

Why Pirates Are Back

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Abstract

At the dawn of the twenty-first century, we are witnessing the birth of a new pirate age both in international waters, where fights over oil and fish extraction echo colonial wars over silver and slaves, and in the “high seas” of a global information society. This article reviews these fast-growing phenomena and shows how they relate to one another and to a broader proliferation in types of sovereignty, as well as the rebels they engender. Piracy forces open the cracks of legal sovereignties, revealing an intensifying contradiction in what ought to be called neoliberal mercantilism.

PIRATES SEIZE HEADLINES

In September 2008, a group of Somali pirates hauled in a bounty they had not anticipated. When they entered the hold of their prize, the Ukrainian freighter MV *Faina*, they found 32 Soviet tanks, 150 grenade launchers, and 6 anti-aircraft guns. After a months-long standoff with an international flotilla of naval ships and negotiations with the ship's owners, the pirates were successful in winning \$3.2 million in ransom. They were less successful in convincing journalists or officials of their discovery of paperwork on the ship that showed that, rather than a destination of Kenya, as reported, the shipment was on its way to southern Sudan with tacit U.S. approval, despite a UN ban on arms shipments to that country. In late November 2010, WikiLeaks's massive disclosure of U.S. State Department cables revealed that the pirates' intelligence was reliable (Gettleman & Gordon 2010).

During these same months, the nonpareil of contemporary privateers, Blackwater Worldwide, was trying to figure out how to make some cash off this pirate business. They retrofitted a 183-foot oceanographic research ship dubbed the *McArthur* with machine guns and a drone aircraft while CEO Erik Prince arranged for a promotional event in Djibouti (formerly French colonial Somaliland) to drum up business as pirate hunters. The Blackwater endeavor did not get very far, in part due to the lack of interest of the new Obama administration, but also due to a near mutiny on the privateer ship triggered by the abuses of the captain (as revealed by several ensuing lawsuits). In its communications with government officials, Blackwater was essentially looking for a license to operate, although executives admitted to U.S. embassy officials that there was "no precedent for a paramilitary operation in a purely commercial environment," nor was it clear what legal jurisdiction would apply to captives. Their solution was simple: "Blackwater does not intend to take any pirates into custody, but will use lethal force against pirates if necessary" (Mazzetti 2010). Although Blackwater's entrée

into the antipiracy sector had been reported previously, Blackwater executives' understanding of the legal and economic context and their candid dialogue with U.S. officials were not known publicly until the November 2010 WikiLeaks exposure.

Julian Assange, the founder and public bad boy of WikiLeaks, has been held up as the premier latter-day intellectual pirate by those who admire him and by those who would like to criminalize him, whether on international security grounds or because of alleged sex crimes. His counterpart, Peter Sunde (himself under siege by legal attacks), figurehead of the controversial BitTorrent download site known as The Pirate Bay, has identified WikiLeaks as one of the most important efforts in a growing worldwide political movement to create a free information society (*Daily Mail* 2010, Michaels 2010).

These connections between the simultaneous rise in contemporary sea piracy and intellectual piracy—as well as the increasingly militant suppressions of both through international cooperation—are not coincidental. There are cogent parallels between the two types of piracy and the conditions, both historic and recent, of their seemingly explosive growth in the first decade of the twenty-first century. The dramatic rise in both types of piracy has left not only governments and policy makers scrambling to figure out a response, but also social scientists. Although historical studies of classic Caribbean piracy have matured and deepened over the past 20 years and interest in intellectual piracy has burgeoned in several disciplines, relatively little attention has been paid to late modern and contemporary sea piracy. We are especially impoverished in close-up qualitative studies of societies where piracy is flourishing, whether in fishing villages or in online communities.

As a result, this article must perforce be as much an overview of the phenomena as of the literature. Sources range from journalism, to legal and policy papers, to economics, ethnography, and history. Once placed in the same constellation, these materials begin to sketch

some important patterns that show piracy to be a site not only of heightened activity, but also of heightened fantasy and anxiety. Piracy is both a reality and a metaphor for the neoliberal, postnational age. Like piracy of yore, its moral status is ambiguous, and it is unclear whether pirates represent a dominant, neoliberal *Gemeinschaft* that is exaggerated to monstrous proportions—an ethos of take what you can—or whether they represent a free-culture revolution that may spell the end of millennial capitalism (Comaroff & Comaroff 2001). In the theater of law and politics, I argue that piracy robs the emperor of his clothes—exposing contradictions within neoliberal capitalism and tensions over sovereignty stretching across several domains: national, international, and informal (for more on pirate economies, see Dawdy & Bonni 2012). These undercurrents are not unfamiliar to students of the buccaneers and brethren of the Caribbean. In a cross-temporal comparison, issues of sovereignty and of the twinned circulation of goods and ideas, which both excited and worried people during the early modern Atlantic period, echo with uncanny familiarity today. Three centuries ago, the crises and protests of pirates and smugglers were major forces that precipitated the Age of Revolution (Lane 1998, Linebaugh & Rediker 2000). The agitations of today’s pirate battles are worth attending to, despite the temptation to trivialize the self-fashioning of pirates in consumer culture as a romantic label for solipsistic appetites. The pirate label as used by The Pirate Bay and other intellectual pirates has a strong and steady history reaching back to the time of Sir Francis Drake, often symbolizing an ideology that is both antistate and anticapital (Johns 2010). Piracy today is rising across three fields simultaneously: sea piracy, intellectual piracy, and representations in popular culture. Because of space constraints and a goal of filling what is the largest gap, I focus primarily on the first, while showing how it is related to the second and third fields.

In the following three sections, I first provide an overview of the facts on the ground regarding contemporary sea piracy. The second

section briefly draws on historical comparisons to classic Caribbean and colonial piracy in the South China Sea. In the third section, I expand the comparison to intellectual piracy to elicit the ways in which both types of piracy appear to be accelerating crises in sovereignty and revealing precipitous contradictions within neoliberalism. I conclude by looping back to recent studies of sovereignty in the social sciences, which suggest that piracy may represent a more steady state than sovereignty.

THE NEW SEA BANDITS

The most detailed and timely source for statistics on reported piracy is the International Chamber of Commerce’s Commercial Crime Services wing, which hosts a Web site where the interested viewer can open a live map of current pirate attacks around the globe or compare maps of pirate attacks for successive years since 2005 [one can even request continuous updates of pirate attacks via Twitter (Int. Chamb. Commerce 2011)]. The Chamber is fed data from the International Maritime Bureau (IMB), which maintains a 24-hour Piracy Reporting Centre in Kuala Lumpur, Malaysia. Because reports are voluntary, they likely represent only incidents involving large ships or those for which insurance claims were made. Nevertheless, the statistics indicate that sea piracy has seen a rapid rise since the early 1990s when the IMB first began tracking, with some year-to-year fluctuations in hotspots attributable to local political, economic, and ecological conditions.

One would have to be a castaway on a desert island to be ignorant of the recent surge in piracy off of the coast of Somalia, which grew 200% between 2007 and 2009 and spiked further between 2008 and 2010. Nevertheless, reported sea piracy occurs across the globe and is growing in frequency, particularly in narrow shipping lanes and ports newly bustling with globalized trade. In 2007, the highest number of reported attacks occurred in Indonesian waters, but in the first quarter of 2008, Nigeria took the lead until it was edged out

by Somalia (Passman 2008). In Asia, the IMB considers high-risk areas to be Bangladesh (Chittagong), Indonesia (particularly the Anambas, Natuna, and Mangkai islands), the Strait of Malacca, Malaysia (particularly Pulau Aur and Tioman), the Singapore Strait, and Vietnam (especially near Vŭng Tàu). Overall, the entire South China Sea is seen as a future growth area for piracy by what the IMB calls, not quite euphemistically, Pirate Action Groups (Int. Chamb. Commerce 2011).

In Africa, beyond the well-known hotspots of the Gulf of Aden and the Red Sea, Nigeria has seen attacks that target vessels involved in rapidly expanding oil exploration. Conakry in Guinea and Douala in Cameroon have also witnessed recent attacks. In East Africa, attacks have spread up and down the coast and well into the Indian Ocean, touching Kenya, Tanzania, Oman, Yemen, the Seychelles, and Madagascar. Pirates of presumed Somali origins have also been reported as far eastward as coastal India and the Maldives. Although North America and the Caribbean were once havens for pirates, today their waters remain relatively quiet.¹ In South America, rushes of piracy in recent decades have occurred in or near the ports of Santos, Brazil, and Callao, Peru (Int. Chamb. Commerce 2011). Piracy cases are rarely reported in Europe, although a recent exception in the Baltic may have been inspired by Somali examples (Belton 2009).

In 2010, there were reports of 445 attacks and attempts. Thirty-one of these attempts were in the South China Sea, a nearly threefold increase over the previous year. Piracy also rose dramatically in 2010 in Indonesia. Still, nearly half of attacks in 2010 (221) were attributed to Somali pirates, whose tactics distinctively and ambitiously involve seizing entire ships for ransom. Increasingly, they are holding crewmembers hostage as well. During this period, 1,181 hostages were seized and 8

crewmembers were killed, but until a recent escalation between Somalis and U.S. naval forces, contemporary sea piracy has rarely involved homicide (Int. Chamb. Commerce 2011, MacAskill & Rice 2011).

Although comprising several distinct groups that continue to change in composition, organization, and affiliation, as a whole Somali pirates are undoubtedly the most visible and perhaps best organized sea pirate culture today. Despite several high-profile incidents and an international crack down that began in 2008, Somali piracy has not significantly diminished. Instead, pirates are simply moving further into international waters, where detection and tracking are more difficult. Although the definition of piracy can include almost any organized property crime committed at sea (theft of cargo, of crew's effects, of the ship itself)—and does take these varied forms across the globe—the predominant Somali tactic is to capture a ship and hold it, its cargo, and/or its crew for a large ransom. Once they have captured a ship, the pirates bring the vessel to the Somali coast and wait out the often long negotiation process, usually successfully. In March 2011, the time of this writing, Somali pirates were thought to be holding 28 vessels and 587 hostages (Cowell 2010, Gettleman 2010b, Int. Chamb. Commerce 2011).

Although pirate attacks covered by the IMB's statistics include seizures of the occasional small fishing or recreational vessel, most of the tracked attacks along the east coast of Africa are of large cargo ships or tankers held for ransoms typically in the \$1–2 million range. Piracy pays well, and revenues are rising. In 2008, Somali pirates are estimated to have made more than \$100 million collectively and, in 2009, possibly as much as \$300 million. The year 2010 saw what is believed to be the highest ransom so far—\$10 million for a South Korean supertanker (Gettleman 2010a,b). Pirate crewmembers have reported netting anywhere from \$20,000 to \$150,000 per expedition, making economic motivations understandable in an area where, until the dawn of this new pirate age, international trade had been cut off due

¹When drug smuggling turns violent, the line may be hard to draw. A recent, unusual exception, which involved the murder of an American man on a jet ski in the Falcon Lake reservoir bordering the United States and Mexico, was referred to as piracy in news reports (Jonsson 2010).

to civil war and where food shortages were a constant struggle due to both ecological and political conditions.

