TIDES OF LAW

MARITIME PREDATION AND INTERNATIONAL LAW IN THE SOUTH CHINA SEA, 1840-1950

A DISSERTATION SUBMITTED TO THE GRADUATE DIVISION OF THE UNIVERSITY OF HAWAIʻI AT MĀNOA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

IN

HISTORY

May 2024

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Acknowledgments

I could not have completed this dissertation without the support, encouragement, and assistance provided by so many, both at the University of Hawaii and beyond. First and foremost are the members of my committee who have provided me with guidance and feedback throughout the process of conceptualizing, creating, and finalizing this dissertation. My chairperson, Dr. Wensheng Wang, has truly pushed me to make this dissertation the best version of itself it could possibly be, and provided thorough and insightful feedback and advice to help me reach that goal. Dr. Fabio López Lázaro showed me numerous interesting new directions with which I could take my research to explore my dissertation topic more completely, as well as an impressive selection of sources for me to examine and utilize when adding these new directions to my work. Dr. Shana Brown was always available to answer questions I had, whether about the research of my dissertation or how to navigate procedures and regulations of the graduate program, and a good source of encouragement and help when I reached difficult points in my work. Dr. Leonard Andaya provided much of the underlying approach and the methodology of the maritime perspective that guided my research whenever I risked getting lost in the details and needed to find a new direction. Dr. Cathryn Clayton has provided an invaluable outside perspective to the project and its final product.

I would also like to thank the other members of the UH Manoa History Department for all their advice and support in guiding me through the process of creating this dissertation. In particular, I wish to recognize Dr. Suzanna Reiss, Dr. Kieko Matteson, Dr. Mathew Lauzon, Qian Kanemori, Spencer Oshita, Julie Motooka, and Susan Carlson for their readiness to answer my many questions, ensure I filled out necessary paperwork correctly and on time, alert me to important opportunities along my academic journey, and otherwise go above and beyond to

support me throughout my time here. Additionally, I would like to acknowledge how much all the teachers I have worked with during my time at the University of Hawai‘i at Mānoa have helped me learn and grow, including Dr. Peter Hoffenberg, Dr. Edward Davis, Dr. Harrison Kim, Dr. David Chappell, Dr. Ned Bertz, and Dr. Margot Henriksen. It has also been my honor and privilege to have been part of the University of Hawaii's chapter of Phi Alpha Theta History's Honor Society, whose members have not only provided me with encouragement and resources to help me finish my dissertation and grow as a historian, but also provided me with memories and friendships to last a lifetime. I also could not have reached the University of Hawai‘i at Mānoa if not for the education and support I received throughout my academic career, and I would particularly like to thank Dr. Guotong Li at California State University, Long Beach who introduced me to the topic I would use as the starting point of my dissertation, and who has provided me with advice and assistance long after I had graduated from CSULB and started my studies at the University of Hawai‘i at Mānoa.

Finally, I would like to express a fraction of my unending gratitude to my family, who have been by my side every step of the way, believing in me and going to great lengths to give me everything I needed to complete this journey. I would especially like to thank my father for sparking my interest in history, my brother for always being a friend, and my mother and sister for their moral support and long hours ensuring that my paper was readable. I love you all so much.

Abstract

During the 1850s, delegates from numerous states met in Paris and formed an agreement that would prohibit the sponsorship of privateers in warfare. On the other side of the world during the same decade, the South China Seas saw an explosion of private maritime raiding which resulted in the Qing and British Empires working to stamp out those they agreed were pirates despite the animosity and conflicts that existed between them. Both events were part of a broader reshaping of the world to one of states with strong borders connected and strengthened by an emergent system of international law and order, a reshaping that turned special attention to the sea, traditionally lawless and borderless, where pirates, privateers, and other maritime predators thrived in the political and legal ambiguity that existed in the differences between different cultures' views of the sea, which this new order sought to erase. This dissertation examines the relationship between maritime predators and both international and maritime law in the context of the South China Seas in the late nineteenth and early twentieth centuries, and demonstrates that maritime predators were active and important players in the events that would help shape the emerging legal systems.

The first two chapters provide the context necessary to handle such a complex and opaque relationship. Specifically, the first chapter explains the historical methodology and historiography which this dissertation fits into, while the second chapter examines the historical context of the evolution of global maritime predation over time. The third chapter then moves on to investigate the development of maritime and international law in this period, especially as it relates to maritime predation, including the readings of key treaties and more general trends in anti-maritime predation activities by various powers, especially the Qing Dynasty and the British Empire. The fourth chapter demonstrates the ways various forms of media, from newspapers to

paintings, influenced both the public perception of maritime predators and, through public opinion, the formation and execution of laws concerning those maritime predators. The fifth chapter provides a chronological overview of developments concerning maritime predation and law in the region, highlighting the various ways they influenced each other. The sixth and final chapter reviews the insights gleaned from the dissertation's examination of these topics, and what future research remains to be done.

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Tides of Law

Chapter 1: Introduction

Setup and Key Questions

The term "pirate" carries with it a strong and clear mental image, that of lawless men and women flashing swords and muskets, marauding the Caribbean indiscriminately, plundering the wealth of all in their path. This was a mental image shaped not just by popular fiction, but also by early historical accounts, particularly the seminal *General History of the Pyrates* by Captain Charles Johnson, thought to be a pseudonym used by Daniel Defoe.[1] In particular, many early histories on the subject of maritime predation accepted and repeated a clear distinction between pirates and privateers, with the latter having national loyalties and legal backing that the former did not.[2] More recent scholarship, however, has challenged this viewpoint and revealed that the truth is instead complicated and nuanced, with the lines between pirate, privateer, and navy being far more blurry and unclear than previously thought, hence the rise of the term "maritime predator" which can encompass all of these groups and many more multifaceted maritime marauders. This is particularly true as the study of maritime predation has increasingly moved from its original narrow focus on the Caribbean during the "Golden Age of Piracy" between 1716 and 1726, to the examination of numerous other times and places in order to understand the unique social, economic, and political frameworks that have defined and driven maritime predation in various historical contexts.[3]

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[1] Daniel Defoe, *A General History of the Pyrates*, ed. Manuel Schonhorn, (Mineola: Dover Publications, 1972), Xxii-xxiii.

[2] David J. Starkey, "The Origins and Regulation of Eighteenth-Century British Privateering," in C.R. Pennell, *Bandits At Sea: A Pirates Reader*, (New York: New York University Press, 2001), 69.

[3] Kris Lane and Arne Bialuschewski, "Introduction" and "The Golden Age of Piracy" in Kris Lane and Arne Bialuschewski, eds., *Piracy in the Early Modern Era: An Anthology of Sources*, (Cambridge: Hackett Publishing Company, 2019), Xxiii, 133.

One historical area of study that has proven especially fruitful in the examination of maritime predation has been that of the South China Sea, an area where maritime predation reached unmatched heights of scale and sophistication during the nineteenth century. Works on this topic have revealed fascinating insights about how and why people become maritime predators, the kind of support networks maritime predators need to operate, how and why governments and other groups such as newspapers or merchant companies constructed the activities of certain groups as piracy, and how non-state actors came to rival states in military power, among many other topics. However, most of that scholarship ends around 1810, with the fall of the Guangdong Confederation, the last of the great waves of East Asian maritime predation; comparatively little has been written on the topic of maritime predation in the region during the late nineteenth and early twentieth centuries, beyond its mere existence and some of the efforts taken to end it. While the heights of maritime predation in both the Atlantic and Pacific had passed their zenith in scale, this last century of maritime predation in the South China Sea is notable for managing to persist and even thrive in the very center of one of the largest trade centers in the world despite rapidly changing technology, political and social situations, and the concerted efforts of empires both local and distant to stamp it out.

This is a period that has been well studied and endlessly discussed as a turning point on several fronts other than maritime predation. In the history of what is now China, this was a time when the pressures of Western imperialist powers undermined the Chinese imperial system that had stood for millennia, and saw radical change on every level of government and society. In terms of international and maritime law, this period witnessed a growing international community undertake ever more ambitious attempts to regulate violence at sea so that it would all be at the hands of mutually recognized states. Moreover, maritime predation provides an

interesting perspective on international law because maritime predators are in many ways people who live outside of and between nation-states, who are subject to international laws but have no say in their creation, used as a symbolic archetype of what it means to be criminal in the realm of international law. It was a time of sweeping technological changes, from the telegraph which brought even small events swiftly to the international stage, to new steam powered warships that radically changed the balance of power between states, to say nothing of how they overpowered non-state groups. At the heart of so many of these changes and conflicts were the maritime predators of the South China Sea. The maritime predators of this period may not have been the roaring infernos that their predecessors were, but they were sparks on a powder keg of countless preexisting debates and tensions.

While maritime predators are not the only cause of such events, or even a primary cause, as other factors are well documented by abundant scholarship, it should be noted that the role maritime predation played in some of the largest changes of the late nineteenth and early twentieth centuries is often underappreciated and overlooked. After all, it was an accusation of piracy aimed at crewmembers of the anti-pirate escort ship *Arrow* that sparked a debate over jurisdiction in maritime law that in turn brought long simmering tensions to boil in the Second Opium War. The results of this conflict expanded and solidified the unequal treaty system and Qing reputation of weakness from the First Opium War.[4] It was a series of hijackings by maritime predators that prompted some in Europe and the United States to call for the division of the Qing territory among foreign powers. The Taiping Kingdom's ties with maritime predators was a contributing factor to many foreign states' decisions to support the Qing in their war with

[4] The Opium Wars were a pair of conflicts (1st: 1839–1842, 2nd: 1856–1860) between the Qing and British Empires over a number of issues, many of which were related to differing concepts of international law and the rights of states. Other European states and the United States of America, while having little to no role in the direct fighting, would take the opportunity to negotiate treaties in their favor while the Qing were in no position to refuse.

the Taiping.[5] Meanwhile, the Qing's own attempts to deal with the issue of maritime predation, as well as otherwise assert its rights under its understanding of maritime law, played a key part in its assertation of its sovereignty on a global stage, both through cooperation with and confrontation of foreign powers on the issue of maritime law enforcement.

By examining these and other events, both major and minor, with a perspective that emphasizes connections across conventional territorial boundaries and the legal and diplomatic aspects of maritime predation history to complement existing work on its political and social aspects, this dissertation will help bridge those gaps and shed light on a potentially fruitful field of study. It also aims to further integrate the Qing Empire into world history by analyzing its contributions to the Euro-centric construction of international law. Moreover, by studying the maritime predators of the regions and the attempts by both local and foreign governments to suppress them, it will demonstrate how Western imperialism used the selective imposition of its legal standards to undermine existing legal structures and, in turn, how the Qing and Republican Chinese government adapted and repurposed those same legal standards as a defense, thus contributing to international law and creating new points of connection that integrated China into larger world systems. At the same time, this dissertation will try to expand upon the China-centric approach to Qing and Republican Chinese history that has been dominant in the past four decades by highlighting the importance of international relations and the challenge of foreign powers in influencing keys aspects of the development of both Chinese states. Finally, this dissertation highlights how quickly and forcefully ideas of what constitutes legitimate violence in

[5] The Taiping Rebellion was conflict in southern China involving a local Christian sect attempting to create a theocratic state and growing to include a broad coalition of anti-Qing forces; it resulted in over 20 million deaths, rivaling the first world war in the number of casualties produced.

the maritime arena can change, and the consequences that can have for states and non-state actors alike.

Spatial and Temporal Contexts

While this dissertation is a work of world history that emphasizes connections and processes that go beyond traditional national and regional boundaries, it does focus on the South China Sea as a locus for different groups to interact via trade, diplomacy, legal disputes and judgments, predation, the exchange of ideas and information, and conflicts both large and small. The South China Sea is a region of water that is bordered in the north by the coast of Southern China, in the east by Taiwan and the Philippines, in the west by the Indochinese Peninsula, and in the south by the islands of Borneo and Sumatra.[6] It is has been one of the largest centers for global maritime trade for centuries, and remains so to the modern day; with such wealth regularly flowing through the region, it is no surprise that it has regularly attracted maritime predators, state competition and negotiation, and served as a site of immense cultural and informational exchange.[7] In addition to its global connections, it was a world unto itself, similar to the Mediterranean in ancient times, with networks of migration, trade, and cultural exchange tying the inhabitants of its coasts and islands arguably closer to each other than they were to the heartlands they nominally swore allegiance to; a world almost invisible to traditional state based histories, but readily apparent to those taking a maritime approach.[8] While the South China Sea is a large area home to many cultures, it does have a unifying aspect in the form of common

[6] Sam Bateman, "Confronting Maritime Crime in Southeast Asian Waters: Reexamining "Piracy" in the Twenty-First Century," in Bruce A. Elleman, Andrew Forbes, David Rosenberg, and Naval War College, *Piracy and Maritime Crime: Historical and Modern Case Studies. Newport Paper*; *No. 35*, (Newport, R.I.: Naval War College Press, 2010), 137-138, 144.
[7] Ibid.
[8] Francois Gipouloux, *The Asian Mediterranean: Port Cities and Trading Networks in China, Japan, and Southeast Asia, 13th-21st Century*, (Cheltenham: Edward Elgar Publishing, 2011), 59.

ecological, geographical, and hydrographical features. In particular, the South China Sea is known for its many bays, coves, channels, inlets, and small islands which provided maritime predators numerous hiding spots from which to attack and disappear into when states attempted to hunt them down.[9] The most important of these areas was the Pearl River Estuary, full of countless islands such as "Coloane (Guoluhuan) and Taipa (Tanzai) on the eastern bank and Montanha (Greater Hengqin), Dom João (Lesser Hengqin), and Lappa (Duimianshan) on the western bank," which gave maritime predators, smugglers, and other dissidents easy access to the extremely busy trade routes both oceanic and riverine, while being difficult to police due to their sheer number and widely spread out populace.[10] This was further complicated when Europeans arrived in the region and created areas of ambiguous sovereignty for maritime criminals to hide in.[11] The earliest records of maritime predation around the region goes back to the Yuan Dynasty (1271–1368), specifically the records concerning Huang Yi the maritime predator boss of Montanha and Dom João islands, but likely going back many centuries before that, and continued until the mid-twentieth century.[12] Other regions and locations are brought in where relevant, such as the East China Sea and the Sea of Japan,[13] which played host to many of the same maritime predator groups and government forces involved in the South China Sea, even if many of the key events occurred further south.[14]

[9] Antony, *Like Froth Floating on the Sea*, 7, 9, 123.
[10] Antony, "We are Not Pirates," 256-257.
[11] Ibid 257.
[12] Ibid 258.
[13] It is worth noting that the name is disputed for historical and political reasons, with East Sea and Korean East Sea supported by the South and North Korean governments respectively, though as the Sea of Japan is the more commonly used and known term, it is the one used here. John Rennie Short and Leah Dubots, "Contesting Place Names: The East Sea/Sea of Japan naming issue," *Geographical Review* 112, no. 2 (2022): 191-192, 196, 202-203.
[14] Tonio Andrade and Xing Hang, "Introduction: The East Asian Maritime Realm in Global History, 1500-1700," in Tonio Andrade and Xing Hang, *Sea Rovers, Silver, and Samurai: Maritime East Asia in Global History, 1550–1700 (Perspectives on the Global Past)*, (Honolulu: University of Hawaii Press, 2016): 7-8.

While much of this dissertation describes events along the southern coast of modern-day China or nearby islands, it is worth noting the importance of maritime Southeast Asia. Official definitions aside, it is not easy to clearly define where East Asia ends and Southeast Asia begins, especially along the coasts where a maze of inlets, harbors, and small islands can be home to all manner of communities whose networks of connections defy boundaries and categorizations. Charles Wheeler draws attention to a maritime trading corridor that connected littoral communities along the coasts of Vietnam and southeastern China, as well as those on the banks of the Mekong delta, connections that are clear from a sea perspective but obscured in a terrestrial one where the many mountains and dense forests seem to isolate those communities.[15] Li Tana expands the idea into a maritime trade zone that includes the Malay Peninsula and Gulf of Siam as well, a region of "mixed ethnicities and fluid settlements" based around water and knit together by iterant, small-scale merchants and alliances between port settlements.[16] It was particularly noticeable that the rice trade in the region, while seemingly non-existent on paper due to various bans on the product, under closer investigation turned out to be massive, yet it was conducted almost entirely by "smugglers" who operated so openly that the rice bans were clearly more nominal than factual.[17] Martin Lewis similarly describes the existence of "ocean arcs" which are divisions of bodies of water based around port cities and the connections that lay between them, particularly those that wrapped around coastlines, rather than looking at seas as empty basins separated by landmasses.[18]

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[15] Charles Wheeler, "Re-Thinking the Sea in Vietnamese History: Littoral Society in the Integration of Thuận-Quảng, Seventeenth-Eighteenth Centuries," *Journal of Southeast Asian Studies* 37, no. 1 (2006): 124-125, 152-153.
[16] Li Tana, "The Eighteenth-Century Mekong Delta and its World of Water Frontier," in Nhung Tuyet Tran and Anthony Reid. *Việt Nam: Borderless Histories*, (1st ed. Madison: University of Wisconsin Press, 2006): 147-148, 152, 159-160.
[17] Ibid 155-156, 158-159.
[18] Martin W. Lewis, "Dividing the Ocean Sea," *Geographical Review* 89, no. 2 (1999): 188-189, 203-204, 210-211.

Maritime predators readily crossed back and forth between different regions in the South China Sea, whether following the trade they preyed upon, recruiting from diasporic and local communities alike, or going to wherever the local political conditions were most conducive to their craft at any given moment. At least as early as the 1400s, there were powerful maritime predator leaders who set themselves up as lords in Southeast Asian islands, such as Chen Zuyi and Lin Feng.[19] During the Tay Son Rebellion (1771-1802), a complex conflict in which the ruling elite of what is now Vietnam was temporarily overthrown by a rebellion led by the Tay Son brothers, thousands of maritime predators fled Qing persecution into the service of the Tay Son, and when that rebel dynasty fell, they returned north, refreshed and more organized than ever, founding the Guangdong Confederation.[20] Similarly, in the wake of the First Opium War and subsequent British naval operations, maritime predators shifted their operations to Southeast Asian waters, for instance around Vietnam and the Malay Archipelago, while frequently returning to Hong Kong to refit, sell loot, buy weapons, and recruit new members.[21] Nor was the Southeast Asian connection solely important to the maritime predators. The Qing state and the maritime community of its southern coast had deep economic, social, and political connections to the region which influenced their policies and worldviews during this period.[22] Meanwhile,

[19] Tansen Sen, "The impact of Zheng He's expeditions on Indian Ocean interactions," *Bulletin of the School of Oriental and African Studies* 79, no. 3 (2016): 613; Robert J. Antony, *Pirates in the Age of Sail*, (New York: W.W. Norton and Company, 2007), 48.

[20] Ronald C. Po, *The Blue Frontier: Maritime Vision and Power in the Qing Empire*, (Cambridge: Cambridge University Press, 2018), 80; Antony, *Like Froth Floating on the Sea*, 42-43; Dian Murray, "Living and Working Conditions in Chinese Pirate Communities, 1750-1850," in Starkey et al. *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, (Exeter: Exeter University Press 1997), 58.

[21] Nathan Kwan," 'Putting down a common enemy': Piracy and occasional interstate power in South China during the mid-nineteenth century," *International Journal of Maritime History* 32, no. 3 (2020): 704-705; James Warren, *Pirates, Prostitutes, and Pullers: Explorations in the Ethno- and Social History of Southeast Asia*, (Crawley: UWA Press, 2008) 310-311, 314.

[22] Wang Gungwu, "Merchants without Empire: the Hokkien Sojourning Communities," in James D. Tracy *The Rise of Merchant Empire: Long Distance Trade in the Early Modern World, 1350-1750*, (New York: Cambridge University Press, 1990), 409, 411.

European powers operating in the region had conflated maritime warfare there with private maritime predation, which provided justification for adopting a more aggressive and interventionist stance on anti-maritime predator operations, with an increasingly broad definition of "pirate" worthy of attack, including whole settlements merely suspected of supporting maritime predators.[23]

The primary chronological framework of this dissertation is the latter half of the nineteenth century and the earlier half of the twentieth century, specifically between 1840 and 1950. 1840 was selected as the beginning point because the 1840s and 50s contained many watershed moments for the development of international law, maritime law, and Qing history, particularly the multiple conflicts that would result in the Qing engaging more with the Eurocentric construction of international law than it ever had before. These two decades contained the First and Second Opium Wars and subsequent unequal treaties, the first part of the Taiping Rebellion, the ceding of Hong Kong to the British, which both became a maritime predator nest and base for anti-predation operations, the ban of privateering via the Paris Declaration Respecting Maritime Law, and the rise and fall of the notable maritime predators Shap-ng-tsai and Chui-Apoo; events which might seem unrelated at first glance yet are connected by far more than their time frame. 1952 serves as the end point since it is the last notable recorded incident of maritime predation for nearly fifty years; after the Second World War maritime predation drops off considerably, being almost entirely absent along the coast of China until the late 1990s.[24] Similarly, the People's Republic of China and exiled Republic of China in Taiwan had different relationships with an international community divided by the Cold

[23] Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850*, (Cambridge: Harvard University Press, 2016), 144-145.
[24] A. D. Blue, "Piracy on the Coast of China," *Journal of the Hong Kong Branch of the Royal Asiatic Society* Vol. 5 (1965), 85; Antony, *Pirates in the Age of Sail*, 58.

War than the Qing or early Republic did in a world of many actively expansionist empires with shifting alliances and interests.[25]

This period roughly corresponds to the "Century of Humiliation" between 1839 and 1949. This dissertation covers many of the same diplomatic and legal issues that are commonly examined when discussing the Century of Humiliation, with the adjustment coming from its specifically maritime perspective.[26] Such issues include the opening of port cities to foreign influence, the outright takeover of some islands and coastal territories by said foreign powers, the institution of extraterritoriality (the exemption of citizens of those powers and their allies from local law enforcement), the creation of treaties that justified all of the above – giving the Qing and their successors many legal responsibilities with few legal rights, and the political maneuvering needed to get new treaties that undid these things.[27] At the center of all of these issues was the sea; maritime trade most of all, but also military access to waters to protect trade, legal jurisdiction over maritime crime and accidents, the movement of the place of diplomacy from the coast to China's inland capital, and what general rights and responsibilities were granted by maritime sovereignty.

Of course, no historical event or period exists completely in isolation, as all are affected by historical processes that began before them, and all have effects that ripple forward into time. As such, this dissertation brings in earlier and later events when appropriate to study the root causes of focal events, their aftereffects, or simply to make comparisons to show what is unique about the time in question. For instance, Qing maritime governance and defense strategies are

[25] Blue, "Piracy on the China Coast," 84-85.
[26] Alison Adcock Kaufman, "The "century of humiliation," then and now: Chinese perceptions of the international order., *Pacific Focus* 25, no. 1 (2010): 4-5, 22.
[27] Kaufman, "The "century of humiliation," then and now," 6-7, 26; John Fitzgerald, *Cadre Country*, (United States: University of New South Wales Press, 2022), 137-138, 140-141, 145-146.

best understood in the context of the South China Sea's long history of great waves of maritime predation that threatened state control of land as well as sea, the last of which occurred a few decades before the era under review, followed by periods of smaller scale maritime predation that were the concern of local governors and garrison commanders rather than the central government.[28] Similarly, foreign pressure on the Qing to deal with maritime predation or allow others to deal with it is best understood in the context of the evolution of European ideas concerning the mutual rights and responsibilities of sovereign states, as well those concerning just warfare in a maritime context and the delegitimization of non-state violence, both in general and specifically in the form of maritime predation.[29]

Methodology

This dissertation takes a world history approach, which means it tries to look beyond the boundaries of modern nation-states to examine historical processes that wove through multiple regions and cultures, and the peoples who crossed state boundaries and existed in ambiguous liminal spaces where no one state had complete control, if any state had any control at all.[30] Additionally, two basic analytical models of world history are the comparative approach, which examines various historical contexts to understand the differences and similarities between them as well as the underlying reasons, and the interactive approach, which emphasizes groups of people are mutually influenced by their interactions with each other in complex webs of economic, cultural, and political exchange; this dissertation uses a balance of both wherever

[28] Jonathan Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," *The International History Review* 40, no. 3 (2018): 476-477.
[29] Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State Building and Extraterritorial Violence in Early Modern Europe*, (Princeton, Princeton University Press), 114-115.
[30] Matthias Middell and Katja Naumann, "Global History and the Spatial Turn: From the Impact of Area Studies to the Study of Critical Junctures of Globalization," *Journal of Global History* 5 (2010), 50-51, 67-68.

appropriate, as it is the complex interplay of multiple systems with numerous similarities and differences that makes this topic a compelling field of historical research.[31]

No discussion of world history would be complete without mentioning the work of Immanuel Wallerstein. His world-systems model examines various areas of intense social, political, and economic interaction, with transnational division of labor defining participating groups as either core groups, powerful and influential actors who focus on skilled labor and finished products; peripheral groups, which provide cheap labor and raw material often more for the benefit of the core than themselves; and finally semi-peripheral groups, possessing qualities of both core and periphery areas, linking both together and playing a mediating role.[32] It is worth noting that "world-systems" here refers to systems that are a world in and of themselves, rather than systems that cover the entire world.[33] While there have been numerous discussions over how applicable the world systems model really is outside of the original European capitalist world system it was meant to explain, similar to other aspects and approaches to world history which has only slowly and painfully grown out of its roots in the "western civilization" area of studies, modified versions of it are often used by historians to analyze the connective systems of diverse regions, as can be seen with an India based model of world history put forth by Dipesh Chakrabarty and expanded upon by historians such as Vinay Lal and Carola Dietze.[34] Jerry Bentley was another major figure in the shaping of the field of world history, advocating for its

[31] Barbara Weinstein, "The World is Your Archive? The Challenges of World History" in Douglas Northrop, *A Companion to World History*, (Chichester: Wiley-Blackwell, 2012), 6-7, 11.
[32] Immanuel Wallerstein, *World Systems Analysis: An Introduction*, (London: Duke University Press, 2004), 1.
[33] Immanuel Wallerstein, "The Itinerary of World-Systems Analysis, or How to Resist Becoming a Theory," in Immanuel Wallerstien, *The Uncertainties of Knowledge*, (Philadelphia: Temple University Press, 2004), 88-89.
[34] Vinay Lal, "Provincializing the West: World History from the Perspective of Indian History," in Benedikt Stuchtey and Eckhardt Fuchs, *Writing World History, 1800-2000*, (London: Oxford University Press, 2003), 274-275, 288-289; Carola Dietze, "Toward a History on Equal Terms: A Discussion of Provincializing Europe," *History and Theory* 47 (2008): 69-70, 83-84.

utility as a historical field and examining how its approach could be applied to many spatial and temporal contexts. Most relevant for this dissertation, was his argument that "Sea and ocean basins show considerable promise as frameworks for the analysis of some historical processes;" while their boundaries were too fluid and shifting to be of use as absolute categories of historical analysis, they nevertheless are "especially useful for bringing focus to processes of commercial, biological, and cultural exchange, which have profoundly influenced the development of both individual societies and the world as a whole."[35]

Additionally, this dissertation is a work of maritime history, and as such emphasizes the importance of maritime spaces not simply as obstacles to overcome or empty spaces to cross, but as regions of historical study in their own right, with their own cultural, economic, and political dynamics that could tie those that made their living on the seas or along the shores closer together than they were to the heartlands of terrestrial states to which they might nominally belong.[36] While more traditional terrestrial focused history might see large bodies of water as barriers to trade and travel that limited contact between cultures on either side of them, the maritime history approach can be summarized with a statement translated by Craig Lockard as "The water unites and the land divides."[37] It is important to distinguish maritime history from oceanic history, as oceanic history takes a more holistic view and examines the entire ocean as a single unit rather than dividing it up into maritime zones, and takes into account what happens beneath the waves as well as on top of them, bringing in aspects of environmental history.[38]

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[35] Jerry H. Bentley, "Sea and Ocean Basins as Frameworks of Historical Analysis," *Geographical Review* 89, no. 2 (1999), 215-216, 222.
[36] Gipouloux, *The Asian Mediterranean*, 59.
[37] Craig Lockard, "The Sea Common to All: Maritime Frontiers, Port Cities, and Chinese Traders in the Southeast Asian Age of Commerce, ca. 1400-1750," *Journal of World History 21* (2010): 219.
[38] Dilip M. Menon "Oceanic Histories: From the Terrestrial to the Maritime," In Dilip M. Menon, Nishat Zaidi, Simi Malhotra, and Saarah Jappie, *Ocean As Method*, 1st ed, (United Kingdom: Routledge, 2022): 1-2, 11-12, 14, 20-21.; Saarah Jappie, "Thinking with the Ocean: A Quartet of Conversations," In Dilip M. Menon, Nishat Zaidi, Simi Malhotra, and Saarah Jappie, *Ocean As Method*, 1st ed, (United Kingdom: Routledge, 2022): 33-34.

