
Piracy and the production of security space

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Abstract. Since the emergence of Somali piracy as a threat to the circulation of cargo and capital through the Gulf of Aden, we have seen a massive effort on the part of global institutions, states, militaries, and private sector actors to protect this major artery of global commerce. This paper offers an analysis of the new institutional patchwork of ‘counterpiracy’ through the lens of the production of security space. What comes into focus then are the historical and contemporary processes of securing the conditions of capital circulation through war, law, primitive accumulation, and the enclosure of maritime spaces. By bringing together Foucault’s analysis of security and Marx’s analysis of capital circulation under the rubric of the production of space, I put forth a theory of production of security space as forming part of an infrastructure of circulation. Ultimately, I argue that legal, carceral, bureaucratic, and military practices are constitutive of this process of spatial production. Under the rubric of counterpiracy, law and discipline (as Foucault once wrote) have become ‘armatures’ in the apparatus of security. They have also become cornerstones of the new infrastructure of global capital circulation.

Keywords: piracy, security, production of space, infrastructure, oceans

“The number of active pirates is perhaps 3000 ... so if you put a thousand behind bars, and 300–400 die every year at sea from hunger (or) drowning ... you will quickly come down.”

Thomas Winkler, UN Contact Group on Piracy off the Coast of Somalia⁽¹⁾

“Legislation treated them as ‘voluntary’ criminals, and assumed that it was entirely within their powers to go on working under the old conditions which in fact no longer existed.”

Karl Marx (1977, page 896)

Introduction

Kenya’s Shimo La Tewa prison is a half an hour’s drive north of Mombasa on the coastal road that leads up to the Somali border. Located only a few hundred yards from the luxury resorts and private villas that line the Mtwapa Creek where it meets the Indian Ocean, the prison—which holds the majority of Kenya’s 157 pirate suspects and convicts⁽²⁾—fits unobtrusively into the eclectic landscape of shopping centers, shantytowns, hotels, cement factories, and other trappings of uneven development and tourism. The prison itself has become a major cog in the functioning of international counterpiracy efforts and has received large amounts of development money to improve its facilities through the United Nations Office on Drugs

⁽¹⁾This quote from the Danish ambassador, Thomas Winkler, is taken from *The Guardian*, “No Somali pirate hijacking in nearly a year, says UN”, 3 May 2013, <http://www.theguardian.com/world/2013/may/03/somali-pirate-hijacking>

⁽²⁾Figures quoted from Cole (2013).

and Crime's (UNODC) Counter Piracy Programme.⁽³⁾ The UNODC has overseen and provided the capital for many projects at the prison, including the construction of new water and sanitation systems, the provision of new prisoner uniforms and 2500 new mattresses, the refurbishing of a dispensary, and even the construction of a number of classrooms for the juvenile facility. Most striking, however, has been the construction of a new courthouse within the prison compound itself. The Shimo La Tewa Court at Shimo La Tewa opened in July 2012, purpose-built for piracy trials and staffed with its own resident magistrate trained by the UNODC (UNODC, 2013). The facility is now widely celebrated as 'the model prison' in the Kenyan penitentiary system (UNODC, 2009, page 4; see also Hatcher, 2013), and has become the prototype for a number of prison renovation and construction projects undertaken by the UN in East Africa.⁽⁴⁾ As an integrated *juridico-carceral complex*, Shimo La Tewa also seems to embody the very ethos of 'counterpiracy', blending and harnessing powers of legal and penitentiary institutions within a regional maritime security infrastructure.

Globally, there are approximately 1200 Somalis in prison, convicted or awaiting trial for the crime of 'piracy' (UNODC, 2013). In order to absorb this growing prison population and provide support for the often long and complex trials, significant amounts of development money have been allocated to the 'modernization' of courts and legal institutions and the construction of prisons in Kenya, the Seychelles, Mauritius, Tanzania, the Maldives, Somaliland, Puntland, and Somalia (UNODC, 2012). The UNODC's Counter Piracy Programme has built or refurbished ten prisons in the region, boasting that it has constructed or refurbished 1400 'standard prison spaces' to accommodate these new prisoners (UNODC, 2013).⁽⁵⁾ In Hargeisa, Somaliland, the UN-built 300-plus person facility is the first prison constructed in the city in fifty years (UNODC, 2011), marking a break with prevailing local practices in the treatment of crime and punishment. The rough calculus behind this newly booming prison microindustry is captured in the words of Thomas Winkler above: the implicit reasoning is that imprisonment and death will curtail the total population of pirates.

The Gulf of Aden and the Western Indian Ocean are home to some of the busiest shipping lanes in the world. With the construction of the Suez Canal in 1869, the shortest sea route between East Asia and Europe was created—across the Indian Ocean, through the Gulf of Aden and the Red Sea, and north into the Mediterranean—and it quickly became a principal artery of global trade. Today, approximately 25 000 cargo ships (roughly 12% of global maritime trade and 30% of global oil shipments) pass through the Gulf of Aden each year (Ross and Ben-David, 2009). These include supertankers from the Arabian Peninsula carrying up to 2.2 million barrels of crude oil, chemical tankers, and cargo vessels hauling the bulk of South and East Asian commodities to European markets. The geopolitical and strategic importance of controlling this maritime trade route long dictated European colonial ambitions in the lands that border these waters (Lewis, 2002).⁽⁶⁾ Present-day counterpiracy

⁽³⁾The Counter Piracy Programme was founded in 2009 in response to Somali piracy. It was renamed the Maritime Crime Programme in 2014 and given a wider purview, which now also encompasses piracy in West Africa and the Gulf of Guinea. Throughout this paper I refer to this programme as the 'Counter Piracy Programme', as most of the activities I describe were carried out by this programme prior to its name change (see UNODC, 2014).

⁽⁴⁾This view was also expressed to me in an interview with the chief warden of the Shimo La Tewa Prison. This paper draws in part on anthropological fieldwork and interviews I conducted in Kenya in 2010.

⁽⁵⁾The recently completed 500-plus person prison facility in Garowe, Puntland has presumably brought this number up to 1900.

