire a more progressive heading
at around the time of Voltaire in the eighteenth century. This raises a question important to
my inquiry in this article: what social and historical preconditions were required for the
emergence of a politically progressive satire in the eighteenth century, and what role did
pirates (as feared and celebrated figures of rebellion) play in this reordering of Europe’s
satirical imagination?

Now, a number of important social factors likely contributed to this apparent shift in the
politics of European satire in the eighteenth century. One could point to the gradual decay of
aristocratic power structures and the rise of an increasingly powerful and literate middle
class, for example. One could also point to the Enlightenment, the decline of religious
hierarchy and authority, and the rise of a rational and scientific world view helped along by
the forces of print capitalism. However, for the purposes of this article, I would like to
emphasize a less obvious but perhaps equally important factor — one that is intimately
connected to the other developments just mentioned — that is, the place of overseas colonies
in European literature and the European imagination.

It is important to observe that many of the most influential modern satires written in the
Western tradition use the other world and other peoples of the colonies as a creative foil for
their critique of European and/or colonial American society. For example, consider Voltaire’s
Candide, which compares Europe to the mythological New World utopia of El Dorado, or
Montesquieu’s Persian Letters, which satirizes French culture and the abuses of the clergy
and the aristocracy through the eyes of two imaginary Middle Eastern travelers. Additional
examples could include Madame de Graffigny’s Letters from a Peruvian Woman or even
Benjamin Franklin’s use of the Susquehanah Indians to critique Puritan hypocrisies in his
frequently anthologized “Remarks Concerning the Savages of North America.”[4] These are
just a few famous examples that serve to illustrate how, in the eighteenth century, the outside
space of the colonies — and of the non-West in general — seems to have allowed European
society a site (though often a mostly imaginary site) against which to measure its own
deficiencies. This, coupled with the gradual decline of religious/aristocratic hierarchies, the
democratizing forces of print capitalism and the revolutionary rumblings of the mercantile
bourgeoisie, created a social environment that was both increasingly self-critical and
receptive to egalitarian political ideas. In literature, this progressive social criticism
commonly took the form of satirical writings in which an outsider figure (a savage ingénue, an
oriental, or a libertine from the Americas) comes on the scene and, either due to innocence or
shamelessness, is able to reveal uncomfortable truths about European society.

This is where I think the figure of the pirate intersects with the progressive turn in satire
observed by Adorno. In literary texts and contemporary historical accounts, the pirate often
plays a role similar to that of the fool or the rake who, because he is such a scoundrel, is able
to express dangerous truths and radical ideas that more respectable characters would never
dare to speak of openly. For example, one fictional pirate who plays this role is the character of Captain Mission, whose story is told at length in the second volume of A General History of the Robberies and Murders of the Most Notorious Pyrates. This two-volume history from the 1720s is arguably both the most entertaining and most authoritative book ever written on the subject of eighteenth-century piracy. Authorship of this history has long been attributed to Daniel Defoe of Robinson Crusoe fame, although more recent scholarship suggests that it may actually have been written by one Captain Charles Johnson — the man whose name actually appears on the title page. It is now generally agreed that the knowledge of seafaring activity and nautical jargon found in the book exceeds that found in other Defoe texts, suggesting that Captain Charles Johnson is not simply a nom de plume for the more famous author. In any case, the General History is remarkable because it mixes stories of actual pirates such as Black Beard and Bartholomew Roberts with accounts of almost certainly fictional pirates like the aforementioned Captain Mission — reportedly a young gentleman from Provence who, with the help of his Italian philosopher lieutenant Carricioli, turns to piracy and transforms his ship into a floating republic sailing the high seas under the banner of liberty. This republic is both a meritocracy and a democracy, with a popular vote determining each new course of action for the pirate crew. According to the General History, Mission’s band of adventurers behaves chivalrously toward its opponents while vociferously denouncing despots, creditors, slave traders and any who would harm the common good or deny the natural liberties given to all men. Eventually, Captain Mission’s crew leaves pirating behind and works with the natives to build a communist utopia named Libertalia on the island of Madagascar.

Johnson/Defoe’s tale of Captain Mission is important for a couple of reasons. Considering that the story was first penned in 1728, Mission’s egalitarian ideals—his personal rejection of aristocratic privileges, his faith in common people, the pirates’ opposition to slavery and the creation of an anti-racist republic — seems remarkably forward looking. It is important to note that even Voltaire, one of eighteenth-century Europe’s most powerful voices for liberty, invested heavily in the Compagnie des Indes — a slave trading operation with interests in West Africa and the Caribbean. Mission and his rowdy crew are far more progressive on issues of race and worker’s rights than most of the famous bourgeois advocates of liberty and equality — Voltaire, Thomas Jefferson etc. Comparing the modern world to the ancient world of Sparta in The Social Contract (1762), Jean-Jacques Rousseau was even able to declare that “modern peoples, you have no slaves, but you are slaves yourselves.” Rousseau’s statement demonstrates a remarkable blindness when it comes to matters of slavery and colonial violence. This blindness was all too common in European writing from this time period. Philosophers ostensibly much concerned with matters of liberty managed to avoid discussion of the slave economy at the heart of eighteenth-century capitalism. The violent engine of the Atlantic economy was pushed to the edges of social and literary consciousness. When word of this brutal world was allowed to enter into European literature, it was often carried by a sailor or a pirate.

Johnson’s story of Captain Mission illustrates how the pirate functioned as an outsider figure that could be used by writers to voice politically risky ideas and social criticisms that could not be safely lodged from within Europe proper. However, although Mission was a fictional character, I would argue that the selection of a pirate as a vehicle for the expression of revolutionary ideas was not simply an accident or an authorial whim, but rather a reflection (in literature) of a growing working-class unrest found within the centers of maritime
commerce — an emergent class consciousness that can be found in the gallows humor of pirate communities and the maritime proletariat at large in the eighteenth century. Sailors were well-known to be a rowdy and politically militant work force in the 18th century. The use of the term “strike” to refer to a deliberate labor stoppage even has its origins in a 1769 labor action in which English sailors “struck” (lowered) sails to prevent merchant shipping from proceeding to sea. Literature’s fascination with sailors and pirates as flamboyant rebels and satirical blackguards does not come out of nowhere. It is tied to the history of sailors as discontented laborers — workers with first-hand experience of the economic injustices at the base of the Atlantic economy.

In his materialist history of the Anglo-American maritime world in the eighteenth century titled *Between the Devil and the Deep Blue Sea*, historian Marcus Rediker observes that many if not most of the common sailors who manned the sea routes of the empire were driven into their line of work by dire economic necessity. They did not want to go to sea, but felt they had little choice in the matter. Many of these sailors were once country folk—subsistence farmers—who had been forced from their ancestral homes by land enclosure and the on-going privatization of the commons in the British Isles. They went to sea as a last resort or, in some cases, were forced onto ships by press gangs. Some sailors shipped out to avoid debts on land and still others hoped to learn a new trade or find a better life in the colonies. Desertion was a perennial problem in this period as sailors regularly jumped ship to find a better situation in foreign ports. Desertion was also encouraged by the fact that life on board ship resembled conditions in a workhouse or a factory — an enclosed and strictly hierarchical workplace in which rules were enforced by a vicious disciplinary regime that employed public whippings and other more horrendous forms of corporal punishment. Rediker argues that this coerced labor was the life blood of commercial shipping in the eighteenth century and that it should be understood as part of a much larger process of “primitive accumulation”—that is, the forcible expropriation of land and labor (from Native Americans, Africans and dispossessed Europeans) required for profits in an early capitalist system of production. An important branch of this transatlantic expropriation of labor is demonstrated by the William Hogarth engraving of the “Idle ‘Prentice turn’d away, and sent to sea” in the figure below.
A close examination of this image reveals that the young apprentice in the back of the boat is being forcibly removed to a waiting ship while his long-suffering mother at the center of the boat weeps for his misfortune. The man behind his back gleefully dangles a cat-oh-nine-tails — a vicious lash used to enforce maritime discipline — while another sailor points toward the corpse of an executed pirate hanging from a gibbet on the beach off in the distance. For Marcus Rediker, this image is a clear illustration of Karl Marx’s assertion that the road to the capitalist workplace was lined by the whip and the gallows.

Rediker also observes that sailors were one of the first work forces organized around wage labor. Whereas in the past it was traditional for sailors to be paid with a share of a voyage’s profits, by the eighteenth century it had become customary for most sailors to sign a wage contract for each voyage. This wage system further facilitated the exploitation of maritime workers by turning them into exchangeable commodities, limiting their access to profits, and by allowing owners to dock wages or even void contracts for the violation of certain rules. However, despite the negative developments just mentioned, the wage system of early capitalism also held certain advantages for the maritime workforce—advantages that created new opportunities for resistance. For one thing, the need to sign and to understand a wage contract made at least a basic level of literacy an important skill for sailors to possess. Literacy also served a community building function, and there are accounts of literate sailors teaching others to read and understand the contracts they were signing. Contracts also encouraged maritime workers to be very aware of their rights as stipulated under the terms and conditions of the legal documents they signed. Admiralty court records in fact reveal that eighteenth-century sailors were a particularly litigious workforce and frequently sued ship owners for lost wages, abusive labor practices and broken contracts—especially common in instances when a ship’s captain unlawfully extended a voyage or took it to a port (for example, on the dangerous coast of Africa) not mentioned in the contract. Though these court cases most often went against common sailors, the fact that legal complaints were even
registered reveals that these workers thought of themselves as viable subjects before the law. It is worth noting that even when sailors turned pirate and abolished wage labor in order to return to a share system (now a share of the plunder), they typically cemented their new allegiances by signing a contract in the form of ship’s articles that preserved order and protected their rights. This demonstrates that pirates did not actually abandon the law altogether, but rather reconfigured it to suit the needs of their community.

Keeping in mind this important historical context, let us now turn to the analysis of two particularly telling accounts of pirate satire and gallows humor. The first incident I would like to examine involves the notoriously successful and bloody voyages of the Welsh pirate Bartholomew Roberts. In 1722, Roberts and his crew were patrolling the busy waters off West Africa. The pirates seized numerous ships, many of which were undoubtedly involved in the purchasing of slaves, and threatened to keep or destroy the captured vessels unless the ship’s master, who was usually a managerial employee hired by a group of investors, agreed to pay a ransom of gold for the release of the ship. A number of foreign captains agreed to pay the ransom, but asked the pirates for a receipt so that they could apply for compensation from the owners. Roberts and his crew obliged this request, but used it as an opportunity to thumb their noses at the establishment. In the General History, author Captain Johnson/Daniel Defoe reports that the pirate receipts took the form below:

This is to certify whom it may or doth concern, that we GENTLEMEN OF FORTUNE have received eight Pounds of Gold-Dust, for the Ransom of the Hardey, Captain Dittwitt Commander, so that we discharge the said Ship, Witness our Hands, Batt Roberts Harry Glasby 13th of Jan. 1722[14]

This document is instructive for a number of reasons. The fact that it was drawn up in the first place illustrates the prevalence and importance of literacy and writing within the pirate community. It also has a keen and, I would argue, class-conscious sense of humor. The pirates presume to call themselves Gentlemen of Fortune, and in some ways make a mockery of the very concept of a receipt. However, there is also a delicious irony to the fact that these outlaws—men the law desperately wanted to destroy—could produce a document that legal authorities would have to assess and possibly even honor. Finally, the fact that the pirates would consider providing expense receipts to captured captains and officers (i.e., to waged employees working within the economic order the pirates abandoned) suggests a measure of class solidarity. Their war was not against their fellow sailors, but rather against the owners and the disciplinary regime that governed maritime capitalism in the eighteenth century.

The second incident I would like to examine is more overtly satirical. In 1721, Captain Thomas Anstis and his pirate crew—disgruntled former associates of the aforementioned Bartholomew Roberts—sought shelter on an unnamed island south west of Cuba as they waited for a response to a pardon request they had sent to the King of England with the help of a Jamaican merchant. During their stay on the island, the pirates reportedly drank, sang songs and feasted on the many sea turtles that came ashore to lay eggs on the beaches. The relative ease and leisure of this “turtleing” life, as we might call it, stood in stark contrast to the manufactured scarcity workers experienced in the merchant marine and back in England.
A General History reports that these turtle-stuffed pirates also entertained themselves by holding a mock Admiralty court in which they tried each other for the crime of piracy. One pirate put on spectacles, a dirty robe, and a mop-like cap for a wig and climbed a tree to stand as the judge. Another pirate became the indicted prisoner while others played the role of jurors, the attorney general and various court officers. Charles Johnson’s transcript of the raucous trial that followed is provided below:

Attorn. Gen. An’t please your Lordship, and you Gentlemen of the Jury, here is a Fellow before you that is a sad Dog, a sad sad Dog; and I humbly hope your Lordship will order him to be hang’d out of the Way immediately . . .

Judge. Harkee me, Sirrah—you lousy, pitiful, ill-look’d Dog; what have you to say why you should not be tuck’d up immediately, and set a Sun-drying like a Scarecrow?—Are you guilty or not guilty?

Prisoner. Not Guilty, an’t please your Worship.

Judge. Not guilty! Say so again, Sirrah, and I’ll have you hang’d without any Tryal.

Prisoner. An’t please your Worship’s Honour, my Lord, I am as honest a poor Fellow as ever went between Stem and Stern of a Ship, and can hand, reef, steer, and clap two Ends of a Rope together, as well as e’er a He that ever cross’d salt Water; but I was taken by one George Bradley [the Name of him that sat as Judge] a notorious Pyrate, a sad Rogue as ever was unhang’d, and he forc’d me, an’t please your Honour.

Judge. Answer me, Sirrah—How will you be try’d?

Prisoner. By God and my Country.

