

Centre for Law Ethics and Globalisation (LEAG), University of Southampton Law School; English at the University of Southampton; and the Southampton Marine and Maritime Institute.

Piracy and Jurisprudence

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Abstracts

Oren Ben-Dor

Bearing the message of the open: freedom, violence and the question of piracy (or Gaddafi on human rights)

Pirates always come from the open, as the open, and bearing the message of the open, custodian of the steering open, reminding of the open, pointing to it, mirroring its murmur. Indeed pirates arrive as a traceless trace of the open. Piracy is distinguished from the pirate who is a mortal who bears the message of the open, the enlivening message of death enduring the refusal of merely making-steering time and space. Being feared but also longed for, the deepest desire for death, pirates, as messengers of the open, evoke humans' deepest condition, deepest self-sheltering memory that fatefully remembers them, lurking inaccessibly as the nearest.

As pirates always appear as merely 'existing in time' they are vulnerable in being, just like all mortals, enigmatic to themselves as can be gleaned from one contemporary pirate, Muammar Gaddafi, who, refusing his juridified subjectivity still bears the open as he bizarrely exclaims to his executioners 'what did I do to you?' indeed a moment of madness and yet with seized, strange clarity, that suddenly emerges precisely at the seeming moment of triumphant juridification, capture and execution. At that moment his body, his lips speak, transmit the light of the impossible, overcoming his mind, a moment of truth in which he becomes estranged from himself as historical actor and thus points towards being-there which is empty, free.

In one of his comments on Heraclitus on truth (*a-lethia*), logos (speech) and last but not least, primordial *fire*, Heidegger argues that lightening is neither just illumination, nor laying-bare but rather gathering and bringing-before into the Open, that which neither gods nor mortals can fully will or master, the unbounded uncanny combination of movement and stillness, indeed that of the housing oneness of the sea from which the pirate comes and the manner she worlds, openness different to the mere open un-sovereign space. How is the open? Does the immanence of the open entail some positive presencing and if yes, how could it be the open? How is the openness of the open and therefore, how is freedom? How is the genuine act of guardianship of the open, that letting of the openness of the open hold sway, let itself be claimed by the open, be enowned by the open, respond to the open, have

the authority of the open and mirror back the essential of dwelling together in the mystery of the open.

In this paper I argue that Hermes, the god who bears the [hermeneutic] message to mortals, that of measuring and holding sway the truthfulness of the open, carries the essence of piracy temporally, spatially and materially. However, I also argue that Heidegger himself did not quite grasp what is involved in this guardianship of the open and so this paper attempts to read Heidegger and his notion of the fourfold (earth, sky, mortals and divinities) 'piratically'. Still, Heidegger gives us a good pointer to the open and the paper draws the political implication of the pathos, the essential suffering and passion, of the pirate.

In distinguishing between piracy and pirates, the paper conceives the human condition of togetherness as piratical condition, one that lends itself to originary violence. In reading Benjamin, Derrida and Agamben, the argument captures piracy as the violent message of justice and in this manner links this meditations on justice to meditations on the threshold of the open. Various images of the open as the unbounded and light are contemplated in relation to the manner the open prophetically emerges.

Oren is a Professor of Law and Philosophy at Southampton and the co-director of the Centre for Law, Ethics and Globalisation. He authored Constitutional Limits and the Public Sphere (Hart 2000) and Thinking about Law: In Silence with Heidegger (Hart 2007). He edited Law and Art: Justice, Ethics, Aesthetics (Routledge 2011). He now writes a book on place and the origin of 'the political' which explores the strife between world and earth (what Heidegger called the fourfold); originary temporality and spatiality, a book which involves deep ecological insights about the origin of the West and ab-originality. He also works on another book on Israel/Palestine for Zed Books that explores the existential stakes Palestine holds for the West.

Guillemette Crouzet

"Those sanguinary Barbarians": Imperial discourse and literary representations of the Gulf pirates in the 19th and 20th century.