⁽⁶⁾In the Horn of Africa British, Italian, and French colonists jockeyed for position (and possessions) along the Somali littoral, seeking to control ports and seaboard, often ignoring the hinterlands, except when 'native' unrest in the interior occasionally erupted into open conflict and disrupted colonial designs on the coast (Lewis, 2002).

efforts and the ‘securitization’ (Bueger and Stockbrugger, 2012) of the Gulf of Aden and Western Indian Ocean may be understood as the contemporary articulation of historical struggles over important seaways. As such, counterpiracy is a vehicle through which capitalist maritime spaces are today being reproduced and transformed under the sign of ‘security’.

The argument of this paper is that the conditions of capital circulation and spatial domination in the Gulf of Aden and Western Indian Ocean are currently being constructed through what I am calling *the production of security space*: that is, the production of secure spaces for the circulation of certain ‘desirable’ elements (in this case cargo vessels, commodities, and capital) and the suppression of other ‘undesirable’ elements (that is, piracy and the interruption of commodity and capital flows). This is above all a violent process that has important historical roots in the colonial history of ocean spaces. Drawing on Foucault’s notion of ‘security space’ and Marx’s theorization of circulation, I ground my theoretical argument about counterpiracy and the production of security space in a critique of both political economy and governmental power.

The first section of this paper is largely historical and examines how capitalist maritime space was produced through law, violence, and dispossession. This yields an understanding of the production of maritime space as intimately linked to capitalism’s historical tendency towards the “annihilation of space by time” (Marx, 1973, page 539) and the historical project of “construct[ing] the ocean as a friction-free transportation surface” (Steinberg, 2001, page 125) for capital’s unhindered circulation. The second section of this paper theorizes the contemporary production of security space and its spatial logics. By bringing together Foucault’s treatment of ‘security space’ in *Security, Territory, Population* (2004) with Marx’s analysis of circulation in *Capital Volume II* (1978), I theorize the particular relationship between security and capital circulation at work in the contemporary Gulf of Aden. On the one hand, contemporary practices of counterpiracy may be understood as an articulation of capital’s perennial need for secure spaces of circulation. Yet, on the other hand, what is occurring in the region represents a transformation of capitalist maritime spaces and the forms of power through which such spaces are produced and maintained. The aim of this paper is to understand these transformations and to theorize the spatial logic of power that operates through the infrastructures, laws, and practices of counterpiracy.

I. The production of maritime space: piracy, law, and primitive accumulation

Since the publication of Lefebvre’s seminal work on the subject (1991), critical geographers have widely recognized ‘the production of space’ as central to the functioning of capitalism and to general processes of capital accumulation (eg, Brenner and Elden, 2009; Harvey, 2006; Smith, 1984). From the vantage point of piracy and maritime space, it is striking that the major strands of the critical geographic literature on the production of space have been focused ‘on land’.⁽⁷⁾ Phillip Steinberg’s pioneering work, particularly his classic, *The Social Construction of the Ocean* (2001), stands as an important exception to this lacuna in critical geography (Steinberg, 2001; 2005; 2009). Anthropologists and sociologists (eg, Dua, 2013; Gilroy, 1993; 2010; Ho, 2006) have also laid important groundwork for the study of the production of maritime space, but it is perhaps historians who have contributed most to our understanding of social, cultural, political, and economic histories of the oceans and seas

⁽⁷⁾A number of examples could be given of the land-centric character of the literature on the production of space. Here are a few major strands: the literature on gentrification and the production of urban space (eg, Smith, 1996; Soja, 2000); territorialization and the production of state space (Brenner, 2004; Jessop et al, 2003; Lefebvre, 2009); uneven development (Massey, 1994; Smith, 2008), the spatial fix (Harvey, 2001); the ‘prison fix’ (Gilmore, 2007), and the role of the production of space in the dynamics of capitalist crises (Harvey, 2006) all study the production of space primarily through the built environment on land.

(Benton, 2005; 2010; Braudel, 1996; Linebaugh and Rediker, 2000; Pearson, 2007; Rediker, 1989; Toussaint, 1966). A central insight of this body of literature is that oceans and seas have played a formative role in the economic, political, and social formations of modernity, as they are spaces through which political power is projected (Mancke, 1999), international legal norms are developed (Armitage, 2000; Benton, 2010; Heller-Roaze, 2009), global racial formations are constructed (Gilroy, 1993), and experiments in resistance and radical social alternatives are contested (Linebaugh and Rediker, 2000; Rediker, 1989). Key for our purposes is the argument that the regulation of ocean space was formative in the emergence of the Westphalian territorial state system (Benton, 2010; Chenoweth, 1999; Heller-Roazen, 2009; Mancke, 1999), and that “ocean space ... serves a crucial role in the reproduction and development of the world system” (Steinberg, 2001, page 24; see also Rediker, 1989). From this viewpoint the production of maritime space should be seen as formative to both the European colonial expansion and the emergence of capitalism.

The production of maritime space can be understood as a corollary to what Neil Smith (1984) has called ‘the production of nature’. Under capitalism, maritime space has historically been constructed as an empty, vast expanse—what Steinberg calls the ‘great void idealization’—which is grounded in an underlying assumption that it is a *natural space* unadorned by the trappings of human development and technology. Indeed, as Steinberg has decisively shown, under capitalism “the Ocean discursively became constructed as outside society and the terrestrial places of progress, civilization, and development” (2001, page 114). According to Smith, the production of nature is precisely that historical process whereby nature is constructed as at once *universal* and *external* to society. Critical here is Smith’s identification of “the concept of nature [as] a social product” and as one which often has “a clear social and political function” (1984, page 28). In the case of the oceans, the political function of constructing maritime space as *natural* is clearly seen in the eventual codification of the principle of *mare liberum* or ‘free seas’. This concept—first elaborated by 17th-century Dutch jurist Hugo Grotius and eventually legally enshrined in treaties and international conventions (such as the UN Convention on the Law of the Sea)—defines the high seas as indomitable and unclaimable by territorial sovereign powers and thus ‘extraterritorial’ (Heller-Roazen, 2009). Above all, this was a space within which the principle of the free circulation of commerce was sacrosanct. Indeed, this principle would come to form one of the cornerstones of international maritime law. In this regard, the allegedly ‘natural’ space of the ocean—often represented as wild, lawless, and therefore beyond territorial jurisdiction—was in fact produced as “bounded legal space” (Benton, 2005, page 724) very much *within* and constitutive of the Westphalian interstate system. Though ‘extraterritorial’, ocean space was legally constructed and increasingly defined as any empty and ‘international’ space of circulation for commerce and transit, a neutral medium stitching together colony and metropole and allowing unimpeded traffic between the two.