While such an approach is interesting and useful, it is beyond the reach of this paper and its sources, though future examinations of the topic from more of an oceanic perspective would be illuminating.

One of the major pioneers of the field was Fernand Braudel who studied the maritime systems of the Mediterranean world and the central role they played in the lives of those along the coast and even further inland.[39] While Braudel was of the opinion that the Mediterranean was unusual in this regard, and arguably acted out of regional pride to counter assumptions that the Mediterranean faded from importance after the growth of the Atlantic as a region of trade and colonization, other historians have since applied his model to other maritime spaces, such as the Indian Ocean, Maritime Southeast Asia, or the northern Atlantic Ocean in the early modern era.[40] The South China Sea in particular is sometimes referred to as the "Asian Mediterranean" and the "Maritime Silk Road" due to its importance as a realm of cultural and economic exchange; rather like the relationship between the Mediterranean and its surrounding lands of southern Europe, West Asia, and North Africa; the South China sea was of such importance, both as a physical space and as conceptual one, that it shaped the histories, cultures, and economies of all who bordered it, even if they were often traditionally terrestrial states rather than island or maritime ones.[41] It is also worth noting the contributions of Epile Hau'ofa who demonstrated that even a body of water as large as Oceania could be analyzed from this perspective; previously it had been assumed that the islands of the region were too small and distant from each other to form a coherent system, but Hau'ofa argued that if one viewed the region as "a sea of islands," as the

[39] Gelina Harlaftis, "Maritime history: A new version of the old version and the true history of the sea," *International Journal of Maritime History* 32, no. 2 (2020): 384-385, 388-389.
[40] Bentley, "Sea and Ocean Basins as Frameworks of Historical Analysis," 216-217, 220-221.
[41] Hans-Dieter Evers, *Reframing the South China Sea - Towards a Mediterranean Understanding of Culture and Resources*, 10.13140/RG.2.1.3237.7366, 2013, 8-9, 13, 18.

people of the region did; instead of "islands in a far sea," then the systems of connection become readily apparent.[42] While the islands were home to many cultures with their own languages and customs, Oceania had countless skilled navigators who kept distant islands in sustained contact and maintained systems of economic and cultural exchange, with multilingualism being common and kinship ties existing between the ruling families of the largest islands.[43] Similarly, Charles Wheeler has noted that many historians have approached Vietnam as inherently fragmented because of its many mountains and lack of a central river system, they overlook the unity provided by the coastline, particularly its importance as a realm of social interaction, innovation, and bonding, instead of merely a place of economic importance.[44] What's more, Wheeler points out this maritime corridor of trading and traveling didn't just link the different parts of littoral Vietnam to each other and the highlands via river systems, but into a larger South China Sea world with mixed crews, shared practices, and common interests.[45] It would be impossible to understand the maritime predators of the South China Sea without examining how they were embedded into this large maritime community of friendships and family, much less how the consequences of their actions rippled outwards to profound effect on international maritime law and politics.

In terms of socioeconomics, this dissertation seeks a balanced approach, where society, politics, economics, and culture mutually influence each other at different times in various ways, rather than any one factor determining the others. It also takes an eye towards long-term trends resulting in the evolution of ideas rather than a singular disruptive event being responsible for

[42]Epile Hau'ofa, "Our Sea of Islands," *The Contemporary Pacific: A Journal of Island Affairs* 6, 1 (Spring 1994), 148, 152-153.
[43] Ibid 154-155.
[44] Wheeler, "Re-Thinking the Sea in Vietnamese History," 126-127, 132-133, 139-140.
[45] Ibid 142-143, 146-147, 150-151.

change. In this regard, this dissertation might be considered close to the Annales school of history and its *longue duree* approach, of which Braudel and his work on the Mediterranean belongs, though the Annales approach emphasizes continuities while this dissertation examines change, even if it is change over a longer period.[46]

In terms of the primary sources utilized in this dissertation and how they are analyzed, it is worth noting that in addition to the normal issues of authorial biases and accuracy that come with any primary sources, many of the works I utilize where especially opinionated and manipulative in how they presented the world, since they were designed to lead contemporary audiences to certain conclusions. Furthermore, some of the sources utilized here are outright fictional, and even some of those that are supposed to be first-hand accounts have had their accuracy questioned when their descriptions did not match other historical records of the same period. For instance, Aleko Lilius describes a rather colorful cast of infamous maritime predators, particularly "pirate queen" Lai Choi San, who had few if any references in contemporary newspapers and government documents; furthermore, Lilius himself alternately self-describes as having been from several different countries and was arrested for fraud at least twice.[47] However, for the purposes of this dissertation, the actual accuracy of the accounts is of less importance than why the accounts were written, what audiences they were written for, and what messages they were trying to send those audiences, so this dissertation analyzes them with these questions in mind. For instance, whether Lai Choi San existed or not, she inspired the character known as the "Dragon Lady" in *Terry and the Pirates*, a television, radio, and comic series which ran between 1935-1954, who in turned gave rise to a whole new stereotype of an

[46] Olivia Harris, "Braudel: Historical Time and the Horror of Discontinuity," *History Workshop Journal* 57 (2004): 161-162, 170-171.
[47] Laura Sook Duncombe, *Pirate Women: The Princesses, Prostitutes, and Privateers Who Ruled the Seven Seas*, First edition, (Chicago, Illinois: Chicago Review Press, 2017): 1999, 201-202.

attractive yet dangerous Chinese femme fatale.[48] Deceptions and fiction can have real consequences, and thus it is important to study and analyze inaccurate narratives as well as accurate ones.

Historiography Review

Just as every historical event is influenced by earlier events and processes, so too does this dissertation rely on a foundation established by the work of other scholars. In addition to those authors already mentioned in the methodology section, others who have written on maritime predation or the development of maritime and international law provided a foundation for this dissertation, both in terms of information and in terms of how best to frame and analyze that information. While every text cited in this dissertation provided something valuable to it, a few stand out as having an especially large influence on its direction and shape.

The original formulation of world systems analysis was undoubtedly focused on European history, particularly the industrial era and its intertwined global expansion of economic and political systems. Arguably, something similar can be said for world history as a whole, as it can be argued that only in the wake of imperialism and globalization is there enough global integration to justify making the world a valid area of study. Yet, nearly as soon as these concepts were introduced, historians and other scholars have taken and applied some of their methodologies and insights into other historical contexts, exploring the idea that not only could there be non-European world systems, but that there could be multiple world-systems, even overlapping ones. Om Prakash emphasizes the great age and expansive reach of an Asian centered pre-modern world system in his work, *Asia and the Pre-Modern World Economy,* pushing back against the common notion that multiregional systems of integrated material and

[48] Ibid 202.

cultural exchange were driven exclusively by the expansion of European explorers and empires.[49] In particular, Prakash notes the importance of the silver trade in world history, which he argues is overlooked due to a double standard that emphasized the importance of bullion, such as silver and gold, to Europeans but ignored its importance elsewhere, even though silver drove massive economic expansion in many centers of global trade, such as Ming China, India, and Japan.[50] This in turn led to an increase in production that further fueled pre-modern global trade, including that of Europe and its American colonies.[51] These arguments are similar to those put forth in Andre Gunder Frank's famous and influential work, *Reorient*: *Global Economy in an Asian Age*, with Frank doing more of a direct comparison between different economic systems to understand why some dominated a majority of the world's economy at certain points of time (particularly, why East Asian economic systems declined and created room for a temporary European domination of global economics), whereas Prakash's work places more emphasis on the interactions of smaller, more localized world systems in a pre-capitalist context.[52] Janet L. Abu-Lughod examines similar principles on a larger scale in her work, *Before European Hegemony*, examining the rise and fall of what she described as the first integrated world system from 1250-1350, which she describes not just as a time of great trade, but also as a time of artistic and cultural achievement for much of the world.[53] Furthermore, Abu-Lughod is intrigued by the fact that this occurred without any one state or region having established hegemonic power during this time.[54] In fact, Abu-Lughod focuses her analysis on cities rather than empires

[49] Om Prakash, "Introduction," in Om Prakash, *Asia and the Pre-Modern World Economy*, (Leiden: IIAS, International Institute for Asian Studies, 1995): 5-6.
[50] Ibid 10-12.
[51] Ibid 14.
[52] Andre Gunder Frank, *ReORIENT: Global Economy in an Asian Age*, (Berkley: Global Economy in the Asian Age University of California Press, 1998): 8-9, 151-152, 265-266, 272-273, 340, 349, 352-353.
[53] Janet L. Abu-Lughod, *Before European Hegemony: the World System A.D. 1250-1350*, (Oxford: Oxford University Press, 1989), 3-4.
[54] Ibid 4.

or states, as it was cities that served as the connecting points of the trade networks, with rural areas tied to the system primarily through their ties to nearby cities.[55] Furthermore, she argues that these systems could incorporate multiple states, while at the same time a single state might have multiple separate axes of trade and cultural exchange with other lands; China, for example, was not an unchanging monolith according to Abu-Lughod, but rather developed at least three corridors of socioeconomic exchange: north and south, coast and interior, and along rivers or off their pathways.[56] Abu-Lughod also makes the argument that a major problem with the historical model is the misrepresentation of China as a place where trade has merely been tolerated rather than sought out, interpreting historical texts from the courts of Chinese dynasties too literally.[57] She highlights the importance of considering other perspectives and types of evidence, such as the variety of goods produced specifically for export during the Song Dynasty, including ceramics made with Persian decorations to appeal to the aesthetics of Persian consumers, which demonstrates the importance of long range trade to the Song Dynasty.[58]

Prakash's work provides an important foundation for this dissertation by highlighting the importance of trade in East Asia to economics on a global scale, which in turn influences how and why different states sought to implement maritime law in the region. Additionally, it illuminates the fact that this is not a case of a dynamic European interregional system encountering a static one in the South China Sea, but rather a complex interaction of two or more dynamic interregional systems. This dissertation complements these ideas by exploring how the illegal commerce of smuggling and maritime predation supplemented and interfered with traditional trade and the states that tried to regulate and profit from it. Specifically, it shows that

[55] Ibid 14.
[56] Ibid.
[57] Ibid 317
[58] Ibid 327.

the maritime predators of the South China Sea employed innovative tactics to threaten trade, which made both Qing and European officials, officers, and merchants adapt politically, economically, and legally to ensure the continued profitability of trade. Furthermore, this dissertation applies Abu-Lughod's insights in three primary ways. First, to avoid assuming that there was any invisible and inevitable force of progress driving the Qing and other local states in the South China Sea to adopt European models of international and maritime law, but rather to look for the specific historical events, processes, and structures that led to adopting or rejecting aspects of those legal systems, as well as how European models were influenced in turn by their interactions with others in the region. Second, to stress the agency of Qing China by acknowledging the desire of its officials and merchants to trade on their own terms, rather than treating trade as something forced upon them. Finally, to acknowledge the importance of cities such as Hong Kong and Shanghai as points of contact and change, driven by their own needs and ambitions as well as those of the larger states they were attached to.

These insights into the possibilities of other world systems have in turn raised queries about what is sometimes thought of as the big question of world history: why did Europe and its colonies rise to prominence in the nineteenth and twentieth centuries over more well-established powers such as the Qing, Ottoman, and Mughal empires? Namely, "was this rise as inevitable as commonly thought?" and "is this even the right question to ask?" For instance, the essential thesis of Abu-Lughod's *Before European Hegemony* is that there was no inherent historical necessity that shifted the system to favor the West rather than the East, nor was there any inherent historical necessity that would have prevented the East from becoming the progenitors of a modern world-system.[59] Xing Hang similarly argues that the success of the Zheng family, a

[59] Abu-Lughod, *Before European Hegemony* 12.

group of well-connected merchants and maritime predators who dominated China's Southern Coast and islands during the late Ming and early Qing dynasties, in both economic and military conflicts with European trade companies, as well as its ability to adapt to the changing international relations and the interregional markets that it existed within, both showed that Europeans were not the sole carriers of economic innovation in the region and that the domination of European style capitalism was not a forgone conclusion.[60] Thus, this dissertation seeks to avoid a narrative of an inevitable victory of a nation-state world-system over the systems of those who live between states, such as maritime predators, as well as the inevitability of the Qing being forced to adopt and be peripheral in a European world-system, and instead look at how and why Qing governments and maritime predators acted as they did in this period, and if they have, in fact, had more success in achieving these goals than is commonly thought of in models of inevitable decline.

Similarly, maritime history is often described as having originated with the study of the Mediterranean, though some like Harry Bernstein argued early on that the Mediterranean was just one of many places where the ocean was conceptualized in specific, cultural ways, and that the Mediterranean could in turn be subdivided further, such as the distinctly Portuguese influenced western Mediterranean during the fifteenth through nineteenth centuries, which would in turn influence Portuguese politics and conceptualizations of the oceans elsewhere.[61] While there have been many debates over its applicability to various other bodies of water at different periods in time, an increasing number of scholars have gone back to examine historical events from a maritime perspective. Francois Gipouloux's *The Asian Mediterranean*, uses the maritime

[60] Xing Hang, *Conflict and Commerce in Maritime East Asia: The Zheng Family and the Shaping of the Modern World, c. 1620–1720,* (Cambridge: Cambridge University Press, 2016), 37, 243-245, 255.
[61] Harry Bernstein, "Portugal and the Western Mediterranean: a suggested survey," *Journal of Mediterranean Studies* vol. 4 (1977): 42-43, 50-51.

model of history described by Braudel to examine the importance of the South China Sea to the people who lived on and around it, specifically how the region formed a maritime corridor that defied and transcend divisions based around the claims of land based polities, incorporating and connecting certain parts of different polities into "its own dynamic based on gradually converging legal systems and business practices."[62] As pointed out by Heather Sutherland, relying too heavily on comparisons with a Mediterranean model carries risks of overlooking key differences, such as how maritime Southeast Asia is not as well defined as the Mediterranean since the latter is surrounded by land in most directions while the former blends into other bodies of water and maritime networks while similarly lacking clear internal divisions, though Sutherland does note that it can be a useful inspiration if one is careful to avoid that trap of relying too much on metaphor and comparison.[63]

Gipouloux places special attention on port cities as the key points of this maritime socioeconomic nexus, and how diasporic merchant enclaves allowed these cities to keep regular contact with each other, when war or other disasters disrupted normal methods of communication. Gipouloux demonstrates this with the example of how the Fujianese community known as the Kumemura in the Ryukyu Islands were central to trade and communication between Ryukyu's governments and other Asian states, except Japan.[64] This is in line with Lewis' discussion of "ocean arcs" where regions of sea were defined by port cities and the trade routes between them, as well as in accord with more recent work, such as *Port Cities: Multicultural Emporiums of Asia* published by Singapore's Asian Civilizations Museum.[65] Craig

[62] Gipouloux, *The Asian Mediterranean*, 1.
[63] Heather Sutherland, "Southeast Asian History and the Mediterranean Analogy," *Journal of Southeast Asian studies (Singapore)* 34, no. 1 (2003): 1-2, 4-5,8, 16-17, 19-20.
[64] Ibid 70, 75-76.
[65] Lewis, "Dividing the Ocean Sea," 203-204; Leonard Andaya and Barbara Andaya, "Divergence, Convergence, Integration Port cities and the dynamics of multiple networks, 1500–1900" in Peter Lee, Gael Newton, Barbara

Lockard similarly notes the strong connections between Southeast Asia and the southern coast of China, which were created by trade networks and diaspora, with a special emphasis on how settlers from the modern-day province of Fujian created culturally and economically powerful enclaves in Melaka, Hoi An, and Ayutthaya to better facilitate trade and communication throughout the Pacific and Indian Oceans.[66] To Lockard the history of Southeast Asia has always been one of maritime trade and travel, and the growth of the Southeast Asian economy, as well as several states in the region during the early 1400s, had only made them more dependent on sea travel for their continued prosperity.[67] Lockard does not portray these maritime connections as purely sources of peace and prosperity; he describes how these diasporic communities could both be victims and perpetrators of violence with the example of how diasporic traders aided in the downfall of the Malaccan Sultanate in 1511 at the hands of the Portuguese in revenge for the Sultan conscripting their ships to fight in Malaccan wars.[68] Overall, however, Lockard's emphasis is more on how these networks connect people rather than spread conflict or division, and how this process can help create whole new identities, such as of the Baba people in Malacca, also known as the Peranakan or Straits Chinese, who have a strong and distinctive mix of native Malay and Ming era Hokkien Chinese clothing, cuisine, and language.[69]

Working forward from Gipouloux's conclusions, this dissertation analyzes maritime predators of the late nineteenth and early twentieth centuries as integral parts of an interconnected maritime world rather than violent anomalies arising solely from a lack of law enforcement. This is in line with the region's long-term history, particularly in insular Southeast

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Watson Andaya, Leonard A. Andaya, and Alan Chong, *Port Cities: Multicultural Emporiums of Asia, 1500-1900*, (Singapore: Asian Civilisations Museum, 2016): 11-12, 15-16, 18-19, 26-27.

[66] Lockard, "The Sea Common to All," 219, 247.

[67] Ibid 226.

[68] Ibid 232.

[69] Ibid.

Asia, which rose to great importance as the volume of maritime trade increased, and which saw the development of overlapping local, regional, and international networks grow to meet needs of substance, ritual, and cultural requirements of various societies.[70] Specifically, maritime predators, who were far more than pirates and included many groups and communities who engaged in predation at different times for different reasons, helped mediate the relationship between land and water, state and society, between foreign and local states, communities, and individuals, which helped make the South China Sea into a space open for negotiation at different levels, both spatial and temporal. This dissertation also investigates the ways the increased European economic and military influence in the region during this period altered or was assimilated into existing dynamics. Lockard's work serves to highlight the power of diasporas in the maritime context, whether in commerce, cultural exchange, or conflict, particularly in how they connected the Southern Chinese Coast with Southeast Asia. This dissertation complements this approach by examining European merchant communities as a similar diaspora that built their own networks of connection and influence throughout the South China Sea and beyond during this period. At the same time, the existing diasporas did not disappear and had further influence through their education in Euro-American political norms and spread their ideas via the growing power of media such as newspapers and editorial journals. This is especially important in the latter, hijacking based era of maritime predation of the region, where the actual scale of the maritime predation was smaller than what came before, but its political and social effects were enhanced because of the way they were reported in the media.

[70] Leonard Andaya, *Leaves of the Same Tree: Trade and Ethnicity if the Straights of Melaka*, (Honolulu: University of Hawaii Press, 2008): 1-2, 4-5, 16-17, 108, 118-119, 143-144.; Andaya and Andaya, "Divergence, Convergence, Integration Port cities and the dynamics of multiple networks," 11-12, 18-19, 23-24.

An increasing amount of focus has been placed on the history of the construction of international law and how much it has changed over time to suit the needs of those that utilized it. Lauren Benton and Lisa Ford's *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* notes the importance of what they, using the terminology of Thomas Maitland, call "middle power," which is the power of mid-level officials, agents and bureaucrats to act as mediators between central power, fringe despotism, and popular will, as they argue that the treaties, laws, and court judgments that so often draw the attention of historians are preceded and shaped by the conversions that occur through the mediums of "untidy commission reports, obscure manuals of colonial administration, and hagiographies of law-minded governors."[71] They also comment that government policy was as much shaped by opinion pieces in newspapers and casual discussions in coffee shops as any number of treaties and essays by legal scholars.[72] According to Benton and Ford, middle power was important in the formation of several legal standards, especially those of international and maritime law, under the system of imperialism via making a number of local decisions that established larger precedents, such as going on anti-predator campaigns beyond the scope of their original missions which would be used to justify similar missions in the future, and by making their own agreements with other states to give themselves authority to act beyond the limits imposed by universalist principles of international law.[73] Additionally, they note that the actual implementation of these laws was done in a haphazard manner contingent on local conditions.[74] As such it is important to consider vertical perspectives of social hierarchy, both Top-Down government perspectives and the Bottom-Up perspective of the populace, as well as horizontal

[71] Benton and Ford, *Rage for Order*, 2-3.
[72] Ibid 1.
[73] Ibid 119, 130-131.
[74] Ibid 118-119.

perspectives of cultural and physical distance between periphery and center, and take into account when and where the horizontal and vertical meet.[75] This in turn leads this dissertation to a third perspective of Inner-Outer, which takes the idea of "middle power" and combines it with Fabio Lopez-Lazaro's concept of transliminal investigations, the study of multiple types of boundary-crossing interconnective phenomena, which emphasizes the multiple layers of "middle ground" that serves to connect those on various extremes of society, such as connecting lowly maritime predators in the borderlands with the decision of kings and emperors at the top of the imagined social pyramid.[76] Pär Kristoffer Cassel's work sought to go beyond the writing and exact text of the unequal treaties between China and the imperial powers, and instead see how laws and institutions functioned on a day-to-day level within the treaty ports and their attached territories, particularly Shanghai with its incredibly complex overlay of different legal systems and jurisdictions, which puzzled even the best legal minds of the day.[77] Cassel highlights how, although the Shanghai Mixed Court was created to resolve the legal disputes created by this system, it ultimately became another realm of negotiation between competing legal systems and interpretations of treaty rights and responsibilities; for instance whether the Mixed Court's foreign assessor was a co-judge who could impact the verdict or simply an observer, as well as if the Mixed Court had jurisdiction whenever "foreign interests" were involved or only foreign persons.[78]

In his work *The Gentle Civilizer of Nations*, Martti Koskenniemi explores the evolution of the idea of international law from 1850 to 1950, demonstrating that it was an incredibly

[75] Fabio Lopez-Lazaro, "Worlding History," in Jeffrey R. Di Leo and Christian Moraru, *The Bloomsbury Handbook of World Theory*, 1st ed. (New York: Bloomsbury Academic & Professional, 2022): 28, 32-33.
[76] Ibid 27-28.
[77] Pär Kristoffer Cassel, *Grounds of Judgment: Extraterritoriality and Imperial Power in Nineteenth-Century China and Japan*, (Oxford: Oxford University Press, 2012), 7, 63.
[78] Ibid 75, 80.

complex process with numerous philosophies and factions arguing over just what the term meant and how it could be expressed in practice. This work also demonstrates that despite the optimistic beliefs of many international lawyers that international law and sovereignty were forces for good, the terms were so lacking in concrete meaning that they could be used by diplomats or politicians to justify any position imaginable; for instance, Belgian lawyers and legal scholars use sovereignty and international law to defend the atrocities of King Leopold's forces in the Congo Free State while criticizing other empires for their abuses, while others used the same legal theories to condemn the Congo Free State, often defending their own empire's actions in the process.[79] Furthermore, he also highlights that nothing could force states and diplomats to listen to international lawyers and their specific interpretations of international law when it was not in the state's interest to do so, and as such there were major gaps between the political theory of international law and the actual practice of diplomacy. For example, *The Gentle Civilizer of Nations* primarily follows a particular group of scholars of international law, The *Institut de droit international*, who hoped that the debates, articles, and conclusions published in their journals would be used as a guide for the formation of international agreements and the settlement of disputes between nations; yet only once in the history of this organization was it ever cited by an official diplomatic document as a reference, namely a minor border dispute between Mexico and the United States in 1878.[80]

While Benton and Ford focus on middle power primarily in the context of the British Empire, it is also valuable to the Qing coast and South China Sea because Qing local officials, judges, and military officers along the coast, while not as distant from their capitals as European

[79] Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960,* (Cambridge: Cambridge University Press, 2002), 121, 169.
[80] Ibid 42, 89.

officials operating overseas, also had a degree of independence to make decisions that could create legal precedent or establish new diplomatic norms. Moreover, given that some of the key figures that Benton and Ford study in Southeast Asia and elsewhere in the Pacific go on to work on the South China Coast, it is a natural continuation of their research to study the influence of such middle power in the legal and diplomatic issues there. Cassel makes it clear that treaties were only the beginning of negotiating international laws and their practice, not the end, which has influenced this dissertation to highlight conflict, cooperation, and negotiation between states involved in maritime predation related issues at the local levels as well as examining the larger treaties, taking Cassel's approach out of Shanghai and onto the sea.[81] This dissertation applies Koskenniemi's insights to the complex intersection of maritime predation and international law in the South China Sea by noting internal debates that drove different interpretations of international law in the period, as well as emphasizing how smaller scale diplomacy between local officials often impacted legal conflicts and their resolutions in the region as much or more than grand legal theories.