While admitting the "spatial turn" in literature and the more frequent appearance of pirates in literary accounts taking place in the Indian Ocean since the 18th century, this paper wants to focus on the specificities of the literary representations of Pirates in the Arabo-Persian Gulf in the 19th century. Three authors will be at the centre of the analysis: James S. Buckingham, James R. Wellsted and Charles Belgrave. The first two authors wrote about Gulf piracy in the 19th century and Charles Belgrave while being the political advisor of the Sheikh of Bahrain in the 1920s, published a book on the history of the Persian Gulf. The three authors developed a very specific theory on Gulf pirates, which reflects the "invention" and "structuration" by Imperial Britain of the concept of piracy in Gulf waters. Constant links are made between piracy and Islam and we will highlight that this code of representations takes its inspiration from other types of literary accounts, like "captivity narratives". More generally, the cited authors show that the British in their understanding of "piracy", import

a “western pattern” to describe Gulf piracy. What is the more, pirates in the Gulf are depicted as fanatical Islamists associated with the said to be “sanguinary” Wahabbees”, bringing poverty and despair, attacking vessels and killing their crews, destroying local economies and being impediments of the trade between British India and the Gulf. This paper will demonstrate that for the cited authors the pirates reflect the violence of the Gulf, represented as Hell on earth, as a place where Man hasn’t domesticated nature. And in this imperial discourse, fighting against piracy means establishing British rule, “pacifying” and transforming the Gulf into a British lake where free trade and prosperity could flourish, changing Hell into a earthly Paradise.

Guillemette is a PhD candidate in late modern history at the Sorbonne University in Paris. Her dissertation is focused on the history of the Persian Gulf in the 19th century under British rule and on the space policy created from India in this zone of the Empire. She has published in 2011 in the Revue Historique «“A Golden Harvest”» : exploitation et mondialisation des perles du Golfe Arabo-Persique (vers 1880-vers 1910)» and in 2012 in the journal Mondes, espaces, relations, sociétés, «“A Sea of Blood and Plunder” : Lutte contre la traite et politique impériale britannique dans l’océan Indien, le Golfe Arabo-Persique et la mer Rouge (vers 1820-vers 1880)». She has also co-authored Moyen-Orient et Maghreb, Paris, Pearson, 2010.

Alun Gibbs

Fur Traders, Legality and Sovereign Territorial Claims in the Pacific Northwest 1789-1792

Between 1789-1792 the Northwest coast of America become a location for an international territorial (colonial) dispute between the two rival powers in the pacific ocean; the Kingdom of Spain and the United Kingdom. Matters came to ahead between the years 1789-1792 and focused around a natural ocean harbour called Nootka Sound when Spain sent the Navel officer Juan Francisco de la Bodega to negotiate a settlement with his British counter-part, George Vancouver, under the terms of the international agreement, the Nootka Convention, signed by both Kingdoms in 1790. At stake was the establishment of a settlement along the potentially lucrative fur-trading coastline.

This proposed paper does not seek to make a historical study of the circumstances of the Nootka Convention and nor is this a wider investigation of the colonisation of the Northwest Pacific coastline by the European powers in the late eighteenth century. Instead, this study probes the chimerical assertions of legal sovereignty and territorial control at the time of the modern political State. In brief, it is a paper that concentrates on the essential ambiguity of legal sovereignty claims as a point of interest about the formation of the *gestell* of the state.

By exploring this theme and the historical circumstances of the Nootka Sound controversy this paper also sheds light on the figures that provided the spark to trigger the diplomatic crisis; in particular, the English fur trading entrepreneur and adventurer, James Colnett, who was an associate of John Meares, and was arrested by the Spanish at Nootka in 1789. ‘Piracy’ in this sense is used here in a much looser sense as we are concerned with seemingly

opportunist trading which posed a direct challenge to the presumed legal and territorial authority of the King of Spain. Certainly, John Meares and James Colnett are different from the violent organised criminal piracy seen off the Caribbean coast in the seventeenth to the mid-eighteenth centuries. And indeed, at no times during the official diplomatic correspondence was the actions of James Colnett considered as legally 'piracy'. Nevertheless, the interest concerning an interpretation for piracy and law stemming from this episode is the remarkable sense that it was the ambiguous legal actions of the adventurers which led to a legalized response between the competing State powers which more than anything exposes the artifice and arbitrary nature of the sovereign and constitutional claims over this 'open territory'. The pirate, or perhaps, here the adventurer, resides in that space between the legal no-place and the claim over sovereignty which furthermore in this particular example also becomes a catalyst for the attempted legalised resolution of the territorial dispute.

