

Classification and Coercion: The Destruction of Piracy in the English Maritime System¹

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The article argues that coordinated state action depends not just on organizational forms and institutions but also on “cultural infrastructures,” systems of state meaning making. Cultural infrastructures are potentially consequential sites for explaining processes of state formation. The article develops this argument through an analysis of the production of coercive power against piracy in the early modern English empire. It analyzes the cultural dynamics involved in the transformation of piracy from an ambiguous legal category to a violently enforced social boundary, focusing on the interplay of codes, interpretive institutions, and social performances. Violence directed against the pirates in the 1710s and 1720s turned on an earlier, contentious period of state formation focused on the cultural infrastructures that made the authoritative classification of piracy possible.

Organising requires classifying, and that classification is at the basis of human coordination.

(Douglas [1966] 2005 p. xvii)

A capacity for violence is one of the defining characteristics of states (Weber 1978; Giddens 1985; Tilly 1990). But the mere commission of violent acts does not a state make. State power rests on a capacity to organize and

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direct violence by a network of state agents; it is only when organized that mere violence becomes a coercive instrument for those who would wage interstate war, regulate the conduct of populations, or use it to pursue some other endeavor (Brewer 1990; Tilly 1990; Foucault 1991; Kiser, Drass, and Brustein 1995; Spruyt 1996). The state formation literature has long recognized that the organizational demands of producing a capacity for violence are a principal goad to state making, but research on the connection between violence and state formation has been curiously one dimensional. In focusing almost entirely on organizational structure and the control of state agents through distributional mechanisms, this literature has neglected the importance of systems of social meaning in producing coercive power. Literatures more sensitive to the importance of meaning in state-formation processes (Foucault 1991; Bourdieu 1999*a*, 1999*b*; Steinmetz 1999), on the other hand, have not engaged with the question of the cultural foundations of a practical capacity for violence, focusing more on the cultural effects—on worldviews or discursive regimes, for instance—of cultural causes. As I argue here, however, the successful production of violence and coercive power involves the coordination of a complex network of actors to collectively produce the social objects and boundaries that are the target of violence (Abbott 2001). Existing formulations of the role of culture in state formation are not tuned to the analysis of this nexus of meaning and practical action.

These analytical problems are acutely visible in constructing an adequate explanation of the destruction of piracy in the English maritime system around the turn of the 18th century. To briefly outline the case, between 1717 and 1726, after decades of failed attempts, agents of the British state successfully brought intense coercive power to bear on piracy throughout their maritime empire. Hundreds of pirates were hunted down, were hanged, were killed in action, or abandoned piracy for more lawful pursuits. Piracy had cyclically prospered and declined for centuries at the outskirts of the English maritime system. Its destruction in the 1710s and 1720s “purge[d] the young empire of harmful eccentricity” (Baer 2007*a*, p. x) at a critical moment in the consolidation of its new commercial orientation (Pincus 2009, p. 84). The historiography of this episode typically argues that it was this bloody flourish of state coercive power that caused piracy as a politically and economically significant dimension of the English maritime system to dramatically collapse (Gosse 1932; Ritchie 1986; Rediker 2005; Cordingly 2006; Baer 2007*b*).

And so it did. The real question posed by the destruction of piracy for theories of state formation, though, is how British state agents produced this decisive coercive power. To put a finer point on it, why were the efforts of English/British state agents to bring coercive power to bear on the piracy

problem so successful in the 1710s when all earlier efforts had yielded, at best, only fleeting victories?² From at least 1670 on, an elite faction of English state agents and merchant capitalists saw piracy as a threat to their political-economic vision of a commercial empire based on long-distance trade, and they sought to eliminate it. Various efforts to achieve this vision failed, however, despite the fact that the technological and organizational resources that the eventually successful war against the pirates drew on were in fact quite modest and readily available throughout the later 17th and early 18th centuries. This article argues that a main factor in the eventual success of the war against the pirates is that while English state agents had the capacity to bring coercive force to bear against, for example, the Dutch in the 1660s and 1670s and against France in the 1690s, that same coercive power did not exist in these earlier periods in relation to piracy because the cultural structure of the state inhibited the effective classification of pirates—a necessary precursor to coercion. The key to the English/British struggle to eliminate piracy was the struggle to establish and enact a system for classifying pirates. Who counts as a pirate? was the core question that state agents needed to answer in order to transform “piracy” into a locus of pragmatic, violent action.

My argument is that the piracy case demonstrates the dependence of coercive state power on a cultural infrastructure, a system of meanings that is constitutive of state agents’ ability to organize and direct violence. Particularly in bureaucratic states characterized by largely legal-rational forms of authority, the cultural infrastructure of coercive power has three aspects: a code, interpretive institutions, and the performance of meaning. This analytical framework responds to the challenge of explaining the production of coercive power over potentially great geotemporal distances by focusing on the relational system of state meanings as a potentially powerful coordinating system integrating deeply foundational social identities and other significations with specific rules of interpretation and concrete social performances that demanded reciprocation and asserted an orientation toward state meanings as natural and righteous (Wagner-Pacifici 2010). I argue that an adequate cultural infrastructure is necessary for the production of state coercive power insofar as coercion is a coordinated exercise in collective action and that the meanings encoded within a cultural infrastructure shape the character of the coercion it enables.

The article begins with an assessment of the centrality of coercive power to the historical sociology of states and state formation, and the limitations

² The Act of Union of 1707 merged the English and Scottish states to the Kingdom of Great Britain, so for part of this story the actors are English state agents and for another they are British.

of that literature. It then constructs a single case sequential comparison (Haydu 1998) of responses to the piracy problem in the English maritime system prior to and after the new system of legal classification introduced in 1700. This suggests the centrality of cultural processes in producing coercive power. The explanation for the success of the war against the pirates beginning in the 1710s thus depends on the classification struggles (Bourdieu 1984, 1999*a*, 1999*b*; Barman 2013) over piracy waged sporadically between 1670 and 1700, as well as on the efficacy of the cultural infrastructure put into place by legal changes at the end of that period. Focusing on cultural aspects of the production of state coercive power is crucial for explaining how and why semiotic and institutional changes relating to how state agents legally classified pirates were so significant in the destruction of piracy in the English/British maritime system.

WAR AND OTHER COERCIONS

Violence is one of the most significant tools of state power and one of the most significant problems for the consolidation of state power. This truism has eluded essentially no one who has spent any time thinking about state formation. Twenty or so years ago, however, a new formulation of this relationship began to emerge in the work of historians and historical sociologists. The bellicist approach, as Gorski (2003) has called it, recognized that war, especially the interstate variety, posed huge administrative, fiscal, logistical, and organizational challenges in addition to its obvious military challenges (Parker 1988; Brewer 1990; Tilly 1990; Downing 1992; Spruyt 1996; Ertman 1997). Because the successful conduct of interstate war was so important for sovereigns, meeting these challenges was of paramount importance. The myriad solutions that sovereigns and other state agents devised to these problems created social and political structures that were also useful for other fiscal, administrative, and organizational purposes. The effort to organize society to maximally support military endeavors produced crucial infrastructures of rule such as a greater capacity to tax, censuses, administrative centers, and so on.

The bellicist consensus that the challenges of international warfare forced states to develop organizational, fiscal, administrative, and other infrastructures of power is a major political sociological achievement. It is also partial, and one of its limits can be deduced from its narrow association of violence with warfare. Warfare is of course a prototypical form of state violence and strongly associated with regime survival. War is also a rather particular form of violence, and one of its particular features is that it organizes violence according to a preexisting interpretive grid based on elements such as flag, nation, sovereign, uniforms, position on a battlefield, and so on. In

war, the work of producing the object of violence is usually exogenous to immediate questions of a capacity for violence that have been the focus of much political sociology, for the enemy is usually already well defined. This obscures the problem of the definition of the object of violence as an aspect of the capacity for violence.

In this respect, war is atypical, and focusing on war obscures the quite different problems that state agents faced in another of their prototypical forms of violence: the policing and regulation of populations. This form of violence does not usually connote the same existential questions for regime survival as big, long, fantastically expensive international wars. It does, however, present a more continuous problem of state building. In contrast to war, the production of coercive power in these situations depends on the coordinated social construction of the objects of violence. If we consider the creation of a monopoly of violence at sea, a question at the heart of this article, the production of coercive power in support of the monopoly depended on a coordinated effort to establish a classificatory regime defining a social boundary between lawful and unlawful violence at sea, and the capability and will on the part of state agents to police that vision of social order violently. State agents cannot effectively threaten if they cannot effectively classify, and that requires a coordinated apparatus of interpretation, a cultural infrastructure, just as real and crucial for state formation as, for instance, the apparatus of tax administration so rightly scrutinized by the bellicists.

INSTITUTIONS AND COORDINATION

Institutionalist theories of state formation have taken far greater interest in coordination problems than have the bellicists (Mahoney and Thelen 2009). For the institutionalists, however, coordination is ultimately an epiphenomenal product of the intersection of distributional power and actors' interests. Taking North's "rules of the game in a society" (1990, p. 1) as a definition of institutions, it is correct to say that institutions are necessary for a far-flung network of state agents to answer questions such as "who is a pirate?" in a coordinated way. Institutions are powerful techniques for resolving collective action problems, and this was precisely the problem for eliminating piracy. But the most active branches of historical and economic institutionalism make assumptions that minimize key problems that state agents struggled with in the piracy case. As a general matter, institutionalists recognize both coordination and distribution as distinct mechanisms to explain how institutions help to solve collective action problems (North 1990; Steinmo, Thelen, and Longstreth 1992; Pierson 2004; Greif 2006; Mahoney and Thelen 2009; North, Wallis, and Weingast 2009; Acemoglu and Robinson 2013).

The pervasive assumption in this literature, however, is that coordination problems are relatively trivial, while the hard work of institution making centers on problems of distribution, especially the alignment of incentives and interests.