As with colonies themselves, oceans and seas were not empty spaces free of existing social relations. Rather, the history of ocean space under capitalism can be read as a protracted struggle to create a frictionless, obstacle-free space of circulation that is as efficient as possible. Piracy, both historically and presently, constitutes a major threat to the global circulation of commodities, periodically interrupting the circuits of capital, slowing down its turnover time, and erecting obstacles (or barriers) that act as a drag upon capital accumulation. Insofar as “circulation time ... appears as a natural barrier to the realization of labour time” and value (Marx, 1973, page 539), capitalism has historically sought to create spaces of circulation where “the friction of distance” is reduced to a minimum (Harvey, 2001, page 224). It is in this context that Steinberg (2001) spoke of an “annihilation of ocean-space by means of speed and bureaucracy [that] is expressed in the metaphor of the container ship” (page 194).

The speed-up of turnover time through containerization and the technological transformation of the shipping industry have been major forces in the annihilation of maritime space by time. But the historical project of producing ‘empty’ maritime space for frictionless capital circulation must also be understood as a history of social struggle. This is evidenced by the violence and bloodshed surrounding historical piracy, privateering, and interimperial competition (Linebaugh and Rediker, 2000; Rediker, 1989). Where precolonial claims on ocean spaces threatened the unimpeded circulation of capital, such social relations had to be expelled or dominated by an emerging capitalist maritime order (Mancke, 1999; Risso 2001).⁽⁸⁾ In this process piracy laws were often used to criminalize non-European maritime powers and to legitimize imperialist interventions against them.

War and law have been paramount to the historical process of defining, consolidating, and producing ‘extraterritorial’ and ‘empty’ maritime space. The pivotal role of war in the emergence of European states and the consolidation of national state space is well documented (Mann, 1988; Tilly, 1990). However, it is less widely acknowledged that maritime warfare and interimperial competition over long-distance maritime trade routes was also vital to this process. On both land and sea, law played a pivotal role in the construction of territory, region, extraterritoriality, and the consolidation of sovereign control over legitimate violence. In 1609, forty years prior to the Westphalian treaties, Grotius’s *Mare Liberum* staked out the major juridical and political principles that would come to regulate ocean space and shape international norms for centuries to come (Benton, 2005, pages 701–702; Steinberg, 2001, page 31; see also Armitage, 2000). Ultimately, as international norms of the interstate system began to coalesce, a juridical regime for the regulation of legitimate violence at sea was constructed in order to enshrine the right of free circulation of commerce. Crucially,

“[as] the Ocean was ... idealized as an empty transportation surface, beyond the space of social relations, ... [the] projection of power in the deep sea was perceived as legitimate only when applied toward the end of destroying obstacles to free navigation” (Steinberg, 2001, page 113).

In this process of delimiting the projection of power at sea and codifying legitimate and illegitimate maritime violence, piracy laws played a central role.

Piracy, law, and legitimate violence

The juridical categories of ‘piracy’ and ‘privateering’ became foundational legal grounds for the regulation and extension of state monopolies on legitimate violence in extraterritorial maritime space. And as the contemporary conflicts in the waters off the coast of Somalia attest, the concept of piracy remains a pivotal legal instrument in the hands of states seeking to control conditions of circulation and legitimize maritime violence.

The two categories emerged and were codified in tandem between the 16th and mid-19th centuries (Heller-Roazen, 2009). At its inception⁽⁹⁾ *piracy* was defined as an illicit act committed for ‘private ends’, as opposed to *privateering*, seen as an act of maritime predation officially condoned by a particular European state, whose aims were defined as ‘political’ (that is, privateering was understood as committed on behalf of the state against a foreign power). The delimitation of the two legal concepts was instrumental in the emergence of the interstate system, and helped structure the conditions of maritime warfare and competition throughout the period of modern European state formation. Privateering, on the one hand, became a key mechanism through which modern European nation-states summoned large

⁽⁸⁾For a discussion of British–Mughal struggles over legal norms in the Indian Ocean in a period of colonial expansion, see Risso (2001).

⁽⁹⁾Of course, etymologically, the term piracy long predates its modern legal codifications. However, in this paper I build on the argument that modern European piracy law of the 16th–19th centuries marked a break with ancient conceptions of the term (see Heller-Roazen, 2009).

mercenary naval forces through the simple issuance of formal ‘letters of marque’. As Daniel Heller-Roazen (2009) has argued:

“In an epoch in which state navies, in any modern sense of the term, did not exist, this much was, to a certain degree, inevitable. Private vessels manned by seafarers who worked for gain were the classic instruments of war at sea, and no sovereign power could forego them” (page 83).

These so-called letters of marque became a principal means by which European states could wage maritime warfare, and privateering became a paramount institution in the era of colonial expansion. In essence these ‘letters’ were official documents endowing private vessels with the right to use violence at sea in the name of the state.

Acts of piracy and privateering were materially indistinguishable in actual practice: the only difference between them was legal in that the latter enjoyed the legitimacy conferred by European states (Heller-Roazen, 2009, page 81). Those who acted without proper consent and authorization were deemed illegitimate plunderers. This distinction allowed European states substantial leverage in controlling their mercenary fleets. By conferring symbolic legitimacy on certain acts of maritime violence, European states aligned these acts with national interests (officially known as ‘waging a public war by private means’). By simultaneously criminalizing unauthorized acts of violence, these states in turn reserved for themselves the right to repress these acts as ‘crimes’ by use of force. Piracy became the term of choice for criminalizing foreign subjects (and indeed renegade domestic subjects) who challenged colonial interests at sea (Chenoweth, 1999). This process thereby pushed the consolidation of the symbolic power (and juridical capital) of European states (Bourdieu, 1987; 1994) and helped extend their monopolies on legitimate violence over the vast expanses of long-distance trade routes.