Judge. The Devil you will—Why then, Gentlemen of the Jury, I think we have nothing to do but proceed to Judgment.

Attorney Gen. Right, my Lord; for if this Fellow should be suffer’d to speak, he may clear himself, and that’s an Affront to the Court.

Prisoner. Pray, my Lord; I hope your Lordship will consider—

Judge. Consider!—How dare you talk of considering?—Sirrah, Sirrah, I never consider’d in all my Life—I’ll make it Treason to consider.

Prisoner. But I hope your Lordship will hear some Reason.

Judge. Do you hear how the Scoundrel prates?—What have we to do with Reason?—I’ll have you to know, Raskal, we don’t sit here to hear Reason;—we go according to Law.―Is our dinner ready?


Judge. Then heark’ee, you Raskal at the Bar; hear me, Sirrah, hear me,—You must suffer for three Reasons: First, because it is not fit that I should sit here as Judge, and no Body be hang’d. Secondly, you must be hang’d, because you have a damn’d hanging Look:—And thirdly, you must be hang’d, because I am hungry: for know, Sirrah, that ’tis a Custom, that whenever the Judge’s Dinner is ready before the Tryal is over, the Prisoner is to be hang’d of Course.—There’s Law for you, ye Dog.—So take him away Gaoler. [15]

This trial demonstrates the rebel sailors’ view of maritime “justice.” The pirate playing the role of attorney general opens the proceedings by asking that the judge have the “sad, sad dog” of a prisoner hanged without delay. The judge is more than open to this suggestion, but goes through the motions of asking the prisoner how he would like to plead his case. The prisoner pleads not guilty and argues that he is simply a skilled and honest sailor who was
forced to become an outlaw when his ship was captured by pirates — a common defense in actual piracy cases and, perhaps not coincidentally, the same story used by Anstis’ crew in their pardon request to the King.\textsuperscript{[16]}

The judge has no interest in a not guilty plea, however, and the attorney general agrees that the prisoner should not be allowed to speak least he clear his name and embarrass the court. The prisoner makes a final appeal to the judge’s reason, but he will have none of it and ends the proceedings by declaring that “we don’t sit here to hear reason — we go according to Law.”\textsuperscript{[17]} The prisoner is then dragged away so that the judge can attend to his waiting dinner. The legal authorities are unwilling to inconvenience themselves, or even briefly delay the gratification of their appetites, for the sake of the life of a common criminal.

\textbf{Thomas Anstis’ pirate crew holds a mock trial - unknown artist. (From the Collections of Lauinger Library, Georgetown University)}

The dark humor of this mock trial can tell us quite a bit about the working class solidarity found among pirates and the maritime proletariat at large in the eighteenth century. The pirates jokingly refer to each other as “sad dogs” (suggesting a communal recognition of their lowly appearance in the eyes of the establishment) but they are also clearly proud of their sailing skills—their ability to “hand, reef and steer”\textsuperscript{[18]} — and their mastery of the floating world between “stem and stern.” The trial also illustrates the pirates’ sharp awareness of the hypocrisies of the bourgeois legal system. Even as they attempt to work the law to their own advantage, the pirates sense that they can expect scant justice from a court designed to discipline common sailors and maintain hierarchical relations of production even on board ships in far off waters. They know full well that the courts are more interested in making an example of unruly workers than in preserving their rights or protecting them from workplace abuses—abuses, such as corporal punishment and the withholding of wages, food and grog—that led many of them to mutiny and piracy in the first place. Then as now, the propertied interests of owners and investors took precedence over the interests of wage laborers, and the legal establishment of the eighteenth-century Atlantic world regularly disposed of the lives of
working men and women who stepped out of line and endangered the profits produced by maritime capitalism. The ridiculous miscarriage of justice presented in the pirates’ travesty of a trial is grimly humorous because it is based on stark, historical realities. The rebel sailor who got between the owner and his “dinner,” no matter his motives or his desperation, could always expect a quick trip the gallows.

In making these observations, my goal is not to further romanticize pirates — men who were often violent actors in a maritime world known for its brutal and dehumanizing practices. We should not forget that unlike the fictional abolitionist pirate Captain Mission, the captain of The Black Joke — Benito de Soto — actually sold the African slaves he captured; and while many pirate communities developed egalitarian ideals in opposition to the strict work hierarchies found in the Atlantic economy at large, they were also often quick to steal from each other and from other victims of “primitive accumulation.” Having said this, however, I would suggest that we need to evaluate these pirates not simply as colorful literary figures or as the treasure hungry maniacs found in Hollywood films, but as members of a troubled but decidedly anti-authoritarian working class community formed in opposition to the disciplinary regime of the modern capitalist world-order emerging in the eighteenth century.

Some pirate enthusiasts have cast late-seventeenth and early eighteenth-century pirates as democratic freedom fighters and communist revolutionaries avant le lettre—a vision encouraged by accounts of fictional pirates like Captain Mission. However, this is undoubtedly a romanticized oversimplification of complex historical realities. Though common pirates had close connections to a maritime workforce with legitimate labor grievances and a growing political consciousness, the actions of pirate crews were driven by desperation and misdirected violence rather than by a unified political ideology. This does not mean that these pirates should be dismissed as simple criminals, however. In his innovative 1959 study of Social Bandits and Primitive Rebels, historian Eric Hobsbawm understands feudal bandits and brigands as “pre-political” rebels. They arise from an impoverished peasantry — a class that is “in perpetual ferment but, as a mass, incapable of providing a centralized expression of their aspirations and needs.” As an enemy of the landlords, the social bandit comes to embody the desire for escape and revenge found in the underclass population at large — this is why he and sometimes she is often turned into a folk hero — but the fragmentation and poverty of the peasantry prevent the bandit from being more than an isolated voice of violent dissent. This does not mean that their rebellion is meaningless, however. “If their way was a blind alley,” Hobsbawm declares, “let us not deny the longing for liberty and justice which moved them.” I would argue that a similar understanding should apply to many of the common sailors turned pirate in the eighteenth century.

Like Hobsbawm’s social bandits, pirates became celebrated figures of anti-authoritarian rebellion because they spoke to the frustrated desires of a wider population. This is especially true of the pirate as folk hero. The pirate came to embody and sometimes cleverly articulate the worker’s dream of a life of relative ease, freedom from backbreaking work routines, and escape from the master’s discipline and the master’s law. The pirates’ violence also spoke to a desire for revenge against the bosses, the overseers and the system in general — the desire to destroy the world as it is rather than put up with its cruelties and indignities for one more day. This combination of fantasy and rage may not add up to an effective political program, but it expresses an understandable response to the injustices of an economic order that
enriched a relatively small class of owners while leaving their workers trapped in grinding poverty. It is also important to note that the material realities of the maritime workforce — their global contacts and growing literacy — made it a stronger force for rebellion than the rural bandits of the feudal world. Eighteenth-century pirates may not have been successful political agents, but many of them were disaffected members of a working class community with a global reach. Their connection to the hopes and desires of this community should not be discounted.

Of course, we should recognize that not all pirates shared this working-class world view. Some pirates, like the famous Captain Kidd (d. 1701), were officially sanctioned privateers who plundered foreign shipping as part of a semi-legal business practice which eventually turned sour and fell afoul of the law. The “gentleman pirate” Stede Bonnet (d. 1718) was actually a moderately wealthy plantation owner from Barbados who reportedly embarked on a life of piratical adventure because of marital difficulties at home. However, despite these colorful, middle class exceptions, most acts of piracy in the eighteenth century were committed by common sailors who emerged from the large seaborne workforce at the base of the Atlantic economy of this time period. The instances of pirate humor examined in this essay should thus not be classified as mere literary fictions or the insolent actions of a few flamboyant criminals. There is more to them than that. The gallows humor of these particular pirates can be best understood as a high-profile and perhaps sensationalized example of the anti-authoritarian sensibilities of the maritime working class at large. Eighteenth-century sailors were known to be restive and incorrigible, and the pirates merely sharpened these widespread tendencies in their outright defiance of the established order.

Finally, I would like to conclude this investigation of pirate communities and their grim sense of humor by suggesting that the “Golden Age of Piracy” defined by nautical historians and the “Golden Age of Satire” celebrated by literary historians should be understood as interrelated developments. The same Atlantic economy which helped to create and enrich the literate bourgeoisie of the eighteenth century— the chief audience for writers such as Daniel Defoe (1661-1731), Jonathan Swift (1667-1745), Montesquieu (1689-1755), Voltaire (1694-1778), Benjamin Franklin (1706-1790) and others — also created a class of literate and politically conscious sailors. The pirate became a convenient outsider figure/device for bourgeois satirists with an ax to grind against aristocratic privileges and monarchical despotism, but the choice of the pirate as a figure of rebellion in literature was certainly no accident. It is a literary echo of the disaffected rumblings of an increasingly large and irreverent class of maritime wage laborers produced and immiserated by mercantile capitalism in the eighteenth century.

Notes
2. For example, see Wendy R. Katz, “Introduction to Stevenson’s Treasure Island.” Treasure Island. (Edinburgh: Edinburgh University Press, 1998.) A more casual example of this Bakhtinian approach to pirates can also be found in the Publisher’s Weekly review of historian Marcus Rediker’s Villains of All Nations: Atlantic Pirates of the Golden Age. October 20, 2004.
4. The title of Franklin’s essay is ironic in that it comes to mean the opposite of what one might expect. In every anecdote of Indian and colonist interaction he recounts, the natives are polite and open-minded while the European settlers are rude and intolerant. The implication, of course, is that the true “savages of North America” are the colonists rather than the Indians. See Benjamin Franklin, “Remarks Concerning the Savages of North America.” The Bagatelles from Passy. Ed. Claude A. Lopez. (New York: Eakins Press, 1967)


6. Although I know of no direct connection between the two texts, Johnson/Defoe’s 1720 tale of a globetrotting young man accompanied by a guiding philosopher is strikingly similar to the 1759 story of Voltaire’s Candide. The dashing characters of Mission and Carricioli lack the hilarious naiveté of Candide and Dr. Pangloss, however.

7. See Christopher L. Miller. The French Atlantic Triangle: Literature and Culture of the Slave Trade. (Durham: Duke University Press, 2008), 73-75. Miller’s basic argument is that Voltaire and other eighteenth-century philosophes used slavery as a powerful metaphor for despotism and religious superstition in Europe while also ignoring and financially supporting its continued existence on Caribbean plantations.

8. Miller, 69


12. As Herman Melville famously points out in Moby Dick, the rather anachronistic whaling industry was a rare exception to this trend. Whalers continued to be paid by a share long after other maritime industries had switched over to wage labor.

13. Rediker, 118-119

14. Defoe, 235

15. Defoe, 292-294

16. In their pardon petition, Anstis’ pirates reportedly declared “That we your Majesty’s most loyal Subjects, have, at sundry Times, been taken by Bartholomew Roberts, the then Captain of the abovesaid Vessels and Company…and have been forced by him and his wicked Accomplices, to enter into and serve, in the said company, as Pyrates, much contrary to our Wills and Inclinations” Defoe, 290.

17. Defoe, 293

18. Defoe, 293


21. Hobsbawm, 21
22. An early and influential account of the lives and crimes of Major Stede Bonnet and William Kidd can be found in volumes one and two of Johnson/Defoe’s *A General History of the Robbers and Murders of the most Notorious Pyrates* (1724)

The Pirate and the Colonial Project: Kanhoji Angria

Derek L. Elliott In the annals of Indian Ocean history the foremost pirates of the West Indian coast were Kanhoji Angria and later his sons. Today largely forgotten, Angria founded a dynasty in the late 1690s that became the main obstacle to the rise of the English East India Company (EIC) as a hegemonic power in the Bombay region. The Company tried to suppress the maritime depredations of the powerful Angrias for more than fifty years, yet to no avail. Eventually only a joint Anglo-Maratha force of over 10,000 troops and 100 vessels was able to put an end to the dynasty. In their day stories of Angrian piracies were popular and widely printed. The only problem with such stories is that the Kanhoji Angria was not a pirate at all, nor were his progeny. Instead, they were the commanders of the navy for the Maratha Confederacy. The EIC knew this was so and recognized Maratha rights to sovereignty and referred to the Angrias as agents of that state. For example, on May 24, 1724, William Phipps Governor of Bombay penned a response to Kanhoji Angria warning, “any state bordering upon a neighbour that lives on plunder and robs under colour of friendship must necessarily be careful for their defence.” Angria was and had been careful. Over the previous seven years the Company had launched five major attacks against the Angria’s coastal fortresses. All without success and all causing a great many more deaths among the invaders than the defenders.

A study of this little remembered figure in early colonial history allows for an engaging exploration into how Indian polities interacted with the incursions from European mercantilist companies. Far from the standard narrative of an all-powerful West forcing itself upon a weak East, Indian states were able to compete, on equal footing, with Europeans. Indeed, only through actions of intense violence, and in conjunction with other Indian polities, were Europeans able to impose themselves in South Asia. Demonstrating that there were no forgone conclusions to European supremacy in the subcontinent Angria stands as a prominent figure that fought successfully against three European and several indigenous powers for over half a century. As a result has Angria has become a defender of indigenous sovereignty and been adopted as an early figure of resistance to colonial incursion. Though his sons carried on his legacy, this analysis will only focus on the founder of the Angria dynasty Kanhoji, who died undefeated in 1729.

