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# THE PIRATE MYTH

GENEALOGIES OF AN IMPERIAL CONCEPT

LAW AND THE POSTCOLONIAL



AMEDEO POLICANTE

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## The Pirate Myth

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The image of the pirate today haunts the imagination of statesmen, diplomats and international legal scholars as an unlikely global security threat – endangering the regularity of oceanic trade networks and legitimizing an unprecedented naval coalition that includes all major international powers. The image of the pirate also casts its shadow over the internet, as cyber-activists, file-sharers and others are condemned for piracy – even if that definition is also embraced by some according to the fantasy of a freedom beyond the rigid norms of the state and of the market. But what are the origins of the ‘pirate myth’ in the Western political imagination? Drawing on history, international law, literature and politics, this book offers an original genealogy of this myth. From the *persecutio piratarum* that inaugurates the Imperial phase of Roman history to the contemporary global mobilization against Somali pirates, its close reading of the ways in which different Empires have made use of the ‘pirate myth’ in order to legitimize their hegemonic violence sheds light on the logic of past and present Imperial formations. More specifically, this book shows that the history of piracy – the ways in which pirates have been used, outlawed, criminalized, condemned and suppressed by European powers – has been, and continues to be, a fundamental element in the formation of the world market.

*The Pirate Myth: Genealogies of an Imperial Concept* will therefore be of immense interest to those working and researching in law, politics and history.

**Amedeo Policante** is based in Department of Politics, Goldsmiths College.

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# The Pirate Myth

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Genealogies of  
an Imperial Concept

Amedeo Policante

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# Acknowledgements

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The Ship of Thinking should never follow a straight course. This is, at least, a lesson that the journey described in the following pages has incessantly imparted unto me. When it is time to embark on a new adventure, we gather as many detailed maps as we can find; we pore over the travelogues of celebrated wanderers of the past; we draw elaborate routes, which promise to deliver us to the other, unknown shore. This gives us that sliver of audacity that is necessary to set sail. And yet, the Ship of Thinking is always led astray by uncharted winds, by unexpected currents, by sudden tempests followed by weeks of becalmed sea. We find ourselves chasing alluring sirens, only to be chased by monsters of the deep. If we are lucky, the Ship of Thinking is continuously hijacked, swerved and deflected from its course. Paradoxically, this is the only way in which the ship can cruise. Thinking is always a relational, responsive and deeply dysfunctional activity. Thinking is always a dialogue, a response, a continuous exchange with our surroundings. Far from being a solitary activity, it is a journey defined by the friends we meet on the way, each diverting the course of our projected voyage in a unique and sometimes indescribable way. The friends who have intervened in the creative odyssey behind this book are many, and each of them had a decisive role in determining the course of my journey. To each of them goes my most sincere gratitude. First of all, I would like to thank Saul Newman, without whose help this exploratory mission would have hardly set sail. His friendship and support have been a joy and a constant source of inspiration. I am also eternally – sometimes financially – indebted to the motley crew that has shared with me the many seasons of this journey: Davide Bradanini, Yari Lanci, Martina Tazzioli, Rhys Williams, Giulia Bazzanella, Marta Fioni and Alessandro Inghima have been a true brethren of the South-Eastern Shore. I would also like to thank Sandro Mezzadra, Peter Fitzpatrick, Michael Dillon, Alberto Toscano, Sanjay Seth and James Martin for their invaluable advice and support. I am greatly indebted to many people at the University of Nottingham, whose support has given me the opportunity to spend some more time putting together these pages: Michael Connors, Trevor Parfitt, Joshua Snider, Guy Burton and Francesco Stolfi have been a precious sustenance in distant lands and frenetic times. This book would not have been possible without the constant support of my family, which is also the greatest source of my imagination. These pages are also dedicated to their immense, lacustrine *joie de vivre*. Finally, and most importantly, this book is dedicated to my comrade Rosa Sansone with whom I have shared the countless moments that gravitate around the composition of this book, making each of them an exhilarating adventure in itself.



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## Note

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A simple etymological curiosity indissolubly ties together pirates and Empire, opening up a space of interrogation regarding the constitutive relationship they secretly entertain with each other. According to the *American Heritage Dictionary of English Language*, the word pirate has its origins in 'Middle English from Latin *pirata*, from Greek *peirates*, meaning "attacker" or "adventurer", from *peiran*, to attempt, to risk, to try. [...] From Indo-European root *per-* from which derive the modern English words: fear, peril, empire and pirate'. Empire and pirates appear then intimately held together in an embrace, which is filled with fear, peril and terror. We have thus a tripartite relationship in which terror is the stigmata that leaves a trace both on the pirate and on Empire. The unpredictability of pirates, and the might of empires, certainly terrorize; but at the same time both Empire and pirate are themselves terrorized, so that they define themselves by the fact of putting themselves at risk in order finally to overcome terror. But what is this terror that pirates and empires overcome in order to qualify as what they are?