Putting Somalia in Historic and Ethnographic Context

Although it is impossible to do justice to the daedal politics of Somali history in a brief review, some background is warranted to contextualize sea piracy and the timely questions of sovereignty it poses. The land now called Somalia has been an important nexus of trade for centuries; lying along one of the main approaches of the Silk Route, it was a supplier of gold, frankincense, and myrrh in the Middle Ages. This cultural area served as a bridge between Muslims on the Arabian peninsula and those of sub-Saharan Africa. Somaliland as an ethnic homeland roughly corresponds to Islamic speakers of the Cushitic Somali language who also claim ancestral kinship. This population has never been united under a single political tent, although those with imperial ambitions, such as Ahmad ibn Ibrihim al-Ghazi of the sixteenth-century Adal Sultanate and, more recently, military dictator Mohamed Siad Barre (ruled 1969–1991), have tried.

In East Africa, self-identified ethnic Somalis are found in Djibouti, Kenya, Ethiopia, Yemen, and the state formerly known as Somalia (terminology akin to that used for the former Yugoslavia is entirely apt to the current situation, although it has not been widely adopted). Although the French succeeded in establishing the curiously quiet trading colony of Djibouti (also known as French Somaliland, ca. 1894–1977), which Somalis share with the Afar ethnic group, the rest of the Somali homeland was a battleground for competing European powers from the late nineteenth century through decolonization in the 1960s [primarily between the British and the Italians, although the Germans and Ottomans also took an interest (Hess 1964, Lewis 2003)]. Through treaties involving these European powers and their chess games throughout the continent, the political boundaries of East African states

frequently shifted in the twentieth century, such as when Britain ceded a large part of Somaliland to Ethiopia in the 1940s as a payoff for military assistance in earlier contests.

The people of Somalia are known for fiercely resisting European colonization, particularly through the leadership of Sufi leader Mohammed Abdullah Hassan, credited with establishing the Dervish State in the early twentieth century. In 1920, the British won a short-lived victory and stitched together a new colonial state out of distinct regions ruled by local kings, but they lost southern Somalia to the fascist Italian government between 1927 and 1941. After the war, the British responded to international pressure to decolonize by incorporating Somalia into the Commonwealth; during the same period, Italy continued to oversee the south through a less direct form of rule called a trusteeship (Hess 1964, Lewis 2003). The two areas were united in 1960 with independence, but experiments in democracy were cut short by a military coup in 1969. Somalia was ruled by a military dictatorship from 1969 to 1991, backed first by the Soviet Union and then by the United States. Since its postcolonial creation, Somalia has been involved in border disputes and wars with neighboring Ethiopia and Kenya. The fall of dictator Siad Barre came at the hands of several rival groups variously identified by clan affiliation, ethnicity, religion, and/or political ideology (Besteman 1997, 1999; Massey 1994).

The short-lived former state of Somalia is now divided into four political zones, three of which have proclaimed independent sovereignty and the fourth of which is still embroiled in civil war, split up among a dizzying number of local players. The Republic of Somaliland in the northwest along the Gulf of Aden seceded from the rest of Somalia in 1991 and has remained relatively stable, but it has not yet been diplomatically recognized by the international community. It disputes a border with neighboring Puntland, at the tip of the horn, which operates semi-independently while holding out for the possibility of a secular Somali federation (a hope fed by international

assistance and the promise of one of the richest untapped oil reserves in Africa), as does neighboring Galmudug. Leaders in these two regions are active in cooperating with the Transitional Federal Government (TFG), which is the only state-like entity having international legal recognition, being a creation of the United Nations and the African Union with strong U.S. backing. The region that continues to be rocked by civil war is the far south, home to Somaliland's historic capital and main port, Mogadishu, where UN peacekeepers have attempted to extend the TFG. The coast of southern Somalia is distinct for its greater ethnic and religious diversity among the region's sailors, fisherman, and traders, including the Benadiri, Bravanese, Bantu, and Bajuni, as well as descendents of Persian and Indian traders and European colonists. Some Bantu speakers, forcibly relocated to the area because of slavery in the nineteenth century, continue to practice nontext polytheism. Although the region as a whole remains predominantly Muslim, it has become a contested terrain for competing Islamic groups, with splits among fundamentalists, moderates, Sunni, Shi'a, and Sufi. UN peacekeepers have periodically attempted to stabilize relations among warring factions, particularly in and around the capital of Mogadishu (including the famous and bloody Black Hawk Down incident of 1993), but many actors do not recognize the legitimacy of the foreign-backed TGF, which contributes to resistance fighting (Lewis 2010, Walls 2009).

Anglophone knowledge of Somali colonial history and ethnography comes from a handful of scholars. One of the most influential figures is I.M. Lewis, a British social anthropologist whose long career has been devoted to studying the nomadic pastoralists of northern Somalia.² In *A Pastoral Democracy*, Lewis (1961) argued that segmentary clans comprised the major organizational structure of Somali social and political life, with groups feuding and rallying

together without great regard for territory or written law (although a set of indigenous customary laws called Xeer provided a strong basis for adjudicating conflicts, and Shari'a was also invoked, particularly in urban communities). In his view, Somali culture is predisposed to understand, but reject as illegitimate, state-like institutions and formal law. Such political forms are seen as foreign attempts to usurp local customs and authorities rooted in kinship and Islam.

Lewis continues to pull this last thread in his latest work (Lewis 2010), a collection of essays that follows Somali politics since decolonization. He argues that "[t]raditionally, Somali society is extremely uncentralized and individualistic to a point verging on anarchy" (p. xix) and that "Somalis have an unusually wide-ranging tolerance of the absence of centralized government. From a traditional perspective indeed, they could be said to need states less than states need them!" (p. xx). He shows how Somalia as a whole can be seen as the paragon of a failed or lapsed state but also explains how this is not the same condition as an absence of political sovereignty or power. He notes that soon after the dissolution of the dictatorship, a quite effective and stable grassroots government arose in the north—the Republic of Somaliland—but ironically, due to the lack of international involvement or oversight, this indigenous state is still unrecognized on the global stage. In the south, Lewis writes, the peace process has been complicated rather than aided by international assistance when agencies and actors deploy tactics that go against the grain of local culture. Another source of international meddling is the arrival of Saudi fundamentalist and jihadist movements (including some with credible al-Qaeda ties), which have created profound splits within Somali communities, many of which continue to adhere to Sufism.

In the 1990s, Lewis (1998) engaged in an acrid debate with Besteman (1996, 1997, 1998), who is among a younger generation of East African ethnographers attempting to account for Somalia's failed state. Lewis and Besteman agreed about the territorial

²Lewis's (2003) *A Modern History of the Somali* has gone through four editions and remains the thickest historical overview of the region prior to the dictatorship.

dissonance created by colonial interventions that made the emergence of a fully national Somali state in the twentieth century difficult. However, in these articles and a 1999 book, Besteman takes Lewis and others (e.g., Laitan & Samatar 1987) to task for essentializing Somali clan schizmogogenesis. In her eyes, this characterization naturalizes the post-1991 dissolution of Somalia as inevitable while glossing over other kinds of segmentations, which are historically embedded within Somali society—especially class, race, and regional divisions—that have added fuel to sectarian violence. She emphasizes global economic and political forces—especially capitalism and the Cold War—over what she sees as Lewis’s internal “primordialist” explanations (Besteman 1998). Although she points to colonial interventions and exacerbations of the Barre regime for stirring class resentments, she traces racial divides thinly masked as clan and caste distinctions to a regional history of slavery.

As I show below, this basic divide in explaining the collapse of the Somali state, here represented by two anthropologists, is echoed in the literature on contemporary sea piracy. The piracy literature broadly cleaves along disciplinary ranks, with public policy analysts, economists, legal scholars, and security experts espousing internalist explanations in terms of dysfunctional, provincial responses and a smaller number of anthropologists, historians, and environmental scientists pointing to largely external conditions imposed by bungled decolonization, globalization, and neoliberalism. In a strange flip, the analysts who usually favor broad systematic explanations blame local peculiarities for piracy, whereas those who usually champion the local and particular blame large impersonal forces. I argue that this ideological divide in the literature comes down to a fundamental disagreement about the legitimacy of international forms of sovereignty and the costs/benefits of neoliberal capitalism.

Upon closer examination, the relativity of political legitimacy and the porosity of sovereignty, as seen from both within and without Somalia, hang like clouds over the

status of so-called pirates. Some groups accused of piracy prefer titles such as Somali Coast Guard, the National Volunteer Coast Guard, the Central Region Coast Guard, Ocean Salvation Corps, or the Somali Marines (Cox 2009). In Puntland, some Somali soldiers participate in what looks to the international community as piratical acts. Since the collapse of the Barre regime, the lack of a central Somali military controlled by a central authority has meant that those who see themselves as legitimately defending Somali territory and resources are operating without international recognition. Thus, their claims to legitimate statehood, as in the Republic of Somaliland, may be internally valid but internationally unsanctioned. In such a situation, the line between pirate and coast guard is defined by long-distance juridical perception that is informed more by the security interests of the UN Security Council and the appeals of multinational corporations than by local political realities.

Few ethnographers have returned to Somalia since the fall of the dictatorship in 1991 and its ensuing crises. To my knowledge, none have worked among the coastal villages known to be pirate havens. Information on the organization and self-understanding of Somali pirates comes largely from journalists and a handful of NGO representatives. We do know that the Somali language includes a word for pirate, *burcad badeed*, which translates as sea bandit (Cox 2009, Lehr & Lehmann 2007, Silva 2010). We also know that self-identified pirates concentrate in Puntland, taking advantage of the narrow pass known as Bab el Mandeb that connects the Gulf of Aden to the Arabian Sea; heavily laden ships pass through this vulnerable area from the port of Jeddah in Saudi Arabia or the Suez Canal in Egypt. But piracy is not solely a factor of geography. Other known pirate havens exist in fishing villages that dot the entire length of the southern coast. Many of the pirates interviewed by reporters are non-Muslim minorities who are not tightly integrated into the Somali so-called warlord system (Cox 2009). One observer identifies seven distinct pirate clans in Somalia (Shaun 2009).