Precisely because the dichotomy of Kanhoji as pirate and as naval commander persists, the case allows for a unique exploration into how histories are created and carried forward in distorted forms to engender new discourses serving particular political entities. Colonial misconceptions and manipulations have been handed down in the historiography by generations of historians who have uncritically accepted and adopted metropolitan perceptions and definitions of indigenous institutions in pre-colonial India. First, agents of the colonial project in the form of adventurers and employees of the Company chronicled the Angrias in picaresque narratives laden with the prevailing orientalist, racialised, and Eurocentric sentiments of the day. These perceptions were carried forward by another generation in the nineteenth century through the scholarship of official Company historians such as Robert Orme and other independent researchers. Though these studies did advance knowledge and understanding of Indian history they too nevertheless carried the prevailing racialised sentiments of their day. Nothing substantially differed in the early 1900s when
trend of the metropole writing the history of the colony continued.\textsuperscript{[5]} Perhaps not unsurprisingly, it was the Indian scholars themselves who, in the mid twentieth century, brought about the most significant reinterpretation in the historiography of Angria. Informed by the political sentiments of post-independent India, Kanhoji was now seen not as a pirate but rather as an early resister to colonial incursion.

In part this was due to the Angria’s role within the Maratha Confederacy. The latter was lauded as the first true Indian empire because it was the first indigenous Hindu empire that successfully fought a succession of military campaigns against the Muslim Mughals. In this light the Marathas become a source of nationalist pride. Thus under the politics of partition the role of Kanhoji as a naval commander and not as a pirate was finally brought to light in scholarship.\textsuperscript{[6]} This sentiment pervaded the popular imagination to the point where one of the first warships of newly independent India was named after Kanhoji Angria who was now adopted as the father of the Indian Navy.\textsuperscript{[7]}

In the wake of India’s independence, and as scholarship moved forward, nationalist interpretations of history were re-examined and balance was brought to historical analyses of the Marathas, but not so of Angria. Instead the nationalist rendering has since been largely dismissed outright yet not replaced, whereas the Marathan history was corrected and subsequently built upon. Considering that Kanhoji went from being a sub-section of Indian history to, more currently, rarely more than a footnote, this is hardly surprising. The outcome has been a revival in the acceptance of nineteenth and turn of the century British interpretations of whom and what Angria was — namely a pirate, without a critical engagement of the archival or compiled primary material. For example, one author surmises in a summary on the rise of the Angrias in “the weakening of Mughal rule…predation was under the leadership of the Angria family, initially on the behalf of the rising Hindu Maratha power and later for itself when Angria squadrons menaced all shipping off the west coast of India.”\textsuperscript{[8]} Adopting the established ‘Angrias as pirates’ paradigm has continued to obfuscate the nature of the Angria dynasty and how it interacted with European and South Asian polities. This is true even of many of the leading Indian historians who continue to categorise all the Angrias as mere pirates and reactionaries against British incursion.\textsuperscript{[9]} In summary, what occurred in the past and was carried forward into current scholarship has been a miscontextualisation of Kanhoji’s role within the Maratha polity. This has transpired not only from an uncritical acceptance of previous academic work but also by removing Angria’s story from its geopolitical and historical contextual environment.

According to Maratha chronicles, Kanhoji first rose to prominence when he received from Martaha Emperor Sambhaji the command of the coastal fortress at Survarnadurg in 1688. Eleven years later Sambhaji’s successor Rajaram bestowed upon Kanhoji the command, or subedar, of the northern section of the Konkan coast, the area surrounding and to the south of Bombay harbour.\textsuperscript{[10]} Angria began using his fleet to extend Maratha sovereignty over their littoral. The method of such political articulation was the pass, also know as the carteaz, “according to the ancient Form established by the Portuguese” when they first arrived in the Indian Ocean at the close of the 15th century.\textsuperscript{[11]} Since then the pass had become established as an Indian Ocean institution and formed the basis of how political power was negotiated on the seas.\textsuperscript{[12]} In a telling example, a Dutch East India Company employee reported to his superiors that conditions were such that “…it does not appear probable that this trade alone [Surat to Masquette, a port in Arabia] or the transport of the Company’s commodities would
make good the expenditure they have to incur, since passes have to be obtained from the Angrias…the English and the Portuguese, in coming and going.”[13] The method of enforcement for the pass was simple: trade routes and ports were patrolled and ships were inspected. Those found not in possession of a pass were seized, along with their crews and goods, to be later ransomed. Clement Downing provides an example of being stopped by one of Angria’s vessels during a period of concord between the Company and Angria in 1716,

> Then they ask’d where we belong’d to, or whether we had a Pass from the Governor of Bombay; I told them yes, tho’ I did not at that time rightly know so much. They never offered to misuse us, nor do us any manner of Harm; only detained us four or five Hours [while the lead EIC ship in the convoy arrived at the scene]…They releas’d us soon after the Captain came off with the Pass.[14]

Within a few years of his rise to power Kanhoji had established the Marathas as a sovereign power over sea and land in contrast to the traditional role of Indian power, as land-based only. The Company for its part had spent the better part of the last century establishing its dominance in the region. The Portuguese, though present were a diminished power. The Dutch too were on their way out, finding it more profitable to concentrate on their holdings in the Moluccas. The Mughals and the EIC had come to an accommodation in the region by reciprocally recognizing each other’s dominance and jurisdiction on land and sea respectively.[15] As a result this allowed the EIC to control regional maritime trade and shipping charges as they saw fit. The Marathas, by claiming control over the same section of coast, challenged Bombay’s recently established power and disrupted the shipping of the Company to the effect of 70,000 rupees out of Surat alone in 1707.[16] The response from the EIC was quick and certain. They sent an emissary to Kanhoji in 1703 to tell him that

> he cant be permitted searching, molesting or seizing any boates, groabs or other vessells, from what port, harbour, place of what nation soever they may be, bringing provisions, timber or merchandize to Bombay…without breach of that friendship the English nation has always had with Raja Sevajee and all his Captains in subordination to him.[17]

Kanhoji replied by asserting the sovereignty of the Maratha state over the rights of the Company, making it clear that the EIC was operating in India on Maratha terms, not their own. Angria informed Bombay that they, “the Savajees,” had been at war with the Mughals for over forty years and they would continue to “seize what boates or other vessell belonging either to the Mogulls vessells from any of his forts or Mallabarr, excepting such as had Conjee Angras passports; the English being at liberty acting as they please.”[18] Angria continued to search out vessels that failed to purchase his pass and the English continued to consider this behaviour piratical. An assessment of Angrian piratical practices can only properly be seen if Kanhoji is placed within the larger political framework of which he was an integral part.

Ever since the founding of the Marathas by Shivaji in 1674, they had been at war with the Mughals. This was an almost constant feature of the Maratha state and would lead eventually to the weakening of the once mighty Mughals. However, the Marathas were also fighting a civil war during the early eighteenth century over a succession dispute between the reigning Queen Regent Tarabai and Shahu, the proper heir to the throne. Shahu had been held
in captivity by the Mughal Emperor for eighteen years and escaped in 1707 amidst the chaos resulting from the Mughal’s own succession dispute following the death of Emperor Aurangzeb. Once free Shahu challenged Tarabai’s legitimacy over the throne and within a year had developed a following among some of the deshmukh, or noble influential landholding families who made up the Confederacy. Angria was a strong supporter of Tarabai who in return gave him the title of Sarkheil, or commander, of the navy in 1707.\[19\] By 1713 Tarabai’s power was in decline. Her strongest supporter remained Angria yet in that same year Shahu sent his Peshwa, Balaji Vishvanath, to attempt to bring Angria over to their side. They were successful, Angria in return receiving several more forts and territory among other privileges.\[20\] Soon after, Tarabai’s support collapsed altogether and she removed her claims from the throne after a period of imprisonment. Angria was clearly a prominent figure in Maratha politics, and not his own sovereign as so often claimed by the Company, who played key roles domestically as well as internationally through his maritime policies.\[19\]

Angria was and could afford to be aggressive in the extension of Maratha control over their littoral because the EIC was relatively weak. Bombay, Downing\[21\] remembered, “was unwalled, and no Grabs or Frigates to protect any thing but the Fishery; except a small Munchew.” It would remain so until December 1715 with the arrival of Governor Charles Boone. Under his authority the Company built 25 vessels within a year, carrying from five to thirty-two guns each, at the cost of £51,700.\[22\] Now with offensive and defensive capabilities established, an attempt could be made to bring Angria, the upstart Maratha power, to the Company’s terms and become once again the undisputed power over the seas.

The first target was on the island of Kenerey situated at the mouth of Bombay harbour. This had been under Angria’s jurisdiction for the past four years when Emperor Shahu transferred its administration over to the admiral.\[23\] Two frigates, the Fame and the Britannia were sent with a company of sepoys to attack from land and sea the fortress of Vingorola. They were joined by another frigate, the Revenge and a dozen or so gallivats (small oared twin-masted sailing vessels) to land the troops. They were joined by another frigate, the Revenge and a dozen or so gallivats (small oared twin-masted sailing vessels) to land the troops. Biddulph\[24\] claims the force returned after unsuccessfully bombarding the fort and being unable to even land the troops for the main assault. The expedition’s leader was blamed for the failure, accused of being a coward, and dismissed from service. Later the same year another force was assembled of over twenty vessels and 2500 European soldiers and 1500 sepoys and topasses. The target was Kanhoji’s headquarters: the fortress of Geriah. This undertaking too proved a failure. The only result was to declare the castle impregnable at the cost of two hundred men killed and three hundred “dangerously wounded.”\[25\]

In early November 1718, the same fleet that had attacked Geriah was sent to Kenery to make another attempt on the fortress. The besiegers brought their broadsides to bear on the fortress and “cannanaded the Island very hott, lykewise the Island them.”\[26\] The barrage was kept up from the 3rd of November till the 5th when troops were landed but forced to hold back due to the “brisk Fire the Enemy made, and the cowardice of two of the Land Officers.”\[27\] The 6th and 7th of the month also saw attempts at gaining access to the fortress but these too were repelled, though “more by the force of stones hove from the rocks than fier arms”\[28\] causing “several of our Men killed, or rather massacred, when they made this sudden Retreat.”\[29\] On November 8, the attack was called off.
Governor Boone proved himself not to be one to give up easily. Over the following year, while negotiating a peace settlement with the Marathas and receiving compensation for goods and ships seized by Angria to the amount of 22,000 rupees, preparation for another all-out assault on Geriah was planned. Boone was also trying to bring other polities into alliance with the Company against Angria such as the Persians, prominent Surati Mughal merchants, and the Siddis. Fortunately for Angria these negotiations all came to naught. Boone also had a new type of ship designed and constructed for the attack called the Phram, “the great and mighty floating machine” which had a large strengthened deck and shallow draught and could thus be towed in close to fortress walls in order to cannonade them. As was typical for the period a factory employee led the expedition, Walter Brown, who commanded from the deck of the London whose Captain, J. Upton had left an account of the battle in the ship’s logbook.

According to Upton they sailed down to Geriah on the 21st of September 1720 and began the assault the following day. Brown having no military experience ordered troops ashore without first softening Geriah’s defenses or making sure to secure his troops’ retreat. The result was six soldiers dead on the first day “besides about twenty wounded.” Some of his own forces had yet to even arrive from Bombay, including the Phram. When it did arrive, the vessel was put into action immediately and found to be defective in the design of its hull openings causing the protruding cannons to not even be able to “fling a balle Pistolle shot out of the water, the mussells of her guns pointing directly down.” For the next several days the force from Bombay sat in the harbour of range of Geriah’s guns beset by problems with the officers and men “drinking from morning to night and noe command carryed.” A landing force was again organised for the 29th and ended in fiasco when one of the Phram’s guns exploded killing the five sepoys manning her. After several more days of “continual disturbances in the ship dayly by the Officers excessive drinking & noe manner of Command carryed,” the fleet finally weighed anchor to attack another of Angria’s forts, Tamana, to the south near Goa. This was at the request of a local potentate and Captain Upton opined that Brown used this as an excuse to abandon the failure that had become their attempt on Geriah. Subsequently the allied potentate never appeared with troops to assist in the taking of Tamana and as a result Brown ordered the fleet to return to Bombay. On the way back the Phram was purposely set alight and scuttled.

1721 saw the most ambitious attack yet: a joint operation with the Portuguese starting in November to take the island and fortress of Kolaba. This time the Royal Navy was brought in under the command of Commodore Matthews and thereafter no non-military Company servants led military expeditions. The Portuguese were to march overland a short distance from their own territory in Chaul with 2,500 land forces while the EIC were going to supply a similar force with the addition of five ships, on top of the Royal Navy, to bombard the fortress from the water and land artillery on shore. When victorious, the Portuguese were to receive Kolaba and the EIC Geriah. Both parties agreed to be full allies and not to enter into separate peace with the enemy. Commanding on the Portuguese side was the Viceroy of Goa himself, Don Antonio de Castro and the General of the North. Kanhoji, having learned of the planned attack, had earlier been able to secure the assistance of 25,000 of Shahu’s troops, which were on their way from the ghats.

Almost from the start the campaign was beset by problems. There was little co-ordination between Commodore Matthews and the Viceroy. Clement Downing, who was present at the
battle offers an interesting, if not one-sided, account of it and states the English, “came boldly up to the Castle-Walls...where they pitch’d their Scaling-Ladders and gallantly ascended the Walls” meanwhile,

The Angrians came down in a great Body, with several Elephants; which the General of the North perceiving, he broke the Order of his wing [and...] the whole Army fell into Confusion. So soon as the Enemy saw that the Portuguese were on the Retreat, and the whole Army was confused, they came down upon them, and made a terrible Slaughter amongst the English Soldiers and Seamen; great part of our Artillery was taken with most of the Ammunition.\(^{39}\)

The ‘Angrians’ Downing refers to here are the Maratha forces sent to assist Kanhoji. Due to the day’s debacle, “the Commodore come on shore in a violent Rage, flew at the General of the North and thrust his Cane in his Mouth, and treated the Viceroy not much better.”\(^{40}\) At this juncture, the Portuguese, seeing a loophole in their agreement, decided to open negotiations with the other Maratha commander. As the EIC labelled Angria a pirate they did not consider waging war on him to be waging war on the Maratha. This left the Portuguese open to conclude a separate peace with the other Maratha general. Of this Downing wrote, “the Angrians defeated us this time, entirely by the Treachery of the Portuguese, who seem’d to design only to lead our People on, and then to leave them in the lurch.”\(^{41}\)

The British force arrived back in Bombay in early January. Governor Boone, whose replacement William Phipps had been waiting in Bombay for over several weeks in order for Boone to end his tenure on a victorious note, took over on January 9, 1722. Thus ended the failed military ventures of Governor Boone.