We may hypothesize that pirates as outlaws become what they are in the moment in which they step outside the boundary of the law so to constitute an exterior to it. And yet, as Giorgio Agamben has convincingly shown, to step or to be pushed outside the law is not to be thoroughly alien to it. Rather, as any child knows, outlaws are easy prey of emperors, and their lives have no further value than that of being thoroughly disposable: they may be killed with impunity. Undeniably, pirates are figures of terror: narratives on piracy overflow with monstrosity, violence and death; these narratives also often end with hangings. The defeated pirate, chained, powerless, unarmed and waiting to be executed, comes to symbolize the overcoming of fear, which is nothing but the definition of Empire.

Empire in fact is originally, and most fundamentally, the name for whoever protects us against the pirate. Upon the naming of the pirate, in fighting it and finally in celebrating its triumph over it, Empire erects itself. There is no Empire without a pirate, a terrorizing common enemy, an enemy of all. At the same time, there is no pirate without Empire. In fact, pirates as outlaws cannot be understood in any other way but as legal creatures. In other words, they exist only in a certain extreme, liminal relationship with the law. In a similar way in which we cannot

think of criminals without posing immediately the problem of a broken law and a police state, to reflect on pirates inevitably leads to the question of Empire. It seems, therefore – and this is our initial hypothesis – that the very essence of Empire calls the pirate into being, and that the pirate can exist only in a strict relationship with Imperial formations.

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## Introduction

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This book has as its subject piracy and its relation to Empire. It is the result of several years of research and a long-term engagement with the fields of legal history, international relations and political theory. I tried to trace the significance of the figure of the pirate and to highlight how throughout modernity it has represented the image of an untameable outside against which the state, Empire and finally humanity have been called into action. The fundamental question that has oriented this study is: how did a marginal figure such as the pirate come to be defined as the first enemy of the human race? And more generally: how did the pirate come to host fantasies of an outside at once desired and feared, an outside that sets itself in contrast with the order of the state, of civilization and even of life itself? When did sea-robbers begin to be portrayed as monstrous beings against which all states must coalesce? Why, at a certain point in history, did European states decide collectively to appropriate, organize and subject to the legal yoke the oceans of the world? And why, after its conception, has the classical image of the pirate continued to hold a special place in the Western political imagination, becoming an inexhaustible source of analogies, which have targeted the most diverse subjects?

The figure of the pirate has mediated Western understandings of nineteenth-century Malay rovers and twenty-first-century Islamic terrorists; it has been evoked to characterize and condemn Barbary corsairs, African slave-traders, anarchist agitators, German submarines and denationalized German Jews. What is the rhetorical, strategic and political function served by the figure of the pirate? Why, throughout the centuries, have empires always claimed the burden of protecting humanity from pirates and from 'those who are like pirates'? And why today does the figure of the pirate seem at once heroic and reprehensible, exotic and banal, timeless and ever-changing, archaic and contemporary? Are there pirates among us today? And who are they? Considering the scope of these questions, which I hope will become clearer throughout the chapters, I would be hard pressed to confine my writing to any field of traditional academic study. As soon as one starts to reflect on the history of piracy, the fields and subfields of research that may be taken into consideration begin to proliferate in an anarchic fashion, creating a challenge that soon threatens to disrupt the enthusiasm of even the most

well-disposed of researchers, and risks bringing about rapid dissatisfaction with the ways in which the topic has been approached in the past.