While traditionally international law and sovereignty have been treated as a realm of lawyers, officials, and academics, insightful scholars have noted that there is evidence that popular opinion has done a great deal to shape both throughout history, while being influenced by the messages of media in return. In Li Chen's *Chinese Law in Imperial Eyes*, he argues that extraterritoriality was neither natural nor inevitable, and was not even desired by Europeans and other imperialists in China initially, but rather came about because of specific historical circumstances.[82] Li Chen also highlights how popular views of certain incidents, often driven by

[81] Cassel, *Grounds of Judgment*, 7.
[82] Li Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics*, (New York: Columbia University Press, 2016), 20.

sensationalist newspaper reporting and exaggerated or fabricated images in art books that played upon the emotions of their audience, could influence something even as large scale and powerful as the international legal system.[83] For instance, inaccurate foreign media portrayals of legal disputes, particularly murder cases involving foreign suspects, that changed the Western view of Chinese law from one of respect and relative equality to one of denigration over the course of centuries; so tyrannical, arbitrary, and backwards that foreigners must be protected from it at all costs.[84] Li Chen terms this process "sentimental imperialism," wherein Western observers imagined in great detail the suffering of those punished under Chinese law, and their superiority not only to those inflicting the punishments, but also to the Chinese victims of the punishments who were often imagined to be apathetic to their own suffering. This process captured the contradiction between universalism and prejudice at the heart of imperialism; empathy was treated as a universal human trait, yet often the Chinese were described as lacking it, and thus lacking their humanity. While this often was described as the result of growing too accustomed to cruelty to care, over time the lack of empathy was treated as an inherent trait among the Chinese, something that made the Chinese as little more than animals undeserving of law or mercy in Western eyes.[85]

Lydia Liu makes a similar argument in "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations,"[86] stating it was not until the nineteenth century that it was accepted that non-European nations such as China were inherently outside of the family of nations.[87] According to Liu, as far back as Hugo Grotius' *Mare Liberum* (1608), which

[83] Ibid 183-184.
[84] Ibid 20.
[85] Ibid 183-184, 198.
[86] Lydia Liu, "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations," *Diacritics* 29 (1999), 150-177.
[87] Ibid 175.

discussed land rights and sovereignty in the Indian Ocean, or Francisco de Vitoria's description of the Spanish first contact with Native American polities, proto-international law held that even non-Christian, "barbaric" cultures had an intrinsic right to their lands, so other arguments were needed to justify conquests.[88] She attributes this change not just to the shifting balance of power between Asia and Europe, but also the shift from a view of international law arising from natural law to it arising from positivism, which required mutual recognition between states based on certain criteria of nationhood and statehood.[89]

These insights guided this dissertation's examination of newspaper reporting and other media depictions of maritime predation in the South China Sea, both within and outside of Qing and Republican China; not just the facts they provide but the emotions they invoke in their reader, and how those emotions could shape the policies of states when negotiating the boundaries of international and maritime law, rather than treat those legal systems as purely the end result of some automatic teleology of imperial encroachment. Lydia Liu provides an important insight for this dissertation into how there was not a singular static conception of international law and community in either European or Confucian thought, but rather the constant evolution of multiple competing ideas, and thus it is as important to highlight internal debates and disputes as those between states. A comparison can be made to John E. Wills' concept of "interactive emersion" and how it relates to European relations with local groups in the Pacific and Indian oceans; namely the full picture of international relations in the age of imperialism can only be fully understood by taking into account the "internal dynamisms and processes of change" of the societies involved.[90] He further stated that whatever technological

[88] Ibid 172-174.
[89] Ibid 169.
[90] John E. Wills, "Maritime Asia, 1500–1800: The Interactive Emergence of European Domination," *The American Historical Review* 98, no. 1 (1993): 86-87, 104-105.

advantages Europe enjoyed at any particular place and time was less important that the "the organizational cohesion and staying power of their state and corporate organizations, their effective interactions with Asians, their exploitation of Asians' talents and practices."[91] In particular, Willis noted that Qing restrictions on foreign trade represents at least as much weariness of its own coastal population and the possibility of their allying with foreigners against the Qing as it does distaste towards the outsiders themselves, which he then contrasted with how Indian states were more trusting of their coastal population and thus more open to foreign cultural and economic presence.[92] Furthermore, this dissertation also applies this approach to issues of maritime predation and maritime law, to see how they also evolved as a result of internal debates influenced by changing external circumstance.

Another area where longstanding assumptions have increasingly come under challenge is in the relationship between international law, sovereignty, and violence. Control of the monopoly on violence is so foundational to the definition of a state under modern understandings of the term that it is easy to assume that had always been the case; however, Janice Thomson has provided invaluable evidence that this was not so, and that it was not a simple, singular process of state expansion that delegitimatized private violence.[93] Rather, according to her evidence, it was instead a collection of different processes that resulted in specific circumstances in which the formerly privatized and democratized economy of violence instead became a state controlled economy of violence where states would be responsible for preventing or punishing unpermitted private violence by its citizens.[94] Thus, it is important in this dissertation to not simply take for granted that the Qing state and foreign empires automatically want to maintain a monopoly on

[91] Ibid 105.
[92] Ibid 102-103.
[93] Thomson, *Mercenaries, Pirates, and* Sovereigns, 3, 10-11, 17.
[94] Ibid 3, 73.

violence in the region for its own sake, but to understand the specific historical processes that caused them to desire a monopoly of violence in the region. Peter Perdue draws attention to the idea of military culture, and how it can be understood in three ways; strategic culture (the grand strategic preferences decided by the assumptions of the military elites), the internal culture of the military, and wider society's views on coercion.[95] His work also highlights that the interests of merchant groups in an area can heavily influence the attitudes of military units stationed there as much as factors such as terrain and most commonly expected opponent; for instance in the Ming's southeastern frontier, government attempts to control the border by limiting foreign trade clashed with the desires of the merchants there, producing a hostile relationship where merchants and even local officials were known to throw their support behind "pirate uprisings" in the region.[96] In contrast, along the northeastern frontier in the same period, confederations of steppe nomads were both a larger threat and easier to negotiate with because of their unified nature, which meant that military and commercial interests were united in creating a system of trade and fortified defenses that would encourage the nomads to cooperate rather than raid.[97]

Taking Thomson's writings into account, it is important in this dissertation to understand what kind of system or systems of violence existed before the transition to a nation-state monopoly of violence, and what forces contributed to that transition. In particular, while the Qing state generally tried to enforce a monopoly on violence near its shorelines when it was possible to do so, it had traditionally been more flexible the farther the waters were from the shoreline, ignoring deep waters entirely. This changed as maritime predation in or originating from those waters was used as justification for Western powers to deploy its own forces to hunt

[95] Peter C. Perdue, "Coercion and Commerce on Two Chinese Frontiers," in Nicola Di Cosmo *Military Culture in Imperial China*, (Cambridge: Harvard University Press, 2009), 317-318.
[96] Ibid 322-323.
[97] Ibid 326-327.

maritime predators in near waters, disputing both the Qing's monopoly on violence and its legal sovereignty. In essence, the Qing would have to enforce a monopoly of violence on far waters to preserve it in their closer ones. For the purposes of this dissertation, Perdue's insights can be applied to the context of the late nineteenth and early twentieth South China Sea to better understand the evolution of Qing and European attitudes towards maritime defense and predator suppression, and how diplomacy and legal issues could drive that evolution as well as economic and political concerns.

In the study of international law, there has been something of a divergence between Western, largely English-speaking scholars and Chinese language scholarship. For instance, Phil C.W. Chan has argued that while Western scholarship has seen China, whether the PRC (People's Republic of China), ROC (Republic of China), or Qing Dynasty, as isolationist and nationalistic, at best a reluctant participant in the system of international law and at worst directly hostile to it, modern Chinese scholarship has been of the view that the Qing and its successor Republics have at most occasionally flirted with isolationism, but were on the whole active and eager participants in and advocates of international law, particularly in its use to defend sovereignty.[98] Additionally, Chan highlights the importance of understanding the history of international law in order to understand its present form; without that historical context, "past mistakes are revived only to masquerade in different clothing" and the foundation of international law could be eroded and weaponized again.[99] Another particularly noteworthy insight found in recent discussions of international law was how it could be used as a tool or weapon not just by the imperial powers, but by other polities, such as the Qing Dynasty, against imperial intrusion. The Dagu incident,

[98] Phil C.W. Chan, *China, State Sovereignty and International Legal Order*, (Brill Nijhoff Publishers, 2014), 1-2, 21, 109, 172, 238-239, 289.
[99] Ibid 63-64, 172-173.

also known as the von Rehfues incident or Prussia-Denmark ship incident, in which the Qing were able to utilize European derived international law principles to defend its own interests and principles, has been analyzed by scholars such as Weijian Wang as key to the Qing's acceptance of and contributions to international law, rather than simply being forced to accept it wholesale by foreign pressure.[100] In fact, according to Wang, many individuals in the governments of colonial empires did not want the Qing to understand international law precisely for that reason, though others were happy and thought it would make future relations easier.[101] In fact, according to Wang, many individuals in the governments of colonial empires did not want the Qing to understand international law precisely for that reason, though others were happy and thought it would make future relations easier.[102] For that matter, it is not only China and the West who shaped international law and sought to use it for their own interests in the South China Seas, many states and non-state groups in the region have similarly contributed via their own disputes and discussions. This can be seen in Aileen Baviera's discussion of Philippines government's long yet successful negotiations to get the UN to recognize its "archipelagic doctrine," which argued that it needs to exercise sovereignty over the waters connecting its many islands beyond normal national waters limits as much as any terrestrial territory, despite opposition and rival claims from other major and minor powers with interests in the region. [103]

Moreover, in the estimation of Marai Carrai many China scholars have come to question the Eurocentrism in both common Chinese and Western narratives of international law. This is

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[100] Weijian Wang 王维俭, "Pudandagu kou chuanbo shijian yu xifang guojifa chuanru zhongguo 普丹大沽口船舶事件与西方国际法传入中国 [The Prussia-Denmark ship incident at Dagu and China's acceptance of Western international law]" *Academic Research* 5, (1985): 84-85, 89-90.
[101] Ibid 86-87.
[102] Ibid 86-87.
[103] Aileen S.P. Baviera, "The Philippines and the South China Sea Dispute: Security Interests and Perspectives," in Ian Storey, and Zhengyi Lin, *The South China Sea Dispute: Navigating Diplomatic and Strategic Tensions*, (Singapore: ISEAS Yusof Ishak Institute, 2016), 161-162, 164-165, 167, 172-173, 179-180.

because the first Qing legal scholars of international law largely accepted the view that it started with the treaty of Westphalia, while more recent "patriotic" approaches still utilize a teleology[104] of nation-statehood and describe Chinese history as a struggle to become a Westphalian style nation-state.[105] This new generation of China scholars have come up with four different strategies for countering such biases while studying the topic.[106] The first approach, utilized by scholars such as Lydia Liu and Rune Svarverud, focuses on the hybridization of meaning of key international legal concepts as they were introduced into Chinese contexts, and specifically focusing on how this reflected China's status as an active agent in the history of international law rather than a passive recipient of it.[107] The second approach "provincializes Europe and international legal history," treating it as one of several normative orders that existed throughout history and could be used in a variety of ways, such as the justification for colonialism by imperial powers as well as a tool used by colonized groups to resist colonialism and assert national rights.[108] Supporters of the second approach further add that "the Western account is not necessarily the most realistic or objective, as it reflects only one possible use and interpretation of international law."[109] Scholars of this approach include Gerrit Gong, Liu Wenming, Wang Jianlang, Wang Tieya, Xue Hanqin, Jia Bingbing, Li Chen, and Phil C.W. Chan.[110] The third major approach, according to Carrai, is linked to the second and "reduces international law to a label used to describe the principles and laws that have governed the relations between states, regardless of the historical and geographical context in which they were used," thus allowing for

[104] An explanation of history that describes events in terms of their contribution of reaching some end goal rather than in terms of the cause of those events.
[105] Maria Adele Carrai, "Historiographies of International Law from a Chinese Perspective," *Clio @ Themis* (2022): 3-4, 7-8, 19.
[106] Ibid 8-9.
[107] Ibid 8-9.
[108] Carrai, "Historiographies of International Law from a Chinese Perspective," 8, 10.
[109] Ibid 8.
[110] Ibid 10.

the discussion of international law in the context of the Warring States and the Spring and Autumn period of the Eastern Zhou Dynasty between 770 and 256 BCE.[111] This approach goes back to W.A.P. Martin himself and key legal scholars of the republican period such as Zhou Gengsheng, as well as more recent ones such as Wang Tieya and Xue Hanqin who have written handbooks on international law.[112] The fourth strategy is the most radical one in the eyes of Carrai, and is championed by Zhao Tingyang, Xu Jilin, Xu Zhangrun; it "attempts to emancipate China from being used as a source of secondary data to prove or disprove histories that see Western international law as necessary to a universal normative order" and instead to examine normative order of the Chinese tribute system before the introduction of international law to the region in its own right.[113] This approach opposes the view that the Chinese tributary system is inherently opposite to or reflecting of "modern" or "proper" legal and political culture, which has the advantage of avoiding the trap of always relying on European categories in the study of international law even when attempting a more global perspective.[114]

This dissertation will try to build upon Chan's point of China actively contributing to international law by examining how they have influenced maritime law, especially regarding maritime predation, and expand the analytical dimension from the usual geopolitical axis to incorporate the social dynamics of local interactions with government officials. Similarly, this dissertation will take Waijin Wang's insights on the use of international law as political tactic by the Qing state and apply them to maritime law and predation to understand how maritime law was used by different groups for their own benefit, and who was allowed or denied access to it by other groups. In terms of Carrai's categories, this dissertation is closest to the second

[111] Ibid 8, 11
[112] Ibid 11.
[113] Ibid 8, 12.
[114] Ibid.

approach, but attempts to incorporate insights and strengths from all of them while trying to avoid the weakness of any one approach. In particular, it seeks to avoid portraying modern international law as an inevitable victory of rationality but rather one of many possible normative orders whose current dominance is contingent on numerous historical factors.

As the history of maritime predation has moved away from both demonizing depictions of maritime predators as monsters in human skin and romanticized representations of maritime predators as fun loving freedom fighters, so too has the study of the maritime predators of the South China Sea sought to challenge the idea that these groups arose simply and inevitably out of a lack of adequate maritime law enforcement, and instead try to understand them as historical actors with their own perspectives and motivations. In particular, it has been a common theme to explore maritime predation in the region as an alternative society for those who have been excluded from mainstream society for one reason or another. Dian Murray has highlighted how maritime predators were a key part of an alternative world order composed of interconnected communities, social institutions, and economic systems, employing craftsmen, merchants, and bureaucrats as well as sailors.[115] Joseph McKay applies a perspective pioneered by James Scott in *The Art of Not Being Governed* to analyze how the people who made up these alternative maritime predator communities were often those disenfranchised by mainstream society in some way and fleeing into spaces where the state has difficulty exerting control.[116] Furthermore, he demonstrates how the relationship between these "escape societies" and mainstream society was not always hostile, but rather "by turns competitive, cooperative, coercive, and extractive."[117] In Wensheng Wang's *White Lotus Rebels and South China Pirates*, Wang discusses how the

[115] Murray, "Living and Working Conditions in Chinese Pirate Communities, 1750-1850," 49.
[116] Joseph MacKay, "Pirate Nations: Maritime Pirates as Escape Societies in Late Imperial China," *Social Science History* 37, No. 4 (2013): 551.
[117] Ibid.

politics of the late Qing blurred the lines between political and commercial violence both on land and sea.[118] In particular, Wang highlights the fact that maritime predator groups largely recruited from fishermen and merchant sailors who felt neglected or abused by the central Qing government did more than gain the maritime predators sympathy and support among the coastal populace. It also gave them easy disguises to hide behind; striking vulnerable ships, then hiding from naval patrols by fishing, as if the predators could strike from nowhere and disappear without a trace.[119] Gipouloux also draws attention to the connection that lay between maritime commerce and violence in the region, as predatory violence could be useful for resisting state intrusion, opening markets, or simply allowing goods to reach communities that would normally be unable to access them, as can be seen in the case of the *wokou* maritime predators who not only recruited out of work merchants sailors to strike back at the Ming trade ban, but were deeply connected to multiple merchant networks for information and logistical support.[120]

Murray's work has influenced this dissertation's attempts to answer how this alternate world order of maritime predators interacted with the Confucian world order as imagined by the Qing and the "community of nations" order imagined by European powers, and how its existence altered the interactions between these two larger world orders. Additionally, this dissertation will examine how the interaction between the two larger world-orders drove the maritime predator order out of existence, as well as how the maritime predators managed to adapt to this pressure and survive for some time. This dissertation seeks to add to Gipouloux's insights by connecting them with the change in socio-economic dynamics caused by the increased presence of European goods, ideas, and institutions in the late Qing and early Republic, such as how at least some

[118] Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire*, (Cambridge, MA: Harvard University Press, 2014), 89-90.
[119] Ibid 98-99.
[120] Gipouloux, *The Asian Mediterranean*, 90-91.

Chinese predators saw or portrayed their activities as a pushback against European domination and the failure of the Qing ruling class to protect them from it.[121] Building off of MacKay's arguments, this dissertation seeks to look beyond an assumption of automatic hostility between states and maritime predators, and understand why hostility arose when and where it did, and the mechanisms by which state control expanded into these difficult to control maritime spaces, especially how this was affected by the competition, cooperation, and coercion that occurred between different states.

Similarly, there has been an increased focus on examining the ideology, self-conception, and world-view of maritime predators where possible. Dian Murray, for instance, has analyzed how the Guangdong Confederation utilized an ideology of resistance to the unjust rule of the Qing, even if she did conclude that it was little more than a cynical attempt to justify economically motivated activities, influenced this dissertation's attempts to understand later maritime predation from perspectives other than those of the government.[122] Moreover, according to Wang, the southern maritime frontier had its own set of cultural values and economic realities that fundamentally undermined the Confucian world order that the Ming and Qing states relied upon as a foundation. In particular, the locals viewed the ocean as a central plain providing both nourishment and living space without internal borders and division, and subsequently were better suited to using its features to launch hit and run attacks than the land-based state view of the ocean as an unknowable, terrifying expanse, which resulted in an overly passive and defensive naval strategy.[123]

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[121] *The China Mail*, 1905-03-21, NPCM19050321, Hong Kong: Geo Murray Bain, page 4, <https://mmis.hkpl.gov.hk/coverpage/>.
[122] Dian Murray, *Pirates of the South China Coast, 1790-1810*, (Stanford: Standford University Press, 1987), 5, 10, 153, 166-167.
[123] Wang, *White Lotus Rebels and South China Pirates*, 101, 103-104.

This dissertation sought to complement Murray's analysis of the self-conception of maritime predators from their few surviving documents by examining how narratives of maritime predation were spread to a wider audience, both within Qing territories and the wider international community, by the media of the time, both news and entertainment. Notably, even those pieces of media most hostile to these maritime predators could be prone to comparing them favorably to the Qing, or at least using their existence to delegitimize the Qing's legitimacy as a state. The insights of Wang's works have shaped this dissertation by highlighting how a mental view of the ocean can influence maritime predator actions as well as state strategies to counter maritime predation. Applying this view to the context of the later nineteenth and early twentieth centuries, this dissertation explores how differing views of maritime spaces, and the concept of jurisdiction as applied to those spaces, affected their conflicts over maritime predator suppression strategies, as well as how maritime predators adapted their traditional strategies of hiding amongst the populace in the face of greater state control by hijacking ships while disguised as passengers.

Finally, the use of the term maritime predator reflects an increasing understanding of the ways in which the division between "pirate" and "privateer" can be quite murky, especially when looking beyond early modern Europe, to understand the various types of relationships states and non-state maritime predators have had throughout history. Robert Antony's work draws attention to the connections between the maritime predators of the Qing coast and Southeast Asia, highlighting how the Tay Son sponsorship of the predators who established the Guangdong Confederation fit into established patterns of state support for predation in maritime Southeast

Asia, which in turn influenced their methods of operation when they returned north.[124] Additionally, Antony notes that these Southeast Asian patterns of maritime predator sponsorship were similar to those of Early Modern Europe, in essence being both a military and economic tool to allow weak states to compete with stronger ones.[125] Wheeler goes into greater detail about the complexity of these patterns and the relationships they created, where littoral communities at times supported, subverted, or sought the protection of whatever states sought to establish their political aims over the coast, yet he also notes that the sum total of these actions taken by various littoral and seafaring groups ultimately "all served the aims of Nguyen political ambitions to build an empire in the 'South', first through conquest and then through the creation of wealth."[126] This provides an interesting connection with anti-predator campaigns in the South China Sea with debates surrounding the Declaration of Paris and movement against state sponsored predation in Europe around the same time, as the power it provided to allow weaker states to strike back against stronger ones on the sea was a key point in both detractors and supporters of the ban. The British government in particular felt that as the owner of the strongest navy and with a large merchant fleet, it had little to lose and much to gain by banning maritime predation.[127] Xing Hang expands on these comparisons by noting that there not only existed a thin line between particularly large and powerful maritime predator organizations and state navies, but that a similarly minuscule distinction separated either group from large scale mercantile organizations.[128]

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[124] Robert J. Antony, "Maritime Violence and State-Formation in Vietnam: Piracy and the Tay Son Rebellion, 1771-1802," in *Persistent Piracy: Maritime Violence and State Formation in Global Historical Perspective*, eds. Stefan Amirell and Leos Muller, (Houndmills: Palgrave Macmillan, 2014), 113-114.
[125] Antony, "Maritime Violence and Stat-Formation in Vietnam," 123.
[126] Wheeler, "Re-Thinking the Sea in Vietnamese History," 147-148, 151-152.
[127] Thomson, *Mercenaries, Pirates, and Sovereigns*, 71-72.
[128] Hang, *Conflict and Commerce in Maritime East Asia,* 107.

Antony's analysis of Southeast Asian state sponsorship of maritime predators from the coastline of southern China was a contributing factor in this dissertation's own discussion of those connections. The dissertation also expands on this work by connecting it with examinations of Britain and other European powers' own experiences with maritime predation in Southeast Asia, with the same personnel often involved in both regions,[129] and thus highlights how those experiences shaped European attitudes towards maritime predators along the southern Qing coast. While Xing Hang's work is primarily focused on the Zheng family organization in the seventeenth century, it is nevertheless valuable when studying maritime predation and the creation of international frameworks of law in the nineteenth and twentieth centuries, both as a framework for comparison and as a reminder that merchants should not be dismissed as mere victims of predation and automatic supporters of law, but as historical actors in their own right whose agendas might align with either predators or states at any given moment depending on the circumstances.

Chapter Roadmap

The second chapter of this dissertation consists of an overview of maritime predation both in the South China Sea and the wider world. It is organized in a loosely chronological order with further division into geographical contexts, discussing several hotspots of predatory activity throughout history in order to provide the proper historical context for the in-depth discussion of maritime predation in the South China Seas in the late nineteenth and early twentieth centuries, particularly in regards to Qing and European experiences with maritime predation and how those experiences shaped their views of what maritime predation is and how it should be dealt with.

[129] For Instance, Captain Keppel was a member of the China Squadron who led the attacks on villages suspected of supporting maritime predation around Borneo. Ford and Benton, *Rage for Order*, 145-146; Alexis Chamerovzow, *Borneo Facts versus Borneo Fallacies: An Inquiry into the Alleged Piracies of the Dyaks of Serebas and Sakarran*, 2nd ed., (London: Charles Gilpin, 1851), 54-55.

This chapter begins with a description of the different types of maritime predation that have commonly existed throughout history, using J.L. Anderson's categories of parasitic, episodic, and intrinsic maritime predation as base.[130] Next, it continues with an overview of maritime predation in the ancient Mediterranean, where it was often considered an honorable profession, but could also be used as a justification for war, particularly as the Roman Republic and Empire sought to turn the sea into their private lake. After that, it jumps ahead to the conflict in the sixteenth century between the Ming dynasty and the wokou, the so-called "Japanese" pirates that were in actuality a diverse coalition of non-state forces from throughout the region, united in their opposition to Ming attempts to control and limit maritime trade.

The chapter's attention then returns to the Mediterranean to discuss corsairing, and how this form of maritime predation functioned both as a proxy religious war, and as a semi-formalized economic system in which the ransoming of hostages and the payment of tribute to avoid harassment were as economically important as the goods seized by force. It then moves west into the Atlantic to discuss the Golden Age of Piracy in the Caribbean, from its origins in the late fifteenth century to its end in the early eighteenth century. The next section examines maritime predation in the Indian Ocean, particularly how it increased after the Portuguese arrived and tried to dominate the region's trade in the 1500s, and repeatedly spiked afterward as other empires attempted to replace the Portuguese and displace one another, such as the Dutch and English in the 1600s, as well as how maritime predators flocked to the region from the Atlantic in the late 1600s and early 1700s. Moving further east, the chapter explores maritime predation in maritime Southeast Asia between the fifteenth century, when maritime predators from the

[130] J. L. Anderson, "Piracy in the Eastern Seas, 1750-1850: Some Economic Implications," in D. Starkey, Van Helsinga, & De Moor eds, *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, (Exeter: University of Exeter Press 1997), 88-89.

South China Sea established themselves as major powers in the region, to the height of local predation and anti-predator campaigns in the nineteenth century, particularly how these activities further blurred the lines between state and private maritime predation in the eyes of British fleets attempting to enforce their understanding of maritime law. Jumping off this point, the chapter pulls back to examine the general process of how private military violence had gone from accepted practice to despised and illegitimate in the eyes of European powers and those they influenced by the nineteenth century.

After this, the focus returns to the South China Sea to examine the Zheng family and their followers in the seventeenth century, who defied any easy classification as pirate, rebel, independent state, or trade company, but rather blended all of those together. The next section covers the Guangdong Confederation, who challenged the Qing and European powers alike for control of those waters during the early nineteenth century, and whose sheer scale and organization raise questions about where the line is drawn between a maritime predator organization and an incipient maritime state. The following section narrows considerably to focus on Shap-ng-tsai and other maritime predators that operated near Hong Kong, resulting in both conflict and cooperation between the Qing and British states regarding dealing with the predator threat. The next section covers the rise of hijacking in the South China Sea between the 1860s and 1930s, causing further international conflict as states scrambled to identify and eliminate maritime predators using this stealthier tactic. The final section provides an overview of maritime predation from the Second World War until the modern day, both in the ways it has changed and the similarities that have persisted throughout the millennia.

The third chapter takes a top-down approach and examines the various laws, treaties, and official diplomatic communications that attempted to define and control maritime predation,

sovereignty, and the legitimate use of violence during this period. This chapter opens with a discussion of international law, both as theoretical historical concept, and as frameworks of interstate communication and conflict resolution as practiced in Euro-American and East Asian spheres by the time of the nineteenth century. The next section discusses how the nineteenth century saw the growth of increasingly strong views of racial hierarchies, and in particular an ever more paranoid and aggressive form of white nationalism, made membership into the "community of nations" increasingly difficult and contentious. After that, the next section focuses on analyzing a particular document at the heart of this dissertation, the Paris Declaration Concerning Maritime Law, and to what degree it represented either a radical change in the status of the legitimacy of non-state maritime violence or merely a small step in a larger process of changing attitudes and standards. With that in mind, focus shifts in the next section to compare the evolution of European and Qing ideas of just war, and how that concept relates to ideas of legal and illegal violence on the high seas. After that, another important document is highlighted and analyzed in detail, the infamous Treaty of Tianjin, which served to draw the Qing increasingly into the European dominated system of international law and placed explicit requirements for the Qing to deal with maritime predation against foreign shipping in its waters. The next section deals with the Qing's reaction to the fallout of this treaty, as the Qing state and scholar-gentry community sought to learn more about European style international law in order to use it as a tool to their political ends, and give examples of this in action by analyzing further treaties that the Qing participated in. Focus then shifts to the origins and evolution of the British navy's aggressive campaign against maritime predation on a global scale, as well as how that could be used to justify the undermining of the sovereignty of weaker states by entering their waters and attacking their holdings to hunt maritime predators. The reason for the emphasis on

British attitudes towards maritime predator suppression is because the British would play the largest role along the Qing coast in the campaign to end maritime predation there and secure trade at any cost. Attention then shifts back towards the Qing in a section describing the history of their maritime defense strategies, the ideology behind those strategies, and how both shifted over time. After that, the final few sections examine the ways the Qing cooperated with other states in issues of maritime security and the ways it competed with them over maritime security strategies and jurisdictions, with an emphasis on how local officials of both the Qing and colonial states utilized their personal, often shared, experiences in the region in order to better balance local interests with the dictates of the central governments of their heartlands, while improved communication technologies brought them under increased scrutiny from their superiors and nonstate actors alike.