Bombay went on the defensive. It was told by London that its “warlike preparations against Angria has been too excessive to be longer supported by us [the EIC]” and that they were only to “maintain no more than sufficient to defend ourselves from Insults between Surat Bombay and the neighbouring places.”\(^{42}\) Furthermore, the English were losing allies. The discord with the Portuguese over the manner in which their failed joint expedition resulted was exploited by Kanhoji, who offered the Viceroy very favourable terms to come to peace. The Company complained bitterly that the Portuguese had even “Harbour’d Angrias Vessells when pursused [by the EIC]” and when confronted by Angria’s ships at sea the Portuguese “would not give the English any assistance.”\(^{43}\)

The years 1722 to 1729 saw Angria consolidate Maratha control over the Konkan region mainly at the expense of local potentates allied to the Mughals or European powers such as the Portuguese when their alliance broke down. On the seas Angria’s ships continued to enforce the pass on European and country vessels alike. The sheer firepower of British trade vessels made them difficult targets, compounded by the fact that the Company’s ships now sailed in convoy. These years are filled with both failures and successes in Angria taking British prizes. Minor skirmishes at sea made up the bulk of the military interaction. On the diplomatic side, Angria and Governor Phipps exchanged a series of letters in attempts entreat with each other. However, lack of trust and unwillingness on both sides for the cessation of hostile activities while negotiating seemed to kill any agreement before talks got off the ground.
Angria died in 1729, having never lost a battle against the English. Neither had the Company ever seized any of his vessels at sea. The only victories the EIC had over Angria were defensive ones. Of course this would change but it would be over two decades for this to occur. Angria successfully extended Maratha sovereignty over the seas against not only the English company, but also the Dutch, and the Portuguese *estado*. Nevertheless, in spite of such glaring evidence to the contrary why then did the English persist in labeling Angria as a pirate, “Rebel Independent of the Rajah Sivajee?”

Partly this could be due to the confusion and subjectivity over where loyalties lay during the Maratha civil war. If one determined that Shahu had always been the legitimate Emperor of the state then those who supported Tarabai, like Angria, could be considered as independent from the Marathas. However, this view still ignores that fact that on one side or the other, both were still Marathas. Kanhoji never acted or saw himself as separate. The Company knew this as early as 1706 when Angria wrote to them during a treaty negotiation that he could accept the agreement offered, "provided the terms of friendship are agreed upon with the Rana [Tarabai]." A commander checking with his sovereign is hardly acting of his own accord. Malgonkar contends that one reason the EIC labeled Angria as a pirate was so that they could write off the losses incurred by the latter with insurance companies. There may be some truth to this, though more research needs to be carried out to substantiate the claim. If the Company were fighting an active war with the Maratha Confederacy insurance for its vessels or goods may have proven costly to purchase or may have been denied outright. Furthermore, the EIC had only 30 years ago concluded a war, initiated by themselves, with the Mughals that ended on disastrous and embarrassing terms for the Company. Outright warfare with another Indian empire was not going to find many supporters, especially in the wake of the failures of Boone’s military ventures. These expeditions demonstrated the fallacy of trying to bring Angria to terms on land. On water the Company had not fared much better because though the Company’s ships were superior technologically and militarily, they could not out-maneuver Angria’s small, lightweight, and faster vessels. Furthermore, as in all cases when the British tried to suppress another force on the water, their large ships could not pursue the lighter vessels into the shoals or shallow estuaries. The Marathas for their part could not afford to wage open warfare with the English either as it probably would have resulted in the English joining forces with the Mughals, with whom the Marathas were already in active hostilities. Even if this did not occur, opening another front was not in Maratha’s best interests. Allowing Kanhoji to fight the Company and sending reinforcements to his aid when necessary was a more economical strategy that more-or-less supported the political status quo.

Angria was no more a pirate than was any other admiral defending their state’s territorial shores through the accepted methods of the day. In the Indian Ocean of the early 18th century this was accomplished through the pass system, a European introduction. Trying to put indigenous and European piracy in the Indian Ocean into cultural relativist terms historian Patricia Risso writes the “[l]ack of details about Kanhoji’s loyalties and objectives generates some confusion about his status.” However, this is only so if one relies on the contradictory European archival and historical records. Indian Ocean scholar Ashin Das Gupta made a useful and valid point when he cautioned against writing Indian history from European sources as they often only incorporate India into the record where it serves as part of a wider European story. The archives in Marathi are all quite clear on Kanhoji’s being an integral part of the Maratha Empire in the capacity of the commander of the navy.
As an agent of the Maratha state, Kanhoji cannot be classified as a pirate according to legal scholar William Hall because,

A pirate either belongs to no state or organised political society, or by the nature of his act he has shown his intention and his power to reject the authority of that to which he is properly subject. So long as acts of violence are done under the authority of the state, or in such way as not to involve its suppression, the state is responsible, and it alone exercises jurisdiction.[81]

Angria received assistance from the larger Maratha army when necessary and made frequent reference to his subordinate status in letters to the EIC. Interestingly, as has also been demonstrated, the EIC was not consistent in its classification of Angria as a pirate as they would refer to him as subordinate to the “Raja Sevaje.” Furthermore, the English company had reasons, mentioned above, to not hold the Maratha state responsible for Angria’s actions as this could potentially lead to another war with an Indian Empire.

Angria did successfully challenge European incursions for several decades. However, the enforcement of the pass system also meant that many more country traders, or indigenous merchants, were captured than were European vessels. In this light perhaps Kanhoji makes a better nationalist, rather than national, hero. The rendering of Angria as a folk hero and resister of colonialism has brought out an interesting contradiction as Kanhoji fought against empire as an agent of empire. In doing so it also exemplifies the binary definitional categories that have characterised the historiography of Angria: pirate, Hindu national hero, father of the Indian navy, early colonial freedom fighter. Many of these false constructions served special interests. The rendering of Angria as a pirate by the EIC acted to defame and vilify a figure that, embarrassingly for the Company, put early European colonialism to the test in India. Indeed, Kanhoji was never beaten despite the best efforts of the Europeans demonstrating that the eventual dominance of Europe over south Asia was not a foregone conclusion. More than most cases, Kanhoji Angria stands as a stark example of what happens when the victors write history.

Notes


18. IOR/P/341/2, 90.


23. Sen, 12.


27. Anonymous, 50.
28. IOR/L/MAR/B/703A.
29. Downing, 39.
32. Downing, 48.
34. IOR/MAR/B/313A.
35. IOR/MAR/B/313A.
36. IOR/MAR/B/313A.
37. Biddulph, 64.
38. Malgonkar, 250-251. Malgonkar does not cite a source directly for this number though he probably received it from Marathi chronicles, which, while factual, are known for their romanticising of events. Shahu’s force was probably large but this number should be treated with some skepticism.
39. Downing, 58.
41. Downing, 59.
43. IOR/H/60, “The United East India Companys Answer to the Portuguese Envoys Memoriall Complaining of Outrages Comitted by Mr. Phipps Governor of Bombay,” in *APAC* (London: British Library, 1723).
44. Biddulph, 37.
45. IOR/P/341/2.
46. Malgonkar, 133.
48. Indeed this was a problem experienced universally when trying to establish jurisdiction or bring justice to known pirate haunts. The British struggled with it for years and never did actually solve the problem. For a good description and history of the problem see the Peter Earle, *The Pirate Wars* (London: Methuen, 2004).

Unravelling Narratives of Piracy: Discourses of Somali Pirates

Muna Ali and Zahra Murad

Earlier this summer, we were both at the Harbourfront Centre, on Toronto’s waterfront, watching performers do magic tricks for children and families. One of the performers was dressed as a pirate straight out of Walt Disney films, such as *Hook*[^1] and *Pirates of the Caribbean*. He had a parrot on his shoulder, long leather boots, and a skull and crossbones hat. While he was introducing himself, he made a point to say he was a good pirate “unlike those nasty pirates out of Somalia.” This performer juxtaposed his pirate character against Somali pirates by creating a good/bad dichotomy. His pirate character represented the mischievous but good-hearted pirate constructed in Disney films. The Somali pirate, on the other hand, represented a threat to the safety of all people.

Piracy has recently recaptured the imaginations of the Canadian public. The issue of Somali piracy has become an almost overnight concern to North Americans, becoming the next in a seemingly never-ending series of disasters and social atrocities that mark the limit of North American understandings of East Africa generally, and Somalia in particular.

In this paper we are focusing on the West and its relationship to discourses of piracy off the coast of Somalia. We are however, aware that countries not considered to be part of the ‘West’ – South and East Asian nations, Arab League nations and nations in Eastern Europe – are also implicated in and are active agents in these discourses.

In this article, we are looking at stories about pirates. We use ‘story’ to mean discourses, tales we tell about ourselves and others that lend meaning to our lives and contextualize our environments. Here, we are looking at good pirates and bad pirates and, within this political moment, which kind of pirate Somali pirates are being storied as. What are the stories the media is telling about Somali pirates? What are the stories Somali people in Toronto are telling about Somali pirates? And what do all these stories mean? When we were young, many of us learned that stories have morals – that tales we tell each other convey not only entertainment or information, but meaning and cautions and wisdoms as well. As academics, we learn the same about discourse. There is a discourse being re/created about pirates in the media. The stories of the good pirate and the bad pirate are raced, classed, geographically and historically located, and draw on older, larger stories of colonialism, capitalism and racism to tell their tales. What are the morals of these stories?

Through a discourse analysis of instances in recent media, and through a relaying of stories from Toronto-based Somali communities, this paper seeks to understand both what the stories are, and what morals they tell. We acknowledge that the people referred to by the media as ‘pirates’ have consistently identified themselves as Somalia’s Coast Guard. Our use of the word ‘pirate’ to refer to them is not a refutation of this identity. Rather, we use ‘pirate’ because we focussed this paper on an inquiry into what the discursive work of the coverage around Somalia’s Coast Guard is, and not on an affirmation or condemnation of the Coast Guards themselves. In order to remain consistent to the analysis we present here, we have chosen to use the term ‘pirate’.

[^1]: Hook
We begin by examining the trope of the ‘good’ pirate. Pirates have featured as well-loved characters and amusing villains in children’s fiction for years, and have recently recaptured hearts in the form of Disney’s *Pirates of the Caribbean* trilogy.[2] In this section, we examine the construct of the ‘good’ pirate, what narratives allow him to exist and what the work of these narratives might be. Using our understanding of the construct of the ‘good’ pirate and what he symbolizes, we then deconstruct the ‘bad’ pirate, looking specifically at media attention to Somali piracy. In our last section, we present some of the stories from interviews conducted with eight people born in Somalia and living in Toronto. All of the interviews are presented here in English, but four were conducted in Somali and translated for this paper. We conclude by bringing together some of our discourse analysis and the wisdom shared by our interview participants to create an alternative understanding of the situation for Somalia’s pirates, and of the construct of pirates and piracy.

**The Good Pirate: Meet Captain Jack Sparrow**

To say that pirates are portrayed in popular media as either ‘good’ or ‘bad’ is perhaps an oversimplification. For years before Somali pirates were shoved into the spotlight, pirates have captured imaginations in stories for children and adults. People have been telling stories about pirates and piracy in the “New World” since the Golden Age of piracy in the 16th and 17th centuries.[3] Pirates have figured prominently in the histories of settler-colonies in North and South America and have, at various times, been portrayed as indigenous/runaway slave heroes, lower class heroes, outlaws, criminals and merciless villains. In mainstream representations, the element of racialization and colonization in both the motivations and identities of pirates has been obscured or overlooked. The representations are, nevertheless, raced and positioned within a simultaneously historical and ahistorical context of colonialism and imperialism. The story may not always be set in ‘real’ history, but some combination of elements of a context for piracy – fictional or not – are present, albeit in the background; savage natives, wealthy people, and an environment in which there is either no stable legal authority, or where that authority is far away. These elements are not a natural part of the global environment. However, in creating an ahistorical tale using historically contextual tropes and issues, pirate-stories often set these aspects up as natural, making them seem inevitable. Thus, the sympathetic pirate is likable because he is good deep down, and the unsympathetic is simply rotten. These historical elements are telling, and contextualize pirates as a socio-political phenomenon that is neither ever ahistorical nor apolitical. Instead, these elements make clear that pirates and piracy are perceived to exist in situations where a system of law is absent or in conflict and where social inequity and colonization are material factors. It also indicates that who we perceive as ‘good’ or ‘bad’ pirates might be determined along these same lines of racialization and colonialism.

In this complicated context (which is rarely outlined for viewers or readers but rather implied through a set of symbols and cues), pirates play complicated and shifting roles. They are not, perhaps, merely ‘good’ or ‘bad’, but are certainly pictured as either sympathetic or unsympathetic characters, both in fiction and in the news. Acting in difficult and often chaotic circumstances – like the early stages of settler-colonism or just after the collapse of a nation-state in an anarchic international community – pirates make wonderful material for slightly more complicated, conflicted and/or misunderstood ‘villain with a heart of gold’ characters. Sympathetic pirates are often used as variants on beloved diamond-in-the-rough, rebel-without-a-cause or Robin Hood themes. They are shown as rough-and-ready men who
are nonetheless charming, amusing or honourable enough to remain non-threatening. Unsympathetic pirates are often depicted as cut-throat and greedy, men who not only live outside the law, but outside any code of honour or conduct.