Alun is senior Lecturer in Public Law. His research interests cross jurisprudence and public law, in particular, a hermeneutic reflection on the word 'constitution' and its significance in pointing to what is occluded by modernity in the translation of 'constitution' as 'state'. Previous research involves considering the EU as a novel form of political community.

Peter Goodrich

Mos piraticus

This paper will view the figure of the pirate in the context of early modern common law. Variouslly defined as *Hostis Dei*, *hostis humani generis*, *contra Ligeantia suae debitum*, and *sceleris causa* the antirrhetical figure of the sea rover and robber plays a pivotal role in the formation of Anglican identity and the *mos britannicus* as I will here term English common law.

Peter is Professor of Law and Director, Program in Law and Humanities, Cardozo School of Law, New York. Current book: Legal Emblems and the Art of Law (forthcoming September 2013 with Cambridge University Press).

Douglas Guilfoyle

Unstable definitions and historical accidents: The international law of piracy

Somali pirates are presently being prosecuted in a range of jurisdictions, often for offences based on the UN Convention on the Law of the Sea (UNCLOS) definition of piracy. UNCLOS is, like all treaties, 'a disagreement reduced to writing' and many elements of its drafting are unclear or historically unstable. Attempts to codify the international law of piracy from 1926-1982 showed a tendency, in the face of contradictory historic and national material, both to make law *de lege ferenda* and to borrow uncritically from previous codification efforts. The result is an accepted legal definition with thin (and often unappreciated and

misinterpreted) historical origins. Despite this, the legal concept has proved surprisingly robust in practice. National courts have had relatively little difficulty in convicting Somali pirates and the international law concept of piracy has resisted attempts to assimilate it to the laws of war or the 'war on terror'. Indeed, the international response to Somali piracy has been impeccably legalistic and little influenced by 'security' discourse.

Douglas Guilfoyle is a Reader in Law at the Faculty of Laws, University College London where he specializes in the law of the sea. He was appointed in 2009 to prepare a report on treaty-based jurisdiction over pirates for the legal issues working group of the Contact Group on Piracy off Somalia (a grouping of over 100 government and industry lawyers). He remains involved in that working group, and recently acted as Specialist Advisor to the House of Commons Foreign Affairs Committee inquiry into Somali piracy. His articles on the law of piracy for International and Comparative Law Quarterly are among that journal's most downloaded. He has also published on the law of stopping and searching ships at sea, migrant smuggling, theories of liability in international criminal law and the law of naval warfare. Douglas holds a PhD and LLM from the University of Cambridge and undergraduate degrees from the Australian National University. He has worked as a commercial litigation attorney and judicial associate in Australia. He is presently on research leave funded by the British Academy Mid-Career Researchers program and is a visiting fellow at the Lauterpacht Centre for International Law at the University of Cambridge.

Will Hasty

"Are not pirates and smugglers prosecutable everywhere?": The changing geographies of Admiralty jurisdiction in the early-eighteenth century

Over the course of just seven days early in 1700, Sir Charles Hedges (c.1650-1714), Chief Justice of the Admiralty Court, drafted and submitted to Parliament *An Act for the More Effectual Suppression of Piracy*.¹ Fresh in Hedges' mind as he established the terms of the legislation were the politically embarrassing and commercially damaging antics of William Kidd, Henry Avery and their crews in the Indian Ocean, and the transoceanic networks of illicit trade into which they were entangled. The activities of pirates, once tolerated and even encouraged in places, had begun to upset the "noisy cult of commerce" (Colley, 1992: 61) which had emerged as the defining feature of the English (and later the British) state. For while it was the case that "no sea was safe from British traders" (Brewer 1989: xiii), it was equally true that no traders, nor the seas they sailed in, were immune from the threat of piracy. The 1700 Act sought to nullify the mutable threat of piracy with a more flexible, and in theory entirely fluid, institutional means for trying captured pirates. It also sought to extinguish the landed interests based in the Americas, especially in New York, which harboured and colluded with pirates plundering ships and coastal towns along the fringes of the Atlantic and Indian Oceans. This paper traces the changing geographies of the Admiralty Court which emerged in response to the threat posed by the increasingly global practice of