## **A pirate library**

This chaotic threat – the apparent impossibility to confine the pirate to the historic, literary or mythical field – reflects itself in the fragmentary nature of the existing literature on piracy. Although a cursory bibliography of the texts dedicated to the topic seems to indicate a growing field, constantly enriched by a steady stream of more or less serious reflections on the issue, it is hard to say if a field exists at all, and if it is in fact possible to bring together what often appears as little more than a collection of studies on the most disparate issues, only kept together by this vague word that evokes contradictory images and feelings. The pirate escapes representation, and yet it keeps cropping up at the margins of a whole series of discourses, often concerned with equally marginal social spaces: legal reflections on the status of the world's oceans and the place of Universal jurisdiction in modern international law (Kontorovich 2004; Goodwin 2006; Azubuike 2009); theoretical investigations on the origins of the modern state (Mathew 1924; Thomson 1994); historical studies on the world of merchant empires and the colonial era (Andrews 1984; Zahedieh 1986); anthropological treaties concerned with little-known non-Western people and the ways in which they have been understood and portrayed by European travellers, colonialists and merchants (Trocki 1979; Colchester 1989); excursions in early modern European literature and its fascination with the ambiguity of the much-celebrated cosmopolitan marauders of the seventeenth and eighteenth centuries (Williams 2001; Arnold 2007); and security reports, which expose in detail the ways in which maritime piracy continues to threaten global chains of production, distribution and consumption in an increasingly integrated world market (Panjabi 2009; Stavridis and LeBron 2010).

The list appears unending and singularly confusing. Confronted by it, we are left with a multiplicity of texts that although claiming a formal correspondence – all of them may start with a simple foreword ‘this is a book about piracy’ – do not compose a single discourse, and remain isolated and practically silent to each other. How to make sense of it? Is there a way to understand the subtle thread that unites Muslim corsairs and Christian renegades of the seventeenth century, cosmopolitan marauders of the eighteenth century, Malay traders resistant to English Imperialism in the nineteenth century, German U-boats responsible for disrupting neutral shipping in time of warfare, as well as contemporary Somali pirates and young Indian copyright violators defying a growing, global copyright regime? And if nothing seems to be common to these disparate figures apart from the condemnatory label that is attached to them, what is the historical and political significance of this label? What role does it serve? Who is its master and how has the pirate image changed its meaning, passing through history while being appropriated at every turn by different discursive regimes?

Marx (1988) once affirmed that the criminal is also productive, but what should we say of the pirate? Certainly, the world we inhabit in our everyday life has been profoundly shaped by the existence of criminals and of the authorities who define them, judge them, fight them and imprison them; similarly, the international system has been profoundly shaped by the existence of pirates and by the fight against them. According to Marx, 'the criminal produces not only crimes but also criminal law' (1988: 309). Similarly, as we will see, we might say that the pirate has produced a great deal of international law, giving an essential contribution to its development from the eighteenth century until today. The fact that our contemporary international criminal law was born in the fight against piracy is today universally recognized. 'Crime,' says Marx, 'through its ever new methods of attack on property, constantly calls into being new methods of defence' (1988: 310). Piracy, as a form of crime that attacks property where no sovereign authority can claim an exclusive jurisdiction, has called into being Universal jurisdiction: a doctrine that today is becoming more and more important and that allows all and every state to prosecute a particular crime.

But there are many other ways in which pirates have been singularly productive. Marx went as far as asking: 'if one leaves the sphere of private crime: would the world market ever have come into being but for national crime?' (1988: 309). As we will see, there are no doubts that the history of piracy is one of the fundamental chapters in the history of the formation of the world market. First of all, lawless plunder had a fundamental role in early Imperialist ventures and in the origins of the capitalist mode of production. In a second phase, the suppression of piracy, the monopolization of legitimate violence, the regulation of Imperialist plunder and the increasing juridification of the oceanic commons created some of the essential preconditions for the creation of global markets organized on the basis of a number of essential legal norms. The suppression of piracy appears as a constitutive moment in the transition to an ordered system of capital accumulation on a global scale. Without the eradication of piracy, without the emptying out of the oceans of the world and their transformation in an integrated plane for safe commercial circulation, without the imposition of an international law protecting property and the safety of maritime trade, contemporary processes of globalization would have been simply unthinkable.

The pirate, thus, has had an important role in the history of the international legal order, as well as in the history of the world market that has arisen and thrived in the interstices of that order. The fight between the pirate and those taking upon themselves the burden of enforcing international law has been a drama endlessly repeated on the stage of history. Marx aptly notices that the authority of 'the whole of the police and of criminal justice, constables, judges, hangmen, juries, etc.' depends upon the existence of the criminal (1988: 310). Over and over again in history, hegemonic forces have tried to legitimize their claims to some form of global Imperial authority by appealing to the existence of pirates. If there are international criminals threatening international society, disrupting the legal order that sustain the global economy, endangering the security of all humankind, then

we will need a 'global police force' and some 'international criminal justice', 'judges trained in international legal thought', a whole Imperial bureaucracy and, maybe, a global emperor on top. As we will see, since the days of the Roman Empire, the claim to serve humanity, extirpating those who threaten its welfare, has played a fundamental role in Imperial rhetoric.