Disney’s immensely successful *Pirates of the Caribbean* trilogy gave audiences a new lovable and highly sympathetic pirate-hero. Captain Jack Sparrow’s adventures take audiences through a fictionalized world of stodgy colonials oppressing innocent white working class folks, sometimes honourable but always loveable white-skinned pirates, and disreputable, often evil mercenaries and pirates of colour. While the first movie is perhaps the best known, and each movie uses constructs of the pirate we are discussing here, the third movie (*At World’s End*) most openly and frequently brings into play racial and colonial power relations, though certainly in an uncritical manner. The movies portray pirates as an unruly and disorganized group, who pause in fighting one another only when they are forced to join together against the British. But while the final movie does give us one unsympathetic British character, pirates and colonials alike are shown as complicated, likable, conflicted or blundering – neither truly good nor evil, but people who are positioned by circumstance for or against one another. To this amiable melee of trust and betrayal, there must be added some element of the Other. The pirates of colour we meet in this trilogy rarely have lines, let alone character names. Captain Sao Feng, played by Yun-Fat Chow, is one of the two non-white pirates portrayed in the trilogy with significant roles. Yet he and his crew are written along a different set of rules than his white counterparts. While he, too, is created as a pirate without social or historical context, and is clearly a man of negotiable morality, he is neither particularly intelligent nor endearing. He is at his most charming shortly before his death, apologizing to Keira Knightly’s character, Elizabeth Swan, for attempting to rape her – all the while under the false impression that she is the goddess Calypso. Through Sao Feng, and other characters of colour, we see a cunning, intelligent, amusing, sympathetic white self develop that is contrasted not to an arch-nemesis or particularly villainous character, but to the simple-minded, petty and often incomprehensible pirates of colour.

What we see through the eyes of movie-going audiences is a world of adventure-hungry men (and occasionally women) who were either born into piracy, or else who become pirates either by coincidence or the machinations of fate. Why do pirates exist? There is rarely a reason presented in the text, and, interestingly, there is rarely a reason sought when the issue is discussed in the mainstream media. Read as a discourse about pirates, stories of fictional pirates teach us how to understand and interpret piracy as a social and political phenomenon.

What is the significance of fictional depictions of piracy to a deconstruction of media attention to Somali pirates? As we will lay out in the next section, Somali pirates are portrayed as either sympathetic or unsympathetic along three specific lines of tension: the protection of the West and its property, their identities as Muslim and therefore automatic links to terrorism and their depiction as either selfless martyrs or greedy villains. All three themes are expressed in relation to Somali pirates in a historic and political vacuum in the mainstream media. Context is either not given, or else paid lip-service in a sentence or two which is quickly contradicted. In this way, each theme is touched by the half-contextual nature of fictional representations of pirates – pirates pop up on their own and help create their context, rather than specific contexts creating situations in which pirates are necessary or possible. The third theme, of pirates as martyr-rebels or greedy villains, is further constructed within traditional conceptions of sympathetic and unsympathetic people of
colour. Somali pirates are set up as sympathetic based on their level of vulnerability or helplessness. When it becomes evident that they are, in fact, capable agents acting in spheres of moral ambiguity, they appear less sympathetic. This up-and-down game resulting from a perennial confusion as to how to read people of colour taking up arms and claiming a voice is reflected and dealt with in fictions about pirates. As we see in the escapades of Captain Jack Sparrow, stories about piracy are also stories about colonialism and white supremacy.

Denying Somali pirates the benefit of context is not simply an act of ignorance; it is in act of imperialism. In her book *Strange Encounters: Embodied Others in Post-Coloniality*, Sara Ahmed argues that the body of the Other, who we are often taught to recognize as strangers – either exotic or dangerous – is actually a rejected part of the Self.[5] To know someone is a stranger, after all, we must first recognize them. We recognize them as unfamiliar, as not us, and so reject them. Once rejected, the stranger becomes no more or less than what we are not – not a Self in their own right, the stranger is simply what we have rejected from ourselves. Thus reified, the Othered body is bereft of context of their own. They become bit players, or arch-nemeses, in the ongoing story of the Self. Somalia’s pirates are viewed within a narrow binary of good or bad, as sympathetic or repellent; more nuanced readings are made difficult because we view them only as villains in the West’s story of economic and territorial growth, resource acquisition and political domination. Somali pirates, as dangerous strangers at sea, are labelled as any number of things that all spring from an understanding of their existence only in relation to ourselves. As they are portrayed and understood through these ahistorical, acontextual channels they become, more and more, fairy-tale monsters capable of anything and incomprehensible to the Self.

The Bad Pirate: A Deconstruction of the Somali Pirate

In his song entitled *Somalia*, Somali-Canadian rapper K’naan asks, “so what you know bout the pirates terrorize the ocean?” K’naan follows this rhetorical question by stating:

“To never know a simple day without a big commotion. It can’t be healthy just to live with such a steep emotion. And when I try and sleep, I see coffins closing.”[6]

In this song, K’naan’s statement points to the significance of social, political, and historical context. As stated earlier, the story of piracy, whether in fiction or in the media, lacks an understanding of the root causes of piracy. Piracy does not just appear out of thin air. It is created as a result of a variety of factors including social inequities and colonialism. K’naan’s lyrics allude to the lack of discussion on the reasons behind piracy off the coast of Somalia. There is very little analysis of power, imperialism, and the West’s involvement in the creation of piracy in the media. In his interview with *Hard Knock TV*,[7] K’naan discusses the complexity of Somali piracy. He explains that Somalia’s waters have been the site for dumping toxic waste by several countries for almost two decades, and that the international community did not respond to the cries of Somali people. The result of this illegal dumping is piracy. However, the discussion of piracy in the mainstream media is a discussion of protecting the West from Somali people. There is little discussion implicating the West in the creation of piracy. K’naan ends his interview by stating, “if you want the piracy to stop, stop dumping nuclear toxic waste in our country.”[8]
Somali pirates are understood through ahistorical and acontextual channels and as a result have become fairly-tale monsters that bear no resemblance to the Self. Telling the story of Somali piracy without an understanding of the historical context is a form of imperialism. The power to narrate, or to block other narratives from forming and emerging, is significant to imperialism and imperialist agendas. On November 21st, 2008, the Canadian Broadcasting Corporation (CBC) radio program, *The Current* discussed piracy in Somalia. This episode of *The Current* attempted to demonstrate two sides of the Somali pirate issue by interviewing a man named Muse, who identified himself as a Somali Coast Guard, but who the host persisted in referring to as a pirate. Sunil Ram, a Security Consultant with Executive Security Services International was also interviewed. The host, Indira Naidoo Harris, conducted the interview with Muse first, followed by the interview with Ram. Muse explained the need for coastguards such as himself to stop foreign ships from entering Somali waters to dump nuclear waste. He stated that being constructed as bad guys or pirates was part of the “enemy politics of the West.” Muse added, “We are the defenders of Somali waters and land.”

Following Muse’s interview, Harris discussed the issue of piracy with Ram. Ram’s analysis of the situation lacked any sort of historical, social, and political analysis of current problems in Somalia. He simply critiqued and dismissed all of Muse’s points and experiences and offered ways in which Canadian ships can protect themselves when travelling through the Gulf of Aden. The safety of Canadians traveling through the Gulf of Aden was a major concern for Harris and Ram. Ram suggested starting with non-violent tactics, such as more sirens, stronger lighting systems, greasing the rails, and later using force if the situation escalated. *The Current* attempted to present an unbiased view of Somali piracy, however, they clearly demonstrated a bias. This was seen first in the familiarity with which the host spoke to Ram as compared to Muse and then in the strategic placement of Ram as the second interviewee, able to comment on Muse’s thoughts and to have the last word. The placing of Muse’s interview before Ram’s telling of piracy was a strategic way for Muse’s story to be dismissed and further separate the Canadian Self from the Somali Other. One of imperialism’s achievements was to bring the world closer together and at the same time further separate the West from the East. *The Current*’s attempt to discuss piracy demonstrates a further separation of Canada from Somalia. Nowhere in the discussion of piracy is Canada held accountable for its participation in the creation of piracy in Somalia. Instead, as stated earlier, Somali piracy is decontextualized and the story of piracy becomes about how Canadians can protect themselves from pirates.

The construction of Somali pirates through the media is one that is highly racialized and arises from an understanding of their existence only in relation to *our* selves. We have established that Somali piracy is a Western creation in the sense that piracy off the Horn of Africa came out of foreign countries abusing and dumping waste into Somali waters in combination with political instability within the country. However, the ways in which the Somali pirate is produced as a threatening stranger is a method to manage the story of piracy and construct *our* self. Somali pirates, as dangerous strangers at sea, are labelled in this way to differentiate ‘us’ from ‘them’. Similar rhetoric from the United States’ War on Terror is used in the discussion of piracy. In fact, according to several media outlets, Somali pirates have been linked to “Islamic terrorist” organizations. There has been little discussion on the fact that these links were made simply based on these men’s identities as Muslims. The BBC reported that Somali pirates have been accused of forming an “unholy high seas alliance”
with Islamist insurgents in Somalia.\textsuperscript{[14]} In \textit{The Current’s} interview with Ram, he referred to these Somali men as terrorists.\textsuperscript{[15]} US Secretary of State, Hillary Clinton, has called for the world to take action to end the “scourge” of piracy.\textsuperscript{[16]} Clinton describes these men as criminals that must be brought to justice.\textsuperscript{[17]} These stories of Somali pirates, as terrorists of the sea, are stories of colonialism and white supremacy. A decontextualized understanding of piracy does not allow for an understanding of the West’s complicity in the creation of piracy.

A common theme in the construction of the Somali pirate is as either a martyr-rebel or greedy villain. Somali pirates are set up as sympathetic based on whether or not they are helpless, and therefore unthreatening to the West, or as active agents of change. When they are recognized as active agents, they become unsympathetic. This speaks to the point we made earlier about the simultaneous historicity and ahistoricity surrounding pirates in general and Somali pirates in particular. Why are Somali people more threatening when they are actively seeking to alter the abject\textsuperscript{[18]} nature of their condition? We would argue that this is because, despite lack of context in the coverage of Somali pirates, there is an awareness that the West in general, and North America in particular, is responsible for the fall of the Somali nation. During \textit{The Current’s} interview with Security Consultant Ram, he continuously stated that the story of piracy would be different if the pirates were using the money to feed their people.\textsuperscript{[19]} Instead, according to Ram, these men are using the money they receive to have luxurious weddings, buy fancy cars, and build mansions. In other words, Ram is arguing that if these men were engaging in complete social banditry, similar to Robin Hood, the pirate would be constructed differently. However, since they are not selfless martyrs their story can be decontextualized and voices unheard. Ram believes that they have legitimate concerns in Somalia, however, “they have crossed the line” with their actions. The image of the greedy pirate has been presented in several media outlets that have highlighted piracy in Somalia in the same way. For instance, in April 2009, a ship holding food aid from the United Nations was hijacked. Many media sources centred on the notion that Somali pirates were keeping their own people from receiving aid. One headline read: “Somalia Piracy Hurting Aid delivery – UN.”\textsuperscript{[20]} According to this article, “attacks by pirates off Somalia are making it ever harder for the UN food agency to deliver relief aid to the hungry in East Africa and the Horn of Africa.”\textsuperscript{[21]} Here we see the construction of West as the heroes who are attempting save the poor Somali people, but cannot as a result of Somali pirates. This further situates the pirates as evil people who came out of nowhere – not as some of those very same ‘poor Somalis’ the West is trying to ‘help’.

Western media outlets have created two types of Somali bodies – the greedy pirate and the helpless Somali victim that is suffering as a result of piracy. These two bodies are put against each other to further Western narratives of Somali piracy as evil and of Somalis as either immobile helpless victims or as criminals.

In the \textit{Daily News}, reporter Helen Kennedy wrote an article titled “Piracy Big Boon to Somalia Economy; Hotels, Restaurants Sprout in Port of Eyl in Pirates’ Presence.”\textsuperscript{[22]} The reporter focuses on how the Somalis are spending profits from piracy. Kennedy states, “Big villas and hotels are sprouting, former subsistence fishermen are driving Mercedes-Benzes and gold-digging women are showing up. So are accountants.” Concentrating on where money, that is considered ‘illegally earned’ is going allows for the discussion of piracy to be dehistoricized and decontextualized. The discussion is not about how or why piracy off the coast of Somalia exists, instead it looks at where ‘illegally earned’ funds are going. This is a
tool to draw attention away from the larger context and issues making piracy in Somalia a necessity. So what are some of these issues? What is the context of Somali piracy? In our next section, we put some of the thoughts of our interview participants together with the analysis of these sections to build some context.

**Searching for Context: Interviews**

Context is important to understanding. Where context is lacking, or where context is denied, it becomes easier to manipulate understanding. As we have discussed in previous sections, this kind of control over context, particularly between the media of Western colonial powers and the stories of marginalized communities, people and nations, is an act of cultural imperialism. Sara Ahmed articulated the ways in which this process of the Self storying itself, and using the Other as a constitutive character within this story, is an integral element of racial domination. The people interviewed, who had settled in Canada from Somalia, agreed to share their ideas and stories with us also perceived this imperial power-relation in the storying of Somali pirates. Every participant, regardless of their personal views on piracy and Somalia’s pirates, pointed out the lack of historical and social context in the media’s reporting.