¹Public Act, 11-12 Will. III, c.7

piracy. It follows Lauren Benton in asserting that, while trends like the “geographic extension of European-sponsored piracy” are “well documented”, the “important institutional shifts [which] framed these trends ... have received less attention from historians” (2010: 111). This paper seeks to build on Benton’s work on the changing geographies of jurisdiction and legal regimes by foregrounding the coeval relationship between the spatialities and mobilities of piracy and the institutional function of the Admiralty Court.

Will is a lecturer in Human Geography at the University of Edinburgh. He recently completed his doctorate at the University of Glasgow, focusing on the historical geographies of piracy in the late seventeenth and early eighteenth century. His interest in pirates is motivated by questions about the intersection of space, law and politics in everyday life.

Marta Iljadica

Seeing, moving, imagining... graffiti, law and urban space

This paper provides a series of reflections on seeing graffiti in urban space. It contrasts the regulation of placement within the graffiti subculture with the legal construction of urban space to argue that both the experience of creating and seeing graffiti as a writer and the experience of seeing graffiti as a non-writer allows new urban spaces to be imagined. Building on this, the paper considers graffiti creativity as a process in which the tag, the piece and the throw-up are not static expressions but rather traces of movements, histories and emotions.

Marta is Lecturer in Law at the University of Southampton. Marta’s research is primarily concerned with intellectual property law, socio-legal studies and legal geography. Marta recently completed her PhD in the School of Law, King’s College London. Her doctoral thesis examines the extent to which norm creation by graffiti writers parallels existing copyright law rules.

Stephanie Jones

Reading *Crossbones* (2011) and *A Hijacking* (2013)

This paper addresses recent fictional responses to piracy off the coast of Somalia. It will consider the rise of the Somali pirate ‘thriller’ (constituted through novels by such writers as Elmore Leonard, Wilbur Smith, and Stella Rimington), but will focus more fully on the ways in which genre-conventions are played and undermined in Nuruddin Farah’s *Crossbones* (2011) and Tobias Lindholm’s *A Hijacking* (2013). The paper will be framed by a consideration of the ways in which legal and literary responses to piracy off the coast of Somalia are questioning narratives of legitimate and illegitimate violence.

Stephanie is a lecturer in English at the University of Southampton. She holds BA honours (ANU) LLB (ANU) PhD (Cantab). She works on Indian Ocean texts and geographies, and within the field of Law and Literature. Her publications include papers on the poetics of maritime law, on literary and legal 'belonging', on diasporic literatures, and on piracy.

Claire Jowitt

Sea Hawks and Doves: 'Elizabethanism', Threats to the Nation, and Pirate Films

This essay focuses on the cultural work of 'Elizabethanism' in three 'pirate' films, *The Sea Hawk* (1924), *The Sea Hawk* (1940), and *Elizabeth: the Golden Age* (2007). It will analyze the ways, and explore the reasons behind, their overdetermined 'Elizabethanism', a term defined here as England's aggressive anti-Catholic war politics of the late 1580s and 1590s. 'Elizabethanism' is best exemplified by the defeat, against all odds, of the Spanish Armada in 1588 by the English 'sea-hawks' Sir Francis Drake, Sir Walter Raleigh, and Sir John Hawkins, but it also needs to be more broadly understood as the state-sponsored piracy against the Iberian nations in the years leading up to war in 1585 by the same actors in the New World theatre of empire. Since, by a series of bulls ratified by the Treaty of Tordesillas in 1494, Pope Alexander VI had carved-up the known and unknown worlds between Spain and Portugal, thereby at a stroke debarring other nations from trade in regions 'beyond the line', the sixteenth-century English response was to scrap and plunder in order to secure a share of valuable New World natural resources and trading opportunities. After war was declared between Spain and England in 1585 these New World 'pirate' activities became a further front upon which to wage a European war. These 'Elizabethan' values and activities, and the English naval commanders most frequently associated with them, have variously been recycled and redeployed for new cultural and political circumstances in the last four hundred years.