Establishing and manipulating who gets what in a particular social context is certainly a powerful mechanism of organization and control, and the analysis of the distributional effects of institutions is crucial to understanding their creation and operation. Mahoney and Thelen (2009) demonstrate this with their power-distributional approach (Mahoney and Thelen 2009, p. 8) to institutions. They argue that institutional rules shape behavior by manipulating the distributional consequences of different lines of action. But organize behavior with reference to what? Distribution effects provide a motivational mechanism for institutional rule following, but not an account of how rules work as social constructs. Mahoney and Thelen define institutions as “*relatively enduring* features of political and social life (rules, norms, procedures) that structure behavior” (2009, p. 4) but what are rules, norms and procedures, and how do they facilitate the distribution effects that Mahoney and Thelen believe explain their efficacy? I would suggest that a rule, for instance, is a representation of a limit—rules are “the humanly devised constraints that shape human action” as North puts it (1990, p. 1)—but for such a construction to be part of an explanation we would need to account for both the social processes involved in the emergence of that representation and the interpretive processes through which actors make sense of the rule and define its concrete application. It is far from clear that these processes are simply the result of distribution effects. This unexamined cultural complexity suggests that the concept of “rules” so central to economic and historical institutionalist literatures is a residual category. The residual that it conceals is the nexus of culture, interpretation, and coordination. It is by burying these complexities in concepts like rules that institutionalists are able to assume coordination rather than exploring its foundations.

Distribution effects may motivate, but the distributional consequences of an institution do not flow directly from an individual rule-following act. They are instead aggregate effects of coordinated rule following by a collection of others who apply the same rules and act in reciprocal ways that produce distribution as a coordination effect. Coordination of this sort depends on a largely shared system of interpretation for making sense of action in terms of common classifications, definitions, significations, divisions, categories, and so on. According to this interpretation, Mahoney and Thelen’s power-distributional approach to institutions rests on an unexamined—and, as developed below, autonomous—territory of coordination, signification, and meaning—that is, an unexamined cultural infrastructure that makes institutions work.

CULTURAL INFRASTRUCTURES

The concept of cultural infrastructures builds on the work of a number of scholars who analyze the role of culture in state-formation processes and in the exercise of state power. Foucault's investigation of the connection between institutionalized forms of knowledge and the techniques of power that produce self-regulating subjects (1977, 1991) provides a touchstone for cultural theories of state power, as does Bourdieu's (1999*a*, 1999*b*, 2000) attention to symbolic power and "state forms of classification" (1999*b*, p. 68). Steinmetz's 1999 edited volume, *State/Culture*, is similarly important for its disruption of the consensus in political sociology that culture was a dependent variable that could, in many cases, be dismissed as epiphenomenal to the real questions of state power. Said (1978) is also an important predecessor to the arguments developed here, particularly in light of his observations on the use of the binary semiotics of "us" and "them" to organize and consolidate political power. Though in the case developed here the focal object of state agents is a dehumanized criminal other, the pirate, as opposed to an imagined racial other, the work of classification in the definition of the objects of political power at issue here follows from Said's political sociology (1978, pp. 31–49).

More recently, Loveman (2005) has demonstrated the importance of the accumulation of what Bourdieu (1999*a*) called symbolic power in state-formation processes. This form of power is based on the naturalization of categories of state meaning. When state categories become naturalized, Loveman argues, they powerfully shape the social world inhabited by the subjects of state power. In a related Foucauldian argument, Gorski (2003) claims that the governance of populations by state agents depends on their ability to mobilize religion and other deeply held meaning systems in support of their political projects. Wilson (2011) has recently contributed to this literature, arguing that state policy does not simply respond to existing social arrangements among the governed but instead involves the hybridization of existing social arrangements with the cultural categories and tools available to the state agents. Wilson's argument departs in a significant way from those of Loveman and Gorski in focusing on how state action depends on the interpretation of populations by state agents rather than focusing on how state categories of meaning shape the lifeworlds of subjects. In this sense, Wilson's work is in harmony with Adams's seminal argument in *The Familial State* (2007) that state action itself is organized around cultural categories, in Adams's case the familial and patriarchal structures of the early modern Dutch Republic. Adams shows that it is an analytical error to ignore the cultural systems that state actors inhabit because they powerfully influence how actors think about state power, and how they use it. Adams convincingly argues that for state agents in the early

modern Dutch Republic the family and the state were entwined cultural systems that in combination provided the template for the organization of political power. Absent an analysis of this nexus of meaning, the actions of Dutch state builders at key moments in the rise and fall of the Netherlands are often inscrutable. Go makes a similar point regarding the organization of state power in light of cultural categories, showing that the U.S. colonizers of the Philippines and Puerto Rico used cultural schemas to coordinate their tutelary interventions into local political culture (Go 2008, pp. 26–27) and that the cultural project of the colonizers was central to their strategy of rule.

My argument here continues to develop this line of thinking about the role of culture in making the operation of states as systems of power possible. While previous works have focused on how culture shapes the sorts of actions state agents undertake through mechanisms such as beliefs, dispositions, discourses, identities, and perceptions, with the concept of cultural infrastructures I want to focus on culture as a practical condition of possibility for state action through the mechanism of coordination around public, collective meanings. My focus is on how culture works as a kind of shared language of meaning (Geertz 1977, p. 44) that is necessary for the coordination of state action. It is by orienting themselves to a common web of meanings that state agents are able to act in mutually reinforcing—that is, coordinated—ways. Culture is important, in this sense, not just for obviously symbolic questions such as the legitimacy of a census (Loveman 2005) or the moral status of the poor (Gorski 2003), or our mental models of the “natives” (Steinmetz 2007; Wilson 2011), or the meaning of patrimonial responsibility (Adams 2007), but also for practical, coordinated state action of the sort required for a project such as the violent annihilation of piracy. The argument advanced here moves beyond earlier work on the state-culture nexus by suggesting that culture is a central aspect of even the most materialistic forms of state power such as violent coercion; cultural infrastructures are a necessary element of state agents’ capacity for coordinated collective action of all kinds, and thus of state power generally. In this coordinating role, the contours of the cultural system available to state agents are directly implicated in understanding what sorts of coordinated action, and thus what sorts of state power, are possible.

The argument that I will develop in light of the piracy case is that coercive power in bureaucratic states characterized by legal-rational forms of authority depends on a cultural infrastructure with three analytically distinguishable elements: a code, interpretive institutions, and performance. This cultural infrastructure is a system of mechanisms that produce (and reproduce) the social meanings that make coordinated violent action possible. The concept of a cultural infrastructure is more generally applicable

to other sorts of coordinated, practical state action, but my focus here is on the problem of coercion.

Code

The concept of a code has a long lineage in semiotics and social theory, often associated with the most dubious abstractions of high structuralism. That is not what I intend. Saussure's seminal work in structuralist linguistics took the natural language of a community (*langue*) as its model for the concept of a code, thus implying a system that is extensive, orderly, and shared. This defines one extreme of what counts as a code. For sociological purposes, however, Jakobson's understanding of codes as variable in their orderliness, complexity, and extent, and plural in their application to any given situation is more apt: "As a rule, everyone belongs simultaneously to several speech communities of different radius and capacity; any overall code is multiform and comprises a hierarchy of diverse subcodes freely chosen by the speaker with regard to the variable functions of the message, to its addressee, and to the relation between the interlocutors" (Jakobson 1971, p. 719). For analytical purposes, I understand a code as simply a system of conventional relations. The systematicity of any given code beyond the basic observation of its relational character is an empirical question. Countless ways of codifying meaning with varying levels of complexity have been used to organize state action, from royal fiat to technical legal decisions to barely controlled death squads for whom only the most brutally simplistic social meanings are operative. Codes are meaningful in that actors use them to make sense of the situations that they face (interpretation) as well as to act in ways that are sensible to others (communicative action). By reading reality against the conventions of a code and by acting in codified ways, actors juxtapose codes with reality, injecting social meaning into the situations that they face.

A code of state meanings, for instance, asserts a relationship between the captain of a naval vessel and the network of related officers "below" him, defined by numerous duties, obligations, forms of address, and so on, just as it establishes his relationship to a corpus of orders from the admiral, to his own superiors, to a set of behaviors including dress, etiquette, and speech, to a royal commission and thus the sovereign power of the king, and so on. Within that code actions can be "read" as conforming to and confirming codified relations, challenging them, or engaging in more nuanced meaning making. Striking a superior officer, for instance, is a powerful rejection of a codified hierarchy and in the English navy was punishable by death as a form of mutiny. The social transformation of an enraged push to a deliberate hanging under color of sovereign authority is

only legible in the context of a code that relates one to the other through conventions of social meaning ratified and reproduced by code-oriented collective action. As in the mutiny example, piracy is constructed in part by a code of state meanings that conventionally defines certain actions as signifiers in a web of meaning calling for some response beyond themselves. It is this relationality of a certain kind of action—taking a ship at sea, say—whereby it is connected through conventions of language and community to other actions and meanings—piracy and a hanging perhaps, or perhaps patriotism and a knighthood—that is described by the concept of a code.

Interpretive Institutions

State domination is dependent on representation (Bourdieu 1999a; Brown 1993; Loveman 2005), and a crucial form of representational domination is the power to translate concrete situations into codes—systems of conventional relations—that are structured to produce state-centric outcomes. One way that codes enable authoritative meaning making in legal-rational regimes is by establishing rules that control access to interpretive power—the power to authoritatively translate concrete situational realities into a typified and meaningful location in the relational structures of a code. In the social representation of criminality—an important part of the cultural infrastructure of state coercion—the characteristic form of interpretive power that we need to understand is the verdict: “she or he is X,” with X conventionally defined as a criminal category. One of the key problems in the creation of state powers of coercion against any given form of criminality is the replication of such statements across a complex network of state agents as authoritative action orientations that actors then ratify through actions that realize and reinforce the verdict and its codified implications.