Farah Adam, who was ambivalent as to whether he felt the pirates were justified in their actions, remarked that the “media portray Somalis as thieves and low-lives.” Discussing the complexity of the situation, and her dissatisfaction with the media’s portrayal, Idil Mohammed points out that, “It’s important to think about what’s driving this, not necessarily what it is.” Another interviewee who felt conflicted about the morality of piracy, Raage Wardhere, noted when asked about his feelings regarding the media’s portrayal of the pirates, “uh…I read some of their…uh…writings. But, that is not the whole truth.” Shukri Haji Omar, who felt the pirates were entirely justified in their actions, expressed her frustration over media representations saying, “This is a war over money…and people are not talking about ongoing abuses, like nations such as Saudi Arabia continuing to buy plundered resources from warlords.”

For the interview participants, context in the media was not always about affirming the pirates. It was also about treating Somalis as people; showing respect and contrition for the difficult situation Somalis find themselves in, and the complicity of the international community in creating this circumstance; and explaining to the world the difficult, conflicted nature of the situation in Somalia as a whole and of piracy in particular. Sometimes, this did mean siding with the pirates. Always, it meant taking into account the nuances and difficulties of a Somali narrative of piracy, not simply of Western understandings, interests and concerns.

For many Somalis, piracy has become a viable option for survival in the area for the same reasons that they have been displaced and forced to leave their homes as refugees. The silence and bias of the media and the international community has cost lives, but while those lives were not white, Western lives, the attention of the international community was not attracted. Farah Ali noted that, “the Somali diaspora tried to talk to the international community to do something about these violations, but they did nothing positive about this.” Perhaps this is why calling for context on the part of the Somali community is not simple – not a request for impunity or pity, but a demand to be treated as though their lives matter.
Shukri Haji Omar pointed out that, “When Somalia started to fall apart and people were dying, no one was paying attention. Now, they are only watching because white interests are challenged.” While the Western Self features as the lead character in this tale of good or bad pirates, the pirates themselves cannot be more than what is convenient for us that they be. Haji Omar described piracy as people’s livelihood – not criminal activity or a revolutionary political movement, but a means of day-to-day survival in unspeakably difficult circumstances.

**Perspectives: Good and bad – same definitions, different sides of the line**

What emerges from the complexity of insight and perspective we find in the voices of our participants is a real sense of the Western-centric understanding being conveyed through the media. Perhaps what one might expect to find in response to colonial and imperial agendas is a straightforward resistance and denial of Western claims. What we see instead is a complicated, nuanced and often deeply personal set of understandings and opinions that only in-part respond to Western understandings; they are not constructed by Western media perspective either in agreement or rebuttal. Rather, they are constructed by interview participants along myriad lines of identity and experience that help inform a nuanced understanding of piracy from Somali perspectives. One particularly interesting pattern that surfaced in our examination of these stories was the repeated use of ideas of ‘good’ and ‘bad’. The concepts were used in much the same way that the Western media might employ and understand them – good meant good for the people the story is about, while bad meant the opposite. However, participants unanimously employed the terms from a perspective counter to that of the Western media. Using the good/bad binary and notions of country, nation and ‘the people’, participants put forward a different, and more complicated story of pirates and of Somalia than the ones we have been examining so far.

Responding to a question about her thoughts on the justifiability of pirate action, Khatra Ahmed says, “Although they [pirates] can be bad people, what they are doing is good for the country because the international community is dumping and fishing on Somali waters and the piracy is stopping this; piracy is bad, but the intruders are also doing bad things, they must pay the price.” Echoing these thoughts, Farah Adam describes pirates as a, “bunch of thieves, but some, as far as Somalis are concerned, are heroes because they are defending our natural and marine resources”. Evoking the importance of nationhood and the nation-state in today’s anarchic international community, Mohamad Omar says, “Pirates are citizens, Somali citizens...The word is a violation or degradation of Somali men who are fighting for their rights.” Also picking up on the matter of national sovereignty and defense, Farah Ali says, “I don’t agree with the piracy by itself. But, in this case, to go against the illegal dumping and the fishing...they have a right to do that, they have a right to protect the country and the water.” Defense of state and land were prominent concerns throughout the interviews. Justice and a sense of having been wronged by the international community were certainly important elements of the stories shared as well, but interviewees seemed more concerned about the material harms being inflicted on Somali people than debating the theoretical morality of Somali piracy. Some interviewees did, however, express their ambiguity about coming to conclusions over actions undertaken in extreme and adverse conditions. Ibrahim Said began his descriptions of what he thought of when he heard the word ‘pirate’ by saying, “Somali men, who are hungry. So, they wanted to eat. The hunger forced them to, uh, [inc]…They exist because they don’t have anything. It’s a matter of survival.” Debating whether he felt
supportive of the piracy itself, he expanded to say, “I disagree with them because they capture ships, and ask for a lot of money. They should take something for their survival”. Raage Wardhere also did not theoretically support the use of piracy but, like Ibrahim Said, became conflicted about this stance when the element of survival became an issue: “It’s a business now…that’s a quick way of making money…but originally the pirates started in Somalia because of the collapse of the government. Uh, a lot of companies started dumping chemicals – nuclear waste. And some others were fishing in Somalia’s territorial sea illegally…before it was not piracy, it was enforcing the law.” Working through these conflicting issues of absolute right and wrong versus survival as vulnerable people, the nuances of Wardhere’s understanding brings him to conclude that, “To solve the problem of piracy, the international community must solve the Somali problem.” This very reasonable assertion is one missing almost entirely from the media perspectives on piracy that we have been seeing in the mainstream. Regarding piracy as an element of Somalia’s general chaos and violence, seen as both natural and incomprehensible to Western eyes, the idea of taking responsibility and positive action in this situation has rarely come up. Looking at piracy as an historically situated and politically contextual element, Wardhere and other participants see practical solutions; pirates to them are not inexplicable natural phenomena against which we must protect ourselves – they are a reasonable and predictable response to a situation the international community has the ability to change.

**Telling stories at home: News outside the media**

It is important to recognize that while discourse analysis and studying the meaning and agendas of various media are important, it is equally important to understand that people do not respond to media stories by simply agreeing or disagreeing with them. This is not to say that discursive analysis is irrelevant unless it can prove that discourses are received in exactly the manner intended. Rather, it is to point out that people who become objects of stories – bodies who find themselves ejected from Selfdom and positioned as the Other – are viewed and interpreted as the Other but are also much more than that. Communities that find themselves the focus of negative media attention often find ways of resisting the stereotyping they are saddled with, or of communicating their own stories, their own ideas and their own realities. They do not always choose to make these stories public – to counter discursive hegemonies with discourses of their own. Sometimes, these stories are simply ones people tell themselves, and one another, consciously or unconsciously taking control of the narrative and refusing to accept status as the Other.

As our interview participants told their stories, they articulated themselves as the active Self in many different ways. For some, control over narrative was about denying the mainstream media a place in their lives and understandings of the situation. When asked what she thought of when she heard the word ‘pirate’, Shukri Haji Omar commented, “Now I think of Somalia and rude racist news reports. I can’t even watch the news, it’s so racist.” When asked about his feelings regarding the media portrayal of pirates, Farah Ali said simply, “The media is Western – they always say bad things about Somalia”. Idil Mohammed said, “I’m not paying that much attention to the media…they demonize pirates, for example saying they are building mansions next to shacks – that’s bullshit. Knowing my people – I do not believe that mansions are being built next to shacks. I’m sure there is some distribution of wealth.” Choosing to reject or dismiss the media, or media content, is not a decision to remain ignorant. Rather, these participants choose to privilege other stories and other sources.
Mohammed, for example, articulated the privileging of her own knowledge and experience of Somalia and Somali people over media reports. Whatever else this may mean for Mohammed personally, it is an act which shows a sense of power and agency in the face of Western narrative hegemonies.

Other participants did not choose to shut out Western media sources, but doubted its legitimacy and developed their own understandings and narratives instead. Nothing they said in their interviews indicated that they felt their own narratives were threatened by Western interpretations. Rather, they articulated that their consumption of Western media was premised on the understanding that media sources have political agendas. Raage Wardhere, who felt ambivalent about the morality of piracy, said in his interview, “I agree with some of the writings – but they are not all true. The truth is that it started in a legal way. The media is biased – not telling all the truth. They are ignoring the whole problem.” Ibrahim Said, who also maintained that he was not fully in support of piracy, said in agreement with Wardhere, and stated succinctly, “I am aware about the Western media, but disagree with most of what the media is saying.” Khatra Ahmed could not fully agree with piracy, but felt that action was warranted and explained her mistrust of media narratives, saying, “The West always creates something that doesn’t exist because they have an agenda. The West always talks before they take action – for example, Iraq. The media is powerful. They spread propaganda in the media so they can later justify an occupation or invasion.” Once again, it is clear in the knowledge and understanding behind these statements that participants are neither ignorant of current events in Somalia, nor choosing to cultivate a sense of ignorance. Rather, the naming of the Western media as biased, but the simultaneous refusal to turn their opinion of piracy and Somali pirates into a less-nuanced disavowal of the media’s view, demonstrates a lot of control over narrative and storytelling.

All participants took active control over media representations of Somali pirates and Somali people. They rejected the Western media as a relevant source of information, or they used the media as a questionable source of information looking at it as one side of the story rather than the definitive news. Situating Somali piracy in social and historical contexts, they exercised narrative power. This is what piracy looks like, in context – nuanced, morally ambiguous, revolutionary, powerful and complicated.

Conclusion

Although they have been portrayed as good or bad, sympathetic or unsympathetic, it has become clear through our analysis and through the thoughts and opinions of our participants that pirates are anything but a simply binary matter. Deprived of context, they can be used as a convenient tool to convey meaning or demonize victims of colonial and imperial policies. However, whether contextualized or not, pirates are political. The people we worked with through narrative interviews to write this essay have diverse and sometimes contradictory views of pirates. Yet all of them place Somali pirates within the context of colonial agendas and globalized racism. The context, then, for Somali pirates might be said to be one of strife and conflict, a context which is not limited to an examination of whether the individual actions of pirates are good or bad, but which takes into account the last 50 years of Somali history, and the realities of life for all people affected by Somalia’s current situation. This context situates pirates as people, not catalysts for change or terrorist-criminals on the high seas. It allows a view of Somali pirates that sees them as a Coast Guard, or as a group of
intrepid boys and young men taking control of their destinies, or as poor people looking to make their lives better, or as petty thugs, or as a combination of all these things. As people, the pirates have the ability to be complicated, contradictory and a story in themselves rather than simply the Other to the Self or the villain in our tale. In this context, the pirates then also have the ability to expose the contradictions of the Self, and of Western actions and interests. As a moment in history, the pirates gain coherency and can become part of a narrative that counters colonial and imperial efforts. As ends in themselves, the pirates gain personhood in our eyes, challenge our own notions of our Selves and our Others and force us to question our own narratives, and how we use them.

Notes
8. “K’naan on Somali.”
11. “Somali Pirates.”
13. Ahmed 25
15. “Somali Pirates.”
17. Pleming,
19. “Somali Pirates.”
21. Nyakairu


URL to article: http://www.darkmatter101.org/site/2009/12/20/unravelling-narratives-of-piracy-discourses-of-somali-pirates/
‘Liberty or Life!’: The Convict Pirates of the Wellington

Erin Ihde

‘We very seldom attend the public executions of criminals’, wrote Edward Smith Hall of the Monitor newspaper in Sydney, New South Wales, in March 1827, ‘because we have found that we experience on such occasions more of the feelings of horror than of sympathy’. But this time, he continued, when ‘we raised our eyes to view the five men who suffered on Monday last … we could not look up at the victims trembling on the fatal scaffold without weeping’. The crowd, too, were murmuring, said Hall, ‘some asking “what are they hanged for – do they suffer for sparing men’s lives?” and others, “is this the way to reward humanity?”’.  

The five men were escaped convicts and convicted pirates. Why then should there be such sympathy for them? Indeed, why were only five of the sixty-six convicts who were aboard the pirated ship to be hanged? And why was their ringleader not one of them? Why were the authorities, and even people from the ship itself, willing to extend mercy to them? This incident is a most remarkable tale of convict escape in colonial New South Wales. It also provides great insights into colonial society at the time, including into concepts of Britishness, liberty, mutual obligation, the status of convicts, and into tensions existing within the colony.

For a convict wishing to escape from the penal colony of New South Wales in the late eighteenth and early nineteenth centuries the sea was a common choice, and convicts reached places like India, Cape Town and China. The most extreme choice was to seize control of a ship, which happened more often than has been realised – Ian Duffield observed that ‘convict piracy in Australia demands recognition as a major convict resistance practice’. Piracy carried the death penalty, so it was not an action to be undertaken lightly. Yet examples dating from the early days of the colony are not difficult to find. The ship that features in this discussion was the Wellington, and its seizure in 1826 was part of this tradition of convict piracy. I have dealt in detail elsewhere with the events of the actual piracy itself, so these are covered in a condensed manner here.