The fourth chapter, in contrast, provides a more bottom-up examination, focusing on maritime predation, international law, and the connection between them in the South China Sea as imagined by and portrayed for the wider populace in various types of media, including newspapers, captivity narratives, poetry, and visual imagery. This chapter opens with a discussion of why it is important to study such a perspective, as well as a few theoretical approaches on how best to do so, whether searching for a "public sphere" that existed as a result of interactions between the state and larger society, or by exploring the ways new technologies made public opinion all the more focused and powerful in this time period. After that, the first and largest sections cover how issues of maritime predation, law, and sovereignty were portrayed in English and Chinese language newspapers, which were notable for both how they reflected and how they shaped public opinion. The next major section describes how these issues were portrayed in various forms of entertainment, including works of popular history, firsthand

accounts, plays, and collections of poetry. The final section before the conclusion focuses on how maritime predators and the issues surrounding them were depicted in images, including both illustrations and paintings, with an emphasis on the depiction of violence and how that related to Li Chen's concepts of "sentimental regimes" where feelings of sympathy were utilized to justify interventions in the name of humanitarianism.

The fifth chapter examines how these ideas of maritime law, jurisdiction, and predation suppression were put into practice in the South China Sea at different points in time, tracking their evolution in a chronological fashion by decade between the 1840s to the 1950s. The chapter begins with a brief overview of the Qing legal treatment of maritime predators before the 1840s, as the Qing tried to balance appearing powerful enough to punish wrongdoers with appearing benevolent and merciful. The next few sections highlight the intrusion of European maritime power and legal norms into the region during the mid-nineteenth century, amidst a resurgent maritime predator menace following a peaceful period that resulted from the fall of the Guangdong confederation at the beginning of the century. The last decades of the nineteenth century saw the Qing attempt major reforms to push back against both internal opposition and external intrusion, notably by increasingly adapting or adopting whole European legal and diplomatic norms in order to bolster their sovereignty on the international stage. While they had some notable victories on that front, such as the Siege of Hong Kong in 1870s, the continued persistence of maritime predation in the region, despite its greatly reduced size, and Qing defeats in skirmishes with European powers resulted in an increased European, American, and Japanese naval presence in the region, with extensive rights to operate within Qing waters, as well as calls to dissolve the Qing entirely and carve up its territories among the great powers. The early twentieth century was marked by the final collapse of the Qing and the birth of the Republic of

China, which embraced the Brotherhood of Nations international system on ideological level, rather than just as a tool to protect itself from foreign interests, including the maritime arena. While the new regime hoped to use this legal framework to control its waterways, actually implementing that level of control proved difficult for several reasons, and maritime predation continued to embarrass the state in the form of highly publicized hijackings. The final sections before the conclusion discuss the mid-twentieth century, marked by war, notably the Second Sino-Japanese War, the civil war between Communist and Nationalist factions, and the almost total collapse of central authority, and with it the last instances of maritime predation in the region until the end of the twentieth century. For as destructive as these successive conflicts were, they set the stage for socio-political structures that gave private maritime predators no room to operate.

The sixth and final chapter returns to the original question and combines the information provided throughout the dissertation in a conclusion.

Chapter 2: Historical Overview of Maritime Predation

Introduction

While maritime predation has long been a fact of life wherever people take to the waters around them, the forms it has taken have varied widely depending on historical context. In some places and times, maritime predators worked hand in hand with the governing elites of their societies while in other circumstances they were bitter rivals. Sometimes maritime predation was small scale and opportunistic, at other times it was organized and professional, even growing into what were arguably states in their own right. In order to fully contextualize and understand the maritime predation of the South China Sea in the late nineteenth and early twentieth centuries, it is important to have a basic understanding of maritime predation in other contexts, in order to identify common patterns as well as identify the key factors behind the unique elements of maritime predation of this historical area. This chapter will open with a timeline of notable events in the history of maritime predation for the sake of reference, and then continuing with a broad overview of larger categories of maritime predation. After this broad introduction, the chapter is organized various hotspots of maritime predation throughout history that will be examined in more depth, such as the ancient Mediterranean, early modern Caribbean, or late imperial Chinese coast. These hotspots will be presented mostly in a chronological order, starting with the ancient Mediterranean and ending with an examination of the few remaining locations of regular maritime predation in the modern world, though the exact chronology of each area covered varies enough that there is some overlap, with the Southeast Asian section in particular covering a broad time period since it was difficult to separate into more concrete subsections.

Throughout each section, a major theme will be the changing relationship between maritime predators and nearby states depending on the circumstances, often, if not always, following a pattern of state sponsorship of private maritime predation, or at least toleration of and cooperation with maritime predators, before some factor makes the maritime predators too much of a threat to be ignored, leading to periods of active suppression. In particular, when there are many competing states, maritime predators are a useful asset, or at least a relatively minor threat better to bribe into going after enemies rather than dedicating resources to eliminate, but when one or a small number of states comes to dominate a stretch of ocean, then the elimination of private maritime predation becomes a greater concern. Of course, patterns are not absolutes, and there are exceptions, particularly later in history where it can be observed that growing economic and ideological changes made states more willing to put aside their competitions with another in the name of protecting mutual interests in trade from the threat of maritime predation. Even sovereignty itself became increasingly tied to the idea that sovereign states had a duty to protect international trade and limit the private violence of their subjects and citizens.

Timeline

- 229 B.C.E. Rome declares war against Illyria in response to Queen Teuta of Illyria sponsoring maritime predator attacks on Roman convoys.
- 67 B.C.E. Pompey launches a campaign against maritime predators in the Mediterranean.
- 1223: First recorded use of the term wokou by Korean officials to refer to Japanese maritime predators raiding the Korean coast
- 1520 Great wave of wokou predation begins
- 1571 Battle of Lepanto

- 1572 Drake's Attack on Panama
- 1576 End of great wave of wokou predation
- 1619 English and Dutch formed an alliance in Asia to attack Spanish and Portuguese ships, basing their operations out of Hirado and Batavia
- 1621 Japan begins to regulate Dutch privateering more tightly in Japanese waters.
- 1622 Anglo-Dutch privateer alliance in Maritime East Asia ends
- 1631 Corsairs attack Baltimore, Ireland
- 1646 Corsairs operate in English Channel
- 1662 Zheng Chenggong captures Taiwan from the Dutch and turns it into his base of operations.
- 1671 Morgan pillages Panama
- 1683 Zheng Keshuang surrenders to the Qing Dynasty, bringing an end to the Zheng family organization and bringing Taiwan under Qing rule.
- 1684 The Kangxi Emperor's "Open Seas Edict" ends the ban on maritime trade.
- 1701 Execution of Captain William Kidd
- 1718 Death of Blackbeard, beginning of the careers of Bartholomew Roberts, Anne Bonney, and Mary Read.
- 1721 End of the careers of Bartholomew Roberts, Anne Bonney, and Mary Read.
- 1771 Beginning of the Tay Son Rebellion, many maritime predators from southern coastal China are hired as naval mercenaries by the rebel forces and the dynasty they establish.
- 1802 End of the Tay Son Rebellion, leading to their maritime predator fleet going back to the southern Chinese coast.

- 1805 Multiple maritime predator fleets sign an agreement of alliance that set the ground rules for their operations, forming the Guangdong Confederation.
- 1810: Surrender of the Guangdong Confederations Red Banner Fleet to the Qing government.
- 1833 End of the East India Company's monopoly on the trade with China, opening up trade for all comers and increasing the targets available to local predators.
- 1849 Battle of Bias Bay, small British force scattered a larger force from Chui Apoo and Shap-ng-tsai's maritime predator fleet.
- 1851 Trial and death of Chui Apoo
- 1852 Joint British-Qing investigation into Portuguese lorchas attacking Qing shipping.
- 1856 Declaration of Paris Respecting Maritime Law officially ends privateering among signatories.
- 1874 The hijacking of the *Spark* by maritime predators disguised as passengers.
- 1927 The hijacked steamer *Irene* is sunk by the British submarine *L4*, lawsuits on the case dismissed.
- 1998 The *Cheung Son* is hijacked and its crew killed by maritime predators disguised as government officials.

Types of Maritime Predation

Maritime predators can be separated into many groups depending on the environments they operated in, preferred tactics, size, organization, or relationships with state powers, among countless other factors, with one of the most influential classification systems being J. L. Anderson's division of maritime predation into intrinsic, parasitic, and episodic depending on

how it interacts with the larger maritime economy.[131] This approach is complemented by Robert Antony's distinctions based on the economic importance of the predation to the predators involved, notably between opportunistic maritime predation done by fishermen and merchants as a supplement to normal income, and professional, organized predation which was the primary source of income; albeit, with the recognition of Antony's caveat that there was not a hard line between the two types of maritime predation and many individual predators were both at different points in their lives.[132]

Opportunistic maritime predation, also known as petty maritime predation, was when sailors with other professions, often fishermen but merchants as well, launched predatory attacks on targets that seemed vulnerable and valuable enough to be worth attacking.[133] It was one of the most common forms of maritime predation, and one of the most difficult to counter, for the predators would not have distinctive ships or bases like some of the more infamous maritime predators of history, but rather spent most of their time as normal taxpaying citizens blending into the general populace.[134] Additionally, being tied into mainstream networks of family, friends, and voluntary associates made it easy to assemble crews ad hoc as opportunities presented themselves, reinforced by forced or voluntary labor of captives, who at times rose to become predator leaders in their own rights, as well as obtain the low cost tools of trade that could be converted into weapons; "knives, sharpened bamboo pikes, and cutting blades."[135] These maritime predators avoided battle if at all possible and preferred heists, striking and

[131] J. L. Anderson, "Piracy and World History: An Economic Perspective on Maritime Predation," *Journal of World History* 6, no. 2 (1995): 181; Dian Murray "Piracy and China's Maritime Transition, 1750-1850," in *Maritime China in Transition, 1750–1850*, edited by Wang Gungwu and Ng Chin-keong, (Wiesbaden: Harrassowitz Verlag, 2004): 44-45.
[132] Robert J. Antony, *Like Froth Floating on the Sea: the World of Pirates and Seafarers in Late Imperial China* (Berkeley: Institute of East Asian Studies, 2003), 82-83.
[133] Ibid 13.
[134] Ibid 91-92.
[135] Murray, "Piracy and China's Maritime Transition, 1750-1850," 45.

fleeing before their victims could gain their senses or offer resistance, and be long gone before authorities arrived.[136] It is worth noting that even with other types of maritime predation and more professional and organized maritime predator groups, it is common for the individual maritime predators to have had backgrounds in other kinds of maritime work, and to switch back and forth between fishing, trading, maritime predation, and military work frequently and easily.[137] Occasionally their numbers would be supplemented with land based day laborers and farmers in need of income.[138] This type of maritime predation was especially common in the South China Sea and Indian Ocean, where the monsoon system, in which wind direction changed in a predictable manner, allowed sailors to prey on merchant ships when they returned laden with trade goods while fishing or doing other work the rest of the year, or even raiding other fishermen. In fact, along the coastlines of the South China Sea, the spring and summer seasons were times when the monsoon winds brought in many targets from Southeast Asia and was a slack season for fishing.[139]

Parasitic maritime predation consists of those who depend on high volumes of trade to make their livings, rather than having it be supplementary to their income.[140] These maritime predators could be very mobile, instead of waiting for targets to become available in the waters they already used, they would be more willing to follow the ebbs and flows of maritime trade to new hunting grounds where prizes were plentiful and opposition was minimal.[141] For instance, many maritime predators left the Caribbean in favor of the Indian Ocean in response to the new opportunities that arose from the simultaneous decline of the Mughal Empire and rise of

[136] Ibid.
[137] Antony, *Like Froth Floating on the Sea*, 12.
[138] Antony, "We Are Not Pirates," 260.
[139] Antony, *Like Froth Floating on the Sea*, 19-20.
[140] Anderson, "Piracy in the Eastern Seas," 88.
[141] Ibid.

European shipping and imperial rivalries in the region.[142] Years later, at least some of those maritime predators would return to the Caribbean as a result of both local polities and European trade companies in the Indian Oceans curtailing private predatory activities.[143]

Episodic maritime predation, in contrast, is usually brought about by economic desperation, when a slump in legitimate maritime work forces many to take to the seas to steal for a living.[144] It was particularly common that after large wars navies would downsize to affordable peace time levels, leaving naval sailors and privateers out of work and with experience in violence. This formed something of a vicious cycle where maritime predation was quietly encouraged so as to have a reserve of experience sailors for war without paying for a large standing navy, and a dumping ground for naval veterans without having to support them, until the next war when they could be brought back into service.[145] For instance the year 1803 became a high point of maritime predation because neither England nor France wanted to or could control the "hordes" of privateers that had been created in their wars against each other; the French in particular were almost totally reliant on privateers for its naval power, though it had slightly more restrictions on attacking neutral shipping than England.[146] Meanwhile, in the South China Sea, Ming attempts to restrict and control maritime trade under the Jiajing Emperor (r. 1521-1567), as well as similar policies put into place by the Choson Korean government and the Tokugawa *bakufu*,[147] only drove people, from simple fisherman to wealthy merchants and powerful officials, into joining the very bands of maritime predators that the bans were supposed

[142] Antony, *Pirates in the Age of Sail*, 15-16.
[143] Ibid 17-18.
[144] Anderson, "Piracy in the Eastern Seas," 88-89.
[145] Thomson, *Mercenaries, Pirates, and Sovereigns*, 23.
[146] Ibid 24.
[147] While the imperial family in Japan has remained consistent throughout history, they have rarely had real power and instead have been used as puppets by various governments – such as the military government (*bakufu*) set up by the Tokugawa family.

to suppress.[148] It is worth noting that the bans had technically been in place prior to this, since 1371, but it had been only lightly enforced before 1523, and so commerce was mostly unaffected; similarly, once the ban was lifted in 1567 with the death of the Jiajing Emperor, maritime predation returned to negligible levels.[149]

Maritime predation can be categorized as intrinsic when it constitutes an indispensable part of local fiscal or commercial functioning, which makes it normalized, ingrained, and important to a region's culture, politics, and economics.[150] For instance, the ancient Greeks considered maritime predation to be a normal and honorable profession.[151] The Norse of the European Early Middle Ages were another case where their maritime predators, the Vikings, formed a backbone of their economics and projection of political power, with ramifications that would reshape every place the Vikings landed.[152] Many small states in the area around the Malay Archipelago also valorized and depended on the maritime predations that certain members of their society committed.[153]

Organized maritime predation is when maritime predators move from operating as single ships or small squadrons into large scale professional groups that can act similarly to a navy, a trade company, or state depending on the circumstances, and often blended elements of all three groups together into a distinctive maritime predator method of operation.[154] The South China Seas are particularly well known for having some of the largest and most powerful of such groups during the three great waves of maritime predation.[155] The first wave was the wokou from

[148] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 7.
[149] Antony, *Like Froth Floating on the Sea*, 23, 27.
[150] Anderson, "Piracy in the Eastern Seas," 88; Anderson, "Piracy and World History: an economic perspective on maritime predation," in *Bandits at Sea: A Pirates Reader*, 89.
[151] Anderson, "Piracy in the Eastern Seas," 88.
[152] Ibid.
[153] Ibid.
[154] Hang, *Conflict and Commerce in Maritime East Asia*, 17-18.
[155] Antony, *Like Froth Floating on the Sea*, 19.

1522 to 1574. After that was the Zheng family organization, particularly after it based itself in Taiwan to oppose the newly founded Qing Dynasty, and is usually dated as lasting between 1620 and 1684.[156] Finally, there was the Guangdong Confederation; with over seventy thousand members and thousands of ships at its height, it was an organization that surpassed all others in its size and power.[157] Additionally, all three groups were as sophisticated as they were powerful, and included expansive support systems into their organization with logistics, finances, internal rules, and diplomatic relations with other groups and organizations, even if only of the coercive variety.[158]

Although the South China Sea was famous for this kind of maritime predation, it was not the only place that had such organizations. For instance, many of the great trade companies of the early modern era were prone to engaging in maritime predation to seize control of the trade routes of the non-European waters they entered. Portuguese vessels terrorized the Indian ocean, attempting to force local rulers to give them exclusive trade rights and force local merchants to pay for passes to avoid being attacked, which was known as the *cartaza* system.[159] The VOC (*Vereenigde Oostindische Compagnie*, the Dutch United East India Company) operated in a similarly coercive manner throughout the Indian Ocean, maritime Southeast Asia, and maritime East Asia, both hiring local maritime predators as proxies, such as Zheng Chenggong, and using its own forces to attack rival merchants, whether small local groups or other European trade companies.[160] Technically, the VOC was supposed to use its military purely for defensive purposes, in contrast to the English West India Company which was created with the specific

[156] Ibid.
[157] Ibid 19-20.
[158] Ibid.
[159] Murray, "Living and Working Conditions in Chinese Pirate Communities, 1750-1850," 61-62.
[160] Thomson, *Mercenaries, Pirates, and Sovereigns*, 10-11.

mission of damaging Spanish shipping, but it "defended" its monopoly rights aggressively, and had a close relationship with the Dutch military in any case and thus rarely needed to justify its actions, even when selling weapons to its own rivals.[161] It is particularly notable that while the VOC is not traditionally thought of as a "pirate" group, the Zheng family organization of Taiwan are usually classified as "pirates," despite the two organizations operating in a very similar manner in terms of trade, maritime violence, and governance of island territories.[162]

While maritime predators are commonly thought of as existing in opposition to states, aside from the fact that state-controlled navies often acted in a predatory manner, it was not uncommon for states to use or partner with maritime predation as a method of cheap warfare or as a means of increasing the state's revenue. The system of privateering that arose in the Atlantic was the most well-known example, where a government would issue private citizens special documents, letters of marque, which would grant these citizens the right to attack enemy shipping and make a profit off the seized goods.[163] As straightforward as this system seems, it had plenty of ambiguities and underwent considerable evolution over its history. It was also far from the only instance where the state benefited from private maritime violence; in fact, it has been argued that it is only relatively recently that states have even sought to monopolize violence rather than benefit from a free market of violence where armies could be easily bought and sold.[164] For instance, the Tay Son rebels recruited maritime predators from throughout the South China Sea to serve as an arm of their navy during their conflict with local rivals and the Qing Dynasty.[165] Meanwhile, the Tokugawa Shogunate actively supported the Zheng family

[161] Ibid 37-38.
[162] Hang, *Conflict and Commerce in Maritime East Asia*, 18-19.
[163] Jan Martin Lemnitzer, *Power, Law, and the End of Privateering*, (Basingstoke: Palgrave Macmillan, 2014), 13, 41, 53.
[164] Thomson, *Mercenaries, Pirates, and Sovereigns,* 3.
[165] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 58.

organization with money, metal, medicine, and weapons (despite the Tokugawa's own laws against exporting weapons) as it preyed on Qing coastal settlements and shipping in the lulls between the Zheng's military campaigns; the Tokugawa even produced a popular play wherein Zheng Cheggong was portrayed as a heroic samurai restoring the Ming Dynasty.[166] This allowed them to undermine the Qing without directly opposing them and risking a war with their larger neighbor.

Who becomes maritime predators? As with many aspects of maritime predation, the answer can vary highly depending on context; for instance, in ancient Greece maritime predation was a profession fit for respected members of society, if far from the most honorable choice, whereas in other times and places it was often a despised occupation fit only for outcasts.[167] Major Stede Bonnet was famous as the "gentleman pirate," who had lived a life of leisure and letters on Barbados before growing bored of the comfort, outfitting a sloop of war and hiring seventy crewmen at his own expense to become a pirate, first independently then under Blackbeard; notably, his background was used against him at his trial in 1718, with the judge using it as a basis for a lengthy speech on morality before sentencing Bonnet to death.[168] The Zheng family had their roots as highly respected leaders within their local community, specifically the Hokkien people of the Ming's southern coast, while being considered lower class by the wider Ming society.[169] Despite such famous examples, however, the vast majority of maritime predators shared their origins as average fishermen and sailors, as well as otherwise

[166] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 14.
[167] Phillip de Souza, *Piracy in the Graeco-Roman World*, (Cambridge: Cambridge University Press, 1999), 18-19.
[168] David Cordingly, *Under the Black Flag: The Romance and the Reality of Life Among the Pirates*, (New York: Random House Trade Paperbacks, 1996), 18-19.
[169] Wang, "Merchants without Empire: the Hokkien Sojourning Communities," 409, 411; James K. Chin, "A Hokkien Maritime Empire in the East and South China Seas, 1620-83," in Stefan Amirell and Leos Muller, *Persistent Piracy: Maritime Violence and State Formation in Global Historical Perspective*, (Houndmills: Palgrave Macmillan, 2014) 107.

poor or desperate people for whom maritime predation served to be an enticing alternative to the social systems they came from.[170] This did not make them a revolutionary movement; more often than not their victims came from the same class of people they did, yet it did act as something of a release valve, allowing people to sidestep the normal hierarchical status of their society to achieve wealth and status, and even funnel resources into whole communities that would otherwise be overlooked by legitimate trade.[171]

Ancient Maritime Predation

While it borders on cliché to state that maritime predation has existed for as a long as humanity has traversed the maritime world in their watercraft, it is the underlying truth of the matter.[172] However, it is equally true that documentation of maritime predation is fragmentary at best for much of history. While there were a few well documented campaigns against maritime predation in ancient times as well as scattered references to individual instances of predation or groups of predators throughout history, it is not until around the 1200s CE that maritime predation began to enter the public imagination in a big way. There are several events that help explain this, such as the 1571 Battle of Lepanto, which both gave rise to corsairing in the Mediterranean and encouraged the expansion of trade in the Atlantic and Pacific to bypass Ottoman control of traditional trade routes, with maritime predation following the new trade into those oceans.[173] The true high point of maritime predation, in terms of both scale and of public interest, lay between the 1600s and 1800s, a time period where buccaneers and freebooters operated out of the Caribbean, vast leagues of maritime predators established their own domains

[170] Antony, *Like Froth Floating on the Sea*, 11, 171-172.
[171] Goncal Lopez Nadal, "Corsairing as a Commercial System: The Edges of Legitimate Trade," in C.R. Pennell, *Bandits At Sea: A Pirates Reader*, (New York: New York University Press, 2001), 126-127; MacKay, "Pirate Nations," 551.
[172] Lane and Bialuschewski, *Piracy in the Early Modern Era*, xvi.
[173] Ibid xxi-xxii.

in the South China Sea, while armed prahus prowled the waters of Southeast Asia, and corsairs roamed the Mediterranean.[174] Still, early instances of maritime predation demonstrate much about how the tactics, motivations, and cultural perception of maritime predators has evolved over time.[175]

The Mediterranean was one of the most famous arenas for maritime predation in the distant past. Notably, it is considered by many cultures to be a respectable trade to be admired for its boldness, if still recognized as bringing harm to other people, this was reflected by Odysseus being associated with maritime predators multiple times throughout the Odyssey, even pretending to be one while in disguise.[176] The Illyrians were a group of people living along the west coast of the Balkan Peninsula well known for their traditional practice of maritime predation, often with state sponsorship.[177] This resulted in a brutal war between 229 BCE and 228 BCE, the First Illyrian War, which arose between Rome and Illyria after maritime predators sponsored by the Illyrian court raided a grain convoy intended for the Roman senate, Queen Teuta refused to pay recompense for that attack and earlier incidents.[178] Worse, one of the Roman ambassadors was killed on the return voyage after an angry confrontation with the queen, though who was responsible and how varies depending on the sources.[179] It has also been suggested that the real cause was commercial and colonial competition, and the maritime predation served as a convenient excuse to drum up popular support and external alliances for the conflict, albeit an excuse very much in line with Roman attitudes towards maritime

[174] Antony, *Pirates in the Age of Sail*, 3-4, 7.
[175] Ibid xvi-xvii.
[176] de Souza, *Piracy in the Graeco-Roman World*, 18-19.
[177] Catherine A. McPherson, "The First Illyrian War: A Study in Roman Imperialism," Ph.D Diss. (McGill University, 2012), 34.
[178] J. J. Wilkes, *The Illyrians*, (Cambridge: B. Blackwell, 1992), 159-160.
[179] Ibid.

predation.[180] Given that much of the surviving material on Illyria was from Greek and Roman writers who viewed the region as ruled by inherently violent and irrational monarchs, it is hard to say with certainty to what degree this idea of Illyrian maritime predation is true, though the sheer fact that it was used against the Illyrians marks a notable shift from early glorification of maritime predation in the Mediterranean, as well as how readily it was used by ancient Greek polities.[181] Roman forces were also fairly eager to engage in the pillaging of Illyrian shipping and coastal towns as well, at least until they caused enough damage that they felt it was a good time to open negotiations.[182] In any case, the war was a victory for Rome, and arguably the first time it expressed real interest in being a naval power; it would not be the last time maritime predation was used to justify Roman maritime expansion, at times greatly exaggerating incidents of maritime predation into crisis's to stir up support.[183]

Another famous incident was the capture of Julius Caesar by maritime predators; according to the story Caesar was insulted that the ransom was so low and demanded they raise it and managed to win over his captors with his charm despite threatening to horrifically kill them for their actions. He followed through on those threats after being freed, to the surprise of his captors as they thought he had been joking earlier.[184] Yet the precise date of this incident is not entirely clear; three important sources date the events to the time of Caesar's visit to Rhodes around 75 BCE, and so most modern sources use that date, but there are two other sources which place the event much earlier.[185] Plutarch places the incident in 80 BCE, as Caesar was returning from a stay with King Nicomedes of Bithynia, while Polyaenus places it in 81 BCE as Ceasar set

[180] McPherson, "The First Illyrian War," 63-64, 68, 75-76.
[181] Wilkes, *The Illyrians*, 167-168.
[182] Ibid 161.
[183] de Souza, *Piracy in the Graeco-Roman World*, 131-132, 162.
[184] Ibid 140-141.
[185] Allen M. Ward, "Caesar and the Pirates," *Classical Philology* 70, no. 4 (1975): 267.

out to Bithyania to secure a fleet for Minucius Thermus, his commander at the time.[186] There were also differences in the accounts of how he got his revenge on this captors; Polyaenus stated that he drugged their wine and killed them in their sleep, whereas in Plutarch's account Caesar instead gathers a fleet of local ships to ambush his former captors off the island of Pharmacusa, where he had been held, and brought any that survived the battle to Pergamum in Asia for crucifixion.[187]

Pompey's campaign against maritime predators in the Mediterranean from 67 to 66 BCE was a major point in turning the Mediterranean into "a Roman lake;" it is also notable as one of the first incidents related to maritime predation where the sources used by scholars were written by participants rather than just those aware of the events.[188] It was a campaign as systematic as it was brutal, with the sea divided into thirteen zones each with a commander in charge of catching any stragglers who survived the initial push, and a massive fleet starting in the western Mediterranean and sweeping eastward, catching all in their path, attacking those they deemed maritime predators, sinking their ships, and burning their harbors and fortresses.[189] However, in contrast to standard Roman attitudes and practices, Pompey did not enslave or execute those maritime predators he captured alive, but rather distributed them throughout the Empire heartland to take up farming or trading away from the coasts.[190] The primary targets of the campaign were the maritime predator community that operated out of bases on the island of Cilicia, on the southern coast of Asia Minor.[191] The senate originally planned on the campaign