Opportunistic temptation is certainly presented by the expansion of oil distribution and its related consumer wealth in nearby Arab nations (Cox 2009, Lehr & Lehmann 2007). In November 2008, Somali pirates seized the MV *Sirius Star*, a Saudi-owned megacrude tanker carrying two million barrels of Saudi oil, representing one-quarter of that country's daily output and a market price of \$100 million. From the Somali pirate/coast guard perspective, the \$3 million ransom was a more than reasonable "tax" for passing through Somali waters (Gettleman 2008, 2010a). Exactly the same self-understanding and tactics were used by the Barbary pirates tapping the concentration of wealth that flowed between the greater Atlantic and the Mediterranean during the early modern age of colonization (Blondy 2002, Wolf 1979).

In interviews with journalists, several Somali pirates have said that their activities began as a counteroffensive against commercial fishing vessels that were taking advantage of Somalia's political disarray to poach territorial waters, to the detriment of local fisherman. Sugule Ali, a spokesman for a group calling itself the Central Region Coast Guard, which hijacked the MV *Faina*, is quoted as saying: "We don't consider ourselves sea bandits [*burcad badeed*]. 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" (Gettleman 2008). He explained that the MV *Faina* was detained and "fined" because it was sailing through "our waters carrying all these weapons without permission" (Gettleman 2008). He also references accounts by Somalis and environmental groups that opportunistic dumping of toxic and medical waste off of Somalia's coast (largely by Italian firms) has added to local miseries in the civil war period (Waldo 2009).

According to Andrew Mwangura, who runs the Kenyan-based Seafarers' Assistance Program, and Mohamed Abshir Waldo, an analyst for the international NGO Ecoterra International, the rise in Somali sea piracy is largely due to fish poaching (or what analysts call IUU fishing—illegal, unreported, and unregulated)

that has escalated in the past 15 years owing to opportunity and demand. Somalia possesses the longest coast on the African continent and is counted among the five richest fishing areas of the world. Meanwhile, EU fisheries have imposed a moratoria to allow fish stocks to recover, while Asian commercial fishing has capitalized at an exponential rate, responding not only to increased Asian market demand, but also to worldwide appetites for tuna, shrimp, and other fish [especially those purveyed in the form of sushi (Lehr & Lehmann 2007, Mwangura 2010, Waldo 2009)].³ With the collapse of the Barre government and dissolution of the national coast guard, Somalia presents a tempting and vulnerable area. In the early 1990s, several violent confrontations between foreign fishing crews and Somali fisherman were the spur to a cycle of defense, predation, and revenge of a now quite wider and intensified circuit.

The stakes are high. The tuna business alone in the Indian Ocean is estimated to be worth \$6 billion annually. According to the High Seas Task Force, an international conservation group that tracks illegal fishing, in 2005 800 IUU fishing vessels were active in Somali territorial waters, representing more than \$450 million (Mwangura 2010), whereas Lehr & Lehmann (2007) put the average annual figure of European and Asian poaching at \$300 million. Trawlers identified either by NGOs or by pirate captures have come primarily from the EU and Asia, with repeat offenders from Italy, France, Spain, Greece, Russia, Britain, Ukraine, Japan, South Korea, China, Taiwan, and India, as well as Yemen, Egypt, Mozambique, and Kenya. With some justification, Mwangura (2010) counters by labeling this foreign activity within what should be Somalia's protected 200-mile Economic Exclusive Zone (EEZ) as fishing piracy, a form of biopiracy. Waldo (2009) adds that even though some industrial fishing operations pursue paperwork

³Tuna is the main catch, but industrial fishing also targets local mackerel, swordfish, grouper, emperor, snapper, shark, rock lobster, shrimp, dolphins, sea turtles, and sea cucumbers (Waldo 2009).

(referred to as licenses) from local officials, these companies are mafia-like in their international reach, intimidation tactics, and secrecy. Furthermore, they seek licenses from warlords or municipal figureheads with limited or questionable legitimacy. In short, the licenses might as well be regarded as frauds or counterfeits.⁴ As should be clear from these allegations and counter allegations, the legal waters of Somali piracy are murky, and there are high-placed interests profiting from the suspension of Somali statehood. Failed states are the ultimate free market, as international entrepreneurs have discovered.

One prominent, young economist has made this correlation an article of new faith. In a paper entitled, “Better Off Stateless: Somalia Before and After Government Collapse,” Leeson (2007) argues that “statelessness has substantially improved Somali development. I find that on nearly all indicators Somalia is doing significantly better under anarchy than it was under government. This improvement has been made possible by renewed vibrancy in key sectors of the economy and public goods in the absence of state predation” (p. 692).⁵ Leeson continually uses the term anarchy (57 times) to describe the state of Somali political affairs since the collapse of the Barre government. Although he does not

define the term, he does idolize it as a perfect state for economic affairs. He paints a surprisingly rosy picture of Somali society, suggesting that health, life expectancy, and freedom of speech have all improved significantly in the 2000s. Anarchy for him, though, appears not to mean an absence of rule: “Because of the state’s collapse, private providers of law and order have been freed to step in” (Leeson 2007, p. 705), a frighteningly flat-footed assertion of the ways in which neoliberalism has privatized power (Comaroff & Comaroff 2009).

Other Hotspots

According to policy analyst J.N. Mak (2007), as in Somalia, fishing and ecology are major factors contributing to piracy in the Strait of Malacca, which divides the Malaysian peninsula from Indonesia’s island of Sumatra and is the hottest spot of the South China Sea. Mak claims that pirates have kept the Malaysian fish and shrimp populations from the collapses seen elsewhere, although there is still a black trade in sea cucumbers, tuna, and shark fin for nearby Asian medicinal and culinary markets. Ethnohistorian James Warren (2003, p. 15; 2008) corroborates that illegal industrial fishing operations (including fish bombing and cyanide poisoning) have triggered piratical responses from Indonesian fishing communities in an area that has a cyclic history of piracy as a response to predatory economic practices, particularly involving forced labor and/or extraction of exotic luxuries.

In a salient parallel with the Gulf of Aden, a stunning one-quarter of all the world’s trade passes through the Strait of Malacca—most of it oil. The Malacca region today is also seen as a major corridor for human smuggling, particularly feeding the Asian sex trade in women and children (Warren 2008). The area has seen an upsurge in piracy and human trafficking since the 1970s. Malacca pirate attacks on fishermen and traders have been reported since the 1980s. With the Asian financial crisis that began in 1997, pirates turned to larger international ships and started demanding ransoms for

⁴Waldo (2009) specifically names the UK- and Italy-based African and Middle East Trading Co. (AFMET), PALMERA, and UAE-based SAMICO as having cut deals with warlords General Mohamed Farrah Aidid, General Mohammed Said Hersi Morgan, Osman Ali Atto, and ex-President Ali Mahdi Muhammad. Each of these shady companies are middlemen for licenses that they then turn over to better known companies such as Spanish Pesca Nova, which received licenses for 43 seiners in a four-month period alone at the price of \$30,000, and the French-owned Cobracaf group, which had SAMICO obtain a rate of \$15,000 per season per vessel. A similar arrangement allegedly exists between the Omani-based PIDC and the UK’s Hart Group International.

⁵Within Leeson’s own disciplinary paradigm, the article is strange—11 of his 18 “social welfare” indicators are measures of improvement in health and sanitation that most plausibly could be attributed not to the absence of government but to its insertion in the form of UN assistance. Also peculiar for an economic argument, his own data show a significant drop in per capita GDP, and he declines to provide data on the other major economic indicator—average per capita income.

ships and their crews and/or for protected passage money. The new wave of piracy in Asia has a clear and present connection to neoliberal deregulation and the intensification of two extractive sectors in the past two decades—oil and fishing—as well as a connection to the precipitous busts neoliberalism risks (the Asian slump is seen by many economists as a precursor of the credit bubble crisis of 2008 and its ensuing global recession).

The northern tip of Sumatra is occupied by the territory of Aceh, home to the most active pirates in the region. Like Somalis, residents of Aceh (which include ethnic Acehnese, Alas, and Tamiang, among others) historically put up a fierce resistance to European colonial control. Since the 1970s, Aceh has attempted to proclaim sovereign independence from Indonesia. Similar to Somalia, Aceh identifies as an old hearth of Islam (claiming to be the site of its introduction to Southeast Asia) and is now characterized as one of the most conservatively Muslim areas of Indonesia. The territory is rich in oil and natural gas, which is one reason why the Indonesian government is loathe to let it secede. After the fall of Suharto (whose long authoritarian rule from 1967 to 1998 echoes aspects of Siad Barre's), separatists in Aceh reactivated their pursuit of independence. Many locals do not recognize the legitimacy of the Indonesian state in Aceh province (Mak 2007, Warren 2003).

Malaysia and Indonesia have been engaged in a boundary dispute over rights to the northern reaches of the Strait of Malacca that exacerbates the pirate problem. Malaysia has legal rights to the seabed, but not the water column, although it has been attempting to assert economic sovereignty over the fish that pass through. Political and legal ambiguities run throughout the global fishing industry, especially in this region. Local commercial operations are quite international, with Chinese investors and boat owners, Malay or Indonesian captains, and mostly Thai or Burmese low-paid crew members (Mak 2007). For the right price, some fishermen have flashed official-looking “fishing certificates” in the name of the Aceh

Sumatra National Liberation Front, a separatist group, bringing up the question of who has legitimacy and sovereignty in this area. From the international observers' viewpoint, this connection between fishing and separatism threatens to cross the line between piracy and terrorism. But from the local participants' viewpoint, these actions may not represent piracy at all, but rather the enactment of regional sovereignty with the political right to levy tolls and issue licenses and the economic right to harvest local resources—something that in most cases they had been doing for generations before foreign poachers appeared on the scene.

Pirates in the South China Sea (which geographically encompasses other current hotspots such as the Singapore Strait, the Sulu Sea, and the Sabah Sea), originate from three sectors of the regional population: a small number of hereditary or traditional pirates who often reside on smaller islands or more isolated coastlines; fishermen or local traders who have turned to piracy because of recent economic extremities; and military or government officials who have turned rogue or who, at the very least, exploit their position to extort bribes, extend their jurisdiction, and impose questionable taxes and tolls. In addition, pirates vary considerably in their specialization and level of organization. Some are fisherman who engage in small-scale sea robbery and territorial protection in their local area; some are part-timers diversifying their activities out of involvement in international smuggling and human trafficking over a wider area; and others (particularly those involved in high-ransom ship jacking) appear to belong to highly centralized and capitalized organized crime syndicates, which are directed from major urban centers in Hong Kong, Singapore, and Taiwan (Mak 2007, Warren 2008).