Who determines what counts as piracy and how? These are practical question of social power that by giving access to categories of state meaning and the relational web of orientations and obligations in which those meanings are encoded enable certain actors to command coordinated social action—an arrest, for instance, or a fusillade, or a hanging. This sort of coordination is assumed by institutionalists in their accounts of state formation, but it depends on rules of interpretation as well as on a system of codified meanings that actors can interpret concrete situations against to make them meaningful. The concept of interpretive institutions acknowledges the centrality of institutions to state formation and builds on it by focusing on the power of institutions to leverage coordination through social semiotic mechanisms that are distinct from but often complementary to distributional effects of institutions. In legal-rational regimes where codified institutions are a main source of interpretive authority, interpretive in-

stitutions have direct and consequential bearing on the kinds of state powers of representation that exist and, thus, on how state power can and cannot be used. The relevant state-formation question is about how states construct interpretive institutions that organize and extend the power to authoritatively determine social meaning and enable certain state agents to embed the practical situations that they face in the relational codes of state power and, through them, the network of actual social relations that they mobilize.

Performance

While a code provides a system of meaningful relations, including a set of rules of interpretation that specify who can authoritatively assign these codified meanings, state power ultimately exists only as it is successfully staged to influence concrete situations. State meanings, if they are to produce state power, need to be performed (Reed 2013). The concept of performance suggests a theory of action where actors introduce trans-situational cultural codes, scripts, institutionalized conventions, and other aspects of meaning into their immediate situation. Social performances of this sort, however, are live theater and thus subject to the myriad contingencies of real life.

Performative actions orient, or seek to orient, the environment of action toward an actor's desired framework of meaning, ranging from the simplest claim of signification to the entirety of a complex semiotic system. As Alexander writes, in social performances actors "display for others the meaning of their social situation . . . the meaning that they, as social actors, consciously or unconsciously wish to have others believe" (2004, p. 529). They can do so in a general sense or through conventions of action that codify specific performative interventions through which actors' utterances or actions purport to actually do something—naming a ship, say, or announcing a verdict (Austin 1976, p. 5).³ Performative utterances of this kind, described by Austin in his work on speech acts, are essential for coordinating the conduct of state agents and subjects through conventional and authoritative displays of the meaning of situations. Wars are declared, taxes levied, police powers vested, while courts judge cases, parliaments make laws, governors are appointed, and licenses given. Each action of this sort relies on the success of some performative "utterance" that socially transmutes a thing or situation by restructuring its relation to a code of meanings. The production of piracy as a social object depends on a coordinated

³ Alexander describes an analytical approach where performances succeed when they "fuse" various performative elements, including background representations, scripts, the setting, actors, and the audience (Alexander 2004, 2010, 2011).

network of such performative utterances, turning people into pirates in a codified way.

Performance is also consequential for the cultural infrastructure of state power in a less deliberate way through actions that assert codified conventions as essences and realities (Butler 1989; Latour 1991; Sewell 2005, pp. 133–36). Butler writes that “acts are performative in the sense that the essence or identity that they otherwise purport to express are *fabrications* manufactured and sustained through . . . discursive means” (Butler 1989, p. 136). Piracy, like any criminal classification, is constructed in this way as an aggregate of many performances across many situations both routine and unique of what piracy means. This construction is supported in part by the coordinating effects of codes and interpretive institutions that organize performances across space and time. As such performances become sedimented and routinized, they may become available to actors as natural and obvious categories—the stuff of Bourdieu’s symbolic power. Butler thus writes of “a figure of the law who performatively sentences the subject into being” and thus asserts their, “power . . . to enact violence through speech” (Butler 1997, pp. 46–47). Coercive juridical power, in this view, is constructed precisely by the legal performance of the subject of the law, and its most intensive form flows through the construction of the guilty legal perpetrator as the legitimate object of violence: in this case, the pirate.

In addition to their microsociological significance as the mechanism for the introduction of codified, state-centric relations into concrete situations, performances are also important macrosociological variables. Performances are the theatrical apparatus of power projection through which new formulations of state powers of violence are pronounced and demonstrated to subject audiences. Dramatic displays of state meaning are a powerful technique for making the reality of those meanings known, such that actors throughout a polity will know that they must take them into account when confronting action at a proscribed limit. It is through a network of homologous performances, harmonized in the social boundary that they assert, that the pirate as an object of collective state violence is brought into existence so that it can be destroyed.

That a cultural system of some kind is involved in coordinated social action hardly seems controversial. Piracy is obviously not a naturally occurring object, but a social construction and, thus, a matter of meaning. My argument, though, is that the structures necessary for producing this meaning as a coordinated social reality enacted across a global empire in the age of sail were neither automatic nor obvious. They were a relatively autonomous aspect of state formation subject to unique, nontrivial processes of development, interacting with other social systems in their own conjunctures, subject to path dependency, and so on. They were objects of

social struggle, invention, idiosyncrasy, and power in their own right, and they were consequential in their contingent particularities. It is only when the cultural infrastructure of coordinated action meets this hurdle of autonomy (Kane 1991) that it requires specific analytic attention. This is of course an empirical question. In the case of piracy, problems of cultural infrastructure were at the heart of the production of coercive power, and the outcomes of the struggles through which those problems were resolved were central to the character of the powers that agents of the English imperial state ultimately produced.

CLASSIFICATION AND COERCION

The defining episode in the British assertion of a state monopoly of violence at sea was the so-called war against the pirates beginning in 1617 and petering out with the utter victory of the state over piracy in the 1720s. The war against the pirates effectively annihilated lawless maritime predation as a structural feature of the British maritime system. Though individual episodes of piracy occasionally occurred, the structural conditions that led to the cyclical outbreak of piracy episodes throughout the 17th century had permanently changed, and endemic maritime lawlessness was no more. On the basis of bellicist and institutionalist perspectives on state making we would expect that the success of the British war against the pirates depended on the will of state agents,⁴ a sufficient capacity for violence, and a set of institutions organized in a way conducive to state repression. The argument that I will make in this section is that both a capacity for violence and the process of creating interpretive institutions were embedded in a cultural infrastructure and that this infrastructure is an important context for explaining the operation and transformation of piracy as a hinge of state action. The construction of piracy as a meaningful category and locus of coordinated state action was a technical challenge and social achievement that did not emerge automatically from the newly aligned interests of state agents or the mere existence of ships and guns. To be clear, the problem was not the general ambiguity of the concept of piracy in English imperial culture—contemporaries talked about piracy all the time and had clear opinions about it. The problem was the ambiguity of piracy as a semiotic technique of authoritative state classification.

For several historically contingent reasons, English efforts to eliminate piracy from the 1670s to the 1720s provide a uniquely suited case for disentangling the various elements of will, capacity for violence, and cultural

⁴ Institutional approaches would tend to explain the existence of that will as a result of the organization of interests and incentives. The merits and demerits of this explanation are beyond the scope of the argument that I am making here, which focuses on state capacity.

infrastructure and for focusing on the latter. First, the distance involved in the exercise of state power during the 17th and 18th centuries accentuates the difficulties and importance of coordination. These problems are less visible, though arguably no less important, under modern technological conditions of instantaneous and effectively free communication. To send an order from London to Boston in the later 17th century would take a month or more, and a reply only slightly less long, depending on the season and the availability of a ship to carry the message. This made the solution of coordination problems highly salient to the exercise of state power, particularly when dealing with a global, and mobile, problem like piracy.

Second, it is relatively simple in the piracy case to disentangle cultural capacity from the capacity for violence. This is so because the near total destruction of the pirates in the 1720s was accomplished with only a tiny input of violence relative to the capacity available. One of the empirical puzzles presented by the war against the pirates is that it achieved such a decisive victory so easily, even though earlier efforts to control piracy had achieved only quite temporary successes. Efforts to suppress piracy in the 1690s had no long-term effect, much as in the 1670s. The repression of piracy of the 1720s, however achieved a transformative success with only modest naval resources. The number of ships in the English/British navy expanded greatly from 1670 to the 1690s, but then only slowly between the 1690s and the 1720s. The relative composition of the navy, however, shifted toward a greater proportion of small cruisers better suited for anti-piracy patrols and convoys than larger naval ships (table 1). Two aspects of the piracy case suggest, however, that naval changes only partially explain the destruction of piracy in the 1720s. First, if we look at the fates of those who were caught by naval vessels in the 1710s and 1720s they were typically not killed fighting at sea, but at the conclusion of judicial processes. Naval power augmented the newly established interpretive institutions with jurisdiction over piracy, but the latter were the central locus of the classification and punishment of pirates. We must understand the genesis and operation of those institutions to understand the destruction of piracy. Second, if we examine the cases of accused pirates captured by naval vessels in the later 17th century (see case 1 below), we see the persistent inability of state agents to classify and punish those who had been caught; the catching was thus not the core of the problem. We therefore must look to other aspects of state capacity to explain the production of coercive power against piracy from 1717 on.

Specifically we must look to culture. The final noteworthy feature of the piracy case is that it turned in a very clear way on a cultural problem. Throughout the 17th century, piracy was an essentially ambiguous category, and activities that some might describe as piracy were thoroughly

Piracy in the English Maritime System

TABLE 1
SIZE OF THE ENGLISH NAVY

Year	Rodger (2005): Cruisers	Modelski and Thompson (1988): Warships
1680	20	79
1685	20	82
1690	26	71
1695	46	97
1700	49	115
1705	66	121
1710	57	129
1715	63	124
1720	52	120
1725	46	120

NOTE.—The figures presented in the following table are drawn from Rodger (2005) and from Modelski and Thompson (1988). Each is based on a different definition of what counts as a naval vessel and somewhat different sources. For my purposes Rodger's tally is preferable because it includes the class of smaller cruisers that were more often used for hunting pirates. The strongest evidence that the greater exercise of naval power was not at the heart of the destruction of the pirates in the 1610s–1620s, however, is the observation that it took very little maritime power indeed to defeat piracy once the issues of cultural infrastructure described here were resolved.

integrated into colonial social and economic systems. Piracy did not exist as a clear object of action in the 1670s, and one of the keys to its eradication was the coordinated performance of piracy as a defined category of state meaning. It had to be brought into being as a social object before it could be destroyed. The final advantage of the piracy case for advancing a theory of cultural infrastructures and state formation is that, with the advantage of hindsight, the key cultural innovation that made the destruction of piracy possible is perfectly obvious: it was the 1700 Act for the More Effectual Suppression of Piracy. It is an advantage to have such a simple centerpiece in the process of creating a cultural infrastructure because it helps to clarify the difficulty and specificity of this aspect of state making. Even in a case with such a simple legal centerpiece, the question of how to create an effective system for classifying pirates was by no means clear to contemporaries in the later 17th century—something that we see with their repeated failures and the legal confusions that dogged their efforts. Furthermore, the internal struggles between different factions over the question of the classification of pirates throughout the later 17th century inexorably shaped the structure of the 1700 act and thus of the cultural infrastructure built around it. These classification struggles are a part of the story of the destruction of piracy that only find their proper sociological significance in the context of a historical account of state formation that recognizes the analytical autonomy of cultural infrastructures.