[186] Ibid.
[187] Ibid 268.
[188] Phillip de Souza, *Piracy in the Graeco-Roman World*, 149.
[189] Ibid 169.
[190] Ibid 170.
[191] Ibid 140, 169.

lasting three years, but took only forty-nine days.[192] After this, maritime predation was greatly reduced for the remainder of Roman rule, but did not disappear entirely, spiking in times of internal conflict and existing along the Empire's periphery, as well as living on and romanticized in the imaginations of Roman citizens' histories and fictions.[193] This Roman conception of maritime predation would, in turn, be a major influence on how European powers would come to view maritime predators and legislate its activities for millennia to come.[194]

Wokou

The origins of the wokou lay along the coasts of many of the smaller and poorer islands of the Japanese archipelago, such as the ones off the shores of the Iyo province, where poor lords gathered bands of masterless warriors and out of work sailors to engage in raids which brought great wealth to all involved, this then drew in increasing numbers of such characters looking to share in the new fortune.[195] Though the wokou might have started out with unemployed Japanese warriors and sailors, they quickly expanded their ranks to include local lords, village heads, and temple authorities, as well as non-Japanese mariners, merchants, and ministers, including Portuguese, Southeast Asians, and Ryukyu islanders.[196] By their height in the 1550s, the groups described as wokou were mostly made up of Han sailors and warriors with significant Han merchant and local coastal gentry as leadership, though the ex-samurai contingent of the wokou remained important as the backbone of their terrestrial fighting ability.[197] While merchants and maritime predators are commonly thought of as enemies, maritime predators often need friendly merchants to sell their loot to and purchase supplies from, and in this instance the support of

[192] Ibid 172.
[193] Ibid 214, 224.
[194] Kempe "Publique Enemies to Mankind," 38.
[195] Antony, *Pirates in the Age of Sail*, 34-35, 108.
[196] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 7-8.
[197] Ray Huang, *1587 A Year of No Significance: The Ming Dynasty in Decline*, (Yale University Press, 1982), 164-165.

prominent merchants was vital in organizing and legitimizing the wokou's activities. In fact, some wokou were merchants, such as Hong Dizhen, who went from an illicit trader with wokou customers to a major leader in the group after the Ming dynasty arrested some of his family members for his earlier business dealings with the maritime predators.[198] It is worth noting that while the wokou were often treated as a singular organization, they in fact were comprised of many different groups with their own goals; for instances, between 1810 and 1830 there were over ten "pirate-merchants fleets" who both cooperated and competed with one another, pillaging both each other's shipping and non-wokou competitors such as European trade companies.[199] Furthermore, with the breakdown of both the international tribute system of Maritime East Asia and the terrestrial authority of the Ashikaga Shogunate around 1523, many merchants found themselves unable to turn to governments for help to enforce contracts or protect their goods, and had to arm themselves, which increased both their ability and willingness to engage in maritime predation to protect their interests where governments could not.[200]

At the height of their power, the wokou were able to control not only much of the South China Sea, but also vast swaths of the East Asian coastline, fielding armies that could challenge the Ming on the land as readily as their fleets could challenge the Ming at sea.[201] Some of the more prominent maritime predators operating in this period cultivated an image as what Peter Shapinsky describes as a "Sea Lord;" sea lords both sought to present an image of sophistication and control as well as embrace the fearful image that land based states had of them as vicious

[198] Antony, *Pirates in the Age of Sail*, 109, 111.
[199] Paola Calanca, "Piracy and Coastal Security in Southeastern China, 1600-1780," in Robert Antony *Elusive Pirates, Pervasive Smugglers: Violence and clandestine trade in the Greater China Seas*, (Hong Kong: Hong Kong University Press, 2010), 87.
[200] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 6-7.
[201] Antony, *Like Froth Floating on the Sea*, 25-26.

and unpredictable.[202] They never referred to themselves as "pirates" but acted like Ming and Korean pirate stereotypes when meeting ambassadors from those states, which they were aware of due to the extensive networks of patronage, partnerships, and family ties that connected these maritime predators to the interiors of terrestrial states.[203] They did this to "burnish their reputations; extend their maritime domains; and expand the scope and range of service industries such as creating protection rackets, purveying navigational expertise, and providing agents of intercultural exchange."[204] Moreover, they often mastered the ability to switch between one persona to another in the midst of an interaction to keep those they interacted with off balance, "playing the pirate" to extort material gain from ambassadors and "playing the sea lord" when they sought to gain official recognition of their maritime domains, including littoral spaces and industries.[205]

The actual titles used by these sea lords varied, for instance, the Murakami sea lords of Noshima were known to use titles such as Head of the Bureau of Divination" (*kamon no kami*) or "Governor of Yamato Province" (*Yamato no kami*) when extracting tolls from shipping through their islands, though most were ancient titles of renown, to enhance their displays of power, legitimacy, and respectability.[206] Some even participated in Ashikaga tributary missions to the Ming as guards and muscle, which gave the Ashikaga envoys a reputation as maritime predators themselves thanks to the tendency of these guards to get into fights with other embassies and Ming merchants.[207] This sea lord archetype proved to be an enduring, if flexible and fluid,

[202] Peter D. Shapinsky, "Envoys and Escorts: Representation and Performance among Koxinga's Pirate Ancestors," in Tonio Andrade and Xing Hang, *Sea Rovers, Silver, and Samurai: Maritime East Asia in Global History, 1550–1700 (Perspectives on the Global Past)*, (Honolulu: University of Hawaii Press, 2016): 39-40.
[203] Ibid 42.
[204] Ibid.
[205] Ibid 59.
[206] Ibid 50.
[207] Ibid 52.

legacy, with the Zheng family using it to help legitimize their rule well over a century after the fall of the wokou.[208]

The defeat of such power required drastic measures on the part of the Ming government. One part of the military campaign was led by Qi Jiguang, who organized new militia units from the coastal populace in the affected areas which could mobilize rapidly and with his combination of specialized units with rattan shields and forked spears along with his innovative battlefield tactics that allowed them to pin down and overwhelm wokou forces.[209] Ultimately, however, what proved most important in ending the wokou threat was ending the trade ban which had helped cause the conflict in the first place; with that ban lifted, many of the sailors were happy to return to less dangerous work in legal trade, and the merchants who had supported the maritime predators were incentivized to support the state instead.[210] There was also the fact that after the 1590s, the reunification of the Japanese islands under the Tokugawa Shogunate reduced the number of safe havens available to maritime predators and their smuggler partners.[211] The newly unified government also introducing a licensed trade system, the red seal system, which reduced the incentive to engage in illicit trade and predation in the first place by offering a legal alternative.[212]

Mediterranean Corsairs

Corsairing, whether Christian, Muslim, or even Jewish, could be seen as the continuation of religious warfare on the waters of the Mediterranean as much as a type of maritime predation.

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[208] Ibid 57.
[209] Huang, *1587 A Year of No Significance*, 179-180; Clifford Michael Gyves, "An English Translation of General Qi Jiguang's 'Quanjing Jieyao Pian' (Chapter on the Fist Canon and the Essentials of Nimbleness) from the 'Jixiao Xinshu' (New Treatise on Disciplined Service)," ProQuest Dissertations Publishing, 1993.
[210] Antony, *Like Froth Floating on the Sea*, 27.
[211] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 9.
[212] Ibid.

Indeed, one of the more prominent groups of Christian corsairs, the Knights Hospitaller operating from the island of Malta, were a remnant of the crusades and consistently framed their raiding as an extension of the crusades, even though they raided the ships and settlements of Coptic Christians who happened to be living under Ottoman rule.[213] Of course, maritime predation is hardly the only way to wage war by sea, and there were many great battles over the control of the Mediterranean since the fall of Rome; from the perspective of maritime predation, however, the most important one is the Battle of Lepanto in 1571. In this conflict between the Ottoman Empire and the Holy League, the Ottomans were defeated; as the Ottomans found themselves unable to undertake the cost of rebuilding their fleet in any reasonable timescale, they were forced to switch strategies and instead sponsor maritime predators to weaken their enemies and keep them off balance.[214] While the Holy League was victorious, their losses were great, so many of the states in the league also turned to sponsoring maritime predators to distract and weaken their Ottoman foes.[215]

While the maritime predators of the Mediterranean may have started as extensions of both religious warfare and state rivalries, they quickly took on a life of their own. This is evident in the case of the Ottoman Empire's increasing loss of control over North Africa, particularly the Barbery Coast, so that local leaders were often *de facto* independent and became sponsors of maritime predation with their own wealth and authority, in pursuit of their own objectives.[216] For example, they were known to plunder fellow Muslim ships belonging to rival states, accepted sponsorship from Christian states, and were more loyal to their local governments and business partners than they were to the larger Ottoman Empire that controlled most of the

[213] Antony, Pirates in the Age of Sail, 26.
[214] Lane and Boaluschewski, *Piracy in the Early Modern Era*, 37.
[215] Antony, *Pirates in the Age of Sail*, 21.
[216] Ibid 31.

Muslim Mediterranean.[217] They even organized themselves into groups that operated in a similar manner to modern joint stock companies; these were called *taïfa al-raïs*, and their investors came from all walks of life, whether an average citizen, Janissary officer, or government official.[218] This gave the captains, the *raïs*, great political power in their home ports as well as wealth.[219] Their Christian counterparts were similarly able to operate increasingly independently over time, as can be seen in the Knights of Malta and how they were known to plunder Christian vessels as well as Muslim ones, causing problems for their nominal overlords, the Hapsburgs.[220] It is also worth noting that corsairs were known to defect in this conflict, often converting after being captured; in fact, some of the most infamous of corsairs were defectors, such as the English royal navy deserter turned Muslim corsair John Ward, renamed Yasuf Raïs after his conversion, who commanded a force of over 500 maritime predators by 1606, and preyed on English as well as Dutch and Venetian ships.[221] Notably, when Antonio de Sosa wrote of his captivity among the maritime predators of Algiers between 1577 and 1581, he listed thirty-five notable captains operating there on behalf of the Algerian government, which included Frenchmen, Venetians, Spaniards, Genoese, Greeks, a Hungarian, an Albanian, and many more, with the Turkish corsairs outnumbered by European renegades.[222]

As the practice of Mediterranean maritime predation continued it became increasingly formalized, even as government control over them decreased. This is best seen in the slave and hostage industry that arose from the conflict. Raiders on both sides took people of the opposing side as captives to their own territories, where their families would be contacted to pay a ransom

[217] Thomson, *Mercenaries, Pirates, and Sovereigns*, 44-45.
[218] Antony, *Pirates in the Age of Sail*, 26.
[219] Ibid.
[220] Ibid 31.
[221] Ibid 97.
[222] Lane and Boaluschewski, *Piracy in the Early Modern Era*, 42-43.

for their release; the redemption, as it was called, of these captives commonly resulted in the pooling of donations to pay the ransoms, and eventually the establishment of more or less permanent embassies as official go-betweens to help arrange the payment for ransoms, especially for those who had no families or families too poor to pay, and the return of the hostages.[223] If no ransom was paid, the captive was then sold into slavery unless they converted, in which case they would be freed and integrated into the citizenry of the Barbary states.[224]

Golden Age of Caribbean Predation

When the Treaty of Tordesillas split the world and its oceans between Spain and Portugal in 1494, other European states such as England and France immediately sought to contest this, particularly Spain's domination of lucrative maritime trade routes to the Americas.[225] Doing so, however, was difficult since at the time Spain's navy was vastly superior to that of its rivals, so they turned instead to maritime predation to undermine Spanish rule of the Atlantic and Portuguese domination of the Pacific and Indian Oceans.[226] An ideological turning point came in 1602, when the Portuguese accused six Dutchmen of piracy in Chinese waters on dubious grounds, leading to their execution by Ming authorities; the next year the Dutch retaliated by seizing a Portuguese ship, the *Santa Catarina*, in the Straits of Malacca, and engaged in a propaganda campaign to justify the seizure both legally and morally.[227] The Dutch government hired the legal scholar Hugo Grotius to write a legal principle to justify such activities; this was called the *Mare Liberum*, which was also the name of the book he published on the topic, and

[223] Ibid 43.
[224] Ibid.
[225] Jennifer L. Gaynor, "Piracy in the Offing: The Law of Lands and The Limits of Sovereignty at Sea," *Anthropological Quarterly* 85 no. 3 (2012), 834, 837.
[226] Ibid.
[227] Stefan Amirell, Hans Hägerdal, and Bruce Buchan, "Introduction" in *Piracy in World History*, Stefan Amirell, Hans Hägerdal, and Bruce Buchan, (Amsterdam: Amsterdam University Press, 2021) 20.

under this legal philosophy everyone had the right to travel and trade on the world's oceans without state control, and the use of force was justified in securing such freedom.[228] Historians such as Peter Earle have referred to this as "piratical imperialism" which is defined as "European governments supporting or condoning piracy committed by their own subjects as a cheap and effective way of furthering their commercial and political objectives overseas."[229]

Buccaneer is often thought of as just another synonym for the maritime predators of the Caribbean, but the term has a specific history, one tied to a specific group of maritime predators, and one which sheds light on the existence of numerous liminal societies existing along the edges of the reach of great empires. Buccaneer has its origins in the term "*bouncaniers*," as the people who became the buccaneers originated as simple colonists who made their living by hunting, and smoke-dried their meat (*boucane*) in the Native American style.[230] They called themselves the "Brethren of the Coast."[231] As their situation grew desperate, the people of the Caribbean fringes of the Spanish Empire turned to preying on nearby vessels to survive, particularly as their numbers grew with escaped slaves, indentured servants, and other marginalized members of society joining them, targeting Spanish ships almost exclusively.[232]

Privateering became more common as many wars broke out in both the old and new worlds between rival empires. Interestingly, the conflicts between the colonies of the empires were not always linked to conflicts within Europe itself, nor was colonial diplomacy and trade closely aligned with the interests of the imperial metropoles.[233] Either kind of conflict was a

[228] Gaynor, "Piracy in the Offing," 834, 837.
[229] Amirell, Hägerdal, and Buchan, "Introduction," 21
[230] J. S. Bromley, "Outlaws at Sea, 1660-1720: Liberty, Equality, and Fraternity among the Caribbean Freebooters," in C.R. Pennell, *Bandits At Sea: A Pirates Reader*, (New York: New York University Press, 2001), 169.
[231] Antony, *Pirates in the Age of Sail*, 12.
[232] Ibid 12-13.
[233] Thomson, *Mercenaries, Pirates, and Sovereigns*, 24-25.

good excuse to obtain a letter of marque to prey on ships of one of the factions in the war. As such wars became more common throughout the eighteenth century and privateering underwent a major change; initially it was often a temporary vocation for fishermen and merchant sailors, who would return to their old work right after the conflict.[234] Later on, many maritime predators would carry around stacks of letters of marque to allow them to continue to plunder the shipping of targeted states regardless of who they were at war or peace with at the moment; warfare was so common that they could reliably count on someone being at war with any given state at any given point of time.[235] Beyond the material and social benefits of being a privateer over other forms of maritime predation, it also carried an important legal protection: as legitimate combatants, privateers taken prisoner were, theoretically, due all the rights and protections of a prisoner of war under the rules of war, and not subject to arbitrary trial and execution like a "pirate."[236] The concept of privateering could be manipulated in other ways as well; for instance, one of the many things George Cusack was infamous for in a long career of freely alternating between privateering and piracy was how, after being given a French privateering license while not owning a ship at the time, he joined a crew, staged a mutiny, and then used this privateering license to justify the act.[237] Though Cusack's life and death do demonstrate some of the limits of privateering as well, as he was eventually hanged in 1675 by an English court that denied the legitimacy of his French license, and the trial set major precedents in the operation of international law, maritime law, and prize courts.[238]

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[234] Ibid.

[235] David J Starkey, "A Restless Spirit: British Privateering Enterprise, 1739-1815," in D. Starkey, Van Helsinga, & De Moor, *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, (Exeter: University of Exeter Press 1997), 130-131.

[236] Michael Kempe ""Publique Enemies to Mankind": International Pirates as a Product of International Politics" in *Piracy in World History*, Stefan Amirell, Hans Hägerdal, and Bruce Buchan, (Amsterdam: Amsterdam University Press, 2021), 50, 53-54.

[237] Ibid 44-45.

[238] Ibid 46-47.

Privateering arrangements were not just beneficial for the maritime predators, but the colonial governors as well. Besides undermining their rivals and profiting from a share of the proceeds when goods were seized and sold, some colonial governments made a hefty profit simply from the selling of letters of marque to maritime predators looking to legitimize their work, and were often hesitant to punish abuses of the system lest those freebooters move to a more accommodating colony.[239] Additionally, it was a much cheaper way of projecting power, and keeping sailors trained and experienced in naval combat between wars, than having a standing fleet, as colonial and imperial governments in this time period were often low on capital.[240] This is not to say that state sponsored maritime predation was never reigned in or punished, as can be seen in 1618, when the English predator Raleigh was executed for continuing his raids after peace was made with Spain, despite the fact that he was knighted for his earlier predation and that he thought the English crown would be pleased that he could get around an unpopular treaty.[241] Notably, the execution was done at the request of the Spanish ambassador, and thus represented one of the first major incidents of pushback against state support, or at least tolerance, of maritime predation not aimed at itself.[242] Rather, attitudes and policies tended to change with the circumstances. In particular, there was a paradox concerning privateers, as well as other forms of private violence such as mercenaries and trade company armies; while they allowed for states to reap great benefits at minimal costs, they also came with their own risks and complications, such as these groups turning on their home states or destabilizing international relations to a state's detriment.[243] This is particularly notable in the

[239] Anne Perotin-Dumon, "The Pirate and the Emperor: Power and Law on the Seas, 1450-1850," in C.R. Pennell, *Bandits At Sea: A Pirates Reader*, (New York: New York University Press, 2001), 43-44.
[240] Thomson, *Mercenaries, Pirates, and Sovereigns*, 21-22.
[241] Ibid 23.
[242] Ibid 69.
[243] Ibid 43.

case of George Cusack, since it was the opinion at his trial that robbing people at sea was necessary but not sufficient to label him a pirate, and what really made him a pirate was the international nature of his crimes and victims; as such he was an embarrassment to the reputation of England overseas and damaged its international relation, and it was for this, as much if not more than mere robbery, that he was hanged.[244] Furthermore, to get the best results, the states would have to minimize their control and incentive risk taking for the non-state actors, sacrificing the state's freedom of action in the process; to put it another way, a state employing privateers would have to restrict its own actions around them to give the privateers the freedom of action they need to be the most effective at their job of hurting the enemy.[245]

Eventually, however, the conflicts would slow down, at least in the Caribbean, and restrictions would be put on who could issue or receive a letter of marque, limiting the ability of maritime predators to engage in their work with any degree of legitimacy.[246] Many would end up abandoning that shield of legitimacy and acting more indiscriminately, targeting ships flying flags their homelands were at peace with and even ships with the flags of their homelands.[247] Maritime predators instead built their own communities, ideologies, and social orders in opposition to those of the great empires. For instance, Bartholomew Roberts launched bold raids destroying ships in broad daylight and threatened to destroy the town of Sandy Point in 1721 in retaliation for the hanging of maritime predators.[248] Efforts were made to hunt down the

[244] Amirell, Hägerdal, Buchan, "Introduction," 49.
[245] Ibid.
[246] Ibid 46-47.
[247] Ibid.
[248] Antony, *Pirates in the Age of Sail*, 14-15.

maritime predators as well as set up convoy systems and patrol routes to protect commercial shipping.[249]

Ultimately, like many other forms of private violence, non-state maritime predation became more of a nuisance to states than an asset, as it increasingly threatened not only the trade that was the backbone of imperial economies, but also diplomatic relations. Since it was almost impossible to determine whether an act of maritime predation had been sponsored or not, sustained maritime predation in an area could risk war for whatever state was deemed responsible, either because they controlled the area or because the maritime predators were of their nationality.[250] Furthermore imperial heartlands decided to crack down on colonial cooperation with maritime predators. For instance, England decided to deal with maritime predation in the Americas after 1699 by removing local officials who had dealings with the predators, seizing the ships and goods of those who did business with maritime predators, and offering the predators themselves generous pardons to incentivize surrender.[251] These measures were so effective that the once ubiquitous predation withered away by 1701.[252] The end of maritime predation in the region, as is often the case in many contexts throughout world history, had less to do with military campaigns to hunt down maritime predators on the open seas, as dramatic and attention catching as such things could be, and more to do with states quietly ending their support for and complicity with non-state maritime predators.[253]

Indian Ocean

[249] Marcus Rediker, "The Seaman as Pirate," in C.R. Pennell, *Bandits At Sea: A Pirates Reader*, (New York: New York University Press, 2001), 150-151.
[250] Thomson, *Mercenaries, Pirates, and Sovereigns*, 44.
[251] Ibid 50-51.
[252] Ibid 51.
[253] Ibid 54.

Before the arrival of Europeans, the Indian Ocean was notably low on maritime violence despite being an area traversed by countless merchant ships, at least partly because few governments there had any ambitions of controlling the waters or the trade that traversed. Which is not to say that there was no maritime predation in the area, but the records of states in the area, whether in Arabic, Sanskrit, or Hindi, rarely gave it much attention, and when it was mentioned it was most often treated as an extension of terrestrial predation or conflicts rather than its own legal category.[254] However, what predation there was would ultimately pale in comparison to what would occur after the arrival of European predators, starting powerful merchants seeking to dominate the region's trade by preying on the competition, followed by independent predators arriving from the Atlantic to secure a new hunting ground.

When the Portuguese first arrived in the Indian Ocean around the turn of the sixteenth century by going around the southern end of Africa, they quickly began to raid local maritime shipping, pressure native rulers to exclude other traders, and set up a system where local merchant ships had to pay to avoid being attacked, which was in line with an existing Mediterranean view on the importance of controlling a trade monopoly.[255] Part of the reason for their actions was out of a continuation of the religious warfare mindset which had driven the Reconquista of the Iberian peninsula in 1492, and the Portuguese were particularly hostile to Muslim merchants, even seeking allies among merchants and rulers of various non-Muslim religions in the area.[256] Though access to Indian trade was valuable in and of itself, with an early

[254] Patricia Risso, "Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century," *Journal of World History* 12, No. 2 (2001): 299-300.
[255] M.N. Pearson, "Merchants and states," in James D. Tracy (ed.), *The Political Economy of Merchant Empires: State Power and World Trade*, 1350–1750, (Cambridge: Cambridge University Press, 1991), 77.
[256] Sanjay Subrahmanyam and Luis Filipe Thomaz, "Evolution of Empire The Portuguese in the Indian Ocean in the Sixteenth Century," in James D. Tracy, *The Political Economy of Merchant Empires: State Power and World Trade*, 1350–1750, (Cambridge: Cambridge University Press, 1991), 300-301.

spice trading expedition making a massive profit despite returning with only a half cargo of spice on the only surviving vessel of the three that had been sent, Portuguese merchants had another reason for violent tactics, namely the difficulty they faced breaking into the market to any meaningful degree because established merchant communities already had the knowledge and web of contacts to out-compete the newcomers.[257] After making contact, the Portuguese traders and explorers did not ingratiate themselves to the local populace, developing a reputation that ranged from arrogant rogues to outright monstrous cannibals. For instance, some Sri Lankan residents reported to their ruler that the Portuguese were "ghastly creatures who devoured stones and drank blood."[258] Vasco De Gama himself made a terrible impression in 1498 Calicut when he and his followers were denounced as desperate pirates by the city's leading Muslim merchants, who had dominated the spice trade for centuries, which De Gama seemed to prove by refusing to pay the port fees and fleeing with five hostages instead.[259] The rumors even spread as far as the Ming, who first heard of the Portuguese as treacherous kidnappers who were lacking in any moral standards and even "seized children for food."[260] While the rumors of cannibalism were not universally believed, Portuguese involvement in maritime predation, smuggling, kidnapping and slave trading was well documented in the sixteenth century and beyond, and Portuguese cooperation with wokou maritime predators for access to Ming markets confirmed the reports for most Ming officials.[261]

Instead, the Portuguese biggest advantage was having better armed ships than most local groups; though these local groups were not totally helpless, and the people of Omani coast in

[257] Pearson, "Merchants and States," 78-79.
[258] Antony, "We Are Not Pirates," 267.
[259] Ibid.
[260] Ibid 269.
[261] Ibid 269-270.

particular quickly developed a tradition of mixing violence with commerce on the seas, often aimed at the Portuguese who preyed on them, but at other times going after any worthwhile target.[262] The Ottomans were an exception in that they could match the Portuguese in naval warfare at this point, using similar ships and cannons, but only sporadically made brief attempts at naval expansion in the Indian ocean for a variety of reasons, especially the difficulties they faced on other fronts which drew their attention away from the Indian Ocean, though they still did considerable economic and political damage to the Portuguese efforts.[263] Still, such was Portuguese naval power in the region that one sixteenth-century Portuguese chronicler, João de Barros, declared that the Indian Ocean was a "Portuguese Sea" and that "as Lords of the sea are justified in confiscating the goods of all those who navigate the seas without their permission."[264]

The Portuguese would soon be on the other end of these tactics when the Dutch came into the area in the early 1600s and attacked both Portuguese ships and their local allies in order to seize control of the trade routes, specifically targeting those with Portuguese passes.[265] The VOC were, however, notably more discriminating in who they targeted in their attacks as opposed to the Portuguese broad attempts to enforce a monopoly, and were much more interested in forming partnerships than absolutely controlling trade, even if the partnerships they made favored their interests.[266] Other states and groups would follow, most notably the English East India Company, whose activities in the region would contribute to England's turn against the support of private maritime predation as a tool of statecraft.[267]

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[262] Risso, "Cross-Cultural Perceptions of Piracy," 304-305.
[263] Giancarlo Casale, *The Ottoman Age of Exploration*, (Oxford: Oxford University Press, 2010) 8, 180-181.
[264] Antony, "We Are Not Pirates," 267-268.
[265] Thomson, *Mercenaries, Pirates, and Sovereigns*, 39-40.
[266] Pearson, "Merchants and states," 86.
[267] Thomson, *Mercenaries, Pirates, and Sovereigns*, 39-40,

In the 1690s, many maritime predators arrived from the Caribbean to the Indian Ocean, quickly preying on European and local shipping alike.[268] Despite the earlier conflicts in the region, they found great wealth relatively undefended; in August 1695 Henry Avery led the pillaging of two ships from a rich Muslim pilgrim convoy, later vanishing with much of his plunder and setting an example for countless other maritime predators to follow.[269] Such was the scale of the predation that the island of Madagascar was rumored to be host to a pirate republic, Libertalia, built on an ideology of freedom and brotherhood in opposition to the nobility and merchant elites of the European empires.[270] While this state was fictional, Madagascar was a major base for maritime predator activities, and was particularly valuable as a resupply point after crossing the southern African coast.[271] It is worth noting that the arrival of Europeans did not completely overpower and overshadow local maritime predators; in the 1690s, Kanhoji Angre (also known as Angria) achieved fame as a raider who aided the Marathas in their endeavor to resist the expansion of the Mughals; the Mughals in turn labeled him an enemy, but it was the EIC who labeled him a pirate because he and his men had attacked company ships.[272] It was in the Indian Ocean that an incident would help spark a backlash against maritime predation in general; on January 30, 1698, Captain William Kidd, ironically on a mission to capture other maritime predators, attacked the *Quedagh Merchant*, a trade and pilgrimage vessel owned by Abd-ul-Ghafur, a merchant of the Gujarati state and one of the richest men in the world at the time; such was his outrage that he threatened to use his power and influence to expel the English from India entirely unless the East India Company did something about the matter,

[268] Lane and Bialuschewski, *Piracy in the Early Modern Era*, 117.
[269] Ibid.
[270] Defoe, *A General History of the Pyrates*, 417; Cordingly, *Under the Black Flag*, 146-147.
[271] Ibid.
[272] Risso, "Cross-Cultural Perceptions of Piracy," 293.

and they took his threat very seriously.[273] After a long pursuit, they had him tried on charges of piracy, and hanged on May 23, 1701, despite his insistence that all of his captures were legal under the commission that he had been given; the legitimacy of the trial and Kidd's defense remains debated to the present day.[274]

Southeast Asia

The waters of Southeast Asia have been a major center of maritime trade since people first plied the seas for the sake of commerce, so much so that it is said of the region that "The land divides but the sea unites."[275] Not only was it a major connecting route for the economic arenas of the Indian Ocean and maritime East Asia, it was a source of many highly valued trade goods itself, such as camphor, benzoin, gaharuwood or eaglewood, a kind of kino known as dragon's blood, gold, resin, brightly colored feathers, pearls, tortoise shells, tin, and *trepang*, a kind of dried sea cucumber which were considered a delicacy by the Qing.[276] Considering the geography and hydrography of the region was filled with choke points to ambush targets and numerous hiding places among its many islands, coves, and mangrove swamps, coupled with a scarcity of strong states to patrol the trade routes, it is no wonder that the region was home to maritime violence of every motive and method.[277] The earliest recorded cases of maritime predation in the region stretch back to the fifth century, though it reached its heyday between

[273] Robert Ritchie, *Captain Kidd and the War against the Pirates*, (Cambridge: Harvard University Press, 1986), 127-128.
[274] Ibid 221-222; Antony, *Pirates in the Age of Sail*, 75.
[275] Craig A. Lockard, "" The sea common to all": maritime frontiers, port cities, and Chinese traders in the Southeast Asian Age of Commerce, ca. 1400-1750," *Journal of World History* (2010): 219.
[276] Andaya, *Leaves of the Same Tree*, 2; John Miksic, "Heterogenetic Cities in Premodern Southeast Asia," *World Archeology* Vol. 32, No. 1, 2000, 111; Robert J. Antony, "Turbulent Waters: Sea Raiding in Early Modern South East Asia," *The Mariner's Mirror,* 99:1 (2013): 23; Antony, *Pirates in the Age of Sail*, 52.
[277] Antony, *Pirates in the Age of Sail*, 44-45.