In 1924 Frank Lloyd produced and directed the movie *The Sea Hawk*, based on the 1915 novel by Rafael Sabatini, which tells the story of the betrayal of the Elizabethan Cornish nobleman Sir Oliver Tressilian by his brother, his turn to piracy and Islam, and the subsequent redemption of his religious and national identity through the love of a good woman. In 1940 *The Sea Hawk* was made again, this time directed by Michael Curtiz and starring Errol Flynn, reusing some of the battle scenes from its earlier namesake, but instead recounting the story of Geoffrey Thorpe, a thinly disguised avatar of Sir Francis Drake, who foils Spanish aims for world domination by warning Elizabeth I (Flora Robson) of the planned Armada, allowing England enough time to build a fleet to defend itself and, by implication, the rest of the world. Of course, just as Alexander Korda's *The Private Life of Henry VIII* (1933) engages with the contentious contemporary issue of appeasement and reactions to Continental fascism, *The Sea Hawk* also addresses the Nazi threat. In Curtiz's film the Spanish Inquisition carries out trials in a courtroom decorated with what appears to be a Nazi iron cross and, after Thorpe has revealed Spain's plan to invade England, the queen concludes with a speech that might be about Adolf Hitler: '[w]hen the ruthless ambitions of a man threaten to engulf the world, it becomes the solemn obligation of all free men to affirm that the earth belongs not to any one man, but to all men', since 'freedom is the deed

and title to the soil on which we exist'. The parallel was clearly not lost on a group of orphaned Holocaust survivors who, when shown *The Sea Hawk* as their first film after arrival in the UK in 1945, mightily cheered Flynn's performance even though they could speak no English.

That Elizabethan English pirates' depredations against Spain could be recycled as anti-Nazi propaganda in 1940 is perhaps less surprising than the cultural translations they perform in the final film under discussion here, Shekhar Kaphur's *Elizabeth: the Golden Age*. Here Philip II is portrayed as a strange, unsuccessful and somewhat farcical figure fixated on religion and world domination, Raleigh's New World activities are represented as epic heroism rather than piratical thievery and, in the Armada struggle, both Drake's and the Earl of Leicester Robert Dudley's actions are attributed to him. Critical commentary on the film has focused on the film's fast-and-loose attitude to the historical record and its anti-Catholicism. This essay reads it differently: by focusing on testing Kaphur's assertion that it is a film about 'fundamentalism against tolerance', I suggest that the film's depiction of Spanish Catholicism owes more to contemporary Western anxieties about Islamic fundamentalism and its perceived terrorist threat. England's borders are not secure, secret agents are mobilized to infiltrate and await instructions, and families are bloodily divided across religions. Piracy is imagined as part of Kaphur's 'tolerant' England, thereby sanitizing the nation's New World colonial ambitions, while the film simultaneously demonizes the terrorist Islamic Other.

Claire is a Professor of English at the University of Southampton. Research interests are Renaissance travel writing and early modern maritime culture. Principal publications include _Voyage Drama and Gender Politics 1589-1642: Real and Imagined Worlds_ (2003) and _The Culture of Piracy: English Literature and Seaborne Crime 1580-1630_ (2010) as well as a range of essays on early modern travel writing, conceptions of 'race' and religion, and cross-cultural encounter. Most recently she edited _Richard Hakluyt and Travel Writing in Early Modern Europe (2012) for the Hakluyt Society. She is a General Editor for Richard Hakluyt's collection of travel narratives _The Principal Navigations_ (1598-1600), which is 1.76 million words long, and which OUP are publishing in 14 volumes. She is currently working on a new study about perceptions of drowning in the Renaissance.

Simon Layton

Pirate Partisans and International Law

International law, as it emerged in the nineteenth century, did not figure much in the British suppression of 'piracy' in Asia. Yet the supposedly ungovernable nature of maritime space first asserted by Hugo Grotius necessarily placed the pirate in an ambiguous legal space, which persisted as such even as the universalisms of empire gave way to the positivist order of 'nation-states'. Jurists and legal historians seem to agree on the pressing need to study this transition—neither international law in the nineteenth century, nor its historical relationship to imperialism, has yet been sufficiently explored. In this paper, I want simply to suggest some ways in which the idea of piracy can inform our understanding of

international law and modern global politics, as the spectre of modern 'piracy' emerges alongside the 'war on terror', and what has been called a 'neo-liberal' discourse of intervention.