The pirate, in short, had an essential role in the authoritative discourses of sovereignty and the law. Even more than the common criminal, the pirate 'produces an impression, partly moral and partly tragic, as the case may be, and in this way renders a 'service' by arousing the moral and aesthetic feelings of the public' (Marx 1988: 311). And yet the pirate has also been appropriated by other discursive forms, which often challenge and ironically turn upside down official discourses. To borrow Marx's ironic words, the pirate 'produces not only compendia on Criminal Law, not only penal codes and along with them legislators in this field, but also art, belles-lettres, novels, and even tragedies. . . . The criminal breaks the monotony and everyday security of bourgeois life' (Marx 1988: 309). The figure of the pirate has thus attracted the attention of historians and legal scholars, of philosophers and students of literature. The pirate has produced countless books, of the most diverse sort, it crops up in the most unexpected shelves of our libraries and it casts its wobbly shadow on whole sections of them.

First of all, the pirate has occupied historians since ancient times. Today, the interested reader can find numerous monographs giving more or less detailed accounts of piracy in different historical and geographical contexts. Those interested in the pirates of ancient Mediterranean history may turn to scholarly authorities such as Sestier (1880), Ormerod (1996), Monaco (1996) and De Souza (1999). Accounts of the Muslim and Christian corsairs that operated throughout the medieval period and until the early nineteenth century have been offered by important historians such as Lane-Pool (1890), Fisher (1974), Braudel (1996) and Wilson (2003). The important role of the Elizabethan Sea-Dogs and, in general, of the Protestant corsairs who challenged the Christian legal order of the early sixteenth century has been exposed, for instance, by Andrews (2011), Lane (1998) and Earle (2005). The freebooters and buccaneers who swarmed the Atlantic of the seventeenth century have been a constant subject of research with outstanding works by Haring (1910), Latimer (2009) and, obviously, Exquemelin (1853). Countless historians have offered detailed portrayals and intelligent studies of eighteenth-century pirates; among them I relied greatly on Johnson (1723), Jameson (1923), Ritchie (1986), Rediker (2004) and Linebaugh (2000). Those who fought and were condemned as pirates by the European Empires of the nineteenth century, unfortunately, received less attention. Still, there is a multitude of interesting and detailed works on specific pirate groups. For instance, those interested in the Malay communities that were persecuted as 'piratical' in the nineteenth century may rely on Tarling (1963), Warren (2007), Prange (2011) and the extremely interesting anthropological study by Colchester (1983).

The pirates of the twentieth century have received scarce attention by contemporary historians. In return, they have received an extraordinary

consideration in the work of international legal scholars. Those interested in the evolution of the law of nations have been enthralled by the exceptional status suffered by the pirate in that particular discursive construction. Authorities such as James Edward De Montmorency (1919), George Finch (1937), Raul Genet (1938), Hersch Lauterpacht (1939) and Carl Schmitt (1937) have fiercely contested the figure of the pirate and how it is to be defined. This debate continues to the present day, with a number of important contributions that have attempted to reflect upon the growing importance of the pirate figure as a source of international criminal law. The bibliography is extensive, but one might start investigating the issue taking into consideration the work of Kontorovich (2004), Burgess (2005), Simpson (2006), Greene (2008) and Thorup (2012). A growing debate has also arisen around the contemporary global mobilization against piracy, particularly in the Gulf of Aden: Panjabi (2009) and Onuhoa (2009) have offered important contributions for an understanding of the significance of the issue.

In the last decade, the figure of the pirate has also attracted the attention of philosophers and political theorists. In *The Enemy of All* (2009), Daniel Heller-Roazen went further than anybody else in the attempt to reconstruct an intellectual history of the concept of ‘enemy of humanity’, starting from the Roman origins of the concept. This admirable work of scholarship focuses on the evolution of legal thought, and it is able to show in a clear and convincing way how the concept of the pirate as *hostis humani generis*, which finds its origins in the Universalism of Imperial Roman law, and continued to serve as a ‘state of exception’ capable of suspending the order of international law throughout the modern age. It is a study that may usefully complement Agamben’s study of the similar category of *Homo Sacer* (1998).