1750 and 1860.[278] This period is particularly associated with the high point of the Ilanun raids from the southern Philippines throughout both coastal and insular Southeast Asia.[279]

In particular, for some Malay communities, maritime raiders could be upstanding, respectable members of their societies, far from the maritime predator stereotype of "antisocial dissidents living on the fringes of society," and at times were even considered heroes in their communities, similar to the Aegean Greeks, early Medieval European waters, and the early modern Mediterranean Sea.[280] This was the case for Raja Ismail, a mid-eighteenth century noble from the Siak Sultanate who obtained great wealth and power from his maritime raiding.[281] Malay nobles around Singapore on the islands of Riau, Galang, and Lingga frequently sponsored raiding expeditions by supplying them with weapons and opium.[282] These voyages also doubled as trading expeditions selling marine products to Europeans involved in the China trade in spring before launching attacks in the Straits of Malacca as far north as Kedah during the summer, in exchange for a share of the loot, with British sources claiming that the sponsors of the raiders received "shares of the plunder, the female captives, the cannon, and one-third of all the rest of the booty."[283]

That said, it is important to keep in mind that there is not a static, unified Southeast Asian perspective on maritime predation, nor were groups such as the Malay or *orang laut* "innately piratical" as they were described by European sources, nor were there clear divides between a singular European colonizer and singular colonized Asian view of maritime predation; there

[278] Antony, "Turbulent Waters," 23.
[279] James Warren, *The Sulu Zone 1769-1898: The Dynamics of External Trade, Slavery, and Ethnicity in the Transformation of a Maritime State 2nd Edition*, (Singapore, NUS Press, 2007), xix-xx, xxxi-xxxii xli-xlii, xliii, 165.
[280] Anderson, "Piracy in the Eastern Sea," 87.
[281] Antony, "Turbulent Waters," 25.
[282] Ibid 34.
[283] Ibid 34-35. Antony sites 'Malay Pirates', *Asiatic Journal and Monthly Register for British India and its Dependencies* 19(1825), 244–245 for this.

were simply a variety of positions whose adherents changed with the circumstances.[284] Accounts from Malay victims of predation did not portray the profession as nearly as honorable as the predators themselves did; in fact, the pro-predation positions were likely the minority ones, simply more well known because they were held by the elite that benefited from the raiding and enslaving rather than the majority who suffered from it.[285] Furthermore, while there may not be exact linguistic translations for "pirate" in many Southeast Asian languages, scholars such as Stefan Amirell have demonstrated that a closer reading of Southeast Asian sources reveals an understanding of a difference between legitimate and illegitimate maritime violence with equivalent terms, and that both European and Southeast Asian sources understood that this legitimacy could vary depending on "different social, political and cultural contexts."[286]

Maritime predators were known to move into maritime Southeast Asia from other areas and extend operations across multiple seas. This trend of maritime predator migration intensified over time, with maritime predation in the region between 1500 and 1860 becoming a multinational enterprise that saw European, Chinese, Japanese, and native forms of maritime predation existing alongside each other without any coming to dominate the others.[287] While there was always some presence of maritime predators from East Asia in maritime Southeast Asia throughout its recorded history, their numbers came and went in three great waves; the first two corresponding with the r8ise of the wokou and the alliance between the Tay Son and Qing maritime predators, while the third occurred between the 1820s and 1860s.[288] One notable instance of this presence was the maritime predator Chen Zuyi, encountered by the famous

[284] Stefan Eklöf Amirell, *Pirates of Empire: Colonisation and Maritime Violence in Southeast Asia*, (Cambridge: Cambridge University Press, 2019): 6-7, 12-13, 213.
[285] Ibid 13, 212.
[286] Ibid 209.
[287] Antony, "Turbulent Waters," 23.
[288] Ibid 27-28, 30.

Admiral Zheng He on his expeditions.[289] Chen Zuyi was of Guangdong origins, but took over the city of Palembang on the island of Sumatra to rule as his own fiefdom, raiding into the straits of Malacca and along the Ming coast, before being overthrown by Zheng He's forces at the battle of Palembang in 1407 and taken back to the Ming state for execution.[290]

The period between 1550 and 1650 saw sporadic raids by both Ming and Japanese maritime predators, mainly associated with the wokou, though this motley alliance of former Japanese soldiers and both Ming and Japanese sailors left unemployed by Ming trade bans came to trade as much as raid.[291] Many local rulers and merchants were happy to have the visitors so long as they did not cause too much trouble, so this period saw Southeast Asian ports such as Hoi An, Malacca, Pahang, and Manila become thriving emporia frequented by Ming and Japanese maritime predators and smugglers alike.[292] The depth of the connections between Southeast Asia and East Asian regions of the South China Sea during this period is best illustrated by an examination of the Xu family. By the mid-sixteenth century, the wealthy Xu family from Huizhou were already involved in the Malacca trade and had Malaccan wives, and they responded to the Ming trade ban by going into smuggling and raiding.[293] Xu Dong, in particular, was known for allying with Japanese and Portuguese adventurers for expeditions throughout Southeast Asia which combined raiding and trading.[294] Some of Xu Dong's other allies included the "smuggler-pirates" Li Guangtou and Lin Jian, the latter of whom operated a large fleet for both raiding and trading in Southeast Asia, China, and Japan out his base in Pahang; it was out of Pahang that Lin Jian and Xu Dong launched a combined force of seventy

[289] Sen, "The impact of Zheng He's expeditions on Indian Ocean interactions," 613.
[290] Ibid.
[291] Antony, "Turbulent Waters," 27-28.
[292] Ibid 28.
[293] Ibid 28-29.
[294] Ibid 29.

junks to pillage the Zhejiang coast in 1547.[295] When Xu Dong fled China in 1548, one of his subordinates, Wang Zhi, seized control of the Xu syndicate and became the most powerful "merchant-pirate" of the time.[296] Initially he was active around Siam before moving operations to Japan, and surrendered to the Ming in 1559, only to receive an execution instead of the pardon he was promised.[297] Another notable maritime predator of this period was Lin Feng, who operated from a Taiwan stronghold in the 1570s and challenged the Spanish control of the Philippines, adding to the threat of Japanese maritime predators operating out of Luzon from 1580 to 1582 already posed to the Spanish.[298] Ling Feng threatened many other regions and powers; in 1571 and 1572 he pillaged along the Guangdong coast before establishing a fortified trade post in Luzon, and two years later led a fleet of thirty junks to pillage Hainan before attacking the Spanish at Manila.[299] While this resulted in Lin Feng being driven from his base by a Spanish armada led by Juan de Salcedo, he nevertheless remained an active raider in the region for another decade before fading into historical obscurity in the late 1580s.[300] Japanese maritime predators were as active in the region as Ming ones; in addition to the Spanish encounters with Japanese raiders from Luzon in the 1580s, Vietnamese officials often noted Japanese raiding along their coastlines. For instance, in 1585 Shirahama Kenki led five large vessels in pillaging several Vietnamese coastal villages, and when he returned four years later claiming to be a lawful merchant, Vietnamese officials immediately threw him in jail.[301]

[295] Ibid.
[296] Ibid.
[297] Ibid.
[298] Antony, *Pirates in the Age of Sail*, 48.
[299] Antony, "Turbulent Waters," 29.
[300] Ibid.
[301] Ibid.

The turbulence of the Ming-Qing Dynastic wars of the mid-seventeenth century saw over 3,000 Ming loyalists flee the Qing to settle along Vietnam's sparsely populated coastline, where they made their living through fishing and maritime predation, intermarried with local women, grew out their hair in the manner of rebels and outlaws, and integrated into larger Vietnamese society while maintaining a unique identity centered around Ming loyalism and customs.[302] Other Ming maritime predators such as Deng Yao, Chen Shangchuan, and Yang Yandi created fortified strongholds on the island of Longmen in the Gulf of Tonkin to directly challenge Qing as cohesive military forces while simultaneously expanding their commercial interests and political sphere of influence around the Gulf of Tonkin and Mekong Delta "where pirate commanders became immersed in the complex web of political alliances and competition between Vietnam, Siam, and Cambodia."[303] This group lasted until 1683 when they were soundly defeated by the Qing and Longmen Island was incorporated into the Qing's "inner ocean."[304] Yet the coastal borderlands with Vietnam as a whole remained, in Qing eyes, a "turbulent sea frontier," and modern historians might refer to it as a "contested contact zone."[305] Not only were the central authorities of either side of the borderlands unable to quell maritime predation from the region, local strongmen and regional authorities were known to support the predators in resisting Qing rule; for instance, in the 1660s the maritime predator group led by Yang Yandi and Xian Biao received protection and support from Phan Phú Quốc, a hegemon in Hải Nha, likely in Vietnam's Hải Dương province, who not only refused to extradite them to the Qing but fired upon the Qing from his fortress.[306]

[302] Ibid.
[303] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 184-185.
[304] Ibid 185.
[305] Ibid 185-186.
[306] Ibid 186.

Around the same period, Zheng Zhilong and his descendants maintained a private maritime empire that reached deep into Southeast Asia, carrying out a system of triangular trade and extortion between China, Japan, and Southeast Asia based around its connections to diasporic communities throughout all three regions, such as the Ming loyalists who relocated to the Vietnamese coast.[307] Dissidents from Qing hegemony would again play a major role in the region when maritime predators from the Southern Chinese Coast allied with the Tay Son regime in Vietnam from about 1790 to 1802, operating from their bases on Hainan Island, Giang Binh, and Hai Phong on the Sino-Vietnamese frontier, to launch pillaging raids along the Qing coast in spring, and returning to plunder their hosts' enemies along the coasts of Vietnam and in the Gulf of Siam during autumn, with a period to refit in-between.[308] In the late 1790s there were even reports of them allying with Bugis maritime predators to extend their operations to the Sunda Strait, robbing Dutch and native trading vessels alike.[309] Much of this raiding was aimed at taking captives who could be sold in the brisk slave trade maintained by diasporic raiders and traders in the region throughout the early modern era.[310] Even after the fall of the Tay Son, their former maritime mercenaries continued their excursions on the Vietnamese coast, Malay Peninsula, and Philippine Islands until the fall of the Guangdong Confederation in 1810.[311] One notable example of this was a mixed and well-organized gang of sixty to eighty Qing and Malay maritime predators who attacked a Malay boat and murdered the entire crew near the port city of Malacca in 1806; according to dispositions taken from predators imprisoned after the operation,

[307] Antony, "Turbulent Waters," 30.
[308] Ibid.
[309] Ibid.
[310] Ibid.
[311] Ibid.

the Qing half of the gang were from Guangdong, and were new to the area yet seasoned raiders, and worked for a larger organization run by respectable businessmen in Malacca.[312]

While the defeat of the Confederation resulted in a brief period of relative reprieve from the intrusion of these northern predators, it was not to last as poverty and famine exploded into the chaos of multiple anti-Qing uprisings and the increased presence of foreign imperialists, leading many more mariners of the Southern Chinese Coast to return to a life of maritime predation in Southeast Asian waters. In the late 1820s, John Crawford reported that Qing maritime predators operated in-between the Gulf of Siam and the Java Sea, where they abducted hundreds of young men and women to sell in Siam.[313] The fallout of the First Opium War (1839-1842) and British anti-predation expeditions in the 1840s and 1850s only worsened the predation situation in Southeast Asia, as many maritime predators fled the British patrols into more southernly waters.[314] For instance, the *Dai Nam Thuc Luc* (Veritable Record of Vietnam) records over forty separate maritime raids on ships and towns along the Vietnamese coast by such maritime predators between 1839 and 1849.[315] In 1857 an Englishman by the name of Edward Brown was abducted by a band of maritime predators who forced him to train them in the use of modern weapons and assist in attacks on passing junks during the several months he spent with them.[316] While this group did most of their violence in Vietnamese waters, they regularly returned to Hong Kong to refit, sell their booty, and enlist gang members.[317]

The Malay Archipelago also saw a surge in maritime predation by raiders from the Southern Chinese Coast during this period; while they occasionally attacked Western merchant

[312] Ibid.
[313] Ibid.
[314] Ibid 30-31.
[315] Ibid 31.
[316] Ibid.
[317] Ibid.

ships, their primary targets were the smaller and less well armed native trading vessels.[318] This predation came in waves; the first arose in the 1850s as a result of the upheaval of the Taiping conflict and was largely focused on the Strait of Malacca and the east side of the Malay Peninsula; this was primarily because Singapore was such an excellent home base for maritime predators, both geographically and because of easy access to a flourishing arms industry as well as a market for easily disposing of pirate goods.[319] It did not go unnoticed that the center of British maritime power in Southeast Asia was supporting an industry of maritime predators while Britain was actively trying to suppress it, but attempts to clamp down on maritime predation in Singapore and constrain the gun trade were sluggish at best, as there were concerns that such efforts could damage Singapore's economy.[320] They were also known to recruit European renegades to act as gunners and pilots.[321] Such was the effectiveness of their attacks that it disrupted the foreign trade of the great economic centers of Singapore and Batavia, though as with Hong Kong this did not stop unscrupulous merchants in Singapore and the surrounded islands from outfitting raiders despite government attempts at suppression.[322] This surge in predation ended in the early 1860s alongside the introduction of regular steamship patrols in the region.[323] However, a second, smaller surge occurred in the 1870s, mainly around the city of Penang and the state of Perak, which in turn became connected to a rise in coastal and riverine predation in northern Vietnam in the 1860s and 1870s; as maritime predation was increasingly cracked down on in both Malaysia and Southern China, the political and military weakness of the Nguyen regime combined with the favorable terrain made it a perfect location for maritime

[318] Ibid.
[319] Amirell, *Pirates of Empire*, 216
[320] Ibid 217, 220-221.
[321] Antony, "Turbulent Waters," 31.
[322] Ibid.
[323] Ibid.

predators to flee to, as well as collect slaves to sell as domestic servants in Qing territory or as labor to colonial plantations, mines, and other workplaces around the world.[324]

As with the Indian Ocean, the entrance of European trading companies and empires greatly changed the scale and nature of maritime predation in the region, and the practice reached its peak in the region between 1750 and 1860, a time period when it was on the decline in most other places.[325] As with the Indian Ocean and Maritime East Asia, Portuguese traders and the Dutch East India company alike quickly got about to damaging the business operations of their rivals by way of maritime attacks, either with their own forces or by sponsoring other parties, redirecting trade flows to their benefit at the expense of local merchants.[326] The seventeenth century saw Dutch, English, French, and Danish maritime predators repeatedly strike indigenous, Chinese, Japanese, and Arab trading vessels around Sumatra, Java, and the Malay Peninsula; notably in the 1620s the British and Dutch East India Companies joined forces to attack Chinese traders operating around Manilla.[327] While European writers considered maritime predation to be an accepted and intrinsic practice to cultures in the region, there was in fact a strong sense among local mariners and rulers that European predators, whether private or aligned with companies and empires, were unwelcome thieves and interlopers.[328]

Additionally, European warring with both local powers and each other disrupted stabilizing power structures even as trade was on the rise, further increasing the payoffs while reducing the risks for maritime predators.[329] In particular, for the Orang Laut and other sea peoples around Johor, the Dutch invasion of Riau in 1784 and the establishment of British

[324] Amirell, *Pirates of Empire*, 217-218.
[325] Antony, *Pirates in the Age of Sail*, 44.
[326] Anderson, "Piracy in the Eastern Sea," 89, 93.
[327] Antony, "Turbulent Waters," 27.
[328] Ibid 23-24.
[329] Benton and Ford, Rage for Order, 132.

settlements in Penang (1786), Malacca (1795), and Singapore (1819), contributed to a period of crisis and conflict lasting from 1784 to 1836, further supported by constant battles between the Malay and Bugis and innumerable smaller scale battles between villages.[330] It is also worth noting that in the sixteenth century the Spanish depicted their conflict with the Moro raiders in Malaysia primarily in terms of religion, arguing that Islam promoted piracy against non-believers.[331] By the second half of the eighteenth century and especially throughout the nineteenth century they increasingly labeled their Muslim opponents as generic pirates instead.[332] Finally, maritime predation simply grew with the expansion of trade and colonization in the region; in particular, European demand for Southeast Asian trade goods, either for domestic consumption or to resell to China, created a demand for forced labor in the region, which in turn encouraged maritime raiding to acquire captives for labor.[333] That said, independent European maritime predators never made quite the impact in Southeast Asia that they had in other regions, and their activities had declined after 1700 and largely ceased a decade or so later in the early eighteenth century while East Asian maritime predation remained sporadic throughout the entire time period and Southeast Asian predation grew in the eighteenth and early nineteenth centuries; though individual Europeans still frequently deserted colonial service and joined local maritime raider crews, often acting as gunners, pilots, and even as commanders on Asian vessels.[334]

The Iranun and Balaningi raiders from the Sulu archipelago were a particularly infamous group of maritime predators operating in the region; in the service of their Tausog overlords in the Sulu Sultanate, they focused primarily on raiding villages for slave labor, though they were

[330] Antony, "Turbulent Waters,"35.
[331] Amirell, Pirates of Empire, 215-216.
[332] Ibid.
[333] Antony, "Turbulent Waters," 23-24, 33.
[334] Ibid 25, 27.

not above attacking ships as well.[335] Similar to privateers in Europe or corsairs in the Mediterranean, these raiders were often sponsored by Sulu sultans and *datus* (chiefs or nobles) in exchange for a certain percentage of the profit; for instance, in 1775 when Sulu raiders pillaged a British warehouse in Balambangan, the Sultan's share came out to forty-five pieces of artillery and gunpowder, on top of a "contribution" of 3,000 pesos from the raiders involved.[336] They were well organized and armed, having very quickly adopted not only European cannons and firearms, but the tactics of how to use them effectively, proving overwhelmingly effective in the trade wars of the 1770s.[337] They operated in fleets of twenty to thirty double-deck *prahus*, each up to one hundred feet long with fifty to eighty warriors and one hundred oarsmen, though they at times could assemble armadas of two hundred such vessels, armed with everything from knives to swivel guns and even brass cannons.[338]

While Europeans liked to use them as a justification for maritime predator suppression campaigns, in truth they rarely targeted European ships or outposts, and in many ways their operations were as profitable as they were because of European activities in the region, for most of the slave labor was used to harvest or create various maritime and forest products, which was often in turn sold to European merchants who would in turn bring them to Qing markets in order to trade for the goods they wanted to sell back in Europe.[339] Jolo was the largest slave market in the region, with around half of its population consisting of slaves; over 300,000 thousand slaves were trafficked by Sulu raiders between 1770 and 1870, with most going to the production of jungle products for the China trade, others forced into the raiding fleets as rowers (who were

[335] Warren, *The Sulu Zone*, 149-150, 182.
[336] Antony, "Turbulent Waters," 33.
[337] Warren, *The Sulu Zone*, 25-26.
[338] Antony, "Turbulent Waters," 33.
[339] Anderson, "Piracy in the Eastern Sea," 88.

expected to fight in emergencies), some women were sold as mistresses to the Chinese settlers in Malaysia, and elderly and infirm slaves sold to certain groups in Borneo for ritual sacrifice.[340] In the nineteenth century Iranun raiders were known to ally with Malay maritime predators and establish joint bases for the capture of slaves, edible maritime products, spices, and weapons to fuel growing international markets.[341] Moreover, European merchants profited considerably from the sale of weapons to Sulu raiders, to the point that English manufactures started producing custom firearms specifically for the Sulu market.[342] Additionally, the fact that the Iranun raiders were acting in service to the Sulu Sultanate raised questions of whether they could be considered privateers, as they were similar to the ones employed by European states, and thus enjoyed similar rights and protections.[343]

By the 1830s, European powers, particularly the British Empire were growing increasingly concerned with the state of maritime violence in the region; while European ships were rarely the victims of such aggression, their local trade partners were, and there were fears that the profits of European trade were being driven down by the violence going on around them, as well as numerous dispatches from the region requesting large numbers of ships and men to protect the local trading *prahus*.[344] Yet at this point, the precedent had been, for the most part, that there could be no acts taken against maritime predators by a state's navy unless the maritime predators operated within their waters or had attacked ships flying the flag of their homeland.[345] As such, the arguments used to justify suppression of suspected maritime predators in the region represented an important shift in the attitudes towards maritime predation on a global scale, and

[340] Antony, "Turbulent Waters," 34.
[341] Ibid 35.
[342] Ibid 33.
[343] Warren, *the Sulu Zone,* 255.
[344] Anderson, "Piracy in the Eastern Sea," 93-94; Warren, *the Sulu Zone*, 158.
[345] Benton and Ford, *Rage for Order*, 117.

set important precedents that influenced European attitudes concerning Qing maritime predation between 1850 and 1950, namely that if a ruler could not "keep his own house in order" to protect international trade, then others were justified to step in and do it for them.[346]

The pirate suppression campaigns were costly and brutal. Imperial powers raised taxes over local trade routes, and whole villages were wiped out after being accused of engaging in maritime predation.[347] This position was challenged on many fronts, both within the empire and without, with condemnations coming from pamphlets in the streets to the halls of Parliament; even among colonial agents on the frontline, many were aware of and at times even sensitive to different cultural and legal interpretations of what constituted piracy in the region, and acted within those understandings to an extent.[348] Still, ultimately the critics did not have as much influence as its supporters, which were also international in scope, and thus a new precedent was set that greatly expanded the definition of "piracy" to include maritime warfare by polities that were not recognized as legitimate states by the European community.[349] The reaction of local leaders varied considerably, with some cooperating with European led maritime predation suppression efforts while others continued to sponsor it where they could; the Vietnamese under Emperor Tu Duc turned the rhetoric around and accused the French of being nothing but pirates.[350] Ironically, there is evidence that the campaigns against maritime predation did considerable damage to the trade it was trying to protect as well.[351] Still, by the 1860s the amount of maritime predation was significantly less than it had been, due in part to regular

[346] Thomson, *Mercenaries, Pirates, and Sovereigns*, 114-115.
[347] Anderson, "Piracy in the Eastern Sea," 96-97.
[348] Alexis Chamerovzow, *Borneo Facts versus Borneo Fallacies: An Inquiry into the Alleged Piracies of the Dyaks of Serebas and Sakarran*, 2nd ed., (London: Charles Gilpin, 1851), 54-55; Amirell, *Pirates of Empire*, 8-9.
[349] Benton and Ford, *Rage for Order*, 141, 149.
[350] Amirell, *Pirates of Empire,* 6.
[351] Anderson, "Piracy in the Eastern Sea," 95-96.

steamship patrols and the forcible resettlement of communities with alleged traditions of maritime predation away from their traditional power bases with the intention that they take up lives of agriculture and peaceful commerce instead.[352]

In any case, while maritime predation did much decrease around this time, it never really ended, persisting well into the twentieth century, nor did the constant invocations of its threat in order to justify new campaigns or laws, even if the majority of cases involving East and Southeast Asian victims were largely ignored in favor of the rare few that harmed Europeans or Americans.[353] Notably, Chinese and Malay pirate victims were rarely named in reports on their attacks, even the much publicized massacre of thirty-four Chinese passengers on the junk *Kim Seng Cheong* in 1871 used to justify drastic anti-maritime predation actions didn't include a single name, with reporting in these instances more focused on the grizzly details of the violence of the attacks, in sharp contrast to expressed sympathy and outrage for European victims of violence, even in instances such as the death of French commander Henri Rivière in battle against the Black Flags in 1883 Tonkin.[354]

Nor were these invocations limited to predation at sea, the threats of "river pirates" inland were commonly discussed as well; in fact, the French government in Vietnam was prone to calling any opposition it faced "pirates" even if they were rebel groups that didn't operate in the water at all.[355] In particular, in their invasion of Tonkin, the French referred to the Black Flag forces as pirates; the Black Flags were not even a band of terrestrial bandits, but a part of the Nguyen Dynasty's irregular forces with an official charge to protect the Red River region and

[352] Antony, "Turbulent Waters," 36.
[353] Amirell, *Pirates of Empire*, 2-3.
[354] Ibid 214.
[355] Ibid 3, 211, 221.

other areas of northern Vietnam.[356] Similarly, the French also labeled the Can Vuong nationalist resistance as pirates despite them largely being a group of literati and Nguyen loyalists who likely never so much as stood on a boat and who had clearly political motives rather than financial ones.[357] It is also worth noting that European accounts often left Southeast Asian maritime predators as anonymous as their Southeast Asian victims; while they wrote a great deal about groups as maritime predators, they rarely recorded the names and deeds of individual predators such as Pak Ranti, Raja Yakob, Taupan, Selungun and Jikiri, treating the local predators as an undifferentiated and interchangeable mass of evil in sharp contrast to how European pirates were recorded in colonial accounts and mythologized and romanticized by the imaginations of the populace.[358]

Delegitimization of Private Maritime Violence in the European State System

The monopoly on violence enjoyed by the state is often seen as so intrinsic to how polities operate that it is often treated as part of the very definition of what it means to be a state, particularly to the realist and neorealist schools of scholarship.[359] However, this has only been the case relatively recently whether in Europe or elsewhere, and for at least the six centuries leading up to 1900, violence was "democratized, marketized, and internationalized," with state and nonstate actors alike freely buying and selling armies with the identities of buyers and sellers rarely being of importance.[360] Furthermore, the reasons why and the methods of how this change came to be were complex and varied; it was not simply a case of state leaders arbitrarily deciding to end practices which their ancestors had utilized to their own benefits for generations, but

[356] Ibid 211.
[357] Ibid.
[358] Ibid 216.
[359] Thomson, *Mercenaries, Pirates, and Sovereigns*, 3, 10-11, 17.
[360] Ibid 3.

rather changing socio-economic conditions led to rulers consolidating their internal powers while competing with each other, and doing so through bargaining "social, political, and economic rights to get various social groups to support the state and provide military resources."[361] This process is sometimes referred to as "integration through exclusion," where various states and groups felt more like a community united by international law by excluding maritime predators from it, casting them as an outside adversary of all within.[362]

Creating and maintaining this monopoly on violence was difficult enough within the territorial boundaries of the state, and that difficultly was only increased as states extended that power out to the seas, where there was no terrain to mark boundaries or hinder movement. Any successful attempt to do so required a great deal of cooperation from varied non-state interests. In fact, in many cases it was private groups and individuals that pushed the states to act; for instance, in 1758 insurance companies came together and convinced the English government to place a number of restrictions on privateering, including a minimum ship size and a requirement "that privateers post a proper security," in order to eliminate the "little fishermen-privateers" who were the most wild and disruptive to commerce.[363]

Cooperation was also needed between states, as was the case with the Armed Neutrality Acts of 1780 and of 1800; in 1780 after a Russian ship was detained for over a year by the British, Empress Catherine II issued a proclamation that all vessels had a right to navigate through the waters and along the coasts of nations at war, introduced the concept of "Free Ships Free Goods" which forbade seizing enemy goods from a neutral ship unless it was contraband, defined contraband to exclude materials of naval construction, and denounced ineffective paper

[361] Ibid 3-4, 14-15.
[362] Kempe "Publique Enemies to Mankind," 35, 40.
[363] Ibid 70.

blockades.[364] Many neutral nations agreed with the document and adopted it, adding that neutral states could defend their rights by force if necessary, creating the principle of Armed Neutrality, and renewed their agreement and alliance in 1800.[365] This led to the Anglo-Russian Convention of June 1801, where it confirmed "Free Ships Free Goods," and Britain conceded that convoyed ships had a right to not be inspected by privateers, giving up a tactic it had defended since 1756, possibly because attacks by maritime predators on their shipping was about the only way the now powerful British Royal Navy could be challenged at sea.[366] However, this was just greater control of state sponsored private maritime predation; there wouldn't be an attempt to legally eliminate it until the Declaration of Paris in 1856, and that was not without controversy, for many saw privateering as an established right of sovereign states.[367] Some countries, such as the United States, floated counterproposals that were taken seriously, such as limiting sponsored maritime predation to state owned property only, which shows that the wholesale ban of the practice was not a foregone conclusion.[368] Nevertheless, with most of the major naval powers at the time and many of the minor ones signing on to the agreement, there was a fundamental shift in the calculus governing international law and relations, and even those that did not sign the Declaration of Paris often abided by its rules; for instance in the Spanish-American War (1898), both sides refrained from issuing letters of marque despite the fact that neither side had any legally binding agreement to not do so.[369]

Additionally, global concepts of international relations, maritime strategy, and the balance of power in the twentieth century were greatly influenced by the 1890 book *Influence of*

[364] Ibid.
[365] Ibid.
[366] Ibid.
[367] Ibid 71-72.
[368] Ibid 73.
[369] Ibid 76.