Looking forward from my recently completed doctoral dissertation, I will consider the pirate's legal identity in the context of British imperialism in the early nineteenth century. While Grotius explicitly precluded the possibility of there being a 'piratical state', what we find in the Indian Ocean world was a 'war on piracy' fought as much on paper between statesmen, as on seas between seafarers. The paradoxical appellation of 'piratical statehood' was embedded within the lexicon of empire, creating a civilisational discourse in lieu of law that justified the wholesale extirpation of imagined *piratical* communities.

Simon is a historian and piratologist, whose work examines the maritime dimensions of British imperialism in Asia, circa 1780-1850. Focusing primarily on the East India Company's expansion into Indian, Arab and Malay seafaring worlds, he argues that the discourse of piracy that developed in this period was critical to the consolidation of political control over the maritime networks of global trade, and fundamental to the emergence of international law. The central concept he elucidates is that of the 'piratical state' -- a paradoxical appellation applied to myriad and disparate seafaring communities across the Indian Ocean world, which ostensibly sought to hold a host of 'piratical' princes, chiefs, tribes, nations, and races accountable as tangible objects of castigation for what remained, in the nineteenth century, a legally intangible crime. Having studied at the University of Otago (in New Zealand), he has recently completed his doctorate at the University of Cambridge, under the supervision of C. A. Bayly.

Will Lingard

***Hostis humani generis?* Comparing piracy in maritime and cultural spheres**

The term 'piracy' has many meanings, and encompasses an extraordinary range of activities that are often conceptually similar, but ethically and practically distinct. In the maritime sphere, piracy is centred around the use or threat of violence on the high seas to achieve private ends. In the cultural sphere, piracy describes the unauthorized copying, dissemination, or acquisition of copyrighted works in a variety of formats and through a variety of channels.

The motivations of a cultural pirate are, in bare economic terms, similar to those propelling a maritime pirate—both seek personal gain of one sort or another—and the remedies for both sorts of piracy tend to be legal in nature. Nonetheless, the semantic conflation of these activities within a single word has, to a greater or lesser degree, elided some of the substantial practical and ethical disparities that exist between them.

This paper juxtaposes several aspects of maritime and cultural piracy in order to shed light on some fundamental differences. The aim is not to offer policy recommendations or moral judgments, but rather to provide an interdisciplinary understanding that provokes thought and contributes nuance to ongoing debates.

Will studied Acoustics and Music at the University of Southampton, where he was awarded the Edward Wood Prize for best student graduating in Music in 2007. After working in London for a research agency, he returned to Southampton to undertake a PhD (funded by a departmental scholarship) which he completed in 2013. His research concerns the evolution of recording technology and its effect on music's social function. He is particularly interested in the cultural, economic, legal, and sociological aspects of music's relationship with digital and Internet technologies. Will has worked for the BBC and Capital Radio, and continues to moonlight as an editor, proofreader, communications engineer, and graphic designer.

James MacLean

Hostis humani generis - a quality without a name

Around the Horn of Africa, pirates operate with near total immunity and, in Somalia at least, the piracy economy appears to be booming. A violent free-for-all has turned these waters into some of the most dangerous shipping lanes in the world. But piracy is nothing new. There have been seafaring pirates throughout history, from the Vikings to Blackbeard and Captain Kidd. Drawing on the rich variety of literary images found within cultural criticism and criminology, this essay explores the contemporary pirate as a modern-day 'trickster' (Hyde) and 'folk devil' (Cohen). Resisting the obvious temptation to portray the pirate negatively, through an easy duality of legal and illegal, inside and outside, the essay instead employs a process (Whitehead, Bergson, Deleuze) metaphysics to present the pirate positively, as a curious anomaly that defies easy categorization and stands forever on the margins, challenging, confusing and manipulating our spatial, temporal and material boundaries.