As legitimate business operations expand in the globalizing economy, informal and criminal businesses are globalizing in tandem and taking advantage of the same porous state boundaries, loosened regulations, weakened states, and improved technologies such as container shipping, radar, cell phones, and computer tracking,

to streamline their operations. Global smugglers interviewed by anthropologist Carolyn Nordstrom (2004, 2007) say that crime itself is undergoing a process of globalization and that a megamerger is occurring between culturally dispersed crime syndicates from Asia to Africa, to Latin America, and back to Europe. The cultural and economic distance between the Russian mafia, the Bangkok brothel, and the Las Vegas strip is fast closing. Nordstrom's observations are corroborated by eyewitnesses in East Africa and the South China Sea who note the penetration of globally organized commerce and multinational crime. The remaining major distinction between the two (both of which may operate with fishy "licenses") is the presence or absence of the use of force—although in Blackwater's case, that distinction collapses entirely in the privatization of state violence.

HISTORY LESSONS

Anthropologist Christopher Healey (1985) makes the argument that, historically, some island and coastal communities in the South China Sea were prone to piracy for ecological, economic, and ideological reasons. In the early modern and colonial periods, piracy became a way of life in coastal Borneo because the island neither produced enough food to sustain the population nor was well positioned to participate directly in international trade routes and peaceful commerce. Small island states depended on interior tribes for agricultural produce and tropical forest materials such as camphor, gums, aromatic woods, rattans, and edible bird nests valued in Asian trade. Healey documents the instability of a system in which some state power brokers try to impose trade monopolies while others try to penetrate the monopoly through piracy, echoing the dynamics of the early modern Atlantic. And in parallel with today's Somalia, a constant fissioning and reconsolidation of economic and political control occurred among the Borneo coastal polities, as none of them could exert their hegemony over the interior tribal groups. Warren (2008)

makes a similar argument for the connection between colonial economic exploitation that caused piracy to spike in the nineteenth century and what is occurring today. While European colonizing powers criminalized political and commercial activities in Southeast Asia that indigenous maritime populations simply considered the normal way of doing business, they also created unsustainable redistributions of resources and labor.

Leeson does not refer to Somali piracy in his 2007 article, which predated the phenomenon's publicized upswing in 2008–2010. However, the coupling of anarchic pirate fantasies with radical free marketeerism was already anticipated. Somali pirates presaged Leeson's (2009) concurrent book project, *The Invisible Hook: The Hidden Economics of Pirates*, as Somali and other contemporary sea bandits appear only in Leeson's postscript. *The Invisible Hook* is a populist *Freakonomics* take on classic Caribbean sea piracy circa 1670–1730. Leeson is forthright about not offering new data (the book is curiously void of the economist's favored tables or other quantitative evidence); instead, he gaily plunders the archival work of historians such as Rediker (1987, 2004) into a reworked interpretative frame that shows pirates to be self-interested, rational actors who respond to incentives. Although he admits that "greater liberty, power sharing, and unity did prevail aboard pirate ships," his main point is that "most sailors who became pirates did so for a more familiar reason: money" (Leeson 2009, p. 11). For Leeson, pirates present a case for the possibility of a "privately created law and order." Although he admits that Rediker is persuasive in arguing that "in part, pirates acted as social revolutionaries in rebellion against the authoritative, exploitative, and rigidly hierarchical organization" of early modern capitalism—the problem for him was that this hierarchy emerged under a regime of state capitalism, or mercantilism (Leeson 2009, p. 11).

Rediker (2004, p. 16) describes classic Caribbean pirates as an "alternative social order" that attempts but fails to create a kind of utopian, nonstate society. For him, pirates are

communitarian anarchists and proto-socialists, not the Adam Smith individual automatons of Leeson's fantasy. To his credit, however, Rediker has devoted much of his distinguished career as a serious historian in the archives, uncovering more primary evidence of mariner life in the early Atlantic than perhaps anyone else in the field. Although he may take the argument to idealist extremes, pirate literature and the testimony of some self-proclaimed pirates do reveal a self-conscious political and ideological revolt against the coercive tactics of both government (especially British naval impressment and enclosure) and capitalism (in its rapid displacement of populations and monopolistic seizure over the means of subsistence—many pirates in the early eighteenth century targeted the British East India Company as their arch enemy). The rapid globalizing spread and coerced population movements of merchant capitalism bear many similarities to today's forces of neoliberal globalization. Leeson (2009) imagines a contrast between a historic case of bungling, government-run companies and a contemporary case of privately run companies thriving on unfettered competition. However, upon examination of the structural underpinnings of transnational corporations and their legal penetration into national and international practice, one could argue that what is actually happening today is that monopolistic corporations are running states [an overgrowth of Leeson's private ideal (Comaroff & Comaroff 2009, Foster & McChesney 2009)]. And it would have been equally difficult to say who was on top in the seventeenth and early eighteenth centuries—the French West Indies Company and British East India Company or their heavily invested monarchies. Piracy reveals the supposed contrast between mercantilism and neoliberalism to be less meaningful on the ground than it has been in rhetoric.

Rediker (2004) makes many political points in his detailed account of classic Caribbean piracy that can be read as critiques of contemporary conditions. His portrayal of pirates as anarchic revolutionaries has been taken up by latter-day anarchists of otherwise quite

opposed persuasions—from radical neoliberal Peter Leeson to anticorporate digerati such as Peter Sunde. Rediker depicts the escalation of piracy and antipiracy in the early eighteenth century as a case of bilateral terrorism: "In truth, the keepers of the state in this era were themselves terrorists of a sort, decades before the word *terrorist* would acquire its modern meaning" (Rediker 2004, p. 5). He also argues that pirates in the Golden Age were quite consciously both antistate and anticapitalist and thought of themselves "as a people without a nation" who on shipboard created a temporary homosocial society whose "core values were collectivism, antiauthoritarianism, and egalitarianism" (pp. 8, 26). They strategized not only to plunder for their own short-term pleasure and expression of outrage and revenge but also to intentionally disrupt trade in areas of concentrated flow. Although more attuned to the social and political currents of piracy than Leeson, Rediker does not shy away from an economic explanation. He says that beyond the classic Caribbean example, "The most essential precondition through the ages has been the existence of trade, in which valuable commodities are transported by sea through remote, poorly defended regions populated by poor people" (p. 28). If true, then oil and fish are today's silver and slaves.

An important case study regarding the fine line between piracy and privateering and the fragile legitimacy of state and merchant interests they bring to the fore is that of Captain Kidd (ca. 1645–1701). Historians have interpreted his case as either a birth or a death in the history of piracy (Ritchie 1986). In 1695, Kidd was recruited by the governor of New York and several wealthy British lords to go on an antipirate and anti-French privateering expedition during the Nine Years' War. Through many twists of fate and later legal turns of cinematic quality, Kidd was convicted of piracy and his body left to rot in a gibbet over the River Thames. His execution coincides with the take-off of the most active and anarchic phase of classic piracy in the first quarter of the eighteenth century. Kidd was popularly regarded as a

martyr who came to his death through an effort by merchants to defend their own questionable legitimacy. To sailors and the “hewers of wood and drawers of water” (Rediker 2004), his execution in 1701 signaled that no merchant or maritime authority could ever be trusted; even those of your own nation could turn against you. One way of reading the gruesome outcome is that the always nebulous legality of privateering had become too clouded; its ambiguity no longer worked in favor of the pirate and privateer but would be more forcefully controlled in the interest of the state and of capitalists. Another reading is that the failure of Kidd’s punitive expedition, when seen as the mercenaries turning pirate, meant that the breach of contract was on the part of the privateers and that the time had come when pirates and privateers had outlived their usefulness navigating the fissures of the imperial and trading rivalries of the early modern period.

From that point onward, pirates ceased to be a national asset and became an international threat. Britain, France, and even Mughal India united over what had become “a common enemy of mankind,” to paraphrase Cicero’s famous definition—the nationless pirate. The war against piracy began with Kidd’s death. The end of piracy began with an intense escalation of both state and individual terrorism before finally the last of the die-hards had been stamped out around 1725. Kidd was one of the last of the well-known pirates to go to his death proclaiming his innocence. After him, most pirates instead proclaimed their scorn for the law and the illegitimacy of the system that prosecuted them.

Political scientist Janice Thomson (1994) argues that although classic piracy posed a threat to states and property, a reliance on privateers helped to legitimize nonstate violence. But by weakening this other kind of monopoly—the Weberian monopoly over legitimate violence—the early modern states undermined their own authority, especially over the colonies where their own police and military presence was light. Thus, although the trade monopolies of mercantilist capitalism undoubt-

edly contributed to the Boston Tea Party and the American Revolution, another condition that contributed to the rejection of metropolitan authority was privateering and its slippery slope into piracy. The authority of the state was hard to respect when it licensed out its monopoly of violence to uncontrollable private agents.

PIRATES, LAW, AND SOVEREIGNTY: FROM THE HIGH SEAS TO THE INTERNET

In the early modern period, there was little sense that national sovereignty extended over water. Thus, the “high seas” automatically referenced a lawless space, not simply as a metaphorical gesture but in a literal legal sense. The idea of national and international waters only developed much later, in the nineteenth century, and continues to be one of the vaguest and/or most contentious areas of international law in which it is hard to forge a consensus on legal limits and legitimate authority.

As in the post-Kidd era, today the escalation in sea piracy is closely followed by an international collaboration and crackdown, although problems in enforcement threaten to uncloak legal ambiguities of competing jurisdictions and wide gaps in the late modern bounds of sovereignty. This worrisome feature of what might otherwise be considered a simple crime wave is attested by the fact that the most prolific area of writing on contemporary sea piracy is in a branch of international relations called security studies. This is a lamentable state of affairs for those interested in relations between law and society, as the vast majority of the works in this field are poorly informed on both (see, for example, Burnett 2002, Luft & Korin 2004, Naim 2005). Most analysts of this ilk begin with the presumption that pirates are arch criminals, foreclosing historical and social analysis with a flat-footed vilification of those committing piratical acts—a sort of reverse of Arendt’s (1963) analysis of the Nazi’s “banality of evil,” which made the Holocaust possible. In the case of pirates, it is their extraordinary, inexplicable

villainy that justifies a sort of international “state of exception” (Agamben 2005) in anti-piracy tactics. One could argue that a main aim of security studies is to whip up a sense of emergency or crisis so that extralegal sovereignty can be extended, as it has been in the post-9/11 treatment of terrorist subjects at Guantánamo and elsewhere. The problem is, because pirates are international criminals, the logical extension of the state of exception in this case would be toward an international rule of law, which from a modern state’s perspective means the capitulation of national sovereignty. Even if some security analysts are reticent to invoke universal jurisdiction, their primary rhetorical aim seems to be to group pirates with terrorists and other enemies of mankind to justify the extrajudicial use of force in nonsovereign spaces—in cases such as Blackwater, the argument is made for the legitimate use of private force. One wonders what Weber would say about this neoliberal inversion of state and commercial power.