The remainder of this section describes the ambiguity of piracy in the later 17th century and the inadequacy of the cultural infrastructure available to state agents who sought to define it. The next section analyzes the transformation of this infrastructure.

Ambiguity and Integration

Francis Drake dramatically pillaged Spain's American possessions in the late 16th century with no state license or other authority, circumnavigated the globe by way of return, and was greeted in England at the end of his voyage of unlawful pillage with a royal audience and a knighthood. Henry Mainwaring declared himself a pirate in the 1610s, plundered Spanish concerns in the Mediterranean, received a pardon, and ultimately rose to the rank of vice admiral in the Royal Navy. Henry Morgan pillaged Panama City in defiance of a peace treaty between England and Spain, was returned to England purportedly to stand trial, was instead knighted, and then returned to Jamaica as vice-governor during the island's first attempts at crafting an antipiracy policy. Captain Kidd, on the other hand, lost his state backing and was hanged as a pirate. What these famous careers demonstrate is that as a category of state meaning (though not of colloquial meaning or of the imperial cultural imagination) piracy in the 17th-century English maritime empire was essentially ambiguous.

Maritime plunder had acquired a complicated and contradictory set of cultural associations in the early modern English maritime world, beginning in the late 16th century when plunder, patriotism, and Protestantism were fused in England's struggle with Spain (Andrews 1966; Elliott 2007; Appleby 2009). The association between maritime predation and patriotism persisted through the 17th century, with England's Caribbean and American colonies often providing thin legal cover for the plunder of England's imperial rivals (Andrews 1984; Pincus 2009). The structure of legal institutions empowered to determine the legality of any given act of plunder helped to sustain this ambiguity. Until 1700 piracy trials could occur only in a special London tribunal. In order for a pirate to be tried, his or her captor would need to send him or her to London, along with any evidence of the crime—particularly difficult when witnesses were usually needed to secure a conviction—and hope for the best with the jury. This severely limited the scope of piracy as a legal classification suited to the organization of coercion across the empire, as only the most serious cases were worth the expense or trouble. And even given the prosecution's substantial legal advantages, verdicts were never certain. Both geographically and legally these 17th-century rules for the authoritative classification of a particular act as piracy proved too restrictive for effective, widespread use.

A series of intersecting legal classifications and institutions further limited the capacity of piracy as a legal category to serve as a coordinating principle for state coercive power. Perhaps the best known of these intersecting classifications was the category of "privateering." Early modern states could never maintain sufficient naval resources to fully pursue wars and other violent maritime objectives (Brewer 1990; Rodger 1999). By providing some form of legal authorization for private ships to attack and plunder rival shipping and territory, early modern sovereigns were able to expand the maritime resources at their disposal at very low direct cost, as the compensation for the crews and investors in these ships came from what they seized, after they paid a percentage to the admiralty court and to the crown. In the English case, this kind of legal authorization for private warfare took a number of forms, from general commissions accessible to all ships, to letters of reprisal authorizing shipowners to seek plunder equivalent to damages from nationals of a state deemed responsible for previous losses, to letters of marque authorizing specific privateers to wage war against enemy shipping. Particularly given the multinational character of many crews, and that at any given time a number of sovereigns might be issuing letters of various kinds, this created a situation where there was often no clear, authoritative answer to whether an action was piratical or legal.⁵

Compounding the legal ambiguity of piracy, its boundaries with other fields of colonial social life were porous. This was especially so when it came to the disposition of plunder. The integration of piracy into colonial economies echoes throughout the state papers passing between England and its colonies during the later 17th century. Jamaica, the Bahamas, Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, the Carolinas, and Virginia were all at various times accused of trading with pirates or at least of welcoming their money. Piracy occurs at sea but depends on access to ports where goods can be converted into money, ships refitted, and money spent. Colonial port cities were often quite welcoming of this influx of commercial activity (Ritchie 1986). Pirates also brought hard currency with them, which was particularly prized in colonial economies that were, in the 1690s, starved of specie.⁶ But the integration of piracy into colonial economies was not limited to providing places for the disposal of

⁵ Another complexity that I do not have space to go into here was created by frequent general pardons. One of the techniques that various state agents used during the 17th century when an outbreak of piracy proved inconvenient was the offer of a pardon for any pirates who would come in and declare themselves. This provided a common if unpredictable route for the regularization of piratical acts, a route back into legal good standing.

⁶ Calendar of State Papers, Colonial, 1697–98, no. 223. I will hereafter reference the Calendar as CSPC. All references are to the online version, accessible at <http://www.british-history.ac.uk/catalogue.aspx?gid=123&type=3>. The CSPC collects and extracts most of the extant official correspondence between state agents in England and the colonies.

ill-gotten gains. Colonial merchants also became involved in outfitting ships and providing other support services for pirates. New York merchants, for instance, were accused of ferrying pirates based on Madagascar and their loot from the East back to the American colonies for a fee. Pirate ships would also use the Atlantic colonies to outfit ships, recruit, head out for the Indian Ocean, and then return. As Jeremiah Basse, the new governor of West Jersey, wrote to William Popple, the secretary of the Council of Trade and Plantations, the principle coordinating body for colonial policy at the time,

You cannot be insensible of the dishonor as well as damage suffered by this nation through the increase of piracies under the banner of England in any part of the world. . . . The Colonies in the Islands and Main of America have not a little contributed to this increase. In my time several vessels, suspected to be bound on this design, sailed from one province or another of the continent . . . and I am advised that four or five vessels are expected to return within these few months, which have on board them men belonging to New England, New York, the Jerseys, & c. They will be emboldened thereto by the good entertainment that they have formerly met withal in those provinces.⁷

Basse captures the sense running throughout the correspondence of the Council of Trade and Plantations that colonial ports saw real benefits from welcoming pirates and, in turn, played a critical role in perpetuating piracy.

Basse was somewhat unique in opposing piracy, for many colonial state agents deliberately and profitably used state power to encourage and support maritime predation. As the Council of Trade and Plantations wrote to the king in 1697, pirates routinely received, “favourable encouragement . . . in several of the Colonies . . . both in fitting out from thence and in returning thither as a secure receptacle.”⁸ One of the most pervasive ways that this occurred was through governors offering privateering commissions to provide some legal cover to captains whose intentions were otherwise purely piratical. Governors could also simply neglect to pursue alleged pirates in their territories. Governor Fletcher of New York notoriously welcomed and supported Thomas Tew with both protection and commissions:

Captain Tew had a commission from the Governor of New York to cruise against the French. He came out on pretence of loading negroes at Madagascar, but his design was always to go into the seas, having about seventy men on his sloop of sixty tons. He made a voyage three years ago in which his share was £8,000. Want was then his mate. He then went to New England and the Governor would not receive him; then to New York where Governor Fletcher

It provides an excellent overview on what was happening in the empire from the perspective of state agents—the group of greatest interest here. The argument developed here also draws on documents in the Colonial Office (CO) series from the British National Archives.

⁷ CSPC, 1696–97, no. 1187.

⁸ CSPC, 1697–98, no. 94.

protected him. Colonel Fletcher told Tew he should not come there again unless he brought store of money, and it is said that Tew gave him £300 for his commission. He is gone to make a voyage in the Red Sea, and if he makes his voyage will be back about this time. This is the third time that Tew has gone out, breaking up the first time in New England and the second time in New York.⁹

Even pirates who did get caught up with colonial judicial powers often managed to keep or regain their freedom as a result of various stratagems, including careless jailers and warrants that went unexecuted,¹⁰ and after all they could only be tried for piracy back in London. By the later 17th century, private maritime plunder was integrated into the English maritime system as a robust alternative to the state-sanctioned commercial and coercive order, and piracy as a legally adjudicated category of state meaning was invoked rarely and ineffectively. The margins of state, law, and colonial society provided a highly ambiguous environment in which unruly maritime predation flourished.

Case 1: John Deane

The case of the mariner John Deane helps to illustrate how the legal, economic, moral, and political complexities that made piracy such an ambiguous category in the 17th century English maritime system can be understood as a problem of the cultural infrastructure that state agents had available. My point here is that even when they wanted to, state agents could not effectively use “piracy” as part of a strategy of social control. Deane, one of the “buccaneers” of the period who specialized in maritime predation of ambiguous legality (Exquemelin 2007), allegedly seized an English ship, the *John Adventure*, took wine and a cable from it and then brought the ship to Port Royal, Jamaica. There he was accused of piracy and of flying Dutch, French, and Spanish colors without authorization. Deane was tried in 1676 by Lord Vaughan, the governor of Jamaica, acting in his capacity as vice admiral using a civil law procedure where he and the other judges determined guilt. Vaughan found Deane guilty and sentenced him to death. When the Lords of Trade and Plantations received word of the trial and verdict, they requested that the admiralty review Vaughan’s legal procedure. Sir Richard Lloyd, judge of the Court of Admiralty, determined that Vaughan “had not regularly proceeded” in the case and did not in fact have the authority as vice admiral to try pirates.¹¹ Indeed, “the Lord Admiral himself cannot . . . try piracy,” wrote Lloyd, except as the chief of a commission of *oyer et terminer*, a legal form created by Henry VIII’s 1536 piracy law that combined civil law judges with grand and petit juries for indictments and de-

⁹ CSPC, 1696–97, no. 517I.