Sea Power Upon History 1660-1783 by Alfred Thayer Mahan. It was required reading material for naval academies in that century and a personal favorite of influential politicians such as Theodore Roosevelt, codifying many of the political and military trends of the time into a coherent theory of maritime power.[370] Mahan was the president of the United States naval warfare college while writing this work, and wrote on several European and American naval conflicts from the Second Anglo-Dutch War in 1665 to the American War of Independence in 1778, lightly touching on earlier conflicts and how they might be applicable to modern warfare, as in how steamships maneuvered more like oared ships than sailing ships.[371] There was a particular emphasis on the factors that led Britain to become the unquestioned maritime power of its day, why its main rivals of France and Spain had fallen behind, and how the United States might benefit from these lessons.[372] Its main conclusion was that maritime power was not solely determined by the power of the actual navy, but also included the economic power of a country's merchant fleet, which was vital to supporting the operations of the navy, as well as other factors such as the operational range afforded by access to ports and refueling stations around the globe, how much of the population made its living on the ocean or in related industries, the length of the coastline relative to the power to defend said coastline, and the cultural attitude towards the maritime realm.[373]

This theory of maritime power is relevant to maritime predation, imperialism, and interstate relations in the South China Sea in two main ways. First, it highlighted the importance of a strong and secure merchant marine in making a state capable of both protecting its shores

[370] Harold Hance Sprout and Margaret Sprout, "Alfred Thayer Mahan: Sea Power and the New Manifest Destiny (1889–1897)," In *Rise of American Naval Power*, (Princeton: Princeton University Press, 2015) 202-203, 209-210.
[371] Ibid 217-218.
[372] Alfred Thayer Mahan, *Influence of Sea Power Upon History 1660-1783*, Seltzer Books, 2018, (Boston: Little, Brown, & Co., 1890), 1-2, 30-31, 68-69, 198-199.
[373] Ibid 22, 43-44, 50.

from foreign interference and projecting its influence on the international stage, and in turn made the protection of its merchant fleet one of the primary duties of its navies; a state that could not protect its shipping from predators, whether state sponsored or not, was vulnerable in the cutthroat world of international politics.[374] Thus, the elimination of a threat to European trade in such a lucrative market was likely seen as a matter of national security to an increasing number of global powers.[375] Second, the emphasis on overseas bases as a means of both protecting vital supply lines in times of war and projecting power on the global stage in times of peace was strong incentive for the great powers of the time to push for access to the ports, or the outright concessions of islands or shorelines for use as naval bases, from lesser powers such as the Qing, further eroding its maritime sovereignty and its ability to deal with the threat of maritime predation.[376] Additionally, this book came at a time when the naval armament programs of the Qing and Meiji governments made European powers and the United States nervous about the possibility of losing their naval superiority, and so triggered an active attempt to acquire new bases in the pacific to keep revitalized Asian fleets from challenging their power and threatening their existing holdings.[377] Interestingly, while at the time and until relatively recently in history, the Qing and their predecessors were not considered sea powers, and have been said to have at most "flirted with the sea accidently," Gang Deng has analyzed China's premodern sea power by similar standards as Mahan, specifically a combination of military power, maritime market share, and diplomatic influence backed up strong maritime institutions, and found that the Qing were in fact a successful sea power up until the strain of multiple civil wars and rebellions around the

[374] Ibid 26-27, 539.
[375] Ibid 28.
[376] Mahan, *Influence of Sea Power Upon History*, 83, 415-416, 510-511.
[377] Sprout and Sprout, "Sea Power and the New Manifest Destiny," 215-216.

mid-nineteenth century left it unable to keep up with a rapid rise in Western sea power in the same period.[378]

These changing attitudes towards nonstate violence had significant impacts on what it meant to be a legitimate state in the first place, with an inability to prevent nonstate actors from committing violence within a state's national waters or using those waters as a base to launch attacks into international waters became increasingly dangerous to a state's standing in the eyes of the great powers of the time. For instance, in 1832, Queen Pomare IV "the eye-eater" of Tahiti was threatened by Captain Freemantle of the Royal Navy that if she did not put more effort into investigating and punishing maritime predation, he would conclude that it was with her consent that the piracy was committed.[379] While the British government here was interested primarily in using Tahitian authority to keep inter-island order rather than receive compensation for raids and attacks, it is still notable as this occurred not long after they intimidated her into giving up her rights to tax, import goods, and use force in the areas in question. In essence she was being blamed for failing to enforce regional order in an area that they also insisted she did not have the authority to directly control.[380]

Zheng Chenggong and the Kingdom of Tungning

The story of Zheng Chenggong and his maritime predator kingdom truly starts with his father, Zheng Zhilong. Zheng Zhilong was himself from a long line of merchants and maritime predators in the Hokkien community of Fujian and Guangdong along the Ming's southern coast; this Hokkien community also had enclaves on countless islands and coastal settlements in the

[378] Gang Deng, *Maritime Sector, Institutions, and Sea Power of Premodern China*, (Westport: Greenwood Press, 1999): xv-xvi, 197-198, 203-204, 215-217.
[379] Benton and Ford, *Rage for Order*, 162.
[380] Ibid 162, 164.

wider South China Sea.[381] In addition to standard ties of family and friendship, Zheng Zhilong further built up his ties to the community by making sure his raiding did not hurt the poor, and being generous with his wealth; when Fujian was devastated with decades of natural disasters starting in the 1590s, he made sure to provide struggling communities there with work and food.[382] Using his connections in that community, and forging new connections with the Portuguese of Macao, the Spanish of the Philippines, the Dutch of Taiwan, and the Japanese of Hirado, he rose to prominence as a maritime predator, collecting such a powerful force that the Ming were forced to offer him a pardon and an admiral position in 1628 to get him to stop his predation and smuggling, on the condition that he prevented others from committing the same crimes.[383] This also allowed him to openly and "legitimately" control the entire economy of the Fujian province.[384] Zheng Zhilong used his new position to further wipe out any rivals and dominate both legitimate and illegitimate trade along the southern coast; by the 1640s, the Zheng group had annual revenues that rivaled or exceed that of the VOC or the English East India Company.[385] However, the Ming Dynasty which had given Zheng Zhilong this patronage collapsed due to a combination of internal rebellion and external invasion, with the Manchu invaders establishing the Qing Dynasty after taking the capital in 1644 with the help of local collaborators.[386] During this turbulent period, both the Qing and Ming governments tried to tempt maritime predators into their service with rewards and titles, the Dutch similarly recruited many local predators into their plans to forcibly obtain trade rights from whichever dynasty came

[381] Chin, "A Hokkien Maritime Empire in the East and South China Seas, 1620-83," 102, 107.
[382] Calanca, "Piracy and Coastal Security in Southeastern China, 1600-1780," 87-88.
[383] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 11-12.
[384] Calanca, "Piracy and Coastal Security in Southeastern China, 1600-1780," 89.
[385] Andrade and Hang, *"The East Asian Maritime Realm in Global History, 1500-1700,"* 12.
[386] Hang, *Conflict and Commerce in Maritime East Asia,* 65.

out on top of the conflict, and Vietnam recruited others to guard its northern borders.[387] Zheng Zhilong attempted to make a deal with the Qing to keep his position and privileges in the new government, over the objections of his son.[388] The Qing court proved less than interested in the offer, inviting Zheng Zhilong to negotiate only to capture him when he arrived; they then attempted to use him as a hostage to force his son to surrender, but when Zheng Chenggong refused to do so, the Qing eventually executed Zheng Zhilong in 1661.[389]

Zheng Zhilong's execution did not improve his son's already low opinion of the new, not fully established Qing Dynasty, and it wasn't long before Zheng Chenggong's forces became one of the last major bastions of Ming loyalism and resistance to Qing.[390] Coordinating with other bastions of Ming resistance, however, proved difficult, particularly as the other remaining bastions were generally far inland, and clashes over strategy led to resentment, which turned into rivalries within the Ming faction.[391] In 1654 he engaged in negotiations with the Qing, but these talks ultimately went nowhere, and while Zheng Chenggong was able to build up his forces during this time, other bastions of Ming resistance collapsed, leaving Zheng's followers increasingly isolated and vulnerable.[392]

Zheng Chenggong set out with commercial, military, and predatory operations designed to build up the wealth and power he would need to accomplish his long-term goals.[393] What those long-term goals were, however, was not always consistent. Most often, Zheng Chenggong and his followers were genuine in their desire to restore the Ming and overthrow the Qing, even

[387] Antony, "Piracy, Empire, and Sovereignty," 185-186.
[388] Hang, *Conflict and Commerce in Maritime East Asia*, 76-77.
[389] Ibid.
[390] Ibid 79-80.
[391] Ibid 81-82.
[392] Ibid 86-87
[393] Ibid 90-91.

at their own expense, launching major yet doomed offensives in 1651 and 1659.[394] Sometimes the Ming loyalism came off more as a pragmatic measure to tie together a collation of followers of diverse origins and motives, such as how he hosted the Prince of Lu and acted obedient in public, but behind the scenes tensions between their followers led Zheng Chenggong to quietly strip the prince and his followers of any real power, ultimately exiling the Prince of Lu to Penghu.[395] At other times, the wider war seemed to take a back seat to more profitable activities, whether mercantile or predatory. A significant rivalry developed between the Zheng family organization and the VOC over both old grudges and new opportunities. One incident that contributed to this grudge occurred in 1657, when Zheng Chenggong brought evidence to a Kyoto magistrate of Dutch predatory attacks on his shipping, particularly the testimony of some of his sailors who managed to escape imprisonment by the Dutch, with the magistrate ruling in their favor, making the VOC pay considerable compensation to the Zheng group.[396] Zheng Chenggong also threatened the Spanish operation in Manilla, and seriously considered invading to take control of its valuable trade routes before turning his attention to more pressing matters at home.[397] Zheng Chenggong even considered signing a peace treaty with the Qing and establishing a trade relationship with them as an independent state on multiple occasions, though ultimately the negotiations always fell through for various reasons, and the political climate returned to a state of hostility between the Qing and the Zheng group.[398] In particular, while the Qing were willing to give Zheng Chenggong considerable concessions in regards to coastal territories, substantial autonomy, and trade rights, his demands for three whole coastal provinces

[394] Ibid 80, 115-116.
[395] Hang, *Conflict and Commerce in Maritime East Asia*, 82-83.
[396] Ibid 102.
[397] Ibid 168.
[398] Ibid 19, 186-187.

and the right to be treated as an independent state on the level of a tributary kingdom, similar to Annam (modern day Vietnam) were too much, and in 1655 the Qing called off negotiations.[399]

The defeat of the 1659 offenses and the loss of his coastal possessions made Zheng Chenggong realize he needed a more secure base of operation if his organization was to survive, so he set about the task of taking Taiwan from the Dutch; something with a notable level of irony as his father had worked for the company as a translator earlier in his career, and both father and son had been allies as well as rivals of the VOC after that.[400] There were initially some negotiations over the possibility of a trade alliance between the two factions and mutual use of the island, but ultimately talks broke down over ownership of the island.[401] On April 30 1661, he began his invasion, and soon laid siege to the fortress of Zeelandia by mid-May after having taken small forts across the island.[402] The Dutch forces were confident in their weapons and defensive positions, which had always won the day before, and the early engagements did favor them with lopsided loss ratios, though they were still shocked and disheartened when Zheng's forces proved more disciplined than expected and repulsed Dutch counterattacks.[403] The turn of the tide came with the defection of sergeant Hans Jurgen Radis in December 1661, who shared his knowledge of the fort's strengths and weaknesses, which allowed Zheng Chenggong to position his cannons on a redoubt atop a hill overlooking Fort Zeelandia, where they could fire into the fort and bypass its defenses.[404] The fort finally fell in January 1662, as once the redoubt had been secured by the attackers, the defenders knew that they had no chance to resist and

[399] Dahpon Ho, "The Empire's Scorched Shore: Coastal China, 1633–1683," *Journal of Early Modern History* 17 (2013): 58.
[400] Tonio Andrade "The Company's Chinese Pirates: How the Dutch East India Company Tried to Lead a Coalition of Pirates to War Against China, 1621-1662," *Journal of world history* 15, no. 4 (2004): 416.
[401] Tonio Andrade, *How Taiwan Became Chinese: Dutch, Spanish, and Han Colonization*, (New York: Columbia University Press, 2009), 215, 231.
[402] Ibid 240-241.
[403] Ibid 243.
[404] Ibid 244.

surrendered.[405] He would not get to enjoy his success long though, for he died later that year of malaria.[406]

In order to cut Zheng Chenggong off from the support of coastal communities, particularly his ability to sell goods to fund his war effort and purchase supplies from the mainland, the Qing resorted to extreme measures. Between 1661 and 1683, they implemented a strategy of coastal depopulation, forcing everyone to live ten to fifty *li*, with thirty *li* being the average, from the coast and destroying any settlements that remained behind; anyone found in the zone after the hasty evacuation was assumed to be a smuggler, rebel, or maritime predator, and treated accordingly.[407] While this is at times presented as evidence of a general hydrophobia on the Qing dynasty's part, that was not the case; it was not an act that was taken lightly, as the Qing were aware of the importance of maritime trade to both the local and national economies, but a recognition that controlling the vast coastline was hopeless otherwise, as it was impossible to tell innocent civilians from collaborators with the Zheng's war efforts.[408] Whatever the Qing's initial intentions were, they ultimately focused on the wider conflict and delegated the management of the depopulation to vassals and allies, primarily the Three Feudatories, though the VOC also helped enforce coastal depopulation for a time as a way of striking back at Zheng Chenggong.[409] These local powers would take advantage of the situation and the distraction of the Qing to increase their own wealth and power by exploiting the coastal refugees; for instance, when feudatory Prince Geng Jimao moved to Fuzhou in 1661, he began to evict people from their homes only to rent them back at exorbitant rates, often forcing them to borrow money from

[405] Ibid 245.
[406] Hang, *Conflict and Commerce in Maritime East Asia*, 90-91, 145.
[407] Ho, "The Empire's Scorched Shore: Coastal China," 53, 63-64.
[408] Ibid 55.
[409] Ibid 67, 68-69.

him to pay their rent with their debts accumulating over time; between that and his secret smuggling operations, Geng Jimao and the other feudatories built palaces even as the people around them starved, with the Qing ignorant beyond noting a considerable loss of revenue from the corruption.[410] Even this was not enough for the ambition of the Three Feudatories, and they launched a rebellion in 1673 that lasted until 1681, which was taken advantage of by Zheng Chenggong's successor Zheng Jing to renew attacks along the coast, leaving the Qing increasingly distrustful of any kind of autonomous local powers.[411]

Zheng Chenggong's death created a succession crisis among his family and followers. After a rule of less than a year by Zheng Xi in 1662, control of the Kingdom of Tungning, as the territory controlled by the Zheng family and its followers came to be known, and its organization of maritime predators and traders fell to Zheng Jing, in something of an upset given that many of his rivals had more men and resources.[412] Despite his unlikely origins, and not being anywhere as well studied or known as his father and grandfather, it was during the two decades of Zheng Jing's rule that the Zheng organization finished its transformation into a territorial state.[413] This was no easy task, as the Qing state allied with the VOC and Zheng Jing's internal political rivals to do everything they could to isolate his followers, such as pressuring his trade partners in Southeast Asia, particularly Siam and Tonkin, to cut or reduce their political and economic ties to his group.[414] Additionally, Zheng Jing's relations with his most important ally, Japan, deteriorated as a result of the his focus on the management of Taiwan's settlers over military campaigns to restore the Ming, the Tokugawa regime's decision to prioritize internal trade over

[410] Ibid 69-70.
[411] Ibid 71-72.
[412] Hang, *Conflict and Commerce in Maritime East Asia*, 146-147.
[413] Ibid 147.
[414] Ibid 150-151.

external affairs, and the defection of Zheng family assets in Japan to one of Zheng Jing's rivals.[415] In the face of these diplomatic challenges, Zheng Jing turned inward, using important symbolic trappings and rituals to heighten morale and loyalty, while improving the domestic economy, rationalizing military and civilian command structures, settling refugees from the mainland, and rebuilding the military.[416] By 1670, Zheng Jing's forces had returned to the seas in force, setting up lucrative trade networks, both legitimate and not, and working with sailors displaced by the coastal depopulation to strike at the Qing and their allies along the coast.[417] However, his participation in the Rebellion of the Three Feudatories (1673-1681), particularly his invasion of Fujian in 1676 which saw him capture key cities only to lose them by the end of the next year, left this new regime weakened and in a dangerous position.[418] Zheng Jing's rule came to an end on the 17th of March 1681, dying of alcohol overdose and hedonistic exhaustion after losing a major naval battle against Shi Lang, a top Tungning commander from Zheng Chenggong's time who had defected to the Qing with many followers.[419]

This created another scramble for power in the Zheng family and their supporters, resulting in another short-lived reign, as Zheng Kezang ruled for the two days between March 17th and 19th of 1681.[420] After this Zheng Keshuang, the final Zheng leader, took control for the last two years of the Kingdom of Tungning's existence.[421] By this point, the fortunes of the Zheng family organization had dropped considerably and had severe internal fracturing from the repeated power struggles and constant debates over policy, leading to many in its service seeking

[415] Ibid 154.
[416] Ibid 156, 158, 160
[417] Ibid 164-165.
[418] Ibid 208-209.
[419] Ibid 226.
[420] Ibid 226-227.
[421] Ibid.

new opportunities elsewhere, including the Qing state itself.[422] Additionally internal rebellion broke out in the face of the higher taxes and stricter controls that the Zheng family implemented when faced with the possibility of invasion.[423] Shi Lang began to prepare for the fall of his old allies still on the island, believing the time was finally right to end his long vendetta.[424] In July 1683, the Qing launched an all-out assault on Penghu, Taiwan, and all the other small islands controlled by the Zheng, which resulted in the surrender of Zheng Keshuang and the Kingdom of Tungning in August of that year.[425]

Afterwards, there was debate over what to do with Taiwan itself, as it had never been part of the Qing or any of their predecessors' dynasties before, and was even conceptually outside of the world order that they laid claimed to, as well as being considered a possible burden to garrison given its separation from the mainland; the Kangxi Emperor even referred to it as a "ball of mud" and said it was of no benefit to anyone.[426] However, Shi Lang was able to convince the Kangxi Emperor to keep the island as the ninth prefecture of the Fujian province in 1684, in part because the island was seen to be of great strategic importance either for maritime predators or in checking their activities.[427] In a final bit of irony, even after the threat of Zheng's group had passed, some coastal officials and moneylenders actually lobbied in favor of keeping the maritime exclusion ban, as they profited more from smuggling and the reduction of competition from legitimate trade; it is possible that Zheng's group might have been aided rather than harmed by the ban for the same reasons even though it was intended to counter him.[428]

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[422] Ibid 230.
[423] Ibid.
[424] Po, *The Blue Frontier*, 94-95.
[425] Ibid 97.
[426] Ibid 123.
[427] Ibid 123-124.
[428] Andrade and Hang, "The East Asian Maritime Realm in Global History, 1500-1700," 17.

While the defeat of the Zheng family and the lifting of the sea ban, further supported by new laws to protect private property and encourage maritime trade, greatly reduced maritime predation in the region for a time, and ended direct elite involvement in the practice, it did not end completely; for the roughly one hundred years between 1684 and 1780, petty maritime predation replaced more organized forms of predation as the primary coastal security concern.[429] It occurred year round, but tended to spike between April and August of each year, when food prices were at their highest.[430] Furthermore, even this relative calm was disrupted by a rash of maritime predation between 1690 and 1762 when large, organized well-armed and, according to official reports, oddly dressed fleets of maritime predators were able to strike even well defended targets with sophisticated tactics.[431] For instance, in 1708 maritime predators attacked a seventeen-boat fleet belonging to the rich Shanghai merchant, Zhang Xingke, despite an escort of three naval vessels and successfully captured one of the cargo ships; the fact that the merchant ships felt the need of a naval escort at all is a notable indicator of how insecure maritime merchants felt at the time.[432] Despite these activities, however, official reports still treated the era as one of relative calm, with these small predator gangs nothing of the threat that Zheng's forces were, even during their later, weaker periods of operation.[433] The petty maritime predation at the period was barely worth reporting, especially as it was rarely particularly violent, so the Qing felt that implementing the tried and tested coastal security tactics that had reached back to the Song Dynasty, were sufficient for their security needs.[434]

[429] Calanca, "Piracy and Coastal Security in Southeastern China, 1600-1780," 91.
[430] Ibid.
[431] Specifically, the leaders wore long red robes in the style of Buddha's disciples, and the crew wore tight-fitting red and green garments which Paola Calanca compares to ninja outfits. Ibid 92-93.
[432] Ibid 92.
[433] Ibid 93.
[434] Ibid 94-95.