*James is Senior Lecturer in Law at the University of Southampton and a member of the Centre for Law, Ethics and Globalization. He is the author of *Rethinking Law as Process: Creativity, Novelty, Change* (Routledge, 2012) and co-editor, with Zenon Bańkowski, of *The Universal and the Particular in Legal Reasoning* (Ashgate, 2006). His current research interests explore the implications of process thought across a range of fields, including transitional justice, miscarriages of justice and international criminal law.*

Danilo Mandic

© at open sea

The technological advancement enabled possibilities that have disturbed already contentious principles upon which copyright law rests. The actualisation of by now already commonsensical file-sharing networks and potentials of 'illegal' activities it capacitates has fully subsumed the issue of piracy within the copyright discourse. From being only a

metaphorical substitute for infringing copyright, it has additionally become a moral opprobrium for all those illegal activities emerging in the technological surrounding. While piracy denominates certain groups and activities stretched on the external edges of proprietary boundaries of copyright ownership, its enunciation is also denounced. Copyright law guided by its internal propensity to order and balance fails to immunise itself from the intermittent piratical attacks.

In that sense, both as semantic and rhetorical means, piracy has been employed to serve not only different but opposing positions in respect to propriety of copyright and its essential function of protecting property and promoting creativity and knowledge. Therefore, with an attempt to avoid 'piracy' as a principle according to which any pros or cons arguments are developed, this discussion would draw on the notion of the parasite as an intrinsic attribute to any relation, as developed by Michel Serres. This will allow investigation of the parasitical mannerism of 'taking without giving' and its logic of 'abuse value' that resonates in close similarity to that of the pirate. Moreover, taking it as an essential trait of any communication, it provides a detour beyond the proprietary principles upon which copyright unfittingly rests and thereof struggles the augmentation of piracy. This debate will certainly interfere the normativity of © law by releasing it at open sea where the nausea [noise] and the pirates are ready to disturb and attack its circumference.

Danilo is a doctoral researcher at the University of Westminster, School of Law in London and holds an LLM Entertainment Law from the same school. His thesis examines the ever-growing dissonance between copyright and technology and attempts to redefine their relation by recognising their ever-present intertwinement. Other research interests include legal theory, art and law, sound and media studies. He is also an author of several conceptual projects and installation exploring the relations between text and sound, urban space, as well as art and copyright.

Andreas Philippopoulos-Mihalopoulos

The smooth law of pirates

Pirates are defined by the space they traverse and the objects they interact with. More than nomads, they move about in stealth and with specific connections to a horizon of objects. Their space is one of diagonal movement across the smoothness of water. Their horizon of objects is formed by intensities of desire that often go beyond the wish to own property and side along a desire for disruption. Without any intention of romanticising, this paper maps the piratical normative space that moves along while disrupting national and international property lines, geopolitical balances and ecological sensitivities. Through a Deleuzian/Spinozan theoretical approach, pirates emerge as bodies used by global property mechanisms in order to reinforce such property lines. At the same time, these same piratical bodies, disrupt the mechanism they are forced to serve through their connection with the objects of desire. In conclusion, while devoid of any deculpabilising intention, the paper argues that the normativity practiced by pirates is one that can teach more standard normativity a better way of connecting with space and objects.

Andreas (LLB, LLM, PhD) is Professor of Law & Theory at the University of Westminster and founder and Co-Director of The Westminster Law & Theory Centre. Andreas's research interests include space, bodies and normativity, radical ontologies and post-humanist studies, critical autopoiesis, law and literature, psychoanalysis, continental philosophy, gender studies, art theory and so on. His two edited volumes Law and the City (2007) and Law and Ecology: New Ecological Foundations (2011) and his two monographs Absent Environments (2007) and Law, Justice, Society (2009) are published by Routledge. Current books include the edited collection Luhmann Observed: Radical Theoretical Encounters (Palgrave, 2013), and the monograph Just Here: The Geography of Spatial Justice (Routledge, 2013).

Neil Rennie

Ann Bonny and Mary Read: Two Eighteenth-Century Pirates

Two eighteenth-century women pirates have had considerable twentieth and twenty-first century success, in films and many novels. The originals for those fictions, supposedly historical fictions, are Ann Bonny and Mary Read, who also play a role in the factual history of piracy. I propose to re-examine the historical evidence about those two real originals, the progenitors of so many imaginary others.