In the first century BCE, the Roman jurist Cicero is credited with coining the term *hostis humani generis*, or enemy of mankind, to describe pirates. It is a legal term that has stuck, and it became embedded in European admiralty law during the Renaissance (Benton 2005): “[P]irates are the archetype of a nonstate war maker” (Passman 2008, p. 18). Because sea pirates commit illegal acts on the high seas, or what are now called international waters, there has always been a problem in applying national laws outside territorial jurisdiction. When pirates are defined as enemies of mankind rather than criminals within a sovereign nation, then a state of perpetual war against such enemies by any and all cooperating states is justified—at least if they can agree that a particular raider is acting as a pirate and not a privateer, naval force, coastal guard, or tax collector.

In contemporary terms, the jurisdiction problem is summarized by legal scholar Michael Passman (2008): “Piracy is uniquely situated in international law: pirates are captured on the high seas outside the territory of every state but are punished under the municipal laws of any state instead of an international

court.” Article 101 of the UN Convention on the Law of the Sea (UNCLOS), an agreement brokered to adjudicate competing sovereignty claims in ocean waters largely precipitated by post-World War II oil exploration, includes a multipart definition of piracy that retains the spirit of *hostis humani generis*:

Piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b). (p. xx)

Per definitions provided by UNCLOS as well as the Geneva Conventions, pirates are “nonstate actors,” an antiseptic synonym for Rediker’s self-identified nationless rebels. Furthermore, per UNCLOS (and perhaps to the delight of Leeson), pirates by definition act for private ends and act outside sovereign territories. According to the same set of laws, waterborn attacks with political motives are not piracy—they are instead acts of terrorism. Clearly, Rediker and some anarchists would protest that public and private piracy cannot be so easily separated. Despite UNCLOS’s clear attempt to separate pirates from terrorists or war combatants, ironically the *hostis humani generis* principle is also invoked by legal scholars struggling to come up with grounds for what is termed universal jurisdiction against terrorists,

torturers, and war criminals (Roach 2010, Thedwall 2010, Burgess 2005, Kontorovich & Art 2010, Silva 2010, Taussig-Rubbo 2011). However, as Passman (2008) notes, this is a very unsettled legal question, even among American jurors, which begs the question of an international court—the same jurisdictional tension that runs through human rights cases [thus some commentators go so far as to say that piracy is not a crime (see Passman 2008, p. 11 n. 71; Kontorovich & Art 2010 for reviews of the legal debate)]. It is this same hesitancy to yield national sovereignty to universal jurisdiction that has contributed to U.S. refusal to sign or ratify UNCLOS.

Thus, the U.S. military action against Somali pirates holding the American-owned *MV Maersk Alabama* in April 2009, which resulted in three Somali pirates being killed by navy snipers, did not occur under any obvious provision of international law. Rather, the (contradictory) U.S. position is that UNCLOS simply codifies customary international law, which justified the action 240 nautical miles off of Somalia's coast. Per the territorial compromises worked out by UNCLOS, the high seas are precisely defined as water not within the sovereign control of a state, meaning that they are “not included in the exclusive economic zone [200 nautical miles], in the territorial sea [12 nautical miles] or in the internal waters of a State, or in the archipelagic waters of an archipelagic State” (United Nations 1994).

The rapid and aggressive U.S. action against Somali pirates has been followed by greater international cooperation in preventing and combating piracy off East Africa, establishing a narrow transit corridor guarded by ships from NATO, the United States, Japan, China, Russia, India, and others (IMB 2010, Gettleman 2010b, Int. Chamb. Commerce 2011, Assoc. Press 2010a). By the end of 2010, this strategy had succeeded in reducing the number of attacks within and near the EEZ of Somalia, but pirates have changed tactics and are now venturing much farther out into the Indian Ocean, where long stretches of unmanned water make policing difficult. A recent decline

in Southeast Asian piracy has been attributed to a concerted crackdown by the Malaysian government, backed with donations from Greek shippers (Passman 2008, Mak 2007). Indonesia, Singapore, and Bangladesh also stepped up enforcement in the 2000s. In a case of bilateral terrorism, China executed 13 pirates who had clubbed 23 blindfolded sailors to death following a hijacking in 1998 (Passman 2008, p. 8; BBC News 2000). More recently, in May 2010, a Yemeni court sentenced six Somali pirates to death for hijacking a Yemeni oil tanker that left one crew member dead and another missing (Reuters 2010).

But as Kontorovich & Art (2010) note, prosecutions for international piracy are extremely rare, and convictions even rarer. In their review of 754 potential cases worldwide between 1998 and 2007, less than 1% resulted in prosecution (0.53% by their calculation). Even in the case of the two years of heightened international attention to Somali activity from 2008 to 2009, only 2.5% of cases were prosecuted. These numbers are mostly accounted for by some troubled cases that were pushed onto Kenya by U.S. and EU authorities with the trade-off of handsome financial assistance to upgrade Kenyan courts (Taussig-Rubbo 2011), an outsourcing of justice not unrelated to the tactics used to outsource torture and imprisonment of alleged terrorists. Even in the noncompliant United States, the piracy charges per the U.S. domestic antipiracy statute (which dates to the Barbary period of 1819) against the lone survivor of the *MV Maersk Alabama* counterattack, Abduwali Abdukhadir Muse, were dropped, although conspiracy and kidnapping charges, as of December 2011, remain (Rivera 2010). According to Kontorovich & Art (2010), a major problem in these cases is lack of evidence, but the problems of sovereignty and jurisdiction loom much larger. As Taussig-Rubbo (2011, p. 51) writes, “[T]he pirate acts in a zone beyond sovereignty—the high seas—and acts not on a sovereign's behalf.” As a result of the Somali surge, there has been some discussion at the United Nations of extending the International Criminal Court's purview to piracy cases, given

most nations' hesitancy to prosecute. But so far, this has not occurred. Instead, enforcement has been following a catch-and-release pattern that aims to deter pirates but not to punish them. The British Royal Navy recently issued orders to release all captured pirates out of fear that the United Kingdom would run afoul of human rights concerns given the sensitive legal status of nonstate actors under the Geneva Conventions. Thus, according to international law, for so-called nonwar combatants to be considered pirates, they must first be outlaws of a recognized nation-state and be perpetrating their acts on the high seas, outside of sovereign waters. Neither of these legal technicalities applies to the decentralized, so-called failed state of Somalia and its maritime people.

It can be difficult to ascertain the nationality not only of a pirate (from a failed state or not), but also of the attacked commercial ships, which are of an equally nebulous status: Ships are owned by a company in one country, registered under another country's flag of convenience, operate with a multinational crew or one picked up in another port, and quite likely carry the commissioned cargo belonging to another national (or international) corporation. The nationality of the perpetrators is unclear, and the nationality of the victims may be even hazier, unless the victims are generalized as the worldwide economic order. Taussig-Rubbo (2011) makes two critical points: that piracy reveals the ambiguities and vulnerabilities of national sovereignty, and that this is part of a struggle to redefine the relationship between legitimacy and the private and public use of force. This crisis is rooted in postcolonial and Cold War political histories that have essentially redefined vast territories as piratical in the eyes of the West: "[E]choing older European notions of precolonial polities, there is also a process of what we might call the 'oceanification' of land, whereby many postcolonial states are treated as sovereignty-less, 'ungoverned territories,' in language adopted by the U.S. Department of Defense" (p. 53).

Or like the Internet, a vast, ungoverned territory. I began this review by laying out the

not-so-uncanny connections between Somali sea piracy and the recent WikiLeaks exposé, a *bête noire* of intellectual piracy that seems to be growing to colossal proportions, threatening/promising to remake the world order. Demonstrations and a political coup in Tunisia against the reputedly corrupt and repressive regime of long-term president Ben Ali have been credited as the first "WikiLeaks Revolution" (*Daily Mail* 2011), now followed by the even more dramatic revolution in Egypt and civil war in Libya, as well as protests in Algeria, Syria, Bahrain, Yemen, and elsewhere. These are wars of free information versus secret intelligence. Julian Assange of WikiLeaks is currently being held by UK authorities trying to extradite him to Sweden to face sexual molestation charges that Assange counters amount to little more than a smear campaign and a round-about attempt to facilitate extradition to the United States for his WikiLeaks activities. The difficulties of his prosecutors are compounded by the same problems encountered with sea piracy: Assange as a person and WikiLeaks as an entity are of uncertain nationality. Although a native of Australia, Assange does not maintain a permanent address in any country, although he has moved between Tanzania, Kenya, Sweden, the United Kingdom, and Iceland. An international nonprofit, WikiLeaks operates globally through a decentralized network of employees and volunteers. Although financial support for its political activities has been hampered by U.S. pressure on credit agencies such as PayPal and Visa to deny their services to WikiLeaks, Peter Sunde of The Pirate Bay has already stepped in to assist with his new online microdonation system called Flattr (*Daily Mail* 2010, 2011; Jeter 2010; Michaels 2010; Assoc. Press 2010b). U.S. reaction underscores the deep kinship between sea piracy and intellectual piracy in today's world of new technologies, liquid sovereignties, and states of exception. Both Democratic Vice President Joseph Biden and Republican Senator Mitch McConnell have called Assange a terrorist (Grier 2010). The State Department considers WikiLeaks a foreign combatant against which cyberattacks may be justified,

but “[e]xperts say the government is struggling with developing rules that will govern such warfare, particularly when fighting unconventional enemies. Launching a cyberattack could raise sovereignty issues if, for example, servers were located in a friendly country. ‘Every time one question is answered, more questions pop up,’ says Army Lt. Col. Robert Fanelli” (Michaels 2010).

As a decentralized, postnational, and anti-state protest movement, WikiLeaks may come closer to Rediker’s utopian antecedents than any other contemporary pirates. However, collecting confidential government documents and disclosing them online and through mainstream media is not the type of activity that usually comes to mind when one thinks of intellectual piracy, an area of constant anxiety and organized growth in the twentieth century that has seen an exponential increase in the past 20 years. The self-proclaimed principles of WikiLeaks are simply an extension of a type of free culture ethos that has been promoted by some advocates since the invention of the printing press, as documented in a recent magisterial book by Johns (2010) that covers intellectual piracy from the Renaissance to Microsoft.

As any red-blooded media user knows, what is meant by intellectual piracy is some form of unauthorized appropriation of legally protected ideas or of the media used to convey ideas: copyright or patent infringement, counterfeiting, plagiarism, brandjacking, bootlegging, or the contraband distribution and/or consumption of books, recordings, images, broadcasts, artwork, inventions, designs, pharmaceuticals, recipes, and now biological material. Johns (2010, p. 6) makes the important point that “[p]iracy is not peculiar to the digital revolution.” Rather, it has a long history dating back to at least the early seventeenth century involving another kind of battle of the books in which players made both profits and political careers off of discontinuities in different national publishing cultures and their attendant sovereignties (e.g., between Ireland and England, Switzerland and France). This is a history not only of practices and legal evolution but also of ideas, in which some

advocated for the regulation and ownership of ideas while others, such as Enlightenment philosophers and profiteering copycats, advocated for a literal free market of ideas. With periodic setbacks, the regulators have gradually been winning the battle to define and enforce piracy through the invention and increasing articulation of copyright and patent law that connects the history of colonial land patents to the history of pharmaceuticals, scientific instruments, and even the kaleidoscope.