On 10 December 1826 sixty-six convicts, two passengers, twelve soldiers and a sergeant left Sydney on the brig Wellington, bound for the penal settlement of Norfolk Island. On 21 December, about 250 miles from its destination, six convicts exercising on deck suddenly overpowered their guards. The captain, John Harwood, was approached by a prisoner, William Douglass, armed with a musket taken from the soldiers. Harwood attempted to throw some blocks at the convicts but was soon grabbed by another of their number, John Lynch, who shouted ‘liberty or life’. The other soldiers were secured by the simple expedient of closing the forecastle hatch on them. The sailors were placed in the prison hold, just vacated by the newly liberated convicts. But the soldiers in the forecastle were still armed, firing through the bulkhead. They soon desisted when told that all they were doing was endangering the crew, surrendering their weapons and uniforms, which were soon adorning the convicts. One passenger, William Buchanan, appeared wielding two pistols, but he was overcome with a blow to his head. The convicts now controlled the ship and gave three cheers, shouting, as Lynch had done, ‘Liberty or Life!’
The Wellington had been taken with surprising ease and no loss of life. There were some minor injuries but nothing life-threatening. The ship was secured – the soldiers and crew were locked away, as were about twenty convicts who wanted no part of proceedings. That night, however, a storm blew up and the sailors were obliged to help with the ship.[7]

The convicts put a command system in place. A former soldier, John Walton, who had been convicted of receiving stolen goods, was appointed captain. A ‘council of seven’ was also put in place, probably including Walton, William Douglass (appointed first mate), John ‘Flash Jack’ Edwards (second mate) and Charles Clay (steward). We know a good deal of what went on during the coming days because, apart from having the transcripts of the subsequent trials to refer to, Walton kept a log. This played a key role in the unfolding of events, providing evidence of the good order that was maintained on board ship. The Sydney newspapers also talked to anybody they could who had been involved, producing detailed accounts from the interviews.[8]

Firstly, a destination had to be decided upon. The immediate thought was to offload their unwanted passengers at the first convenient location and then head for South America. But they lacked enough water and decided to stop first at New Zealand. They planned to head for Three Kings’ Island (off the northern tip of New Zealand’s North Island) to land the soldiers and get water, but the convicts were told that the men would fall victim to cannibalism. Instead, the pirates’ ‘humanity’, reported the Monitor, made them consent to the Bay of Islands (on the north-eastern side of the North Island), where missionaries would afford protection. Captain Harwood was persuaded to help navigate, and he encouraged the crew to help run the ship.[9]

Discipline was maintained. Men were placed in watches, the log recorded, and regulations were enacted to keep order, with the council acting as a court if needed. However there were few problems on the ship, the swift and firm dealing with any issues that did arise contributing to a voyage that was mainly peaceful. Finally, on New Year’s Day, the coast of New Zealand came into sight.[10]

Thus, on Friday the fifth of January 1827, the Wellington arrived at the Bay of Islands. The excellent harbour made the area a popular spot for whaling vessels to berth in and there was a substantial indigenous population in residence. The pirates headed for the settlement of Kororareka, at the south-western end of the bay. The nature of its visitors and the lawlessness of its lifestyle had earned the town the nickname of ‘The Hell Hole of the South Pacific’. [11] Here the pirates’ luck would run out.

Two whaling ships, the Sisters, commanded by Captain Robert Duke, and the Harriet, commanded by Captain Clark, were berthed at the settlement. The superintendent of the mission station at Paihia, Reverend Henry Williams, saw the Wellington appear at 8 a.m., and anchor at 10. Duke and Clark went on board to offer help bringing the ship to anchorage, which was accepted. They were introduced to ‘Commander’ Walton, who told them he was from New South Wales and was headed to the River Thames (NZ) with troops and provisions, and that they needed more water. Neither captains’ suspicions were aroused at first, although they were surprised that the visitors had run short of water so quickly. As soon as she berthed, the Wellington was boarded by numerous natives, with whom the ‘soldiers’
fraternised freely, especially the women, which struck the captains as being slightly unusual.\[12\]

Duke and Clark returned to their ships. Later in the day another missionary, William Fairburn, called on Duke to ask whether the Wellington was carrying any letters. They rowed back over to find out, and now things started to unravel. There were people everywhere. Crew and soldiers were bartering with Maoris, and in the cabin about a dozen people were at the alcohol supply. Then Fairburn recognised a man named Clay, a convict from Sydney, and Duke recognised another man. Now definitely suspicious, they left the ship to talk.\[13\]

They decided to invite Walton to dinner. He said he would visit for an hour in the afternoon instead. When he did not, Duke, Clark, Fairburn and Williams went back to the Wellington. The scene of continuing confusion, and the loading of far more water than was needed to reach the River Thames, convinced the men that something was amiss. The invitation to tea was repeated, and Walton accepted. As the four men left the ship, a note was slipped into Fairburn’s hand. It was from the Wellington’s true captain, Harwood, telling them the true situation.\[14\]

Walton came to tea. Williams questioned him, but Walton ‘prevaricated a good deal’. Fairburn produced the note, whereupon Walton ‘was struck with astonishment’. But he confessed the entire story. Secure on the Sisters, he was told ‘he should consider himself a prisoner, and that [they] would not suffer him to leave the ship’. Come 10 o’clock that night though, they did just that, allowing Walton to return to the Wellington because they believed ‘the brig could not proceed to sea that night’. Walton arrived back on the ship declaring that if he could find the letter-writer ‘he would knock the man’s brains out’.\[15\]

Reverend Williams, who had been a British naval lieutenant during the Napoleonic wars, urged that the Wellington be fired on and disabled, but it was feared that the pirates would retaliate. However at dawn on Saturday Duke brought his eight six pound guns on deck in case of an attack. Instead, at 8 o’clock the Wellington drew alongside the Harriet to request a trade of items the pirates needed. Clark declined. At noon yet another dinner invitation was offered. This too was declined, Walton in turn inviting Clark to visit the Wellington. Clark and Duke both went aboard, but while they were there, Walton learned that the Sisters’ guns were armed and ready. He now had the other captains on his ship, but instead of using the situation to his advantage, when Duke assured him that he had no intention of firing, Walton let them leave.\[16\]

Things remained calm overnight, but the next morning, Sunday the 7th, saw them come quickly to a head. At 4 a.m. the Wellington prepared to depart, and at 5 a.m. the Sisters and the Harriet (which had six long nine pounders) hoisted their colours and opened fire. Harwood told the pirates that they were simply saluting the missionaries who were about to come on board to preach. The pirates replied that ‘it was strange saluting, when the shot was knocking at the hull!’ Despite having their own guns, the pirates did not return fire, and after more salvos were fired and the Wellington had suffered some damage, they surrendered.\[17\]

Once repairs to the Wellington were complete, she and the Sisters set sail for Sydney on the 28th of January (the Harriet having departed on the 22nd). The ships arrived back in Sydney on the 9th.\[18\]
Thus ended the piratical career of the convicts of the *Wellington*, but the saga of their fates was only just beginning. The news caused a sensation in Sydney. Once the story itself had been told the focus shifted to the trials that quickly followed and then to the outcomes of those trials. The debates contained in this coverage are what open windows into many facets of colonial society.

Two main trials were held, on the 20th and 21st of February, before Chief Justice Francis Forbes. Thirty-one prisoners were tried for piracy – the other convicts were deemed to have played no role in seizing the ship. Excitement amongst Sydneysiders remained high, with the *Australian* reporting of the first trial that ‘The Court was crowded to great excess during the whole of the day. The trial seemed to excite the most intense interest’. The *Monitor* added a sense of colour, noting that ‘the Court exhibited a dense mass of auditors; colonels and privates, merchants and porters, hawkers, pedlars, and justices of the peace, all assembled cheek by jowl to witness the days proceedings’.\[19\] The defence raised by some of the prisoners is of interest here, raising issues about the status of convicts, about concepts of liberty and Englishness, and also about tensions that existed between the Governor and the Chief Justice concerning legal matters in the colony.

In the early days of settlement the status of convicts in New South Wales was slightly ambiguous. There was a school of thought that held that transportation was the actual punishment – once the convicts arrived in New South Wales they should not be subject to any further impost by the government. This ambiguity had been clarified by the time of these events, but doubts did still linger in some minds as to exactly what treatment convicts should be subject to.\[20\] A number of the pirates drew on some of the technicalities relating to this with regard to penal settlements to argue their case.

Several prisoners claimed that they should not have been sent to Norfolk Island in the first place. They had been stationed at the penal settlement at Port Macquarie, but a request from Norfolk Island for some mechanics to be sent there had seen Governor Darling instruct Port Macquarie’s Commandant to forward the required number of men to Sydney. This the Commandant had done and, thinking that those selected were to be granted indulgences, selected men with good records. Instead, the men found themselves taken straight to the hulk *Phoenix* and put in irons, then transferred to the *Wellington* in company with hardened criminals, bound for the notorious Island.\[21\] All this, the men claimed, was illegal.

Another tack taken by the defence concerned the authority of the Master of the *Wellington*. The defence counsel, Mr Rowe, adopted what the *Sydney Gazette* described as ‘a very ingenious line of argument’. Rowe claimed that Captain Harwood lacked the necessary authority to hold the men. They had not been received by the Superintendent of the Hulk according to legal requirements, which called for them to have come from the Governor of the Sydney gaol. The prisoners, continued Rowe, could have applied for *habeas corpus*. According to this argument, then, the prisoners were being improperly detained. Robert Wardell, who also appeared for the prisoners, tried a novel approach – the prisoners had intended no robbery: while it had been a violent act, ‘it amounted to borrowing only, with an intention of returning the vessel to her right command as soon as they should have obtained their liberty’.\[22\]
Liberty is at the heart of most of these arguments, with the Rights of Englishmen, and the English concept of liberty, featuring strongly. The defence’s argument was that, because incorrect procedures had been followed, the men were within their rights to take any reasonable means necessary to regain their liberty. If they were on the ship illegally, and were thus in a state of duress, then they were only ‘exercising a natural right’ by liberating themselves.\[23\]

As Chief Justice Forbes put it in his summing up:

It is, indeed, a momentous question, how far persons in a state of duress have a right to redress themselves by an act of their own. Certain it is, that, so tender are the British laws in the preservation of personal liberty, they will go a great way in justifying the means resorted to by persons illegally under restraint, of recovering their natural rights, and protecting their persons.

Edward Smith Hall pursued a similar line of argument in his commentary on the case in the Monitor, and his emphasis on liberty is explicit. The men, he said, had been ‘availing themselves of the negligence of their keepers, setting themselves at liberty, and taking the vessel in which they were confined, as a necessary adjunct to accomplish their liberty’. They were not pirates in the normal sense but were instead ‘assertors of their personal liberty’. They had not wanted the ship itself – if they could have achieved freedom without taking it they would have.\[24\] Robert Wardell, the barrister who had argued in court that the pirates were only borrowing the ship, pursued the same argument in the Australian of which, as it happened, he was the editor. ‘The example ordinarily needed to pirates’, he wrote, ‘is an example to those who might be disposed to seize a vessel for the sake of plunder, and not for the sake of gaining their liberty’.\[25\]

Hall also worked the concept of the free-born Englishman into his argument, asserting that:

Tis true the prisoners were noble-minded men – they had acted a part which only Britons in their circumstances can act – they shewed that even convicts, when free-born Englishmen, are a superior race even to the free men of other slavish countries.

Anyone who found themselves in such a situation would act in exactly the same manner, he believed.\[26\]

This argument also centred around opposition to Norfolk Island. A penal settlement had been re-established there in 1825, and Darling intended it to be a place of harsh punishment for the worst type of convict. No women were to be allowed there. People such as Hall, who at this time was developing a reputation as a champion of convicts’ rights, were bitterly opposed to Norfolk Island. Darling recognised that the lack of women on the island would lead to more instances of homosexuality, and indeed it soon gained a reputation as a modern Sodom, a place that men would die to avoid.\[27\] This was the line that Hall pursued, tying it in once more with the notion of being a true Englishman. The island was, he said, home to ‘vile beasts, loathsome to the feelings of manhood, and desperate and infernal in all their ideas and habits’. The pirates, knowing that they were to be ‘for ever (sic) separated from their wives and children’, had taken the ‘opportunity to save themselves from the devouring jaws of such a Hell’. They were, said Hall, ‘endeavouring to escape from the land of Sodom and
Gomorrah; a land so defiled, that being men, they felt a manly repugnance to enter and sojourn there”.[28]

Some of the issues that were being raised in the men’s defence also highlighted the rift that had developed between Chief Justice Forbes and Governor Darling over matters of justice. Darling’s military background and his perception of the colony’s convict status, and of the Governor’s powers over it, were at odds with Forbes’ perceptions of common law and of the application of English laws to New South Wales.[29] Forbes’ comments on the case of the Wellington bring this out clearly.

Forbes believed that transportation and its attendant loss of the right to undertake free labour was the main punishment to which the convicts were subjected. For them to be re-transported within the colony to a penal settlement would require that the convict had committed another crime since their arrival – such re-transportation would be the punishment for the second crime. This had not happened in the case of the Wellington pirates – Darling had simply ordered their removal to Norfolk Island.[30] This clearly worried Forbes during the trial. The crux of the matter, he felt, was this –

Can the governor, without any charge of a new offence committed within this government, order any person, transported from Great Britain, to any penal settlement that he may think proper? We say he cannot…

After detailing his reasoning, Forbes stated that ‘any additional severity becomes unlawful’ and therefore ‘the government has fallen into errors’. Highlighting his disdain for Darling, Forbes also noted that

This is the second instance in which the consequences of an irregular interference of the government with the sentences of the prisoners have come to light, and raised an unfavourable impression against it. I hope it will be the last; but … “the love of power is the last infirmity of noble minds,” and … few are disposed to part with what they love, if they can avoid it…[31]

So to Forbes, the case clearly demonstrated Darling’s over-reaching himself in the realm of legal matters. Forbes called for Darling ‘to guide his measures by the counsels of high responsible officers’. The errors that had been made, Forbes concluded, while being ‘honest errors’, had nonetheless contributed to the ‘degree of odium, perhaps unprecedented, which … has fallen and rests upon the government of New South Wales’.[32]

But for all his concerns about Darling’s actions, when it came to the pirates’ actual defence Forbes could not allow this legal argument to influence his decision. The pirates might have been being moved illegally, he said in his summing up, but that did not justify their actions. Paperwork had been filled out – whether it was in order or not was not the point. By raising this defence the pirates had in fact placed the onus of proof upon themselves to show that they were under duress and had only done what was necessary to free themselves, but in Forbes’ opinion they had not done so.[33]

To him the overriding point was this: whatever the men’s situation, they should not have resorted to violence in the first instance. There were other avenues available to them. ‘I
cannot allow it to be supposed’, Forbes said, ‘that, because parties are irregularly sent to a penal settlement, they are justified in committing piratical acts, and going into all the extremes of violence’. Although the men claimed to have been exercising a natural right, they should have done so ‘with regard to the rights of others’ as well – instead of violence, all available legal means should have been explored. This is a fundamental rule that underpins the concept of moral economy as explored by E.P. Thompson – rioters in England often resorted to violence only after all legitimate avenues of redress had been attempted, and the authorities frequently recognised this in their reactions.\(^{[34]}\) So to Forbes the pirates had relinquished their moral authority by immediately taking direct action.