Hilton Staniland

The changing circumstances, evolution and spread of contemporary piracy: some major challenges to the law

In October 2010, when a Somali piracy case came before the Court of Appeal in *Masefield AG v Amlin Corporate Member Ltd* [2011] 1 WLR 2012, the *modus operandi* of the pirates was described as a "pattern": negotiations lasted between six to eight weeks, and no case was known where ship, crew and cargo had not been released. That has all changed.

In 2011, as compared to 2010, ransom negotiations are taking longer (currently about six months), and a growing number of ships and seafarers are, at the time of writing, being held for more than a year, and even more than two years. The *Iceberg I*, for example, was captured in March 2010; but her crew continue to be held hostage (One Earth Future Foundation's report: 'The Economic Cost of Somali Piracy, 2011', 11). The *Asphalt Venture*, taken in September 2010, was released in April 2011; but some of her Indian crew are still hostage in apparent retaliation for the arrest by India of suspected Somali pirates (One Earth Future Foundation's report: 'The Economic Cost of Somali Piracy, 2011', 13). Some of the crew of *Choizil*, captured in October 2010, are ashore in Somalia also still hostage. Four Korean seafarers, too, are still hostage, although their ship, the *Gemini*, was captured in April 2011. While successful piratical attacks off the coast of Somalia have substantially decreased, elsewhere in the world, in other risk areas, it is growing. The "business model" of piracy is certainly evolving; and piracy will prove, if it has not already done so, to be an enduring phenomenon.

The changing circumstances, evolution and spread of contemporary piracy, poses major challenges in many different areas of the law. This paper deals with one such area: it identifies and considers the multiple legal challenges in the shifting and shadowy interface between pirates and crews and shipowners where the law is lagging developments, being occasionally clear but mostly confused, and with a moral compass both trusty and unreliable.

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Eva Weinmayr

We are the ship in authorship and ownership

Piracy is commonly associated with the un-authorized and unlawful appropriation of somebody else's property. The Piracy Project sees the role of the cultural pirate as trickster, similar to the role of the artist, who has no predefined territory to roam, connects different areas of thought, and questions established ways of thinking.

The Piracy Project is an international publishing and exhibition project exploring the philosophical, legal and practical implications of cultural piracy and creative modes of reproduction. Through an international call for contributions and our own research we have gathered a collection of more than 150 modified, appropriated and copied books from all over the world. What all the books in the collection have in common is that they have been produced – altered, improved, translated, reprinted, re-circulated – without authorization.

English language offers a detailed vocabulary on how we deal with each other's work: Borrowing, poaching, stealing, quoting, referencing, plagiarising, copying, reproducing, adapting, cloning, imitating, translating, faking, counterfeiting and using. What are the ideologies behind these distinctions and who sets them? Is there something like moral piracy and unmoral piracy? What is the agency of such disruptive practices? And what anxieties are produced through a project called The Piracy Project in the current cultural climate of polarisation between copyright and open culture advocates.

The presentation will focus on approaches and strategies employed by selected cases from the Piracy Collection to investigate the creative and social agency of such transgressive practices to challenge artistic, legal, moral and institutional boundaries.

The Piracy Collection, which is catalogued [online](#) is the starting point for reading room and round table discussions. Since 2011 we toured the collection to New York Art Book Fair–MoMa PS1, Truth Is Concrete–Graz, Oslo10–Basel, SALT–Istanbul and Printed Matter–New York. The Piracy Project is a collaboration between Andrea Francke and Eva Weinmayr as part of AND’s publishing programme. AND is an experimental print-on-demand publishing platform hosted by Central Saint Martins College of Art and Design.

Eva is an artist, writer and publisher based in London. Her work focuses on systems of communication, disruptive media, border crossings between mainstream and independent media, cultural piracy and the fluidity of authorship. She is author of “(pause) 21 scenes concerning the silence of Art In Ruins” (Occasional Papers, London) and co-founder of AND Publishing, an experimental print-on-demand publishing platform hosted by Central Saint Martins College of Art and Design.

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