¹⁰ CSPC, 1696–97, no. 1178X.

¹¹ CSPC, 1675–76, no. 993.

terminations of guilt. Though the facts of Deane's violent maritime pillage were not in dispute, and the Lords of Trade and Plantations faced political pressure to regulate piracy, the admiralty judge's opinion authoritatively undermined the legitimacy of Vaughan's process for classifying Deane as a pirate. The Lords of Trade and Plantations wrote immediately to Governor Vaughan ordering him to halt the execution. They meanwhile petitioned the king for commissions of *oyer et terminer* to be sent to Jamaica and other governors, a measure that itself later ran into legal problems and in any case required a fundamentally different legal procedure for determining guilt based on the verdict of a jury. The classification of Deane thus began in a colonial court that followed one procedure, was referred to a metropolitan political body for its consideration, that referred it in turn to a centralized maritime legal authority, and then, on the basis of its interpretation of the rules and procedures for the exercise of judicial coercion, the High Court of Admiralty used its authority to reverse the decision and order a new trial. Meanwhile, back in Jamaica, Governor Vaughan had in fact pardoned Deane, and he had been freed. Such great uncertainty and legal complexity in a case where the facts of Deane's unlawful violence were never in dispute demonstrates the weakness of piracy as a hinge for the coordination of coercive power at this time; it was very hard for state agents to use the classification "piracy" to bring force or the threat of force to bear. Deane's career also represents a frequent trajectory for mariners in the English maritime system of the mid- to late 17th century, moving into and out of the ambiguous legal and political margins of maritime predation and of governmental maritime authority (Benton 2010).

Deane's case shows that the problem facing English state agents who sought to address the piracy problem in the later 17th century was that the cultural infrastructure for coordinated, legitimate classification of maritime violence had not kept pace with the geographical expansion of the territory of the English state, nor had it kept pace with the political-economic demands placed on an empire built on merchant capitalism. The emergence of piracy as a social object and as an object of coercion depended on actors having the ability to collectively and violently enforce the boundaries of the category and to make it a highly consequential reality of state-imposed social order. Deane's case is typical of the late 17th century in that it revealed that English state agents did not have a cultural infrastructure that could support such a coordinated, consistent display of state meaning and social power.

The Political Economy of Infrastructural Inadequacy

This infrastructural inadequacy was largely a result of a rapid and fundamental shift in the political economy of the English empire in the later

17th century. The model of the early 17th century can be roughly understood as an instance of Weberian adventure capitalism, a political-economic strategy of plunder.¹² The economic footing for much of the fitfully expanding English Atlantic empire depended on the violent interdiction of commerce between Spain and its American possessions. England has been fairly tagged by some as a “nation of pirates” (Senior 1976), rightly suggesting that the legal ambiguity of maritime predation was a principle of English imperial state making, not a problem with it.

The rise of Caribbean sugar plantations in the 1650s organized around the transatlantic slave trade and the importation of manufactured goods from England and of foodstuffs from the American colonies, however, depended on a very different model of maritime order than the chaotic and violent one that favored the adventure capitalists and their supporters in positions of colonial state power. By the 1670s, elite English state agents and merchant capitalists had largely oriented themselves toward a very different political economic vision of empire and maritime order based on the orderly exploitation of the sea as a commercial conduit rather than as a hunting ground for the unwary. In this new vision the uncertainty and risk inherent in a maritime order organized around unregulated plunder became liabilities. This new vision for the political-economic constitution of the oceans received its first clear articulation with respect to piracy in a section of the 1670 Treaty of Madrid restricting privateering, marking the beginning of the concerted turn of English merchant and state elites against piracy—though there were variations in focus and intensity over the decades. But as the trial of Deane suggests, when elite state agents began to consider how they could wield state power to performatively assert the exclusion of piracy from the legitimate social order of the empire, they discovered that they did not have the infrastructure necessary to achieve such performances of social meaning. The political economic transformations beginning in midcentury did not automatically create the cultural systems necessary to support the new vision of maritime order.

16th-Century Law, 17th-Century Pirates

That is not to say, however, that there was no cultural infrastructure for classifying pirates. The legal code governing the classification of piracy was, to later 17th-century state agents, clearly inadequate. It was itself, however, the result of an earlier period of reform. Prior to 1536, piracy fell under the jurisdiction of the High Court of Admiralty, one of several distinct legal traditions that English law comprised. The admiralty jurisdiction was based on the civil law, and its piracy jurisprudence reflects this

¹² Thanks to John Bellamy Foster for drawing my attention to this point.

civilian approach. In contrast to the common law reliance on juries, admiralty cases were decided by judges. This gave relatively greater powers to the court, but these were counterbalanced by a far more serious limitation. The civil law prohibited accomplice testimony. This prohibition effectively neutered the admiralty as an interpretive institution with respect to piracy, for piracy cases often involved the murder of all hands on the target ship and occurred far from any other potential witnesses. Accomplice testimony was very often the only evidence available. During an earlier effort to crack down on piracy, Henry VIII's regime recognized this limitation and created a new legal framework for trying pirates: 28 Henry VIII, c. 15, came into force in 1536. It created a new legal structure whereby a specially commissioned judge of the High Court of Admiralty in London could hear piracy cases in a special court of *oyer et terminer* under a hybrid legal framework that incorporated both civil and common law procedures. The admiralty judge would hear the cases, and accomplice testimony could be used, but grand juries would first need to indict, and findings of guilt depended on the verdict of a jury. There were two important limitations to this legal framework. First, it depended on juries that were often sympathetic toward pirates, particularly pirates who had targeted foreigners. Second, and far more consequentially, this special legal form could only be used by a tribunal in London operating under a commission of *oyer et terminer* tribunal in London. Under the 1536 law, trials using the procedure that it specified could not occur elsewhere. Henry VIII's legal reforms, effective in combatting 16th-century piracy, encoded a geographical conception of state power into its piracy jurisdiction that made it extremely weak as the foundation for fighting piracy in a global empire. Both the imperial state and its pirates were very different phenomena than the architects of the 1536 law could have imagined.

Codes and Conduct

Social objects are constructed in part by performances of meaning. The performative construction of piracy in the later 17th-century English empire was a study in unstable boundaries and inconsistent meaning. Another way to describe this ambiguous pattern of concrete performances of social meaning is to note that "piracy" was an ineffective hinge for the coordinated production of coercive power in the later 17th century. One of the main reasons for this weakness—even after elite opinion turned against unlawful predation—was the codified structure of interpretive institutions available for classifying piracy and, thus, for coordinating social performances of its meaning. This system of performances and institutionalized rules was the manifestation of the codification of piracy in the English empire—the system of conventional relations defining piracy. The codes that

defined the institutional forms of English imperial state power were also implicated in the ambiguous social meaning of piracy in a more fundamental way. An example helps to clarify this point. In 1687 a Captain Spragge of the Royal Navy sailed HMS *Drake* into the harbor at Port Royale, Jamaica, with the corpses of four pirates hanging from the yardarms, including the erstwhile pirate captain Joseph Bannister. A Jamaican jury had acquitted Bannister of piracy in 1684.¹³ Governor Molesworth (in accordance with the demands of Governor Lynch, who died shortly after the verdict, the result of the trial apparently hastening his death) had demanded a retrial, but before the new trial could take place, Bannister managed to secure a ship and made a daring nighttime escape beneath the guns of the fort guarding the harbor.¹⁴ For years he evaded capture until 1687, when, as Molesworth reported with satisfaction:

On the 28th January, Captain Spragge returned to Port Royal, having succeeded in the task that I assigned to him, with Captain Banister and three of his consorts hanging at his yard-arm, a spectacle of great satisfaction to all good people and of terror to the favours of pirates, the manner of his punishment being that which will most discourage others, which was the reason why I empowered Captain Spragge to inflict it. Banister seemed to have no small confidence in his friends. I find from letters that he wrote to some of them that he intended to plead that he had been forced into all that he had done by the French. How far this would have prevailed with a Port Royal jury I know not, but I am glad that the case did not come before one.¹⁵

This procedure was in fact available to all captains who had apprehended a pirate, for if a pirate did not surrender he was held to be outside the protection of the laws—an outlaw in the ancient English sense and, thus, due no procedural legal protections. He was, in the famous phrasing of the later legal term of art, the enemy of all mankind and could be slaughtered forthwith. This case represents the simplest of all possible solutions to the problem of classifying piracy, but Bannister's case is well known because such summary executions were extremely rare. Captain Thomas Spragge only acted as he did under the governor's orders, and Governor Molesworth only resorted to hanging from the yardarm without trial in what he considered to be an exceptional case. The codes of English state power were organized around a fundamentally different way of classifying and punishing criminality than the summary violence of the Bannister case. The codes of English state power with respect to criminality were organized around formally established legal institutions, explicitly empowered through the delegation of sovereign authority to wield classificatory power in the social world in accordance with codified procedures that controlled

¹³ CSPC, 1681–85, no. 1852.

¹⁴ CSPC, 1681–85, no. 2067.

¹⁵ CSPC, 1685–88, no. 1127.

and limited the scope of their power to authoritatively interpret. That is to say, the rule of law was a deep structuring principle of the codes of English state power. It is because of this codified relation between criminality and the law that in the case of the later 17th-century English empire the performative objectification and coercion of piracy depended on the structure of interpretive institutions.¹⁶ Likewise, the process of institutional reform simultaneously occurred at the level of deep legal meanings. This duality, as the next section argues, made the reform process complex and, for contemporaries, confusing.