But how did the term long used for sea banditry get applied to violations of ill-defined intellectual property? At first consideration, there is little more than pejorative force connecting a phenomenon with a criminal profile closer to counterfeiting than violent robbery. The rhetorical expansion of the term to cover intellectual banditry corresponded to the same time period, in the late seventeenth century, when Caribbean and South Seas piracy was in full swing and was fueling the public imagination through images both romantic and horrific in publications such as Exquemelin’s *Buccaneer’s of America* and Captain Charles Johnson’s *General History of the Pyrates* (Exquemelin & Ringrose 1967, Johnson & Cordingly 1998). Representations and news reports of pirates were in the cultural ether and circulating in the coffeehouses in postrevolutionary London. To call someone a pirate was a general invective that probably got sloppily applied to other minor miscreants in popular terrestrial culture, but the usage did not stick quite as well as it could when deployed by those who controlled the means of verbal distribution: printers and publishers. Although Johns declines to make much of a comparison between sea piracy and intellectual piracy, three major arguments in his book suggest strong parallels that explain why free culture advocates from the eighteenth century to the present have periodically adopted pirate monikers and symbols—from the self-proclaimed literary privateer Mathew Carey (an Irish immigrant printer active in the American Revolution) to jazz pirates of the early twentieth century (Johns 2010, pp. 185–88, 436–41), and from Radio Caroline of the 1960s

(a radio station that today continues to broadcast from a ship off the coast of southern England, thus circumventing BBC and record company controls) to The Pirate Bay BitTorrent file-sharing Web site. These arguments are (a) that intellectual piracy debates often pit monopolistic practices against free market ideals, underscoring one of the major contradictions between the accumulating structure of capitalism and its ideology; (b) that accusations of intellectual piracy were often made across national borders, with the accused refusing the label and counterclaiming incursions on sovereignty; and (c) that legal solutions, such as copyright and patent law, have always lagged behind pirate practice. Elsewhere (Dawdy & Bonni 2012) I develop more fully the anti-monopoly politics of piracy (both historic and modern, sea banditry, and intellectual piracy), but suffice it to say that some Somali pirates see their acts as a protest against the monopolization of their fishing waters by industrial capital and that software pirates who circumvent Microsoft's proprietary designs likewise see themselves as resisting an unfair monopoly. Parallels in contemporary sea piracy to Johns's other two points—on the clash of national sovereignties and the reactionary legal lag—should be clear from the foregoing discussion of problems in universal jurisdiction.

Johns's already hefty book (over 600 pages) ends with a quick summation of recent controversies over the Google Books scanning project and Microsoft's antipiracy strategies, stopping just short of The Pirate Bay and WikiLeaks scandals, which were emerging phenomena at the time of his manuscript's completion. But Johns concludes that we are entering a new era that will require a radical redefinition—if not dissolution—of the idea of intellectual property. The Pirate Bay and WikiLeaks are the advance guard of this legal and ideological movement. Adherents consciously deploy the antimonopolist ethos of the Caribbean pirates as symbolized through The Pirate Bay's ship logo. They trace the free culture movement to roots in Diderot's Enlightenment, and more recently among the phone phreakers of the 1960s,

the hackers of the 1980s, and the free culture movement of the 1990s (Johns 2010, chapters 16, 17). This is a quite organized political consciousness, as expressed in the establishment of the Pirate Party International (established in 2010), which has won seats in the Swedish parliament and the EU and had a prominent member nominated to a post in the new Tunisian government (*Wikipedia* 2011b).

The academic literature and blogosphere on intellectual property and free culture are many times thicker than those on sea piracy, with founding figures such as Lawrence Lessig and Hakim Bey leading the most radical wing (Bey 1991, Lessig 2004, Ludlow 2001). Bey deliberately invokes classic early modern piracy as an inspiration through the heterotopia of Libertalia, the fabled seventeenth-century island off the coast of Madagascar established by Ranter pirates, where neither private property nor the state constrained the pleasures of life. Bey (1991) is an anarchist who, like Leeson, dreams of a pirate utopia today, but one with a distinctly different relationship to money and things and a deeply different understanding of human nature.

Although space constraints and the limitations of my own expertise (I am more comfortable with oceans and things than streams and bits) prevent me from offering a balanced review of the literature on intellectual property, this is an area of fast-growing interest across several fields, from history to economics, sociology, anthropology, and law itself. The number of law schools and law firms that now offer specialization in intellectual property law has grown rapidly over the past 10–15 years, with no signs of slowing down. One reason is the expansion of patentable property, from DNA sequences to pharmaceuticals, plants, and medical procedures, as well as digital media. Such intangible property challenges the basis of sovereign ownership in ways that even the plagiarism cases of the early modern era could not have anticipated. Although Johns (2010) is right that intellectual piracy did not begin with the digital age, the high seas of file sharing are now not simply uncharted; they are

mathematically infinite in capacity, and there is nothing physical to be impounded, destroyed, or restituted. Because contraband is now intangible, the stakes of knowledge/power are now more starkly revealed—the politics of controlling the free flow of ideas runs up against the politics of the free flow of goods. The logic of why one should be secretly policed while the other should be allowed to flow unimpeded is beginning to sound like ideological dissonance among consumer-voters, which is why Julian Assange’s popularity has transcended the domain of Internet activists and made him the readers’ choice for *Time*’s Person of the Year in 2010 (the editors instead chose Facebook’s more corporate-friendly Mark Zuckerberg).

Another factor pushing the growth of intellectual property law is a surge in antipiracy legislation and prosecution, both within and across national boundaries. The most extreme (and uncannily predictable) expression of the pirate-hunting privateer mentality, which is emerging in support of neoliberal media mercantilism, is a report by the Rand Corporation, the title of which is sufficient to convey the policing hysteria currently escalating in gibbet fashion: “Film Piracy, Organized Crime, and Terrorism” (Treverton et al. 2009). The report summarizes internal production of the security industry and is long on rhetoric and short on first-order data.

In some ways, not much has changed since the confused crazy quilt of intellectual sovereignties that Johns (2010) depicts for the eighteenth and nineteenth centuries. Today, intellectual property law varies considerably from country to country, and little international consensus has yet emerged on the principles and limits to property control. Sovereignty fights over intellectual property are becoming increasingly common on the world stage. As early as 1967, the United Nations formed the World Intellectual Property Organization (WIPO) to monitor and mediate such disputes. WIPO’s activities and responsibilities have expanded rapidly in recent years as more countries come into conflict over counterfeit CDs and DVDs, as well as counterfeit software and

generic drugs. Most contributors to a new study published by the Social Science Research Council find no fault with the ever-refining legal efforts to define and police intellectual property; instead, they locate the problem in the market, with international media suppliers being insufficiently competitive and responsive to local conditions—or not neoliberal enough (Karaganis 2011).

Several anthropologists have contributed studies on media piracy across the globe, noting that sovereignty is both relative and unequal across global ecumenes. Larkin (2004, 2008) notes that in Nigeria, video piracy is a result of local infrastructure and global media culture. As part of a significant black market that suffuses Nigeria (estimated at 70% of GDP), it produces revenue only for individuals, not for corporations or the state. As a result, he says that piracy is part of “a larger movement in which the shadow economy has reconfigured the state itself” (Larkin 2004, p. 297). A similar informal economy operates in India (Sundaram 2009), creating what Sundaram calls a “pirate modernity” that (unlike classic Caribbean piracy or the WikiLeaks/Pirate Bay frontline) is neither organized nor ideological. These models of media piracy, as a corrosive informal economy, are distinct for resisting both the anticapitalist fantasy of ideological free culture pirates and the free market, antistate advocacy of neoliberalism. But as Dent (2011) and others point out, the moral status of piracy hangs on a delicate hook in today’s globalized economy of cosmopolitan demand and unequal supply. The pirate label is “indiscriminately and pejoratively applied by those seeking to regain control of a given circulatory process, most frequently large companies, and the public sector and nongovernmental apparatus that supports them. The label is frequently grounded in the belief that pirates parasitically appropriate value they did not create” (Dent 2011, p. 3). In defiant response to what is seen as unfair restrictions, those on the ground who knowingly produce, distribute, or purchase counterfeit goods such as knock-off designer jeans, purses, or electronics “often proudly appropriate the

skull and crossbones” (p. 3). Consumer piracy thus represents one of the sharpest ironies of neoliberal capitalism: On the one hand, unfettered access to global markets and labor creates new consumer frontiers for multinational corporations, but on the other hand, it just as rapidly contributes to conditions that make it possible for local producers of imitations to satisfy the new demands of globalized desire.

CONCLUSION

Recently, a graduate student asked me with a nervous twinkle in his eye, “What would be your reaction—hypothetically—if you found out that your entire book had been pirated?” When I demanded clarification, it turned out—not so hypothetically—that he had found the full color text of *Building the Devil’s Empire* (Dawdy 2008), which ironically deals with Louisiana’s piratical founding, on a pirate service called Library.nu, an academic’s version of The Pirate Bay. I admitted to being a bit disheartened because the author’s royalties are promised to a nonprofit in New Orleans. It bothered me less (though intrigued me) that the copy appeared to be not just a quick PDF scan but a high-quality print-ready file that must have come from a leak in the publishing stream. I also had to admit that my vanity was indulged by global readership. The country domain for Library.nu locates it in the South Pacific island of Niue, which is a predominantly Polynesian nation of 1,400 people that Captain James Cook dubbed Savage Island after being sent packing by the locals in 1774. Currently, Niue lacks full sovereignty from New Zealand, although a majority of residents voted for self-governance in 1974. According to its Wikipedia entry, “In 2003, Niue became the world’s first ‘WiFi nation,’ in which free wireless Internet access is provided throughout the country” (*Wikipedia* 2011a), thus providing a new kind of pirate haven along its rocky coast.

Whether the hijacked material is Saudi crude or an intercepted academic monograph, the criminalization of acts called piracy depends on the actor’s point of view and, of

course, on the invocation of a particular form of sovereignty and its legal apparatus. Whether Niue would respect U.S. copyright law is a questionable question.