The criminal category of piracy was also a powerful mechanism for state control over the laborers within their informal navies in between periods of formal warfare. Indeed, often the same people who were celebrated as heroic servants of the nation in times of war found themselves vilified as pirates when they continued the same acts of plundering foreign trade in periods of peace (Konstam, 2008; Linebaugh and Rediker, 2000). The contradictions of this process, however, were evident in the periodic creation of large pools of surplus (military) labor in the Atlantic when peace treaties were signed and ‘letters of marque’ canceled en masse (Rediker, 1989).⁽¹⁰⁾

Laws of piracy thus became central to the regulation of violence and labor at sea, pivotal for controlling long-distance trade routes during the period of European colonial expansion. It is through these legal categories (and the state violence that underpinned them) that capitalist maritime space was forged as a space for circulation. The suppression of piracy and all forms of nonstate-sanctioned violence at sea was materially instrumental in producing ocean space as a ‘great void’—an ‘emptying out’ of space which strove for the physical removal or containment of all nonstate actors capable of enacting violence, resistance, or interruption.

Maritime enclosures

One way to think of this history is as a protracted process of maritime enclosure. In this process of enclosure, piracy law undergirds a kind of *primitive accumulation of ocean space* that has in turn provided the material basis for the emergence of capitalist circulation. In order to produce maritime space as a ‘frictionless’ and neutral medium for circulation, existing social relations and claims to such spaces had to be eliminated or dominated by an ascendant

⁽¹⁰⁾ Emblematic of this is the Treaty of Utrecht, which ended the wars of Spanish succession in 1713. The peace was accompanied by the *international* cancellations of the letters of marque for English, French, and Spanish privateers, putting thousands of people out of *legitimate* employment overnight (Konstam, 2008). On the British side alone 6000 privateers were put out of work. What followed was the golden age of Caribbean piracy and the subsequent emergence of European naval campaigns to suppress piracy.

capitalist maritime order. As with other forms of enclosure, this primitive accumulation of ocean space also played an important role in European state formation: consolidating the symbolic power of the state, coalescing bodies of law which define territoriality and international norms, and extending the state monopoly on legitimate violence over ocean spaces.⁽¹¹⁾ Ultimately, the codification and universalization of piracy laws was foundational to the production of capitalist maritime space, legitimating forms of state violence at sea while securing the conditions for global capitalist circulation.

The production of maritime space, however, is an ongoing and contested process. As much as international law and capitalist rationality would like to produce seas as abstract, empty, and frictionless spaces of circulation, social struggles and conflicts inevitably erupt to challenge this abstraction. Contemporary piracy reminds us that the capitalist project of producing maritime spaces for circulation is never a *fait accompli*. Rather, oceanic enclosures must be maintained through the force of violence and state power.

II. The production of security space: circulation and violence in the Gulf of Aden

On 5 May 2010 the Russian oil tanker MV *Moscow University*, carrying approximately 86 000 tons of crude oil worth \$50 million, was attacked and boarded by eleven Somalis in the Gulf of Aden. Responding to a distress call on the following day, commandos from a Russian warship, Marshal Shaposhnikov, boarded the tanker and engaged the pirates in a gun battle, killing one and seemingly wounding others (Bodini, 2011). Having caught these Somalis in an act of piracy and detained them, and with a full arsenal of evidence (weapons, skiffs, and witnesses), the Russians initially stated that they would bring the ten surviving Somalis to Moscow to face trial. Instead, on the following day the men were sent to their deaths in a particularly cruel form of extrajudicial execution. After their own boats and equipment had been destroyed, the ten Somalis were set adrift with no navigational equipment in an inflatable lifeboat 300 nautical miles from Somalia, and likely starved or drowned. As one Russian official later stated bluntly: “They could not reach the coast and, apparently, have all died” (*Moscow Times* 2010).

Law is a mercurial handmaiden of state violence. Under international law Russia is obliged to give due judicial process to those apprehended on suspicion of piracy and must safeguard their lives while in custody (Osiro, 2011).⁽¹²⁾ Yet in justifying its actions, the Russian Defense Ministry spokesman, Aleksei Kuznetsov, also made oblique reference to law, citing “imperfections in international law” that would have made prosecution untenable (Rice, 2010). In fact international laws on piracy are well defined (Guilfoyle, 2010; 2010b), as are the human rights of these detainees under a host of international conventions.⁽¹³⁾ However, as the silence of major international actors (such as the EU and the UN) with regard to this case of extrajudicial execution suggests, legality is not really the heart of the issue. Law is a legitimating force that often provides a cover for state violence, but legality is also frequently forgone in the process of maintaining the conditions of production and circulation under capitalism.

⁽¹¹⁾ The triumph of Westphalian maritime space can perhaps be dated to the end of the Crimean War in 1856 with the Declaration of Paris Respecting Maritime Law. This treaty ended the legal institution of ‘privateering’, outlawing the use of private maritime mercenaries in war at sea. It thereby also officially consolidated the use of legitimate violence at sea solely in the hands of formal navies.

⁽¹²⁾ This is particularly specified under the European Convention on the Protection of Human Rights and Fundamental Freedoms; it is also suggested by the United Nations Convention on the Law of the Sea, article 98 of which specifically requires that ships help other ships in ‘distress’ at sea.

⁽¹³⁾ These include the UN “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, the “Convention relating to the Status of Refugees”, and the “Convention for the Protection of Human Rights and Fundamental Freedoms” (see Guilfoyle, 2010a).