STATE MAKING AND INFRASTRUCTURAL TRANSFORMATION

Contemporaries routinely experienced the legal limitations described in the previous section as practical frustrations of their power to restrict piracy. Parallel to the bellicists' model of state formation occurring when state agents create innovative fiscal and organizational structures as a solution to the pragmatic problems posed by their desire to effectively wage international war, innovations in the cultural infrastructure involving piracy came through the practical, problem-solving efforts of state agents. State agents in different positions in the structure of the empire advanced a series of solutions to the problem of classifying and punishing pirates beginning in the 1670s. The answer to the question of how to more effectively prohibit piracy, however, was neither simple, nor obvious. Nor was it merely a matter of the will and ingenuity of state agents, for their available lines of action were constrained by existing codes of state meaning making just as surely as they were constrained by geography, organizational limitations, and institutional arrangements. The transformation of the cultural infrastructure for dealing with piracy in the English empire, like other aspects of state making, was a contentious process that took the form of a classification struggle between various actors within the state over who would have access to the apparatus of state meaning making and how those meanings could be made. Those struggles were waged by actors embedded in the existing cultural, organizational, and institutional structures of state power, and thus the existing system of state meaning making with regard to piracy contextualized and constrained the struggles over how they were to be transformed. This dynamic of state making through struggles waged under the constraints imposed by existing codes was at the heart of the series of fail-

¹⁶ It is largely for this reason that the model described here should be understood as a description of state formation in a regime characterized by legal-rational forms of authority. Other techniques of interpretation would certainly be possible—interpretative authority by virtue of kinship with a leader for instance—and the cultural infrastructures of those regimes would necessarily take different forms.

ures that marked the first 30 years of efforts to reform the cultural infrastructure for dealing with piracy.

Code and Interpretive Institutions

The core of the problem faced by English state agents attempting to construct an adequate cultural infrastructure for combatting piracy can be understood as an issue at the intersection of code and interpretive institutions. Contemporaries were quite aware of this and routinely noted that the existing institutional arrangements were insufficient and that those institutions were derived from a constraining legal code, particularly the 1536 piracy law. Their efforts at reform first sought to create new interpretive institutions able to authoritatively classify piracy. The proponents of these new institutions consistently failed to convince other state agents, especially elite metropolitan state agents, to ratify them as authoritative and legitimate exercises of state interpretive power despite the sympathies of elites for addressing the piracy problem. What these failed efforts revealed was a widespread misunderstanding of a deeper and older conflict over jurisdiction and procedure embedded in the legal codes relating to piracy. The success of the 1700 Act for the More Effectual Suppression of Piracy is due to its resolution of this deeper conflict in a way that codified the basis for the creation of interpretive institutions throughout the empire with the power to classify piracy.

Deane's case, described above, is emblematic of the first sally of the reform minded. In that case, Governor Vaughan simply asserted a novel vice admiralty power to authoritatively classify Deane as a pirate, with the expectation that this classification would be ratified by other state agents through their actions. This power was novel in part because it was unfounded in law, and in the context of a codified relation between the rule of law and the social performance of criminality, the resolution of the case rejecting the governor's claims of interpretive authority is unsurprising. In this rebuke we can start to see the outlines of the classification struggles over piracy. In one sense, what Governor Vaughan proposed was an eminently practical approach to a problem that all parties agreed was serious. His was an expedient way to execute someone who all agreed had engaged in a piratical action, and it could be used immediately by like-minded governors throughout the empire. The rebuke delivered to this approach by Hedges represented a defense of the unassailable centrality of legal codes in the authoritative exercise of state interpretive powers. According to this view, it was only when actions were properly embedded in a code of legal meanings that they were to be ratified as actual and authoritative exercises of state power that other state agents were compelled to ratify and reproduce in turn. For all of its efficiency, Vaughan's approach was clearly wrong on

the law. The fight against piracy, Hedges's decisive opinion in the Deane case made clear, would take place in accordance with the rule of law.

But what could be done within the law? The next phase in the struggle over the cultural infrastructure that would define piracy again centered on Jamaica and took the form of the Jamaica Piracy Act of 1681.¹⁷ The act, passed with the prompting of the Privy Council,¹⁸ essentially recreated the legal framework of 28 Henry VIII, c. 15—trials to be conducted by special admiralty commissioners, juries to determine guilt—but did so under the sovereign authority delegated to Jamaica by the restored Charles Stuart. This approach fully complied with the legal structure of the empire. Jamaica had sufficient powers to create the interpretive institutions necessary to support such an antipiracy regime, and from the 1680s through 1700 Jamaica was actively engaged in hunting and punishing pirates. There were, however, at least two major problems with this mechanism for creating interpretive power over piracy in overseas territories. First, the Jamaica act followed 28 Henry VIII, c. 15, in relying on a jury to convict accused pirates. Given the sympathies many in the colonial world had for piracy—not to mention ongoing financial interests in maritime plunder—this made trials inherently uncertain.¹⁹ While the Jamaican colonial administration in the 1670s had turned against piracy, the island's long history of maritime predation left it with a populace quite ambivalent about trying pirates. A second problem was that the Jamaica act took an intrinsically piecemeal approach to a global/imperial problem. The interpretive institutions created by the Jamaica act were based on the sovereign powers delegated by the king to his governor and the Jamaican assembly and thus applied only to that colony. Similar laws would be required in every colony if this approach were to work. That was precisely what the Privy Council hoped for. They ordered that since

great damage that does arise in His Majesty's service by harbouring and encouraging of pirates in Carolina and other governments and proprietys where there is no law to restrain them . . . that a draught of the law now in force at Jamaica against pirates and privateers be sent to all other governments and proprietys in America with His Majesty's directions that it be passed into a law in each place, and that all possible care be taken by the respective governors and proprietors that the same be put in execution as they will answer to the contrary . . . and did order that the Right Honourable Mr. Secretary Jenkins to transmit copies of the said law made at Jamaica . . . to all other . . . plantations in America.²⁰

¹⁷ The Act for Restraining and Punishing Privateers and Pirates, CO, 139/8, pp. 11–13; CSPC, 1681–5, no. 160.

¹⁸ CO, 138/3, pp. 192–94.

¹⁹ Compare CSPC, 1681–85, no. 1852.

²⁰ CO, 324/4, fol. 103.

Copies of the Jamaica law were indeed disseminated, and some colonies even passed them,²¹ but only a few, and most of those not until the end of the 17th century when the legal reform process had already moved on.²² Many colonial assemblies, particularly in the colonies most closely associated with supporting piracy, had strong incentives to maintain the status quo. Others, such as intransigent Massachusetts, passed its own version of the Jamaica act that the Privy Council subsequently rejected on review. The hope of passing “Jamaica acts” in all of the colonies to create a legal infrastructure for trying pirates was to remain merely that. The Jamaica act succeeded in creating authoritative interpretive power over piracy. But by embedding that authority in the sovereignty of the colony it did so in a way that was politically intractable as the basis for a systemic response to piracy.

The Navigation Act of 1696, the Act for Preventing Frauds, and Regulating Abuses in the Plantation Trade (7/8 William III, c. 22), fundamentally reorganized the relations of governance between London and the colonies by granting clear, sweeping jurisdiction over the enforcement of the provisions of the Navigation Acts to colonial vice admiralty courts (Hall 1957, p. 502).²³ Many thought that the act would also solve the problem of classifying pirates by extending the admiralty’s jurisdiction to vice admiralty courts in the colonies, thus creating a properly constituted set of interpretive institutions throughout the empire. This, though, also failed scrutiny by legal elites. On November 22, 1697, William Popple, secretary of the newly formed Board of Trade, wrote to Sir Charles Hedges, judge of admiralty, seeking to clarify how the powers over piracy he thought the 1696 act created would work. He asked “by what law and in what manner the Courts of Admiralty erected in the Plantations by Commission of the Lords of the Admiralty, do or may try pirates, and whether they have power to inflict capital punishment upon those that are proved guilty.”²⁴ Or: who can try pirates and how? On November 24, Hedges dashed Popple’s hopes, informing the Board that “the Admiralty Courts in the Colonies [created in the wake of the 1696 Navigation Act] have no power to try and punish pirates except under a local law, such as exists in Jamaica, though they have power

²¹ For example, Jenkins wrote to Connecticut with the demand to pass the enclosed Jamaica law (CO 324/4, fol. 104), and Connecticut did so on July 5, 1684 (Trumbull 1859, pp. 150–55). The connection between the two laws could not be clearer; the Connecticut statute is a nearly verbatim copy of the Jamaica act.

²² As far as I have been able to determine, Connecticut, Maryland, Virginia, Pennsylvania, and then somewhat later South Carolina all passed similar laws (Owen and Tolley 1995, p. 165).

²³ These courts did not in fact yet exist when the act came into force, but they were created shortly thereafter.

²⁴ CSPC, 1697–98, no. 55.

to arrest pirates and send them home to be tried."²⁵ This exchange was based on a misunderstanding of the legal codes from which existing legal institutions for trying piracy took their form and, particularly, the legal foundations on which 28 Henry VIII, c. 15, had created their powers. While the admiralty court did indeed have jurisdiction over piracy, it was only able to try cases in accordance with the civil law. The procedures of the 1536 law allowing for accomplice testimony but requiring a jury to make determinations of fact rather than a judge were not vested in the High Court of Admiralty, nor did they alter the procedures through which the Court could try piracy cases. Rather, the law created a new jurisdiction over piracy and vested it in a new and separate court of *oyer et terminer*. Admiralty judges presided over these trials, leading to the confusion that this was simply a procedural amendment to the High Court of Admiralty's piracy jurisdiction, but this view was wrong. The admiralty judges after 1536 heard piracy cases under color of *oyer et terminer* commissions and not in their capacity as judges of the admiralty court. The creation of new admiralty courts overseas thus did nothing to solve the problem because the admiralty court was not empowered to try pirates according to the 1536 procedures—it could do so only by exercising its defunct pre-1536 jurisdiction rooted in the civil law—a framework already rejected as the basis for producing coercive power against piracy in the 16th century. Hedges's opinion brought up short yet another mechanism for coordinating state interpretive and coercive power against piracy. While colonial admiralty courts now had sweeping new powers to regulate trade, those powers did not include jurisdiction over piracy.