Sovereignty has become a major theme in the social sciences over the past two decades as observers assess the still-unfolding effects of decolonization, new wars, redrawn maps, the rise of indigenous nation-states, and post-Cold War power shifts, as well as the migrations and consumer spread of globalization. In a review of the anthropology of sovereignty, Hansen & Stepputat (2006) assert that classic political definitions of sovereignty have become inadequate against the challenges to state power and the proliferation of “informal sovereignties,” be they headed by warlords or corporations, in the recent era. They direct attention to the critical alternative offered by Agamben (2005) through his framing of *homo sacer*, or bare life—a focus not on the legalistic, classificatory schema of state sovereignty (by which some states can be judged as successful or failed) but on the grounded practices (what actually happens rather than what can be legally justified). This is what they call “de facto sovereignty, i.e., the ability to kill, punish, and discipline with impunity” and without legal justification (Hansen & Stepputat 2006, p. 296). In a less lethal realm, I would add that de facto sovereignty also applies to the ability to appropriate, copy, and/or distribute a vast array of ideas and goods that neoliberal mercantilism is desperately (and formally) trying to protect as intellectual property. However, the simple duality of de facto sovereignty versus formal legal sovereignty is insufficient in capturing today’s heterogeneous zones of competing, overlapping, and porous sovereignties that split along additional axes of private and public, local and global, vertical and horizontal. As Comaroff & Comaroff (2009) observe, this confusing state of affairs excites legal fetishes and extralegal policing. The inability to effectively prosecute piracy underscores how law fetishists may be losing the battle against postnational forms of sovereignty.

According to Ong (2002), crony capitalism and neocorporatism contribute to graduated

sovereignties—a differential geography where the state controls some areas (especially brown zones of indigenous populations) more firmly than before in order to marshal labor and dole out limited favors while it gives up control over other domains (from education to military functions) to the market. Although she does not address piracy, Ong does link shifts in sovereignty to greater concentrations of capital in the name of the free market, i.e., the realignment of legal and de facto sovereignties under neoliberal mercantilism.

One of the utilities of a cross-temporal comparison of piracy is that it suggests that sovereignty is almost always multiscalar and uneven. There may be nothing exceptional about a pirate age after all. Even at the height of the nation-state, researchers can minimally parse domestic, territorial, and international (or Westphalian) sovereignties (Chalfin 2010). Benton (2010, p. 4) notes that “historians have recently begun to retell the history of sovereignty in European nation-states as a contingent and stubbornly incomplete process.” Her own account illustrates the in-tandem history of colonial and legal expansions, arguing persuasively that sovereignty was always “lumpy,” “worm-holed,” partial, and qualitatively layered with never-quite-overlapping zones of economic, political, and territorial sovereignty. She uses the example of early modern privateers to show how ships could be “vectors of law thrusting into ocean space” (Benton 2010, p. 112), whereas pirates were projectiles that riddled fragile dominions. In showing how geography and law have rarely mapped neatly to one another, she makes a strong case against the more melodramatic pronouncements about today’s sovereignty-in-crisis. Most saliently, she takes Agamben (2005) to task for being historically naive in equating colonialism with a state of exception in which the rule of law is routinely suspended and de facto sovereignty is exerted through exceptional violence. Examples from the nineteenth-century British Empire demonstrate a remarkably uptight rule of law applied in colonial fringes and enclaves (Benton 2010, pp. 283–88). Conversely, martial law and excep-

tional violence have been consistently deployed within Europe’s centers throughout the modern era. In a similar vein, Sassen (2006) historicizes the always-shifting domains of sovereignty but emphasizes the ways in which our relatively new (aka late-nineteenth-century) ideals of national sovereignty are in some ways being strengthened, not weakened, by globalization in an ongoing dialectic of events, although the legal reins are increasingly being handed to individual actors and supranational organizations. Thus, another way to think about our current crisis of sovereignty is as a return to a pirate age that may be more the rule than the exception in the long durée of human political history. This thought takes us back to antiquity.

Heller-Roazen (2009) offers an intellectual history of Cicero’s famous definition of pirates as “the common enemy of all,” moving backward to Homer’s observations of the role of pirates in the even more ancient world, forward to Renaissance and Enlightenment reinterpretations of Roman law (via Grotius and Gentili among others), and down to latter-day air piracy and Agamben’s (2005) states of exception. Paralleling points I have made in this review, Heller-Roazen (2009, p. 10) argues that “piracy involves a region in which exceptional legal rules apply” and also that piracy “brings about the confusion and, in the most extreme cases, the collapse of the distinction between criminal and political categories.” The exceptional legal status of pirates as nonstate combatants and enemies of humankind [variants: “criminals against humanity,” “enemies of the human race,” or “unlawful combatants” (p. 29)] developed and hardened over the centuries. More importantly, he argues that their legal treatment has been the foundation and precedent for the juridical category pirates now share with terrorists and war criminals. And in another development that loops us back to the present, he notes that at the high point of nation-state sovereignty at the turn of the nineteenth century, privateering was banned by international treaty (pp. 89–91). It has now slipped back into practice through neoliberal contracts.

What happens when *hostis humani generis* meets the doctrine of *homo sacer* or when Somali pirates and Internet vigilantes open up “worm holes” (Benton 2010) in international sovereignties? Two incidents that answer the first question is Blackwater’s *McArthur* privateer, which was emboldened to use lethal force without legal sanction, and U.S. snipers firing on a hijacked lifeboat of the MV *Maersk Alabama*, actions that were not covered by any ratified treaty or international law. But these American antipiracy efforts stand out as exceptions within a general hesitation toward pirate prosecution that often grounds on its own legal reefs. Thus, Hansen & Stepputat’s (2006, p. 297) urging that we view “sovereignty as a tentative and always emergent form of authority grounded in violence that is performed and designed to generate loyalty, fear, and legitimacy from the neighborhood to the

summit of the state” is a statement that seems both unnecessary and correct. International players can read the actions of Somali’s piratical coast guard—they are quite successfully and familiarly establishing a form of nonstate, de facto sovereignty. To oppose them would be to oppose the ideology of the neoliberal order that keeps tuna boats and tankers banging against Somalia’s tattered shore. And to punish WikiLeaks and The Pirate Bay founders too harshly would be to undercut the overweening sovereignty of the market (p. 297) and the private domain of the individual consumer. Piracy is nonstate neoliberal sovereignty taken to its extreme. Whether it produces a revolution toward communitarian free culture or self-interested libertarian anarchy remains to be seen, but there is no question that we are witnessing the returning dawn of a pirate age.

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LITERATURE CITED

- Agamben G. 2005. *States of Exception*. Chicago: Univ. Chicago Press
- Arendt H. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Viking
- Assoc. Press. 2010a. Somali pirates venture farther south. *New York Times*, Dec. 29. <http://www.nytimes.com/2010/12/30/world/africa/30briefs-Piratebrf.html>
- Assoc. Press. 2010b. WikiLeaks supporters demonstrate in Madrid. *USA Today*, Dec. 11. http://www.usatoday.com/news/world/2010-12-11-wikileaks_N.htm
- BBC News. 2000. China executes pirates. *BBC News*, Jan. 28. <http://news.bbc.co.uk/2/hi/asia-pacific/622435.stm>
- Belton C. 2009. Baltic ‘pirates’ threatened to blow up ship. *Financial Times*, Aug. 18. <http://www.ft.com/cms/s/0/bcf30812-8bbf-11de-b14f-00144feabdc0.html?ftcamp=rss#axzz1Rq6xwMJg>

- Benton L. 2005. Legal spaces of empire: piracy and the origins of ocean regionalism. *Comp. Stud. Soc. Hist.* 47:700–25
- Benton L. 2010. *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900*. New York: Cambridge Univ. Press
- Besteman C. 1996. Representing violence and “othering” Somalia. *Cult. Anthropol.* 11:120–33
- Besteman C. 1997. Violent politics and the politics of violence: the dissolution of the Somali nation-state. *Am. Ethnol.* 23:579–96
- Besteman C. 1998. Primordialist blinders: a reply to I. M. Lewis. *Cult. Anthropol.* 13:109–20
- Besteman C. 1999. *Unraveling Somalia: Race, Class, and the Legacy of Slavery*. Philadelphia: Univ. Pa. Press
- Bey H. 1991. The temporary autonomous zone. In *The Temporary Autonomous Zone, Ontological Anarchy, Poetic Terrorism*, Part 3. Hermet. Library. <http://www.hermetic.com/bey/taz3.html#labelTAZ>
- Blondy A. 2002. The Barbary regencies and Corsair activity in the Mediterranean from the sixteenth to the nineteenth century: from the community of origin to evolutionary divergence. *J. Mediterr. Stud.* 12:241–48
- Burgess DR Jr. 2005. The dread pirate Bin Laden. *Legal Affairs*, http://www.legalaffairs.org/issues/July-August-2005/feature_burgess_julaug05.msp
- Burnett JS. 2002. *Dangerous Waters: Modern Piracy and Terror on the High Seas*. New York: Dutton. 332 pp.
- Chalfin B. 2010. *Neoliberal Frontiers: An Ethnography of Sovereignty in West Africa*. Chicago: Univ. Chicago Press
- Comaroff J, Comaroff JL. 2001. *Millennial Capitalism and the Culture of Neoliberalism*. Durham, NC: Duke Univ. Press. 324 pp.
- Comaroff JL, Comaroff J. 2009. Reflections on the anthropology of law, governance, and sovereignty. In *Rules of Law and Laws of Ruling: On the Governance of Law*, ed. FV Benda-Beckmann, KV Benda-Beckmann, JM Eckert, pp. 31–59. Farnham, UK: Ashgate
- Cowell A. 2010. Russian destroyer frees hijacked oil tanker. *New York Times*, May 6. <http://www.nytimes.com/2010/05/07/world/africa/07pirate.html>
- Cox B. 2009. *Conjuring Somalia: Contestations of Regulatory Authority and Piracy*. Chicago: Univ. Chicago Press
- Daily Mail*. 2010. ‘He’s dragging WikiLeaks down with him’: Julian Assange ally urges him to hand himself in to Swedish authorities. *Daily Mail*, Dec. 23. <http://www.dailymail.co.uk/news/article-1341071/Julian-Assange-drags-WikiLeaks-hand-Swedish-authorities.html>
- Daily Mail*. 2011. ‘First WikiLeaks revolution’: Tunisia descends into anarchy as president flees after cables reveal country’s corruption. *Daily Mail*, Jan. 15. <http://www.dailymail.co.uk/news/article-1347336/First-Wikileaks-Revolution-Tunisia-descends-anarchy-president-flees.html>
- Dawdy SL. 2008. *Building the Devil’s Empire: French Colonial New Orleans*. Chicago: Univ. Chicago Press
- Dawdy SL, Bonni J. 2012. Towards a general theory of piracy. *Anthropol. Q.* In press
- Dent AS. 2011. Piracy, circulatory legitimacy, and neoliberal subjectivity in Brazil. *Cult. Anthropol.* In press
- Exquemelin AO, Ringrose B. 1967. *The Buccaneers of America: A True Account of the Most Remarkable Assaults Committed of Late Years upon the Coasts of the West Indies by the Buccaneers of Jamaica and Tortuga, Both English and French*. New York: Dover. 506 pp.
- Foster JB, McChesney RW. 2009. Monopoly-finance capital and the paradox of accumulation. *Mon. Rev.* 61:5. <http://monthlyreview.org/2009/10/01/monopoly-finance-capital-and-the-paradox-of-accumulation>
- Gettleman J. 2008. Q. & A. With a pirate: “We just want the money.” *New York Times: The Lede*, Sept. 30. <http://thelede.blogs.nytimes.com/2008/09/30/q-a-with-a-pirate-we-just-want-the-money>
- Gettleman J. 2010a. Money in piracy attracts more Somalis. *New York Times*, Nov. 10. <http://www.nytimes.com/2010/11/10/world/africa/10somalia.html>
- Gettleman J. 2010b. Somalia: pirates attack fishing boats. *New York Times*, April 21. <http://query.nytimes.com/gst/fullpage.html?res=9D0DEFDF163FF932A15757C0A9669D8B63>
- Gettleman J, Gordon MR. 2010. Pirates’ catch exposed route of arms in Sudan. *New York Times*, Dec. 9. <http://www.nytimes.com/2010/12/09/world/africa/09wikileaks-tank.html>
- Grier P. 2010. WikiLeaks chief Julian Assange: ‘terrorist’ or journalist? *Christ. Sci. Monit.*, Dec. 20. <http://www.csmonitor.com/USA/2010/1220/WikiLeaks-chief-Julian-Assange-Terrorist-or-journalist>