On the one hand, the case of the MV *Moscow University* may be seen as a rather extreme example of state violence within contemporary counterpiracy. It would seem an outlying incident when viewed against the background of the UNODC's contemporaneous investments in regional legal systems capable of delivering 'fair' trials to pirates and their efforts to guarantee 'humane' prison conditions through their expansive prison construction projects (UNODC, 2010). Yet, on the other hand, the death of these ten Somalis through *hunger or drowning* also echoes the words of the UN Contact Group's Thomas Winkler (quoted in the epitaph). Indeed, the incident may provide a glimpse into the vigilante violence that forms the hidden underbelly of contemporary counterpiracy. To date, "there is no official reporting on the numbers of Somalis killed by navy and coast guard personnel or by armed private security" (Hulbert, 2011, page 11). Very little is publicly known about confrontations involving the 'private maritime security contactors' who now travel on board many merchant vessels crossing the Gulf of Aden. Some commentators worry that the "fine line between legal self-defense and homicide" (Priddy and Casey-Maslen, 2012) may have already turned their right to use lethal force into an informal arrangement of killing with impunity at sea (Osiro, 2011).⁽¹⁴⁾ Arguably, it is the formal structures of counterpiracy that make possible these seemingly 'fringe' forms of violence.

In what follows, I argue that the infrastructures that maintain capitalism's maritime circulation are also its infrastructure of violence. Thus, both the formal and the informal forms of violence, repression, and containment at work in counterpiracy are structured around an undergirding logic of security. Following Foucault (2004), I understand this logic of security to form its own special 'modality of power', which animates and instrumentalizes law, discipline, and other forms of violence as its 'armatures'. Whereas *law* may have been the dominant modality of power guiding the production of Westphalian maritime space, today that role is fulfilled by *security*. The maintenance of the conditions of maritime circulation today is achieved through what I call *the production of security space*.

Security space

As Foucault argues in his seminal lectures *Security, Territory, Population* (2004), 'security' is characterized by a particular disposition towards the uncertain and by the management of imperfect situations through various technologies of containment, control, and suppression. Therefore, the 'apparatus of security' functions by abstracting from the particular event (crime, disaster, famine, flood) and seeking to ascertain the logic of its potential repetition. Whereas discipline acts on the phenomenon itself (for example, on the body of the criminal), security places crime into a calculus of the probable. The aim is not to prevent the undesirable from happening altogether; rather, the apparatus of security seeks to contain the undesirable within certain acceptable parameters: "instead of a binary division between the permitted and the prohibited, one establishes an average considered as optimal on the one hand, and, on the other, a bandwidth of the acceptable that must not be exceeded" (Foucault, 2004, page 6).

This describes quite well the undergirding logic of security that is at work in contemporary counterpiracy, a regime that treats piracy as a set of probable events that must be managed and brought within the realm of the (economically) acceptable. As counterpiracy aims to contain the probable repetition of piratical events, it does so by enacting certain spatial strategies. The calculus of the probable and the containment of the 'undesirable' become the general principles through which the apparatus of security seeks to order space. As it does

⁽¹⁴⁾ More research is needed into this burgeoning industry of private maritime security. Approximately 50% of all vessels transiting the Gulf of Aden employ such armed guards, at a cost of \$50 000 per transit, or a total of \$1.5 billion per year (OEF, 2012). Such forms of vigilante repression are legitimated and sanctioned by the "Best Management Practices for the Protection against Somalia Based Piracy" approved by the European Union Naval Force (EU NAVFOR), NATO, and the International Maritime Bureau, among others (BMP4, 2011).

so, security harnesses the power of both disciplinary and legal institutions (for example, the construction of carceral and juridical infrastructure), as well as military and naval power to produce its desired environment of security.

The integration of legal, carceral, and military infrastructures under the rubric of counterpiracy gives flesh to Michel Foucault's observation that "security is a way of making the armatures of law and discipline function in addition to the specific mechanisms of security" (2004, page 10). Firstly, in the realm of law, the UN's Counter Piracy Programme provides financial and logistical assistance to piracy trials in Kenya, the Seychelles, Tanzania, Mauritius, and Yemen, and it has successfully pushed to rewrite the laws of piracy in the legal codes of several states in the region (Cole, 2013; Murphy, 2011). In addition it has constructed new court facilities and has built an entire Ministry of Justice in Somaliland to facilitate the prosecution and detention of pirates (UNODC, 2013). These and other projects form the *legal infrastructure of counterpiracy*. Secondly, the major investments in prisons in Kenya, the Seychelles, and Somalia form an emerging *carceral infrastructure of counterpiracy* that is being constructed at a regional level. With the UN-run Piracy Prisoner Transfer Programme, enabling Kenya and the Seychelles to prosecute and convict pirates domestically and then 'repatriate' them to Somalia, we see the contours of a new legal and carceral regionalism emerging through such processes (UNODC, 2012). Finally, it is the *naval infrastructure of counterpiracy* that most clearly evidences the logic of security that stitches these institutions together.

The practices and institutional structures of the naval forces deployed to the Gulf of Aden and the Western Indian Ocean evince a number of important transformations in military practice, including a striking transformation of naval power from warfighting to policing. Over thirty states are militarily engaged in the Gulf of Aden, largely under the auspices of the three major counterpiracy naval coalitions (Bueger and Stockenbrugger, 2012).⁽¹⁵⁾ Operation Atlanta is the inaugural mission of the EU NAVFOR, which was founded in 2008 as a response to Somali piracy.⁽¹⁶⁾ But in many important respects Operation Atlanta does not resemble a traditional military operation. As an EU NAVFOR legal adviser explained to me, "Operation Atlanta has no *end state* but only an *end date*, [therefore] it does not conform to a standard military operation" (emphasis added); or, as one UNODC official more succinctly put it, "Operation Atlanta is essentially a policing and law enforcement mission."⁽¹⁷⁾ This transformation of naval power from war-making to policing is in itself an important moment in the contemporary evolution of military practice. Such transformations fit into broader trends in the 'militarization of policing' and 'policization of the military' (Graham, 2012, page 96; see also Andreas and Price, 2001), which encompasses urban security regimes (Davis, 1990), border militarization (Dunn, 1996), and the transformation of warfare (Duffield, 2001; Neocleous, 2013). Here, it also represents an important moment in the 'policization' of maritime space. As Foucault has argued, the institution of the police was the modern state institution par excellence through which the European states constructed their 'domestic' security, intervening in 'society' and seeking to control the circulation and flows of people and goods within the national political economy (2004, pages 311–328, 335–339). In the Western Indian Ocean it is the mundane everyday military-qua-police operations and practices such as surveillance, patrolling, training, and coordination which become key to the production and

⁽¹⁵⁾ These three coalitions are NATO's Operation Ocean Shield, the US-led Combined Task Force-151, and the EU NAVFOR Operation Atlanta.