Unfortunately, Heller-Roazen limits his analysis to the figure of the pirate in legal theory, without considering the ways in which legal forms are most often little more than symptoms of much deeper material constitutions. The author shows that the pirate has often been considered, from the Roman Empire and until today, ‘the enemy of all’. Nevertheless, legal concepts assume a specific meaning only when they are inserted in a particular social context and, thus, I believe that he left aside what is most interesting: why did the pirate assume such a title in the first place? What material necessities do the legal formulation that brands the pirate as *hostis humani generis* respond to? How did different empires, with different ideas of what humanity is, transform the concept of the pirate as *hostis communis omnium*? Why, in the eighteenth century, was a forgotten concept of Roman Imperial law suddenly resuscitated by a number of international legal scholars? How, in the nineteenth century, was the concept transformed in order to support the civilizing projects of increasingly industrialized European empires? Why, in the twentieth century, was there a return to the centre of European history what had been for centuries a concept relegated to the colonial world? And why was the traditional concept of the pirate as *hostis communis omnium* replaced today by the modern formulation that portrays the pirate as *hostis humani generis*? Why today, finally, has the figure of the pirate assumed an unprecedented significance?

One of the fundamental aims of this work is thus to show that behind the apparent inertia that characterizes the history of the concept of the pirate in international law we must hear the roar of battles, the sound of clashes of power, the howls produced in the struggles to impose particular visions of the world. Juridical transformations effectively point toward changes in the material constitution of world power and order. I do not think it possible to understand the history of the figure of the pirate in international law without, at the same time, studying the power struggles that have shaped, to a large extent, that history. This is why I always try to unite intellectual history with the material, concrete histories of pirates and empires.

### Genealogical methods

Symmetrically opposed to the fascinating abstraction of Heller-Roazen's work of intellectual history, most historical reflections have considered the pirate as a real, material and bodily figure which opposes the state, the merchant class and sometimes an entire human civilization, and whose bellicosity forces the thinker and the writer to take side: you are either with the pirate or with the state, with the irregularity of the marauder or with the discipline of the navy, with the violence of the criminal or with the annihilating power of the state and its war-machines. The trap of moral discourse is immediately set and it is easy to slip from analysis to condemnation, from research to pamphleteering.

Examples on both sides are abundant: from the celebration of working-class struggle, mutiny and maritime radicalism that echoes through the historical works of Marcus Rediker (2004) and Peter Linebaugh (2000) to the condemnatory tones, sympathetic to the cleansing power of the English Navy of more traditional historians like Peter Earle (1995) and August Konstam (2008). In these works the pirate appears in full shape, provided with full historical detail and is a particular, well-defined historical figure; the work of the historian is to render that image as clearly as possible and maybe to judge on the actions, the morality and the immorality of what is described. What it remains unclear is what a pirate really is, how it comes into being, how it is produced through a power-knowledge that individuates it and marks it as different from the simple merchant, or the highway robber, or the political enemy. More than being interested in writing once again the history of piracy, these pages are therefore dedicated to the task of uncovering the production of the pirate image in a series of related historical discourses, and to understand what role this image has served in supporting the claims to power of sovereigns, emperors and various international institutions.

I consider the pirate 'a legend', just as the 'infamous men' to whom Michel Foucault (1977) dedicated one of his most emotional pieces of writing. First of all, 'because as in all legends there is a certain ambiguity between the fictional and the real' (Foucault 1977: 162). And secondarily, since it is hardly possible to think of pirates without also reflecting upon the nature of Empire. After all,



the power that watched these lives, that pursued them, that lent its attention, if only for a moment, to their complaints and their little racket, and marked them with its claw was what gave rise to the few words about them that remain for us. . . . All those lives destined to pass beneath any discourse and disappear without ever having been told were able to leave traces – brief, incisive, often enigmatic – only at the point of their instantaneous contact with power. So that it is doubtless impossible to ever grasp them again in themselves, as they might have been ‘in a free state’; they can no longer be separated out from the declamations, the tactical biases, the obligatory lies that power games and power relations presuppose.

(Foucault 1977: 161)

Sometimes, especially in popular literature, we might find the pirates speak back to those who condemn them, but even then:

the brief and strident words that went back and forth between power and the most infamous existences doubtless constitute for the latter the only monument they have ever been granted: it is what gives them, for the passage through time, the bit of brilliance, the brief flash that carries them to us.

(Foucault 1977: 162)

When one considers the juridical, literary, political and historical texts in which different subjects are condemned as pirates, it is necessary to keep in mind that these discourses not only refer to reality, but they are directly ‘operative within it; that they form part of the dramaturgy of the real; that they constitute the instrument of a retaliation, the weapon of a hatred, an episode in a battle, the gesticulation of a despair or a jealousy, an entreaty or an order’ (Foucault 1977: 160). When the representatives of Empire portray their violence as a service to mankind – and those who they eliminate as ‘enemies of all’, ‘enemies of humanity’ or ‘enemies of the human race’ – it must be remembered that:

whatever their inaccuracy, their exaggeration, or their hypocrisy, . . . real lives were ‘played out’ in these few sentences: and this does not mean that they were faithfully represented but that their liberty, their misfortune, often their death, in any case their fate, were actually decided therein, at least in part. These discourses really crossed lives; existences were actually risked and lost in these words.