Overall, Forbes declared ‘that none of the prisoners can justify their acts upon any of the grounds that have been set up’. However, he found another way to let some men off – they may have been forced to take part, or have played no active part at all. Forbes later spelled this out clearly: because the arguments raised by the defence could not apply to all of the convicts, he ‘rather inclined to their acquittal upon the ground of having not taken any part in the forcible seizure of the Wellington’. On these grounds eight men were acquitted.\(^{[35]}\)

This left, though, twenty-three prisoners who were found guilty. With these men, Forbes had little choice but to follow the letter of the law. Having been ‘convicted of an act of piracy’, he said, it was his duty to highlight the ‘enormity’ of their offence. All the men had been convicted of their earlier crimes, some ‘of a deeply aggravated character’, and sent to Norfolk Island rather than in some cases suffering death, because of the mercy and humanity of the authorities. This case was therefore also ‘of a very aggravated character’, because they had ‘abused that clemency’. So, Forbes concluded, ‘The sentence therefore of this Court is, “that you … be severally hanged by the neck, until your bodies be dead”’.\(^{[36]}\) Included in this group were the pirates’ leader, John Walton, their first mate, William Douglass, and the second mate, John Edwards.

With the trials over, decisions now had to be made. Cases with a sentence of death were referred to the Governor and Executive Council for review, to decide whether or not to exercise mercy. The decisions appear to have been difficult to arrive at, for deliberations took two days (it should be noted that Forbes was a member of the Council). No doubt the members were aware of the public interest in the case, and of the sympathy that existed for the pirates. In the end the Council resorted to using the criteria alluded to by Forbes in his sentencing: those men who were capital respites, who had been condemned to death but then had their sentences commuted to transportation, were chosen to be made examples of for their abuse of the mercy that had been shown to them. Six men were therefore ordered for execution: William Douglass, John Edwards, John Smith, Edward Colthurst, Richard Johnson and William Liddington.\(^{[37]}\)

One name is notably missing from that list – John Walton, the leader, and the reasons why allow us to further explore the situation in New South Wales. The Council, and much of the community in general, recognised one vital aspect of moral economy that the pirates had adhered to – although direct action had been taken straight away, they had employed no unnecessary violence. In Walton’s case, the Council noted ‘the circumstances of moderation and humanity, which marked his conduct after the capture of the Wellington’. Darling further mentioned ‘his extremely moderate conduct, and the exertions he used to preserve order after the event’. That Walton was not one of the six was also because, as the Council went on to
say, the original offence for which he had been sentenced to Norfolk Island (receiving stolen goods) had been his first colonial sentence and not a capital one.[38]

But most interesting are Darling’s continuing comments in his despatch. Despite Walton’s behaviour, he said, he still ‘considered the Execution … necessary; but, as the whole Council united in recom’g him to mercy, I was unwilling to act contrary to their wishes’. Darling could have overridden the Council’s decision – he had the power to do so.[39] Just why he might have been ‘unwilling’ to, again opens a window into broader colonial happenings.

At the time of these events Darling was enduring a barrage of criticism from a number of people, not least amongst them Robert Wardell, the barrister and editor of the Australian who had appeared for the pirates, William Charles Wentworth and Edward Smith Hall. The catalyst had been the treatment of two soldiers, Joseph Sudds and Patrick Thompson, who in November 1826 decided they had had enough of army life. They stole some cloth from a shop in order to be caught, drummed out of the army and, after serving a hopefully short sentence, rejoin civilian life. But Darling spoiled their plan – being a military man himself, he was deeply shocked at such behaviour and determined to make an example of them. Originally sentenced to seven years transportation to a penal settlement, Darling changed the sentence to seven years hard labour on the roads, with the men fitted with much heavier than usual chains, including an iron collar around their necks. Unfortunately for Darling, Sudds, who had been ill for some time, promptly died. While he was eventually found to be not responsible for the death, (he had been unaware of Sudds’ illness) Darling certainly received the blame at first, especially from the aforementioned gentlemen. There had been a growing concern at Darling’s seemingly severe attitude towards convicts, and this occurrence provided his critics with plentiful ammunition. Wardell attacked Darling heatedly in the Australian and Wentworth followed suit. Hall was conciliatory at first but soon joined the attacks. Forbes was also worried, and his concern was almost exactly that which he expressed about the pirates – could the Governor alter the original sentence in such a way? This, in fact, is the other incident Forbes was referring to when he said that the pirates’ actions were the second example of ‘the consequences of an irregular interference of the government with the sentences of the prisoners’. [40]

So, all this was fresh in mind, and indeed still unfolding, when the pirates were tried and sentenced. I have shown elsewhere that Darling may have realised he over-stepped the line with Sudds and Thompson: in 1828 a group of soldiers indulged in a food riot, and Darling’s reaction was strangely muted and conciliatory. Moral economy requires that all parties recognise when they have gone too far.[41] If Darling was still wary in 1828, how much more likely is it that he knew he needed to step carefully in early 1827? This could well explain why he was not prepared to challenge the Executive Council over Walton’s sentence – here we have another military man, originally charged with a quite similar offence to Sudds and Thompson, possibly about to also be treated severely. In all likelihood Darling simply did not want to add fuel to the fire.

People such as Hall, though, were easily finding enough fuel in the pirates’ case. He was at first hesitant to criticise the Council’s decision regarding the six men doomed to death, but added he was ‘sorry clemency was not extended to all, under the circumstances’. However, he was soon being more blunt. A week later he noted that the men ‘appeared [to be] too much the victims of policy, and too little of malefactors receiving a just and expedient doom’. 
Another week later he again used the executed pirates, among other issues, as an example to criticise Darling. [42]

These criticisms are important not only in relation to the pirates themselves, but also in the broader context of colonial events, and in particular to one of the major crises of Darling’s term as Governor. As mentioned earlier, his relationship with the press was becoming extremely strained – the *Australian* and *Monitor* were moving into outright opposition. In the same issue that his comments about the pirates’ execution appeared, Hall published another long article listing twenty-four grievances directed at Darling. The issue a week later contained still more criticisms on the same page as his piece about the pirates’ woes. Both Wardell and Hall were ‘doing much mischief’, said Darling and, claiming that both newspapers were ‘totally regardless of all decorum’, he put plans in motion to restrain them. He attempted to introduce stamp duty on the papers, but to his chagrin and fury, Forbes disallowed the Bill, further cementing the rift between the two men. [43] So the case of the *Wellington* pirates slotted into a much wider chain of events, and clearly played its part in the upheavals over freedom of speech in the colony.

The public reaction to the pirates’ impending and eventual execution is also very noteworthy. It could not be denied, said the *Australian*, that public sympathy ‘had become interwoven with those offenders and with their fate’. People were overlooking ‘the enormity of the offence’ because of the manner in which it had been committed: it was ‘an unparalleled instance of forbearance in men we should have expected to find ripe for everything, and willing to commit any barbarity’. Thus the ‘general sentiment [was that] they were merciful, and those who shew mercy, to them should mercy be shewn’. [44]

There was also a very practical reason to extend such mercy, it was argued. What sort of example would it set to anybody contemplating a similar escapade? If men who took care not to harm their captors were hanged, why should any future pirates show the same consideration? They might as well just kill everybody and try to make good their escape – the punishment could not be any worse. [45]

The public reaction is interesting in light of prevailing attitudes towards capital punishment. In Britain attitudes were changing at this time, and there was awareness in the colony that such changes were taking place. However in New South Wales the rate of executions did not drop dramatically until the mid 1830s. Darling was a firm believer in execution as a deterrent, and its use remained relatively higher than in England, especially for non-murder crimes, during this period. There was, overall, public support for capital punishment and executions in New South Wales from the mid 1820s until the mid 1830s. [46] The execution of the *Wellington* pirates therefore stands out even more clearly as being unusual because of the widespread public support for the men, and questioning of the need for their deaths.

For one of the six condemned men, though, there was to be a dramatic development. A reprieve arrived for William Douglass just before the execution. Darling reported that the Jury had petitioned to save Douglass’ life because of ‘certain circumstances, which appeared in [his] favor (sic)’. These circumstances were doubtless related to Darling’s next comment. Three soldiers who had been on board the *Wellington*, the Sergeant of the Guard and two of his men, had also made a representation on Douglass’ behalf through their commanding officer. He had been, they said, ‘the means of preserving their lives, when the Prisoners
seized the Vessel, and they were induced in consequence respectfully and humbly to entreat that he might be spared’. Darling put the matter to Council and it was decided ‘that an Individual, who had been so conspicuous for his humanity, had more than an ordinary claim to mercy’. Unlike Walton, Darling appears to have had no quarrel with this decision. Nevertheless, for the victims of a piracy to intercede on behalf of one of the pirates reinforces what an impact their actions had on many of the players involved in the drama.

For the other five men, though, the final act of their drama had arrived. Both the Australian and the Monitor devoted considerable space to covering the execution, from the journey from their cells to their prayers with the accompanying clergymen. The clergy, said Hall, were ‘appearing as ambassadors from the King of Heaven to offer them that mercy which was denied them by their fellow worms’. Finally, after various statements, at a quarter to eleven ‘they were consigned to their fate’. ‘They met death with fortitude’, said the Australian, but the Monitor commented that ‘all of them died with much apparent pain’.

The papers’ descriptions of the crowd were equally vivid. Hangings nearly always attracted large crowds, but the size was especially stressed in this instance. ‘A great concourse of the inhabitants … assembled’, said the Monitor. ‘The Rocks appeared like a living mass: groupes (sic) took their station at every point that commanded a glimpse of the fatal tree’. Crowd reactions at hangings could vary depending on their degree of sympathy or otherwise for the victim(s) – they might laugh, groan, boo or hiss at the hangman, the authorities, or the culprit, depending on their point of view. Certainly contemporary descriptions suggested that more of a carnival atmosphere tended to be the order of the day, although on rarer occasions solemnity could prevail. The latter appears to have been the case here. ‘A general impulse of regret’, observed the Australian, ‘that their previous actions should have called for this awful sacrifice, appeared to pervade the minds of the spectators generally’. The comments quoted at the beginning of this article were made – ‘do they suffer for sparing men’s lives?’, ‘is this the way to reward humanity?’ ‘All these circumstances combined’, said Hall, ‘made this execution the most dismal, heart-rending sight of the kind we ever before witnessed’. The rest of the crowd apparently concurred, with Hall stating that ‘the public sympathy was greatly excited. Men as well as women sobbed aloud’. The papers, of course, were writing for effect, and on this occasion they appear to have been quite confident as to precisely what kind of effect their words would have on their readers.

The case of the convict pirates of the Wellington is indeed a remarkable one that warrants detailed examination. Apart from being an enthralling story in its own right, the things it can tell us about colonial New South Wales are myriad, complex and revealing. The case clearly demonstrates how one incident cannot usually be simply isolated from its surroundings, but instead can serve to tell us much about the whole.

One final point. What, it may be wondered, happened to John Lynch, he of the original ‘Liberty or life!’ shout? The execution of the five pirates was not quite the end of the story. On the morning they were to be tried five of the men, including Lynch, escaped from the hulk they were being held in. Their adventures lasted until May, when the last of them were finally apprehended. This time there was to be no escape. Lynch, along with two of the other Wellington pirates (the other two of the five having already died, one by hanging, one from injuries received during recapture) were hanged on 17 June 1827. Also hanged with them was
another man, Michael Coogan. He was hanged for forgery, but amongst his earlier crimes had been the attempted piratical seizure of a ship – a schooner, called, ironically, the Liberty.\textsuperscript{[52]}

Notes

3. Ian Duffield, ““Haul away the anchor girls”: Charlotte Badger, tall stories and the pirates of the “bad ship Venus”,,” \textit{Journal of Australian Colonial History} 7 (2005): 60.
10. \textit{Australian}, 23 February 1827: 3.
15. \textit{Sydney Gazette}, 16 February 1827: 2; \textit{Australian}, 21 February 1827: 3.


32. Forbes to Horton, 702.

33. R v Walton et al; *Australian*, 1 March 1827: 3; R v Flanagan et al; *Sydney Gazette*, 24 February 1827: 3.


35. *Sydney Gazette*, 24 February 1827: 3; Forbes to Horton, 698; Currey, 473.


38. Minute of Executive Council, 158; Darling to Hay, 7 March 1827, *Historical Records of Australia*, Series 1, 13: 146.

39. Darling to Hay, 156; Castle, 15.

40. Fletcher, 245-249; Currey, 192-199; Walker, 8-10; Forbes to Horton, 698.

44. Australian, 10 March 1827: 3.
45. Monitor, 2 March 1827: 332.
46. Castle, 8-12, 19-21, 36-41, 49 & 51.
47. Darling to Bathurst, 12 March 1827, Historical Records of Australia, Series 1, 13: 157.
49. Monitor, 16 March 1827: 348.

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