⁽¹⁶⁾ The advent of a pan-European naval force is perhaps the clearest example of 'state-rescaling' (Brenner, 2009; Smith, 1995) precipitated by counterpiracy: that is, European naval power reconstituting itself at the regional scale (Glück, 2011).

⁽¹⁷⁾ Quotes are from interviews conducted by the author in March 2010, in Nairobi and Mombasa.

reproduction of security space. It is also through such military-qu-a-police practice that the legal construction of maritime space is enforced and materially ‘secured’.

Spatially, as a modality of power, security seeks to organize what Foucault calls a *milieu of security*. That is, security seeks to produce spaces in which undesirable events are kept within this ‘bandwidth of the acceptable’. This can be contrasted with the manner in which discipline works on space. If the logic of discipline is one of direct physical control, surveillance, and force applied to the modification of the phenomena in question, then this manifests itself in space by rigidly controlling and forcefully modifying an environment. Security, by contrast, works through the production of a broader field of power rather than through techniques of direct control:

“Discipline works in an empty, artificial space that is to be completely constructed. Security ... is simply a matter of *maximizing the positive elements, for which one provides the best possible circulation, and minimizing what is risky and inconvenient*, like theft and disease, while knowing that they will never be completely suppressed” (Foucault, 2004, page 19, emphasis added).

Foucault describes *disciplinary space* as ‘centripetal’, as it concentrates and forces phenomena inward: “the first act of discipline is in fact to circumscribe a space in which its power and the mechanisms of its power will function fully and without limit. ... It isolates, it concentrates, it encloses” (2004, page 45). By contrast, *security spaces* “have the tendency to expand; they are centrifugal. ... Security therefore involves organizing, or ... allowing the development of ever-wider circuits” (page 45). Yet, ultimately, as Foucault is quick to point out, these two types of space are not mutually exclusive, but often operate in symbiosis. Just as disciplinary techniques and juridical practice become ‘armatures’ in the functioning of the apparatus of security, disciplinary space can operate within and be subsumed under the broader production of a milieu of security.

One of the major spatial strategies of counterpiracy can be understood through the analysis of disciplinary space embedded within security space. The Internationally Recommended Transit Corridor (IRTC) for shipping in the Gulf of Aden (see figure 1) represents precisely such a tightly controlled and centripetal disciplinary space embedded within the security space of the so-called Greater Gulf of Aden and the Western Indian Ocean.

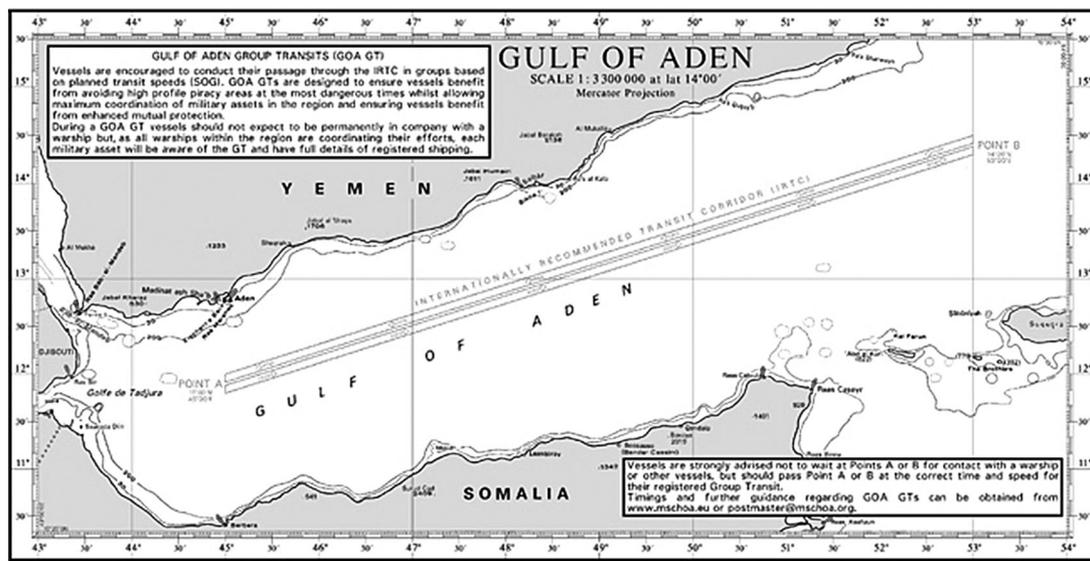


Figure 1. The Internationally Recommended Transit Corridor (source: United Kingdom Hydrographic Office).

This transit corridor has been subjected to a number of intensive disciplinary techniques, including: the standardization of transit times, the registration and panoptic surveillance of all transiting cargo vessels, the standardization of ‘best management practices’ for cargo vessels transiting this space, and a major concentration of warships enabling a standard minimum naval response time of thirty minutes anywhere in the IRTC. This strategy of total disciplinary control of the space of the IRTC rapidly resulted in the elimination of successful attacks within the corridor. Along with other ‘disciplinary spaces’ of counterpiracy—such as the 1400 prison cells built by the UN in the region—the IRTC may also be understood as a kind of disciplinary space, embedded within the broader production of security space.

By contrast, ‘the Greater Gulf of Aden’ (Hansen, 2009), which extends from the mouth of the Red Sea across the Somali Basin and over much of the Western Indian Ocean and encompasses the disciplinary space of the IRTC, may be understood as a security space in the broad sense. Within this larger maritime area—itsself a geographical construct born of counterpiracy practices—the techniques for containment and suppression of piracy are markedly different. Its boundaries are ill defined and there is no pretense of controlling the approximately 2.5 million square miles of sea space in its entirety. Instead of a concentration of forces within a bounded space, there is a dispersal of naval vessels and a reliance on long-distance surveillance aircraft (primarily drones launched from the Seychelles), which create a calculatedly partial (as opposed to panoptic) monitoring of activity in the region. This spatial strategy is not primarily aimed at the total elimination of pirate attacks, but rather at the optimization of the circulation of ‘positive elements’ (cargo ships and commodities) and the minimization of ‘negative events’ (piracy). We may thus begin to think of security space as a form of circulation space in which the infrastructures and institutions of counterpiracy are part of an infrastructure of circulation.