(Foucault 1977: 161)

My methodology, my aim, my way of thinking is therefore neither historical, nor philosophical, neither literary nor scientific, but properly genealogical. As Michel Foucault has discussed in his early essay ‘Nietzsche, Genealogy, History’, the work of genealogy is first of all to investigate those elements which ‘we tend to feel are without history’ (1977: 146). This would include such things as sexuality, and other

elements of everyday life, but also historical characters like the madman, the criminal and, I argue, the pirate. Genealogy is not the search of origins, and is not the construction of a linear development. Instead, it seeks to deconstruct the artificial unity imposed on the chaotic nature of history by language, discourse and power. Genealogical works therefore do not ask: ‘What is the real nature of a particular subject?’, nor do they attempt to preside in judgement over history; the aim is rather to understand how a particular concept has developed through time: genealogy follows the breaks, the ruptures, the invasions of power into language. Genealogy studies how knowledge – the words we use and the ideas we employ in discourse – is always to be understood as a weapon in an always-evolving matrix of power. Genealogy is first of all a history of the present.

### Outline of the chapters

The first part of the book is dedicated to a study of the pirate figure as it appears in the context of various global orders from antiquity until the early eighteenth century. The second part follows the ways in which the spectre of eighteenth-century piracy continues to haunt modern international law, playing an important role in the history of European Imperialism, in the escalation to total war in the twentieth century, and today in the context of the war on terror. Each chapter is divided in three sections: the first introduces the fundamental characteristics of the global order under scrutiny; the second focuses on the ways in which the image of the pirate has been constructed in each historical period; and the third discusses some of the paradigmatic pirate figures of the age and examines their role in history, philosophy and literature. This linear mode of exposition is followed throughout the first and the second part, with only occasional variations. The aim is to contextualize systematically how and why particular individuals and groups were perceived and described as ‘piratical’ in a certain historical and geographical context. In this way, it becomes possible to consider the significant historical continuities that underlie different discourses that, throughout history, have made use of the concept of ‘the pirate’; but also, it enables us to follow the ways in which the meaning of that same concept changed in passing from one global order to another. There is a sense in which pirates have always been with us and yet, beneath the superficial timelessness of the subject, we discover fundamental discontinuities, sudden turnarounds, discursive shifts that transform the meaning of what a pirate is supposed to be.

The first chapter introduces the main line of argumentation and analyses the structural relationship between the concepts of piracy and Empire. I do this through an investigation of how these two concepts were originally constructed in the context of Roman Imperial law. I discuss the reasons why they emerged almost simultaneously at the center of a common discursive framework, and the many ways in which they mutually reinforced each other. First of all, I reflect upon the meaning of the concept of *imperium* as it was originally understood in ancient Rome. In the Imperial imaginary that was forged by the convergence of Greek

cosmopolitanism and Roman hegemonic power, the world was sustained by what Aristotle called a *koinos nomos*, a Universal law of mankind. This is why the concept of *imperium* had probably its earliest and most consistent use in the particular space of commerce and cultural exchange that was the ancient Mediterranean. In this space, subtracted from all forms of *dominium*, possession and sovereignty, Rome presented itself as a bastion of peace and order, as the enforcer of the Universal law of nations (*ius gentium*) and as a steward, exercising jurisdictional rights in order to prevent abuses of the maritime commons rather than tracing lines of inclusion and exclusion. In the second section, I consider the origin and meaning of the figure of the pirate in Roman law, trying to understand the discursive framework that sustained its depiction as the ‘enemy of all communities’. Finally, I explore the history of Roman persecutions against pirate communities in the Mediterranean, trying to understand the contemporary significance of the forgotten institution of the *persecutio piratarum*: a form of Imperial violence that claims to act, in the name of humanity at large, against a common enemy beyond international law.