The board was left to weakly propose again the enactment by individual colonies of the Jamaica act of 1681, but still they sought a more systematic solution. To the king, the board wrote, "the most effectual remedy [to the piracy problem] would, we think, be a law enacted here to extend uniformly through all your Plantations by which the methods of trying pirates might be directed, and the punishment of that crime made capital."²⁶ The pirates themselves were excellent allies in the board's ambition to enact a uniform piracy law and establish a common procedure for trying pirates throughout the empire. The last years of the 17th century saw extremely high levels of piracy in the Indian Ocean especially, but also in the American colonies, and the West Indies, creating an urgent context for piracy law reform.²⁷ On April 6, 1698, Sir Charles Hedges had submitted

²⁵ CSPC, 1697–98, no. 56.

²⁶ CSPC, 1697–98, no. 94.

²⁷ CSPC, 1697–98, nos. 115, 234, 235 contain detailed accounts of the threat that EIC agents and officials felt that piracy posed to their and England's trading interests in the Indian Ocean. For the American colonies, see CO, 324/7, fols. 90–92. For the West Indies, see CSPC, 1699, Preface, p. x.

a draft law to the Board of Trade that would create the new legal structure for trying pirates that many thought necessary.²⁸ The pirates themselves made sure to put any questions about the law's passage to rest. The records of this period are filled with accounts of piracy throughout the empire. Alarmed state agents in the colonies complained of great disruptions to shipping and commerce. Pirates on the Madagascar trade swarmed the West Indies, the Atlantic coast, and East and West Africa. Colonial state agents could do little but bemoan their lack of legal tools to use against the pirates.²⁹ At precisely the same time, the high profile exploits, capture, trial, and execution of Captain Kidd provided a dramatic display of the piracy problem, pressuring Parliament to adopt the new law (Nutting 1978; Ritchie 1986). On the crest of these events, a version of Hedges's model law passed Parliament in 1700 as "An Act for the More Effectual Suppression of Piracy."³⁰ The new law with its new rules for the authoritative classification of pirates proved to be enormously consequential in the ultimate destruction of piracy in the English maritime system. The law included a number of significant innovations. The most consequential of these was the new procedure created for piracy trials (table 2). While piracy trials under Henry VIII's law took place in a court of *oyer et terminer* in England and were decided by a jury, under the new law specially commissioned courts throughout the empire would indict, hear evidence, and determine guilt. This meant that piracy could now be judged by a simple majority of state-appointed commissioners, making verdicts vastly more predictable. Under the new law, defendants were given access to defense council, but only to assist with points of law, and they were also given the opportunity to cross-examine prosecution witnesses, though through the president of the court rather than directly. Given the removal of both grand and petit juries, however, these protections were negligible, and the law created sweeping new powers. Because the only statutory punishment for piracy was execution, the new legal framework created an extraordinary formulation of

²⁸ CSPC, 1697–98, no. 351.

²⁹ CO, 324/7, fols. 67–71, 93, 96; CO, 389/17, fols. 155–56.

³⁰ 11 & 12 William III, c. 7 (Ruffhead 1761, pp. 43–46). The act created the basic structure of the new legal framework for trying pirates. A series of laws over the next 20 years modified it in parts, and in any case it included a provision that had it expire within seven years. It was renewed for five more years by 5 Anne, c. 34, in 1706, and again in the second year of the reign of George I. Apparently by accident, the act expired for a time around 1717, but a clarification of the law in 4 George I, c. 11, that gave the special piracy courts the option of using the legal procedures of 28 Henry VIII, c. 15, appears to have covered this legal gap, with but one high profile trial, that of Stede Bonnet, pursuing this alternative procedure that required the use of a jury. Finally, 8 George I, c. 24, in 1721 extended the jurisdiction of piracy courts to encompass accomplices as well as principals and made the legal structure introduced by the 1700 Act for the More Effectual Suppression of Piracy permanent.

TABLE 2
MAJOR LEGAL CHANGES OF 1700

	28 Henry VIII, c. 15 (1536)	11–12 William III, c. 7 (1700)
Sentence for the guilty	Execution	Execution
Location of trials	Trials generally limited to England	Trials could take place in England, its colonies, ships, and other outposts
Juridical process	Grand jury indictment, petit jury verdict	Commission indictment and verdict
Trial participants	Locally selected juries, no special requirements (for versions of the law passed in the colonies such as the Jamaica Pirate Act)	Commission members limited to state officials and merchants who had to swear that they had no financial stake in the trial
Definition of piracy	Applied only to robbery and murder at sea	Expanded to include those who supported pirates and received their goods and mutiny for the purpose of taking a merchant ship
Preventative policies	No positive or negative inducements for compliance	Provided for rewards to seamen who resisted mutinies and pirate attacks; threatened the revocation of the charters of colonies that did not implement the law

coercive power under English law: the execution of an English subject in a colonial court on the basis of a legal classification applied by an appointed commission without the benefit of a jury.³¹

The series of missteps leading eventually to the 1700 act are evidence of a prolonged, low-grade social struggle over powers of classification. This is particularly striking given that all of the actors involved were in basic agreement that new, scalable, institutionalized powers were needed to effectively combat piracy, and all were committed to that goal. There were two basic categories of problems on which this struggle turned. First, actors involved in the nexus of colonial state institutions, imperial legal institutions, maritime commerce, maritime violence, and international relations implicated in the piracy issue had interests and identities that were associated with different aspects of the semiotic and institutional structure of

³¹ Two additional points of interest in the law are (1) section 15 of the act responds to the widespread knowledge that the proprietary and charter colonies were particularly active in supporting pirates and particularly likely to see themselves to be above the law by threatening these colonies with the revocation of their charters should they not comply; and (2) for unknown reasons, and with remarkably impracticable consequences, the act requires that accomplices still be returned to England for trial under 28 Henry VIII, c. 15. My conjecture is that granting the new colonial piracy tribunals the power to try, determine, and execute nonviolent accessories to piracy would have created a crisis of legitimacy for the new courts, potentially derailing this legal solution to the piracy problem as well.

state power. Second, those structures were complex relational systems, and any changes tended to have ramifications throughout the system. Furthermore, the semiotic structure of law in the English empire had both a complex specificity as a framework of meaning for addressing specific problems and basic organizational principles that were essential to the interoperability of the major divisions of the legal system. Problem-specific legal changes still needed to make sense in terms of the deeper structures of meaning holding together the enterprise of the English legal system in an age of imperial expansion. The classification struggle that took place between 1670 and 1700 was between state agents, to be sure, but it was also between state agents and the cultural infrastructure of their state.

By taking into account the tension between superficial institutional reforms and the deep structures of legal meaning making, the character of piracy as a locus for classification struggles can be clarified. Many possible solutions to the problem of a more coordinated, efficacious performance of piracy as a social boundary throughout the empire existed. That possibility space, however, was limited by the existing semiotic structure of the law. Actors involved in the recodification of piracy in the later 17th century found themselves at the crux of a struggle over interpretive authority between two of the foundational code traditions of English law: the common law and the civil law. This struggle manifested itself in the recodification of piracy as a problem of jurisdiction and the precise derivation of legal powers. From the 1670s on there was broad agreement that the solution to the piracy problem required the delegation of interpretive competence from a single tribunal based in London to a large number of legal bodies spread throughout the empire. There was tremendous disagreement over the precise institutional form they would take, however. This mattered because different legal procedures created very different powers over piracy. As described above, one of the possibilities was more lawless, another involved accomplice testimony and juries, another gave substantial political vetoes to colonial assemblies, and the arrangement ultimately achieved empowered commissions of state-appointed officials to wield state powers of violence in an extraordinarily powerful way. The question of procedure—civil, common, or hybrid—was thus consequential for the redistribution of interpretive power with the English/British imperial system and is part of the story of the long struggle of proponents of the common law to marginalize the admiralty's civil law jurisdiction. But struggles over procedure were themselves structured by the deeper legal semiotics of jurisdiction. Jurisdiction was (and remains) one of the fundamental grammatical principles of early modern English law. It can be understood both as a limit on legal powers—geographical, thematic, and so on—and as a framework of meaning that constitutes those powers by claiming a scope of action where they can operate. Struggles over piracy law reform in part turned on a deep

confusion about jurisdictional questions—that is to say, over the constitution of the piracy jurisdiction, thus over the source of the interpretive powers associated with this jurisdiction, thus over the possibilities for reforming and adapting it to turn-of-the-18th-century piracy. This was most acute in the wake of the 1696 Navigation Act creating vice admiralty jurisdictions throughout the colonies with significant confusion over whether the admiralty court was the principal jurisdiction for trying pirates. It had not been since 1536, and it was on this basis that legal elites rejected this formulation of interpretive power.

It was on these codified shoals of jurisdiction and procedure, performed as real constraints of the legal system by elites strongly invested in that system and deeply interested in both the distributional and coordinating consequences of changes to legal codes, that the many recodification schemes of the later 17th century foundered. It was only when the issue became pressing enough for Parliament to directly address it that sufficient power to alter the constitutive codes of jurisdiction and procedure was brought to bear. The extraordinary and violent efficacy of the new codification and institutionalization of piracy, it is important to recognize, was a contingent sociological outcome and not derived from principles of efficiency. The highly efficient system created by the 1700 act—the efficiency of which, it should not be forgotten, depended in part on the creation of a novel power to try, convict, and execute English subjects on the verdict of a commission without the protection of a jury—was only possible because earlier solutions that sought to adapt existing legal meanings and institutions failed. The circumstances of those failures, rooted in a disjuncture between legal codes and the institutional form of interpretive authority over piracy, created a situation where the more ponderous task of fundamentally altering the imperial legal constitution seemed to contemporaries the best solution. It was because radical, Parliament-led change became the most likely solution to the problems of cultural infrastructure that the system for classifying pirates created in 1700 was so powerful and effective. Through parliamentary action English state agents created a new jurisdiction over piracy that reflected the consolidation of the political economic vision of an empire of trade with the legal structures of the state by creating an infrastructure that could be used to efficiently classify piracy and, thus, make it a social object amenable to coercion. These devastating powers were designed to work at the scale of the turn-of-the-18th-century English empire, and against turn-of-the-18th-century pirates, and reflected the new elite consensus that pirates were to be thought of as unambiguous enemies of the state and civilization. It was the classification struggle over piracy occurring between 1670 and 1700, though, that led to the codification and institutionalization of these efficient new interpretive powers rather than a jury-rigged assemblage of modified powers and institutions as would have resulted from the earlier efforts at reform.