Securing circulation: capital and interruption

Piracy represents an obstacle for capital accumulation insofar as it interrupts capital’s circulation process. In so doing it not only prevents commodities from arriving at their final destination, but, more importantly, it forms a blockage in capital’s very mechanisms of reproduction and accumulation. At a general level, as we have seen, piracy may form a drag on capital’s turnover time, and therefore may be thought of as a barrier to accumulation. But in order to understand the precise impact of piracy as an interruption within the circulation process, we must turn to the ‘circuits of capital’ themselves and to an analysis of the valorization and realization processes which occur through them. This analysis, in turn, will enable us to better understand ‘security space’ and the infrastructure of circulation that it seeks to produce.

To begin with, Marx understood capital as “value in motion” (Harvey, 2013; see also Marx, 1973, page 536). That is, capital must perpetually move from one form to the next—from its money form to productive capital (labor power and the means of production) to its commodity form, and ultimately into more money—or it will risk devaluation, crises, and blockage in the process of accumulation. For Marx, this ‘circuit of capital’ is key to how capital reproduces itself in ever-expanding cycles, each of which ushers the transformation of more surplus value into capital (Marx, 1977, pages 725–734; 1978, pages 158–164). A blockage at any point in the circuit has important consequences for the capital as whole. As Marx writes:

“The circuit of capital proceeds normally only as long as its various phases pass into each other without delay. If capital comes to a standstill in the first phase, $M-C$, money capital forms into a hoard; if this happens in the production phase, the means of production cease to function, and labour-power remains unoccupied; if in the last phase, $C'-M'$,

the unsaleable stocks of commodities obstruct the flow of circulation” (Marx, 1978, page 133).

If capital is prevented from completing one of its transformations and gets stuck at any one phase of these circuits, it can bring both circulation and production to a halt. When we speak of piracy as an interruption or barrier in the process of accumulation, we are referring to precisely such obstructions.

There are three principal types of interruption and blockage that contemporary piracy precipitates: (1) interruption in the circuit of *productive capital*; (2) interruption in the circuit of *commodity capital*; (3) interruption of *transportation*. In the first instance, an example of the interruption of productive capital would be the hijacking of a fishing vessel; the (extractive) production process of fishing is interrupted and productive capital (labor and means of production) come to a standstill. In the second instance, the interruption of commodity capital pertains to the products aboard the cargo ships: these are commodity goods heading for a market. In both of these cases piracy is experienced as a barrier to capital, preventing it from passing from one phase to the next (see figure 2). The interruption of productive capital prevents its transformation into commodities (for example, the interruption of fishing prevents the production of fillets and canned tuna), while the interruption of commodity capital prevents the realization and transformation of commodities into money when goods are sold on the market.

In the first case, piracy interrupts capital in the middle of its production process: it interrupts the circuit of productive capital. The materials do not get to the next site of production (for example, a cannery), the production process comes to a standstill, and the capital that has been invested in the materials is tied up, waiting to be valorized. In the second case, commodities are interrupted on their way to a market: it is an interruption in the *circuit* of commodity capital. The commodities in question have already absorbed their full share of value and surplus value, and now simply wait for the realization of this value in the moment of consumption. An interruption here also threatens the value of the commodities: for example, perishable goods, if not delivered on time, will lose their value and the final transformation $C' - M'$ will not occur.

The third type of interruption pertains to the process of transportation itself, which Marx viewed as both a simple means of circulation and a production process in its own right. As a production process, transportation produces “the actual change of place” (Marx, 1978, page 135). When piracy interrupts transportation, it is an interruption in the production process of the transportation industry.

Of the three types of interruption precipitated by contemporary piracy, the interruptions in the circuit of commodity capital and in transportation are key. Firstly, the vast majority of ships passing through the Gulf of Aden carry commodity goods. It is thus primarily

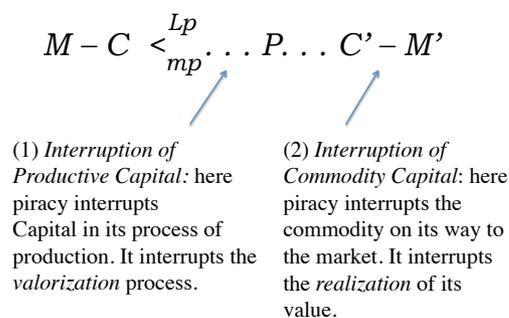


Figure 2. Interruptions in the circuit of capital.

in the commodity form that capital is held up in the act of piracy. Secondly, through the interruption of transportation itself, piracy yields heavy costs for the shipping sector itself—that is, those who ‘produce’ transportation. But, ultimately, it is the circuit of capital as a whole that is affected by any one of these interruptions. If an individual capital is blocked for too long in any one of these states, the whole process of circulation *and* production can come to a grinding halt. Thus the individual impact of such an interruption on a single ship or shipping company can be immense, but there are also important impacts on the total social capital.

According to Marx, the total social capital requires continuity and fluidity between its three circuits (1978, pages 183–185). As he writes in *Grundrisse*:

“The *constant continuity* of the process, the unobstructed and fluid transition of value from one form into the next, appears as a fundamental condition for production based on capital to a much greater degree than for all earlier forms of production” (1973, page 535, emphasis in original).

It is when piracy threatens this general condition of fluidity and continuity of process for the total social capital that we begin to see an outlay of capital on security and circulation infrastructure.