The second chapter explores the evolution of the concept of Empire in the medieval *res publica Christiana* and the ways in which the figure of the pirate emerged once again in the context of an epochal conflict between Catholic Spain and the major Protestant countries, over the right to preach, trade and conquer in the lands of the New World. Supported by the authority of the Pope, the Spanish and Portuguese monarchies claimed an *imperium* over the Atlantic Ocean in order to protect and defend the evangelization of the Americas. Since they were acting in name of the entire *res publica Christiana*, they considered the English corsairs who contested and attacked their mission to be pirates – i.e. enemies of the entire Christian system of international law. From the Spanish perspective, the excommunicated heretics who crossed the papal line of demarcation were not public enemies but *hostis communis omnium*. The pirates originated, sponsored and supported by Protestant nations were the vanguard of a new freedom outside the Universalism of the Christian legal order. They were a religious Other, who challenged not only Spanish interests but the unity of the entire Christian commonwealth. They were a revolutionary force of global historical significance insofar as they opened a rupture within the edifice of medieval law, a rupture in which a new order of international law moved its first steps.

The third chapter discusses the ways in which a new global order, based on a strict division between Europe and the New World, emerged in the second half of the sixteenth century. The conflict between the Spanish Empire and the Lutheran corsairs, which threatened to plunge the whole Christian community into an escalating civil war, was quarantined in a special zone: a zone of plunder in which ‘might made right’ and lawless plunder could take its place in a threshold between legality and illegality. With the *amity lines* of the seventeenth century, the international legal order continued to be centred in Europe, but now it suspended itself in the oceanic vastness beyond the line. The New World was therefore constituted as a ‘free space’ – that is, a space free from the restrictions of morality and the international legal order. The pirate here is not a criminal against

international law – as it was in the early sixteenth century, as long as a Universal Christian legal order was recognized to exist – but strictly an outlaw, a freebooter. The chapter reflects upon the ambiguity of this classical figure. On the one hand, throughout the sixteenth and the seventeenth centuries, freebooting played a fundamental role in the primitive accumulation of European capital and it was tolerated and even sponsored by European states. On the other, the unleashing of private violence in the anomic spaces beyond the line often meant also the possibility of losing control of it. The exceptional status of the oceanic spaces beyond the lane made them a dangerous space, where violence was omnipresent, relationships of power were often brutal, and trade was systematically intertwined with Imperialism, outright plunder and the kidnapping of slaves. But this exceptionality made them also a place of extraordinary freedom and recurrent rebellion, mutiny, insurrection: the turning upside down of traditional relationships of power. Thus, I look at the organization of the privateering ship as both an engine of primitive accumulation and as a capitalist heterotopia; but I also follow the rise and decline of the Caribbean Buccaneers: the disorganized rabble that, in the seventeenth century, inflamed the fantasies of the European public as the embodiment of a savage freedom.

In the fourth chapter, I concentrate on what has been defined by modern historians as the ‘Golden Age of Piracy’, covering approximately 1670 to 1720. In this half a century, an unprecedented military mobilization against piracy gradually unfolds. It is a play of cruelty and opposed terrors, which has the oceans of the world as its theatre, and the community of modern states against the last partisans of the sea as protagonists. The pirates of the Golden Age represent the last sentinels of a fading conception of the oceans as a space of absolute freedom, which was still dominant in the previous century. In the early eighteenth century, in fact, the exceptional spaces navigated by the lawless freebooter and the anarchic buccaneer progressively disappear. These paradigmatic figures of the space of exception, then, are forced either to enter the order of the state or to be declared enemies of the modern international system, at this point still solidly centred in Europe. Those freebooters who refused to discipline their hostility were therefore treated as systemic enemies of the emerging international order and hanged en masse as denationalized individuals, stripped of their rights. The construction of the capitalist world market, the reduction of the oceans into a hyperspace of commercial circulation, the erection of a modern community of interdependent states centred in Europe, all required the annihilation of the pirate and of its absolute freedom. In the final part, therefore, I discuss the closure of the Golden Age of piracy and its legacy, which pulses at the heart of modernity and international law.

The second part of the book is concerned with the ways in which the image of the pirate that emerged in the early-modern period captured the European imagination, and left a profound trace in the evolution of the modern international order. In a brief intermezzo, I discuss the profound fascination that the pirate character has exercised on the imagination of almost three centuries of readers

and writers. I contemplate over the complex and often contradictory role of eighteenth-century pirate narratives, suspended between a moralizing celebration of the recurrent triumph of civilization over lawlessness and a carnivalesque enjoyment in the representation of clamorous transgressions. I look at the romantic celebration of the pirate as paradigmatic outlaw: a towering figure embodying the awe-inspiring resistance of wild nature against industrial civilization, of sublime individuality against collective discipline, of desire against reason, of dangerous freedom against the security of urban confinement. I point to the remnants of the pirate image in contemporary expressions of popular culture.