The cultural infrastructure that they achieved was contingent on the outcomes of struggles embedded in what they had.

Performance

As presented here, the concept of a cultural infrastructure is meant to capture the centrality of coordination problems to the exercise of practical state power. In this sense, codes and interpretive institutions only matter when actors invoke them to structure the concrete situations that they face. Codes and institutions, that is to say, are consequential in the constitution of state power only when they are performed, and they are most important when those performances are widespread, creating a coordinated interpretive scheme throughout a given geopolitical field. Performance, as the realization of cultural infrastructures, thus has two related meanings. The first is the microlevel performance of codified and institutionalized meanings as situational realities. The case of John Quelch illustrates the significance of the 1700 act for creating a framework of meanings that made the coordinated performance of the social meaning of piracy possible. In it we see the concrete, situational staging of the new powers created by the 1700 act. The Quelch trial literally followed a script for piracy trials based on the 1700 law and promulgated through the colonies.³²

Case 2: John Quelch

Governor Dudley of Massachusetts had Quelch seized in 1704 on his return to Boston after an ostensibly legal privateering mission. The governor's suspicions were well placed. Quelch had been the mastermind of a mutiny against the duly commissioned captain of the ship *Charles*. He then led the crew in the piratical seizure off the coast of Brazil of a number of ships hailing from Portugal, an English ally in the War of Spanish Succession. This was the first application of the new powers described above; the state agents involved in the trial were quite aware of the heightened significance of the event and thus prepared a highly detailed account of the trial that was later disseminated as a model for how piracy trials under the new law ought to proceed. In contrast to the misfires of Deane's case, state agents captured Quelch near Boston in July 1704, his trial took place a few days later on July 17, and he was hanged on July 30.³³ In accordance with the jurisdictional and procedural accommodations of the 1700 act, the governor appointed a commission to try Quelch. The

³² National Archives, Kew Gardens, CO, 389/17, fol. 241; PC, 5/2, fols. 84–85. National Archives, Kew Gardens, CO, 389/17, fol. 241; Privy Council, 5/2, fols. 84–85.

³³ *The Arraignment, Tryal, and Condemnation of Captain John Quelch* (London: Printed for Ben. Bragg in Avemary-Lane, 1705).

Queen's Advocate took care to justify the legitimacy of this novel formulation of interpretive authority to the commissioners in a speech at the outset of the trial, noting: "It is by Virtue of this Act of Parliament [the 1700 Piracy Act], and a Commission pursuant thereto, that your Excellency and this Honourable Court are now Sitting in Judgment upon the Prisoner at the Bar, and his vile Accomplices, and though it may be thought by some a pretty severe thing, to put an *English*-man to Death without a Jury, yet it must be remembered, that the Wisdom and Justice of our Nation, for very sufficient and excellent Reasons, have so ordered it in the Case of Piracy."³⁴

The commission made extensive usage of accomplice testimony to determine the facts of the case. The defense counsel argued at one point in the trial that the court was making a procedural error by allowing accomplice testimony and should instead be bound by the civil law restrictions on this sort of evidence. The court rejected this argument, effectively asserting the efficient contours of the interpretive institutions created by the 1700 act. The conclusion of the trial came with the verdict of the commission convicting Quelch of piracy, a verdictive performance of state meaning that effectively mobilized coordinated and deadly violence against Quelch. As per the trial report: "On *Friday, June 30. 1704. John Quelch* [et al.] were Executed in *Charles-River*, between *Broughton's* Ware-house, and the Point."³⁵ The complex semiotic intervention of the trial ultimately came down to men, perhaps of a like age and background to the accused, performing them, in Butler's sense, as prisoners and pirates, to do as if they really were what they had been interpreted to be: a cultural infrastructure underpinning the state as an exercise in collective, coordinated action. Of all the possibilities mooted between 1670 and 1700, the 1700 act was by far the most radically efficient in the powers of coordinated state meaning making that it gave to its state agents and thus in creating the conditions for constructing a bloodily enforced social boundary between legitimate maritime enterprises and piracy.

The War before the War

The second sense in which performance is important as the culmination of cultural infrastructures is that performances stage, dramatize, and assert new state meanings, proclaiming the existence of a new sociopolitical order. The Quelch trial was a fine demonstration of state power against piracy in Boston in 1704, but taken alone it would be no more consequential than the decision of a naval captain to hang a pirate from his yardarm

³⁴ Ibid., p. 6.

³⁵ Ibid., p. 19.

without trial. State power over piracy depended on the coordinated performance of the meaning of this social category across the territory of a global empire, and consistently over time. It was through the effects of a system of coordinated, colligated performances that English state agents in the 18th century succeeded in ending legal ambiguity and defining piracy as a real and consequential object of coercive power. The details of the piracy case exemplify this point through the gap between the passage of the 1700 act resolving the dilemmas of code and interpretive institutions that bedeviled the 1670–1700 period and the beginning of the war against the pirates in 1617. Though the other elements of the cultural infrastructure ultimately decisive in the war against piracy were in place in 1700—as the quick and brutal trial of *Quelch* proclaimed—the opportunity to perform those new cultural arrangements against pirates suddenly disappeared for geopolitical reasons, curtailing the chance for state agents to create a system of coordinated, colligated performances. Beginning in 1701, the War of Spanish Succession engulfed the maritime empires of the European powers. The demand for privateers by all parties to the war suddenly spiked, and state-sanctioned maritime predation became endemic during the war. Through its own unique semiotic intervention, by encouraging the widespread issuance of licenses to plunder enemy shipping, the war itself effectively brought piracy to a temporary end. Following the Peace of Utrecht in 1713, piracy slowly emerged again as state agents began to decommission a generation of seamen with extensive experience of maritime combat.

This new round of piracy, though, from the perspective of English imperial state agents, was different, and it was different largely because of the new interpretive powers they had at their disposal. The war against the pirates consisted of the brutal demonstration of the new powers of representation that existed in the British empire. Drawing on the new legal codes and interpretive institutions created in 1700, British state agents collectively asserted new powers to define what counted as piracy and to decisively and immediately follow that definition through to its codified conclusion in a hanging. And hang they did. A new type of performance flourished, and throughout the empire pirates were hanged in bloody spectacles. Hundreds died in this coordinated display of state meaning from Boston to Cape Coast to London, and piracy as a widespread social phenomenon withered and disappeared as the coercive threat against it became clear in the 1720s. The war temporarily delayed the creation of new powers against piracy because the social changes these powers wrought were dependent on the concrete, dramatic, and publicized performance of the new power of state agents to objectify piracy, to punish actions so defined, and to do so in a consistent and coordinated way throughout the empire. The proliferation of piracy after the war provided the stage on which state agents could perform the new coercive powers against piracy created by the resolution of

the contradictions of code and institution achieved in 1700. To their main audience—seafaring men who might be tempted to turn pirate—the point of these spectacular performances was clear—violence at sea was the domain of the state.

CONCLUSION

The question that this article has examined is how state agents gained the capacity to support such a message and why it took the form that it did. I have proposed that the kinds of interpretive questions that the piracy case posed to contemporaries are a paradigmatic problem of state power that has been undertheorized. A state, in one sense, is a network of actors connected by their orientation to a more or less common system of meaning, revealed through more or less coherently organized patterns of action through which the identities and relations of state meaning structures are enacted in the world, and thus become real. The performed reality of the state as a part of the environment of action facing both those affiliated with the state and those who are not in turn reinforces the power of state meanings to organize action.

The establishment of a monopoly over maritime violence in the British empire depended in part on the production of coercive power against piracy. Such power, in turn, depended on the ability of state agents to engage in an extended, coordinated pattern of performances that construed piracy as a distinctive social object, defined by violent state repression. The production of such patterns of structured action was neither automatic nor simple, nor should it be taken for granted as froth on the wave of more central aspects of state formation.

The complexity and particularity of the transformation of the cultural infrastructure of the English/British imperial state involving piracy suggests a high degree of analytical autonomy for this aspect of state making. While the analytic autonomy of cultural infrastructures in other cases of state formation is an empirical question, my findings suggest that this is a fruitful avenue of inquiry into state-formation processes. Particularly given the importance of conjunctural explanations in the analysis of complex political outcomes (Adams 2007, p. 9), it invites some doubt to handle cultural infrastructures, and coordination problems generally, as either outside the scope of inquiry or epiphenomenal to the real dynamics of political change. Certainly in the case of piracy to do so would be to miss a major driver of historical change. It is at the conjuncture of a fundamental transformation of the political-economic model of the English empire and the analytically autonomous process of transforming the cultural infrastructures from which the colligated structure of coordinated performances of the new, coercively regulated, meaning of piracy were constructed that we

need to locate the bloody history of the war against the pirates. Once British state agents could efficiently classify pirates, and once they began using that interpretive power to perpetrate a sustained, coordinated, global blood letting, the word quickly got out. Piracy now meant something.

Coordination is one of the great powers of the state. By orienting people and actions toward a common set of meanings, state agents have repeatedly shown their capacity to make those meanings real as a matter of concrete fact and of conventional social knowledge. The question I have sought to introduce here is how the structured, contested, dynamic, and performed character of these coordinating state meanings might influence the patterns of power in which they are implicated.

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