- Hansen TB, Stepputat F. 2006. Sovereignty revisited. *Annu. Rev. Anthropol.* 35:295–315
- Healey CJ. 1985. Tribes and states in ‘pre-colonial’ Borneo: structural contradictions and the generation of piracy. *Sociol. Anal.* 18:3–39
- Heller-Roazen D. 2009. *The Enemy of All: Piracy and the Law of Nations*. New York: Zone Books
- Hess RL. 1964. The ‘Mad Mullah’ and northern Somalia. *J. Afr. Hist.* 5:415–33
- IMB. 2010. *IMB Piracy Reporting Centre*. London: ICC Commer. Crime Serv. <http://www.icc-ccs.org/piracy-reporting-centre>
- Int. Chamb. Commerce. 2011. *ICC Commercial Crimes Services*. London: Int. Chamb. Commerce. <http://www.icc-ccs.org>
- Jeter C. 2010. Future crimes: Are WikiLeaks, piracy, and malware related? *SC Mag.*, Dec. 14. <http://www.scmagazine.com/future-crimes-are-wikileaks-piracy-and-malware-related/article/192759>
- Johns A. 2010. *Piracy: The Intellectual Property Wars from Gutenberg to Gates*. Chicago: Univ. Chicago Press
- Johnson C, Cordingly D. 1998. *A General History of the Robberies & Murders of the Most Notorious Pirates*. Guilford, CT: Lyons. 352 pp.
- Jonsson P. 2010. Conspiracy theories linger in Falcon Lake Mexican ‘pirates’ shooting. *Christ. Sci. Monit.*, Oct. 7. <http://www.csmonitor.com/USA/2010/1007/Conspiracy-theories-linger-in-Falcon-Lake-Mexican-pirates-shooting>
- Karaganis J, ed. 2011. *Media Piracy in Emerging Economies*. New York: Soc. Sci. Res. Council.
- Kontorovich E, Art S. 2010. An empirical examination of universal jurisdiction for piracy. *Am. J. Int. Law* 104:436–53
- Laitan DD, Samatar SS. 1987. *Somalia: Nation in Search of a State*. Boulder: Westview
- Lane KE. 1998. *Pillaging the Empire: Piracy in the Americas, 1500–1750*. Armonk, NY: M.E. Sharpe. 237 pp.
- Larkin B. 2004. Degraded images, distorted sounds: Nigerian video and the infrastructure of piracy. *Public Cult.* 16:289–314
- Larkin B. 2008. *Signal and Noise: Media, Infrastructure and Urban Culture in Nigeria*. Durham, NC: Duke Univ. Press
- Leeson PT. 2007. Better off stateless: Somalia before and after government collapse. *J. Comp. Econ.* 35:689–710
- Leeson PT. 2009. *The Invisible Hook: The Hidden Economics of Pirates*. Princeton, NJ: Princeton Univ. Press. 271 pp.
- Lehr P, ed. 2007. *Violence at Sea: Piracy in the Age of Global Terrorism*. New York: Routledge
- Lehr P, Lehmann H. 2007. Somalia—pirates’ new paradise. See Lehr 2007, pp. 1–22
- Lessig L. 2004. *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. New York: Penguin. 345 pp.
- Lewis IM. 1961. *A Pastoral Democracy*. Oxford, UK: Oxford Univ. Press
- Lewis IM. 1998. Doing violence to ethnography: a response to Catherine Besteman’s “Representing Violence and ‘Othering’ Somalia.” *Cult. Anthropol.* 31:100–8
- Lewis IM. 2003. *A Modern History of the Somali: Nation and State in the Horn of Africa*. Athens, OH: Ohio Univ. Press
- Lewis IM. 2010. *Making and Breaking States in Africa: The Somali Experience*. Trenton, NJ: Red Sea
- Linebaugh P, Rediker M. 2000. *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic*. Boston: Beacon. 433 pp.
- Ludlow P. 2001. *Crypto Anarchy, Cyberstates, and Pirate Utopias*. Cambridge, MA: MIT Press. 485 pp.
- Luft G, Korin A. 2004. Terrorism goes to sea. *Foreign Aff.* 83:61
- MacAskill E, Rice X. 2011. Somali pirates kill four U.S. hostages. *The Guardian*. Feb. 22. <http://www.guardian.co.uk/world/2011/feb/22/somali-pirates-hijacked-yacht-us>
- Mak JN. 2007. Pirates, renegades, and fishermen: the politics of ‘sustainable’ piracy in the Strait of Malacca. See Lehr 2007, pp. 199–223
- Massey G. 1994. Somalia before the fall. *Can. J. Afr. Stud.* 28:123–26
- Mazzetti M. 2010. Blackwater aimed to hunt pirates. *New York Times*, Dec. 1. <http://www.nytimes.com/2010/12/01/world/africa/01wikileaks-blackwater.html>
- Michaels J. 2010. WikiLeaks actions: An act of cyberwar? *USA Today*, Dec. 14. http://www.usatoday.com/news/world/2010-12-14-wikileaks14_ST_N.htm

- Mwangura A. 2010. *Seafarers assistance programme*. Mombasa, Kenya: SAP-NET. <http://www.ecop.info/english/e-sap-net.htm>
- Naim M. 2005. *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy*. New York: Doubleday
- Nordstrom C. 2004. *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century*. Berkeley: Univ. Calif. Press. 293 pp.
- Nordstrom C. 2007. *Global Outlaws: Crime, Money, and Power in the Contemporary World*. Berkeley: Univ. Calif. Press. 234 pp.
- Ong A. 2002. Globalization and new strategies of ruling in developing countries. *Etudes Rural*. 163/164:233–48
- Passman MH. 2008. Protections afforded to captured pirates under the law of war and international law. *Tulane Marit. Law J.* 33:2–40
- Rediker M. 1987. *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700–1750*. Cambridge, UK/New York: Cambridge Univ. Press. 322 pp.
- Rediker M. 2004. *Villains of All Nations: Atlantic Pirates in the Golden Age*. Boston: Beacon. 240 pp.
- Reuters. 2010. Yemen court sentences six Somali pirates to death. *Reuters*, May 18. <http://www.reuters.com/article/2010/05/18/us-yemen-piracy-idUSTRE64H3EL20100518>
- Ritchie RC. 1986. *Captain Kidd and the War Against the Pirates*. Cambridge, MA: Harvard Univ. Press. 306 pp.
- Rivera R. 2010. Somali man pleads guilty in 2009 hijacking of ship. *New York Times*, May 18. <http://www.nytimes.com/2010/05/19/nyregion/19pirate.html>
- Roach JA. 2010. Countering piracy off Somalia: international law and international institutions. *Am. J. Int. Law* 104:397–416
- Sassen S. 2006. *Territory, Authority, Rights: From Medieval to Global Assemblages*. Princeton, NJ: Princeton Univ. Press
- Shaun A. 2009. The pirate whisperer. *Daily Beast*, Feb. 5. <http://www.thedailybeast.com/articles/2009/02/05/the-pirate-whisperer.html>
- Silva M. 2010. Somalia: state failure, piracy and the challenge to international law. *Va. J. Int. Law* 50:553–78
- Sundaram R. 2009. *Pirate Modernity: Delhi's Media Urbanism*. London: Taylor & Francis
- Taussig-Rubbo M. 2011. Pirate trials, the international criminal court and mob justice: Reflections on post-colonial sovereignty in Kenya. *Humanity: An Int. J. Hum. Rights Humanitarianism Dev.* 1:51–74
- Theodwall C. 2010. Choosing the right yardarm: establishing an international court for piracy. *Georget. J. Int. Law* 41:501–23
- Thomson JE. 1994. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. Princeton, NJ: Princeton Univ. Press. 219 pp.
- Treverton GF, Matthies C, Cunningham KJ, Goulka J, Ridgeway GR, Wong A. 2009. *Film Piracy, Organized Crime, and Terrorism*. Santa Monica, CA: Rand
- United Nations. 1994. *United Nations Convention on the Law of the Sea*. New York: United Nations
- Waldo MA. 2009. The two piracies in Somalia: Why the world ignores the other? *Wardheernews.com*, Jan. 8. http://wardheernews.com/Articles_09/Jan/Waldo/08_The_two_piracies_in_Somalia.html
- Walls M. 2009. The emergence of a Somali state: building peace from civil war in Somaliland. *Afr. Aff.* 108:371–89
- Warren JF. 2003. *A tale of two centuries: the globalisation of maritime raiding and piracy in Southeast Asia at the end of the eighteenth and twentieth centuries*. Asia Res. Inst. Work. Pap. Ser. No. 2, Natl. Univ. Singapore. http://www.ari.nus.edu.sg/docs/wps/wps03_002.pdf
- Warren JF. 2008. *Pirates, Prostitutes and Pullers: Explorations in the Ethno- and Social History of Southeast Asia*. Crawley, WA: UWA Press. 418 pp.
- Wikipedia*. 2011a. Niue, July 24. <http://en.wikipedia.org/wiki/Niue>
- Wikipedia*. 2011b. Pirate Parties International, June 7. http://en.wikipedia.org/wiki/Pirate_Party_International
- Wolf JB. 1979. *The Barbary Coast: Algiers under the Turks, 1500 to 1830*. New York: Norton. 364 pp.



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