The fifth chapter is concerned with the ways in which the concept of the pirate continued to dwell in the colonial world of the nineteenth century. It is in the context of European Imperialist expansionism that the figure of the pirate continued to play an important role in global history, well after the end of the Golden Age of piracy. The same European states that recognized each other as equal members of a single civilization most often denied a similar recognition to extra-European polities. As a consequence, a number of extra-European groups were condemned as piratical on the basis of their attacks on European trade. The concept was singularly useful to Imperial rhetoric since, once labelled as pirates, native subjects could be persecuted as stateless outlaws and their destruction presented as a service to humanity and civilization. In particular, it was the British Empire that affirmed itself as a liberal power, enforcing a Universal right to free trade in the name of all people. The genocide of entire Malay communities was thus justified by their condemnation as 'piratical people', and even the statehood of important Malay sultanates was openly denied once they were portrayed as 'piratical states'. Similarly, in the Mediterranean, the Barbary States were gradually stripped of their traditional legitimacy and international recognition, depicted as insufferable pirates' dens, bombarded by the American and the British Navy, until the French Empire finally subjugated them. The application of an exogenous concept to the Barbary cities of North Africa played an important part in the erasure of a long, regional history of diplomatic exchange and international equality. The recurring condemnation of the North African cities as 'pirate states', of their acts of war as 'piracies', and of their corsairs as 'pirates' prepared the ground for European colonization.

The sixth chapter follows the post-colonial trajectory by which the modern concept of the pirate as 'enemy of the human race', which served an important role in the history of Imperialism, eventually travelled back to the European centre. I thus reflect on the collapse of the *jus publicum europaeum* through an investigation of the heated debates that accompanied the advent of 'total war' during the first half of the twentieth century. In particular, I scrutinize the frame of ideas of international legal scholars such as James Edward De Montmorency who, breaking with the classical tradition of international law, urged the condemnation of Germany as a 'pirate state' at war with whole mankind. More generally, I argue that the continuous evocation of the pirate spectre was vital for the early development of international criminal law, a view that is distinctly

supported by even a cursory glance at the writings of cosmopolitan legal scholars such as Hans Kelsen, Georges Scelle and Hersch Lauterpacht. Since the pirate concept appeared as a unique anomaly in an otherwise state-centric international law – which evoked perspectives of Universal jurisdiction, global policing and humanitarian intervention – it became singularly significant in order to enable a gradual transition to a more cosmopolitan conception of the international legal order. In fact, by establishing an analogy with eighteenth-century pirates, states could subject *any* offence against international law to Universal jurisdiction, beginning with unrestricted submarine warfare.

The final chapter discusses the many ways in which the spectre of the pirate continues to guide contemporary transformations of international law, projecting itself over ever-changing subjects, taking newfangled clothes and names, disguising itself. First, I consider the essential role played by the figure of the pirate in the rhetorical and juridical construction of new ‘enemies of the human race’. Both ‘terrorists’ and ‘criminals against humanity’ have been recently construed as *hostes humani generis* relying on a systematic analogy with classical pirates. In order to protect humanity from their threatening presence, new practices of global security have been introduced and fundamental norms of international law have been suspended, while ‘humanitarian bombings’, ‘surgical strikes’ and ‘targeted killings’ have been legitimized as exceptional but necessary measures. I follow some of the key historical moments in the genealogy of the contemporary concept of ‘the terrorist’ from the early twentieth century until today, focusing in particular on the discourses surrounding the persecution of ‘anarchist terrorism’, ‘Palestinian terrorism’ and ‘Islamic terrorism’.

Finally, I look at contemporary perceptions of maritime piracy through an analysis of the recent global mobilization against Somali piracy. Prior to the rise of the pirate threat, no other issue could have brought the navies of the United States, the EU nations, NATO, China, Japan, Iran and Russia to identify a single common enemy and a single common cause. As opposed to the ‘war on terror’, the current global mobilization against pirates seems to be politically uncontroversial: a simple issue of global policing and international law-enforcing. The pirate, thus, continues to be the figure that most perfectly embodies the idea of an apolitical pest to be suppressed and removed. In the contemporary *persecutio piratarum*, even more than in the ‘War on Terror’, violence is not presented as a weapon in a confrontation between equal enemies, but as an instrument meant to serve and protect humanity. In this sense, we might be witnessing the first steps of a global biopolitical logic, which goes beyond traditional national paradigms.