The effect of piracy on the total social capital can be seen first in the general costs incurred by the shipping industry in the areas of rerouting ships, insurance premiums, increased speeds, increased labor costs, and ransoms paid to pirates. Of these costs, ransoms paid to pirates represent a proportionally minuscule amount: \$160 million at the height of piracy in 2011, as compared to the approximately \$4 billion spent on rerouting, insurance, and increased speeds (OEF, 2011).⁽¹⁸⁾ The drag on the turnover time of total social capital can also be seen in the prevalence of rerouting. It is estimated that in 2011 60% of ships transiting the area were rerouted in some form or another (at the cost of approximately \$600 million), while in 2010 it was estimated that 10% of vessels were rerouting all the way around the Cape of Good Hope to avoid the region altogether, adding an average of ten days to their transit time (or a 17% reduction of the yearly capacity of a single vessel) (OEF, 2010; 2012). Estimates of the precise ‘cost’ of piracy on the ‘global economy’ vary widely (a common figure cited in 2010 was between \$7 billion and \$12 billion), and are often plagued by categorical confusion about the very notion of what constitutes a ‘cost’. Nonetheless, what is clear is that political–economic impacts on total social capital are significant (these costs affect the shipping industry and are then also passed on to the owners of commodity capital), in that the overall turnover time and circulation costs of the total social capital are increased. Piracy begins as an individualized interruption for particular capitalists, but quickly moves to a more generalized barrier within the circulation of total social capital. As it becomes a generalized problem for owners of capital, a collective response is fomented to protect the class interests of capitalists.

Infrastructures of security and violence

At a macro level, counterpiracy can, then, be understood as capital’s response to this barrier in the production of surplus value and the drag that piracy introduces in the turnover time and circulation of the total social capital. It is a class project which defends the interests of the owners of commodity capital. Interestingly, from this perspective, counterpiracy resembles an infrastructural project similar to railroads or highways, taken up here by states and funded by state bursaries in the general interest of the capitalist class. Its material infrastructures include fixed structures such as prisons and courthouses, as well as what can

⁽¹⁸⁾ It is claimed that no ship traveling over 18 knots has ever been hijacked, but it can cost an additional \$89 000 per day for a single vessel to increase to such speeds. It is estimated that the shipping industry spent \$1.37 billion in 2012 on fuel to achieve these accelerated speeds (OEF, 2012).

be called *flexible infrastructures* of warships patrolling and policing the seas. The support for prosecutions, legal reforms, professional training of lawyers in piracy law, and other forms of ‘juridical labor’ (Bourdieu, 1987) that are central to the project of counterpiracy, form the ‘social infrastructure’ (Harvey, 2006, page 398) of counterpiracy. The production of security space is, in this sense, a kind of production of circulation infrastructure. Security space is an aspiration towards which naval, political, and juridical activities are harnessed and aimed: that is, a space within which interruptions, devaluation, and drags on turnover time are brought within a “bandwidth of the acceptable” (Foucault, 2004, page 6). The violence of this process, however, is that the ‘barriers’ to capital are occasionally living, breathing, struggling human beings. Because capital “cannot abide” a barrier (Harvey, 2010, page 47; see also Marx, 1973), its infrastructures of circulation also frequently become infrastructures of violence.

The contemporary production of security space mirrors and reproduces the processes of enclosure and ‘emptying out’ of the sea that we saw with the primitive accumulation of ocean space, but is now accomplished through the idiom of security. Those who threaten the circulation of capital are removed or neutralized, through criminalization and incarceration, attrition, or more direct forms of violence. The formal institutions, infrastructures, and practices of counterpiracy also give rise to informal forms of vigilante justice and extrajudicial violence. From this vantage point, counterpiracy also stands as an index of how maintaining the conditions of capital circulation perennially comes into conflict with excluded populations. The social–historical origins of piracy in Somalia lie in a history of colonial dispossession, imperial partitioning, Cold War geopolitics, resource wars, endemic long-term poverty, and the economic relegation of Somalia in the contemporary capitalist order (Samatar et al, 2010).⁽¹⁹⁾ In this sense, the infrastructure of counterpiracy functions as an infrastructure of containment enacted upon postcolonial populations: a militarized mitigation of their potentially disruptive effects on capital’s circulation and accumulation.

Conclusion

The production of maritime space has long been central to the accumulation of capital. And as 90% of global trade is carried by sea, securing its movement through the production and reproduction of spaces of maritime circulation is of central importance to the capitalist system. The emergence of the Westphalian state system was intimately connected to the primitive accumulation of ocean space. This process of suppression, dispossession, colonial subjugation, and the concentration of legitimate violence in the hands of European states bore out the notion of ‘free seas’ and the fantasy of frictionless maritime spaces of transportation in which the right of free trade circulation was sacrosanct. As we have seen, piracy law was a pivotal force in this process of early capitalist maritime enclosure.

Contemporary counterpiracy is but the most recent chapter in this bloody history: today it seeks to secure the reproduction of capital’s circulation space through the logic of security. The production of security space instrumentalizes legal, military, and disciplinary institutions and infrastructures for its ends: deploying warships, building prisons, and

⁽¹⁹⁾ More scholarship is needed on this subject. Unfortunately, the dominant trend of so-called piracy studies tends to elide the historical forces of colonialism and capitalism in its analyses of the ‘root causes’ of Somali piracy by relying on ideal-typical explanations (see, eg, Bueger, 2014; 2015). These explanations focus ahistorically on general ‘triggers’ for piracy such as geography, weak law enforcement, maritime insecurity, economic dislocation, and cultural acceptability (Bueger, 2015). By contrast, there is a promising emerging literature on the internal moral and political economies of piracy that makes great strides in understanding the internal dynamics of pirate economies and practices (Dua, 2013; Dua and Menkhaus, 2012).

rewriting laws to produce a space in which interruptions to the flows of capital are brought within a “bandwidth of the acceptable”. These new maritime security spaces (and their material supports on land) form what I have described as infrastructures of circulation. But viewed from another angle these are also infrastructures of violence, criminalization, confinement, and ‘premature death’ (Gilmore, 2007).

The Grotian principle of ‘free seas’ is today secured through the production of security space—a logic of protecting the flow of commodities and capital while circumventing and neglecting the social crises in the Horn of Africa. Thus, counterpiracy enacts a kind of ‘necropolitics’ of circulation (Mbembe, 2003) that reproduces and reinscribes global divisions of power, property, race, and class. The imprisonment of 1200 Somalis globally, the deployment of warships from dozens of countries, the militarization of private maritime security contractors, regional legal restructuring, and the funding of hundreds of piracy trials in postcolonial courts by American and European states all contribute to the reproduction of historical relations of violence, enclosure, and economic relegation that lie at the origins of capitalist maritime space.

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