Guangdong Confederation

The Tay Son Rebellion broke out in what is now Vietnam in 1771, after the three Tay Son brothers, so called for their home province, rebelled against the reigning Lê Dynasty, or more accurately the warring Trinh and Nguyen lords who dominated the country's north and south, respectively, and established a new dynasty in 1778.[435] However, since the previous dynasty were vassals of the Qing Dynasty and the new regime refused to bow to them, it wasn't long before the Qing intervened in the conflict, intending to return their vassals to power and secure more concessions in the process.[436] The Tay Son found themselves in need of a way to quickly increase their military power to deal with both external and internal challenges, particularly their naval power to protect against coastal invasions; the solution was to strike a bargain with maritime predators from the Qing's own domain.[437] In 1792 the Tay Son sent out a fleet of a hundred ships, organized into three divisions each led by four brigade-generals personally chosen by Emperor Quang Trung; officially the fleet was sent to levy taxes, but in truth on a mission to recruit maritime predators.[438] Throughout June and July, they commissioned over forty predators to conduct expeditions along the coasts of Guangdong, Fujian, and Zhejiang, and these predators would be used to recruit more.[439] Such was their importance that in addition to promising ships, weapons and supplies, the predator captains were authorized to confer military ranks and titles in their enlistment campaigns, and legitimized their activities with a series of passes, permits, and seals.[440] Afterwards, these predators were present

[435] Antony, "Maritime Violence and State-Formation in Vietnam," 114.
[436] Ibid 115.
[437] Po, *the Blue Frontier*, 80.
[438] Murray, "Piracy and China's Maritime Transition," 48.
[439] Ibid.
[440] Ibid.

in every major naval engagement the Tay Son took part in for the rest of the conflict.[441] In return for serving as the Tay Son's navy, the predators would receive a safe haven from which to operate and logistical support; furthermore, when the predators were not needed for a naval engagement, they could raid Qing waters and coastal settlements in exchange for a share of the loot.[442] Through these raids, the Tay Son would not only keep the Qing off balance and force them to deploy their forces to protect their long coast rather than attack elsewhere, but would also raise funds from the loot to finance the rest of the military.[443] This bares considerable similarity to the early days of privateering in the Atlantic.[444]

This arrangement did, however, result in some notable backlash; in 1796 the Qing Grand Council enacted an edict condemning the Tay Son for failing to restrain the predator's pillaging, threatened to execute any Vietnamese aligned predator if caught in Qing waters, and demanded Tay Son's assistance in destroying the raiders' "place of assembly."[445] Not wanting to risk the Qing's wrath, the Tay Son did launch some attacks, captured 63 raider captains, and destroyed the major raider base in Jiangping,[446] burning down over 100 homes in the process.[447] When a Qing inspector arrived on the 17th of April, 1797, the Tay Son delegation meeting him claimed that they had been moved by Qing power and justice to attack the pirates, turning over the 63 captured captains along with their ships and banners, and in return the inspector held a feast for the Tay Son and rewarded them with 1,000 strings of cash, 30,000 catties of rice, and an

[441] Ibid.
[442] Antony, *Pirates in the Age of Sail*, 40.
[443] Antony, *Like Froth Floating on the Sea*, 38-39.
[444] Ibid 40-41.
[445] Murray, "Piracy and China's Maritime Transition," 49.
[446] An infamous and centuries old black market in the poorly delineated Sino-Vietnamese borderland which contained many hiding places in the form of craggy islands, sandy shoals, and hidden bays, and was on a major trading route, making it perfect for maritime predators, smugglers, and traders alike. While well-known by Qing officials, it was not attacked by them to avoid damaging the territorial sovereignty of Vietnam. Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 181.
[447] Murray, "Piracy and China's Maritime Transition," 49.

assortment of silks, writing tablets, cattle, pigs, and sheep.[448] However, this was a token effort at best, with the powerful predator gangs and leaders untouched, and within two months they had resumed operations, arguably even stronger than before.[449]

The Qing's attempts to destroy the maritime predators as they entered Qing waters was similarly unfruitful, leading to several provincial officials to call for a change of policy from extermination (*jiaofu*) to pardon and pacification (*zhao'an, zhaofu*).[450] Surrendering maritime predators were examined to determine their sincerity, with the heads of the predators' former commanders taken as particularly convincing proof of that sincerity, then were given the option of joining the army, returning to their home village in the custody of a relative, or being settled farther inland.[451] In any case they were awarded ten taels of silver to help start a new life with further inducement to take the military option by offering to commission them as sergeants, ensigns, or sublieutenants and given the appropriate button of rank, and more rewards of money or rank when presenting the heads or ears of former gang members at the time of surrender.[452] Maritime predators turned soldiers during this period were often enrolled in battalions stationed far from the coast, with the hope that strict discipline would prevent them from causing further trouble.[453] Ironically, the maritime predators could be as troublesome in surrender as in battle, and the pardon system in time became another racket by which maritime predators enriched themselves at the expense of the state; by 1800 the surrender of 1,700 predators in exchange for

[448] Ibid.
[449] Ibid.
[450] Ibid 57.
[451] Ibid 57-58.
[452] Ibid.
[453] Ibid 57.

compensation had overwhelmed the Qing's attempts to settle them far from each other while making little difference to the scale or rate of maritime predator raids.[454]

Despite their strength, by 1800 the tides had begun to turn for the Tay Son conflict; on February 21st, 1801 a bloody attack at Thi Ni saw the Tay Son lose 50,000 men, most of their ships, 6,000 cannons, and three of the most formidable maritime predator leaders.[455] During the final battle at Hanoi in 1802, the predator leader Zheng Qi had forty of his ships defend the port alongside the Tay Son, to no avail.[456] Ultimately, despite the advantages of this arrangement between predators and the Tay Son, the latter were defeated and a new dynasty, the Nguyen, were placed on the throne, a dynasty with no love for the maritime predators in service to their former enemies, and as such those predators had to flee back to Qing waters.[457] Those who straggled in returning soon fell; one of Nguyen Phuc Anh's first acts as Emperor was to launch attacks against predator bases in the An Quang province, and his first tribute mission to the Qing included the captured predator leaders Mo Guanfu, Liang Wengeng, and Fan Wencai to demonstrate that Vietnam would no longer tolerate maritime predation.[458] However, those that did return were stronger than ever, having received military training, equipment, and experience, operating in well organized and disciplined squadrons.[459]

Cai Qian stood out as the strongest of those early returning predators, with recognized skill and considerable resources at his command.[460] Seeking to form a new maritime regime like the Zheng family, he attempted to take over Taiwan to serve as a base of operations twice, both

[454] Ibid 58.
[455] Ibid 50.
[456] Murray, "Piracy and China's Maritime Transition," 50.
[457] Antony, *Like Froth Floating on the Sea*, 43.
[458] Murray, "Piracy and China's Maritime Transition," 50.
[459] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 58.
[460] Robert Antony, "Piracy on the South China Coast Through Modern Times," in Bruce Elleman, Andrew Forbes, David Rosenberg, *Piracy and Maritime Crime: Historical and Modern Case Studies*, (Newport: Naval War College Press, 2011) 39.

in 1804 and 1805, though was ultimately unsuccessful in such endeavors.[461] His wife, only known as Cai Qian Ma, was also a feared maritime predator, and was rumored to command her own special, all women division in Cai Qian's forces.[462] In the face of the threat posed by Cai Qian and his followers, the Zhejiang and Fujian navies worked together in a protracted campaign in 1808 and 1809, with many difficulties but overall success.[463] Cai Qian died in battle during an engagement off the coast of Zhejiang, something which shocked the other maritime predator leaders and made them realize that they would need to work together to survive the threat of the Qing; while the Confederation had already existed by this point, it became more active and coordinated in the wake of his death and the rise of Cheng Shih as the new leader of the organization.[464]

The leaders of the various fleets came together to unite their forces in 1805, creating a document to govern their relations with each other and how they would operate in general.[465] This document is sometimes referred to as a constitution because of its statement of intent combined with its rules of behavior, though Dian Murray disagrees with this description, noting that the document had little if any ideological component, and did not have laws for a society so much as rules governing the distribution of profits and responsibilities within the fleet, such as which group could charge protection fees in what areas, so she instead classifies it as more of a business contract.[466] The fleets were designated by colored flags; Red, Blue, Black, White, Yellow, and Green; of these, the Red Flag Fleet was the largest and most important, with over

[461] Po, *The Blue Frontier*, 80.
[462] Antony, *Pirates in the Age of Sail*, 40-41
[463] Zhang Weiping 張維屏, *Guo Chao Shi Ren Zheng Lue: [60 Juan: Er Bian 64 Juan]* 國朝詩人徵略 : [60卷 : 二編64卷], [China: s.n., 1830], Ibid volume 6-10, sequence 746.
[464]Antony, *Pirates in the Age of Sail*, 41.
[465] Ibid 122.
[466] Murray, *Pirates of the South China Coast*, 153.

300 ships and between 20,000 and 40,000 maritime predators in its ranks.[467] These large fleets were also broken down into smaller squadrons, between ten and forty ships, based largely on the independent gangs that had come together to form the group, though with a clearer chain of command and generally more professional.[468] They had designated territories in which to operate and a system of registering ships to belong to a particular fleet.[469] Three of the fleets were headquartered on the Leizhou Peninsula, while another three made their bases further east near Canton.[470] They quickly established extensive and elaborate supply networks to support their operations; by 1805 they were already so vast that the arrest of over 500 suppliers had a negligible effect on the Confederation's operations.[471] Strict punishments were put into place to prevent infighting or profiting at the expense of the larger group; for instance if a crew tried to abuse the registration system by faking membership in multiple groups their ship would be confiscated, and if a ship tried to plunder on its own without permission, not only would the ship and goods be seized and redistributed with the rest of the fleet, the commanders responsible for the action would be put to death.[472]

While the confederation produced many noteworthy maritime predators from among its rank, such as the Green Flag commander Jin Guyang, known as *the Frog's Meal*, and Black Flag commander Guo Podai (also known as O-po-tai), who styled himself *Lustre of Insurrection*, it is undoubtedly Ching Shih, also known as Zheng Yi Sao, who stands out the most in historical memory and the public imagination.[473] Originally the wife of the maritime predator commander

[467] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 52.
[468] Ibid 52-53.
[469] Ibid 53-54.
[470] Murray, "Piracy and China's Maritime Transition," 53
[471] Ibid.
[472] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 52.
[473] Yung-Lun Yüan, *History of the Pirates who Infested the South China Sea from 1807-1810*, (London: the Oriental Translation Fund, 1831), Translated by Charles Friedrich Neumann, 6-7; Dian Murray, "Cheng I Sao in Fact and

Zheng Yi (aka Cheng I), she quickly seized power over his fleet after his death by making an alliance with the only other candidate for the position, her husband's adopted son Zhang Bao (aka Chueng Po Tsai).[474] Under her leadership the Red Banner Squadron quickly became the largest and most powerful maritime predator fleet in the Confederation, and in all of history.[475] She proved to be a cunning military tactician, winning victories over powerful European ships that many other maritime predators struggled against.[476] She also notably expanded the already extensive laws and regulations of the fleet in 1807; some of her rules were notably aimed at protecting women from abuse, such as implementing the death penalty for rape, though others were just about keeping the maritime predators in line, implementing the death penalty for disobeying a superior, stealing from the common treasury or allied villages, and for having consensual sex on duty.[477]

At the height of their power, this united fleet of pirates were capable of challenging government forces, not just the Qing but Europeans such as the Portuguese as well, on both land and sea, controlling islands and coastal settlements.[478] They raided up the Pearl river system, sacking villages that did not pay their extreme protection fees, as attested to by their prisoner and conscript Richard Glasspoole.[479] As early as 1804 they routinely targeted coastal garrisons because the garrisons were rich with stores and provisions, and while a group of predators occupied the Taipa anchorage of Macao, reducing the city to two days' worth of rice by April of that year.[480] By 1808 the military initiative belonged entirely to the Confederation, who

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Fiction," In Pennell, C. R. (ed.), *Bandits at Sea: A Pirates Reader*, (New York: New York University Press, 2001), 257-258.

[474] Murray, *Pirates of the South China Sea*, 71.

[475] Murray, "Cheng I Sao in Fact and Fiction," 258.

[476] Murray, *Pirates of the South China Sea*, 133.

[477] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 55.

[478] Ibid 57-58.

[479] Richard Glasspoole, *Mr. Glasspoole and the Chinese Pirates*, (London: The Golden Cockerel Press, 1935), 14-15.

[480] Murray, "Piracy and China's Maritime Transition," 55.

managed to kill the provincial commander of Zhejiang when he was traveling to Guangdong on special assignment, which the Confederation followed up six months later by annihilating most of the fleet protecting Canton, forcing the city to hastily hire thirty private fishing vessels to fill the holes in their ranks.[481] This resulted in panic across the affected provinces, maritime predators flooding up the rivers to raid inland in unprecedented numbers, over half the provincial fleet damaged with more in repair than actively patrolling, Canton unprotected, and the provincial government's offer of generous terms for surrendering predators falling on deaf ears.[482] Nor were foreign powers in the area spared their predations; in 1809 they threatened to attack Macao, and within a day the predators had forced five American schooners to flee their attacks within gunshot range of Macau, in addition to the Confederation capturing the brig of the Portuguese governor of Timor, and blockading the mouth of the Pearl River against a tribute mission from Siam.[483] These acts led to the Qing enlisting foreign aid against the Confederation while still trying to keep their new allies at arm's length, as can be seen in the two week complex negotiations in September 1909 that saw the East India Company agree to send the *Mercury* with twenty cannons and fifty American volunteers to the cause, though ultimately their efforts to defeat the maritime predators militarily was similarly unsuccessful.[484] For instance, in November of that year a combined Cantonese and Portuguese fleet laid siege to maritime predators trapped on the northern shore of Lantao Island, but despite prolonged bombardment and the use of fire ships the predators escaped with fewer losses than their enemies.[485]

[481] Ibid.
[482] Ibid 58.
[483] Ibid.
[484] Ibid 58-59.
[485] Ibid 59.

The Confederation was similar to the earlier Zheng family organization as their mercantile sophistication was every bit as impressive as their military power. For instance, they set up a system where merchants and other sailors could buy safe travel passes to sail unmolested through their waters, with offices that sold these passes operating openly in many major and minor port cities alike.[486] The Confederation took these passes very seriously, promising to make financial compensation to any ship wrongly attacked, and harsh punishments for those responsible for attacking a protected ship.[487] It is no wonder then that it was said that such passes quickly became ubiquitous along the southern coast.[488] They had particular success in dominating the coastal salt trade which was important to Qing finances, setting a standardized rate on passes for salt ships depending on location and cargo; for instance, ships sailing towards Canton paid 50 *yuan* of silver for every 100 *bao* (packages) of salt.[489] For a larger fee, the maritime predators were willing to offer escort services as well; in 1805 a convoy heading to Canton paid 200 Spanish silver dollars apiece for a pirate escort on their voyage.[490]

Similarly, the system set up to extract wealth from villages along the coasts and rivers was as sophisticated as it was exploitative, with tax offices collecting regular tribute payments, even in major commercial hubs, and with the cooperation of numerous soldiers and officials that were in the predators' pockets; in essence it acted as a state within the Qing Empire.[491] This combination of resource extraction through a combination of violence, commerce, and bureaucracy supported by a state-like control of small but strategically located territories mirrors the Zheng family's empire and those of both English and Dutch East India Companies,

[486] Murray, "Living and Working Conditions In Chinese Pirate Communities, 1750-1850," 55.
[487] Ibid 61-62.
[488] Antony, *Like Froth Floating on the Sea*, 118-119, 132.
[489] Murray, "Piracy and China's Maritime Transition," 53-54.
[490] Ibid 54.
[491] Antony, *Like Froth Floating on the Sea*, 167.

particularly how safe conduct passes created a safer and steadier source of income than dangerous raids for unknown rewards; yet it also differed from them in that it had no backing of any state to finance and legitimize their actions, not even a government in exile like the Ming remnants' support of the Zhengs.[492] Macao served as the primary center of their taxation operations, and so profitable were these various extractive businesses that flagships in the Confederation routinely carried 50 to 100 thousand dollars in strings of *cash* (Chinese copper coins, held together by string passed through a hole in the center of the coin).[493]

The downfall of this huge predator confederation came with surprising swiftness in 1810, only a few years after reaching their peak.[494] This was in part due to a renewed campaign against the maritime predators by the Qing fleet, as well as their Portuguese and other European allies whose ships proved difficult for the predators to counter.[495] Another reason was internal instability; despite the group's strict hierarchy and internal rules, strong rivalries and feuds remained and grew stronger as pressure from the government increased.[496] Ching Shih in particular made her decision to surrender based on the calculation that she felt her control of her subordinates was slipping and challenges from the other fleet leaders was increasing, so she and Zhang Bao decided to negotiate for a comfortable retirement for them and their subordinates while they were still in a strong negotiating position.[497] The terms of their surrender were quite well negotiated indeed, with immunity for their past actions, an ability to keep much of their wealth, and military ranks for much of their number; Zhang Bao became an admiral with many

[492] Robert Antony, "The Shadowy world of the Greater China Seas," in Robert Antony *Elusive Pirates, Pervasive Smugglers: Violence and clandestine trade in the Greater China Seas*, (Hong Kong: Hong Kong University Press, 2010), 109-110.
[493] Murray, "Piracy and China's Maritime Transition," 54.
[494] Antony, *Pirates in the Age of Sail*, 132-133.
[495] Yüan, *History of the Pirates who Infested the South China Sea*, 57-58.
[496] Ibid 65, 67.
[497] Ibid 78.

of his old subordinates under his command.[498] Ching Shih herself would run a gambling house in Guangdong and live out the rest of her days comfortably, dying in 1849.[499] With the largest and most powerful fleet either out of the fight or now working for the government hunting down their fellow maritime raiders with all the inside knowledge they had from their past profession, it wasn't long before the other fleets either followed the Red Flag's example to surrender or fell in battle.[500]

It is also worth noting some of the overlap between the Guangdong Confederation conflict and the White Lotus Rebellion (1796-1804), which shared similar roots in the issues of conflict between central and local elite power structures, unequal access to the fruits of a growing economy, as well as unsustainable imperial expansion on both internal and external frontiers.[501] While the official ideology of the White Lotus, to the degree such a heterogeneous group had an official ideology, was an apocalyptic branch of Buddhism that sought to cleanse the world so it could be reborn as a paradise, in practice many fighting for the White Lotus had their own, more earthly motives.[502] For instance, one of the major groups supporting the White Lotus was the long-established community of counterfeiters who lived in the mountains of the Han River highlands, they had a history of backing rebellions, criminals, and anyone who could reduce the government's ability to interfere with their operations.[503] The smugglers who worked to subvert the Ming's government monopoly on salt had similar motivations for supporting the White Lotus.[504] Another source of early White Lotus recruits and allies were the *guolu* bandits,

[498] Ibid 88-89.
[499] Murray, *Pirates of the South China Sea*, 71.
[500] Yüan, *History of the Pirates who Infested the South China Sea*, 95-96.
[501] Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire*, (Cambridge, MA: Harvard University Press, 2014), 11, 25-26, 257-258.
[502] Ibid 41-42, 44-45.
[503] Ibid 69-70.
[504] Ibid 67-68.

who had their origins as a group of army deserters, and thus military experience, and had well integrated their activities into the political and economic operation of the region by the late 1790s.[505] The bulk of the White Lotus' numbers came from "bare sticks," usually the younger sons of poor families who had little prospect of inheriting any land or coming into marriage, as the combination of female infanticide and polygamy by rich men meant that there were a lot more marriageable men than women.[506] As the Confucian world view saw the continuation of the family line through marriage and children as the highest of goals, such men were considered to have little worth by most of conventional society.[507] Bare sticks tended to wander from town to town as itinerant laborers, and since the Confucian world view also highly valued connection to a home and community, this made them a subject of suspicion both from villagers and the government, who generally assumed such men were criminals by default, often harassed them, and made it difficult to find stable, legitimate work.[508] As such, it is no surprise that they often became bandits, pirates, smugglers, or rebels out of desperation or anger.[509]

Moreover, many maritime predators were members of the above groups fleeing persecution under the Qing's harsh new anti-banditry measures after 1780.[510] Maritime predator pamphlets even referred to terrestrial rebels as "brothers" and suggested direct collaboration to overthrow the Qing and restore the Ming; while this cooperation never materialized, it demonstrates that the connecting causes of both conflicts were understood by the participants at the time.[511] Despite these similarities in motivations and origins, there are clear differences as

[505] Ibid 66-67.
[506] Wang, *White Lotus Rebels and South China Pirates*, 64-65; Thomas Buoye, "Bare Sticks and Naked Pity: Rhetoric and Representation in Qing Dynasty (1644-1911) Capital Case Records," *Crime, Histoire & Sociétés/Crime, History & Societies* 18.2 (2014): 28-29.
[507] Buove, "Bare Sticks and Naked Pity," 28-29.
[508] Ibid 36-37.
[509] Wang, *White Lotus Rebels and South China Pirates*, 47.
[510] Ibid 107-108.
[511] Ibid 82.

well; the maritime predators had a fundamentally different world view than the White Lotus rebels, steeped in the culture of the Southern Coast which saw the ocean as a united plane which provided nourishment and mobility, rather than the traditional scholarly Confucian view that saw the ocean as a dangerous barrier, and the land as the source of family and wealth.[512]

Despite the power of these maritime predators and the damage they managed to do during their time in power, they are generally considered by historians such as Dian Murray as having had little transformative effect in the region or on the Qing's commerce, approach to diplomacy, or coastal control strategies.[513] According to Murray, the Qing's ultimate success in suppressing the Confederation with tired-and-true divide and conquer strategies only reinforced their faith in traditional approaches to all of the above.[514] Murray further argues that it wouldn't be until after Opium War that maritime predation that maritime predation would play an important role in the commercial, diplomatic, and strategic transition from tribute system approaches to those of a multilateral diplomatic system.[515] Despite this, however, even her own writing on the subject demonstrated that the Qing proved to be unusually willing to work together with other states to suppress the maritime predation, including encouraging and supporting multiple Vietnamese regimes in maritime predator suppression and working with European naval forces despite having usually resisted such offers of aide in the past; while it is true that the Qing interpreted this negotiations to fit within a tributary world-view, they still represented a serious multinational approach to maritime predation suppression on practical level.[516]

Shap-ng-tsai and the Hong Kong Raiders

[512] Ibid 103-104.
[513] Murray, "Piracy and China's Maritime Transition," 60.
[514] Ibid 59-60.
[515] Ibid 51, 60.
[516] Ibid 50-51, 58-59.

While the fall of the Guangdong confederation had ended the largest organization of maritime predators in the history of the region, it did not end the presence of maritime predators by any stretch of the imagination. In 1817, for instance, a Baltimore ship, the *Wabash*, was seized and plundered of its cargo of specie (coins) and opium by local maritime predators with several crewmen killed; the surviving crew were able to use their connections with local merchants in Canton to contact the Qing government who swiftly hunted down and punished the predators.[517] The specie was returned to the merchants, but the viceroy refused to return or compensate the merchants for the opium.[518] By the time of the end of the British East India Company's monopoly on trade with the Qing in 1833, which saw the region flooded with traders and smugglers who could serve as targets or business partners of maritime predators, the presence of predators was already "firmly rooted" along the South China coast.[519] In general, the more licit trade increased, the more illicit trade grew alongside it, and both provided prizes to tempt larger numbers of people into predation which then further fueled the illicit economy, at least if access to the wealth of trade is uneven, whereas predation declined when the wealth of trade was more widely and evenly spread.[520] It helped that maritime predators developed a reputation of buying goods at high prices, selling stolen goods below market values, and being fair and honest with their commercial dealings, so people were willing and eager to trade with them in this period, and large networks of suppliers and informants for the predators were well established by the mid-nineteenth century.[521] Some of these predators even managed to

[517] Jacques M. Downs, "American Merchants and the China Opium Trade, 1800-1840," *The Business History Review* 42, no. 4 (1968): 425-426.
[518] Ibid 426.
[519] Blue, "Piracy on the China Coast," 70-71.
[520] Antony, "The Shadowy World of the Greater China Seas," 9; Robert Antony, "Piracy and the Shadow Economy in the South China Sea, 1780-1810," in Robert Antony, *Elusive Pirates, Pervasive Smugglers: Violence and clandestine trade in the Greater China Seas*, (Hong Kong: Hong Kong University Press, 2010), 101-102, 113.
[521] Antony, "Piracy and the Shadow Economy in the South China Sea, 1780-1810," 111-112.

reestablish large and organized fleets, if not to the empire shaking scale of the Guangdong Confederation.

Shap-ng-tsai was the most powerful maritime predator leader after the fall of the Guangdong confederation, with his fleet consisting of dozens of armed junks, and thousands of maritime predators by the time operations against him started in 1847.[522] His operation was as sophisticated as his followers were well-armed, supported by both fortified and hidden bases, and equipped with the latest cannons that could be purchased from Hong Kong.[523] Unlike many smaller bands of maritime predators operating in the South China Sea at the time, Shap-ng-tsai did not limit himself to attacking Qing merchant junks but sacked British ships as well, and was even accused of being involved in the death of Royal Navy officers, which made his destruction a high priority for the British empire.[524]

Chui Apoo was Shap-ng-tsai's second in command, and a powerful maritime predator lord in his own right, with over fifty ships under his command.[525] He was also notable as a maritime predator spy, taking advantage of his position in Hong Kong as a barber and local government informant to gather information on worthwhile targets and the defenses they might have, as well as arrange for the maritime predators to sell goods and purchase supplies.[526] He even had ties to the highest levels of Hong Kong government, acting as one of their primary informants on maritime predators, which created a massive backlash against the Hong Kong government when the true scope of his activities were discovered, and when it came to light that

[522] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 480-481.
[523] *Bathurst Free Press* (NSW: 1849 - 1851), 9 March 1850: 3, Web. 20 Oct 2018 http://nla.gov.au/nla.news-article62215928; Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 475, 477-478.
[524] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 480.
[525] Ibid 478.
[526] Ibid.

some of the informants that the Hong Kong government had relied on for testimony in maritime predator cases created protection rackets where citizens would have to pay the informant or be accused of maritime predation.[527]

The hunt for both predator lords and their fleets was a joint operation between the fleets of the Qing and British empires, specifically more between the local administrations of Hong Kong under Governor Bonham and the Guangdong and Guangxi provinces under Governor-General Xu Guangjin, with some additional help from the Fujian provincial government, than between the central governments of either empire, where there was some concern that these operations could be considered an overstep of the legal authority of British and Qing coastal officials.[528] At the Battle of Bias Bay a force of three British ships defeated a force of fourteen maritime predator ships, inflicting hundreds of casualties while taking only a handful in turn; while the battle was not a decisive one in the campaign, it was widely reported on and celebrated.[529] Chui Apoo was captured in 1851 after a long chase, and was sentenced to exile after being convicted for the death of two British officers, only to hang himself in his cell.[530] Shap-ng-tsai was ultimately given the chance to surrender, and even received a position in the Qing navy, much to the outrage of the British population in Hong Kong.[531] Despite this and other

[527] James William Norton-Kyshe, *The history of the laws and courts of Hongkong, tracing consular jurisdiction in China and Japan and including parliamentary debates, and the rise, progress, and successive changes in the various public institutions of the colony from the earliest period to the present time*. (London, T.F. Unwin; 1898): 206; Christopher Munn, "Colonialism 'in a Chinese atmosphere': the Caldwell affair and the dangers of collaboration in early colonial Hong Kong," in Robert Bickers and Christian Henriot, *New Frontiers: Imperialism's New Communities in East Asia, 1842-1953*, (Manchester University Press, Jun 10, 2000),12-13, 20-21.
[528] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482.
[529] A. James Wombwell, *The Long War Against Piracy: Historical Trends*, (Fort Leavenworth: Combat Studies Institute Press 2010) 111-112.*; The Argus (Melbourne, Vic. : 1848 - 1957),* 20 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.
[530] Solomon Bard, *Voices from the Past: Hong Kong 1842-1918*, (Hong Kong: Hong Kong University Press, 2002), 28.
[531] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482.

tensions, the system of cooperation in anti-maritime predation activities established by Hong Kong and nearby Qing officials was replicated and spread throughout the Guangdong province so that British and Qing fleets could patrol and hunt maritime predators together.[532]

However, while Shap-ng-tsai's fleet may have been the last truly large and organized maritime predator fleet in the region, its defeat did not end the threat and inconvenience of maritime predation to the degree that Hong Kong officials and merchants hoped for. Many predators followed Chui Apoo's example and used Hong Kong as a base to gather information, purchase supplies, sell stolen goods, and arrange for the payment of ransoms.[533] Bias Bay, in particular, would remain associated with maritime predation well into the twentieth century, often as a meeting point where stolen ships would be brought in order to be stripped of their goods before being sunk or abandoned.[534] One particularly famous incident was the kidnapping of Fanny Loviot by maritime predators on a business trip in 1852, reported by numerous French newspapers before her account was published as a book, available in both French and English, in 1858; the initial attention was on European shock that a European woman was at risk at such a fate, while later on her account was notable as one of the most in-depth accounts of South China Sea maritime predator groups at the time available to European and American audiences, covering everything from their tactics to their religious beliefs.[535]

Not all the maritime predators who operated in the region during this period originated from the area, as European and American maritime predators found it to be a profitable arena for

[532] C.N. Kwan, ""Barbarian Ships Sail Freely about the Seas": Qing Reactions to the British Suppression of Piracy in South China, 1841–1856," *Asian Review of World Histories* 8(1), 83.
[533] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 478.
[534] Robert Antony "Piracy and the Shadow Economy in the South China Sea, 1780-1810," 102-103; "Bias Bay to be Patrolled by Hai Chi: Southern Navy Units to be Scattered for More Effective Pirate Fight." *The China Press (1925-1938),* May 01, 1935.
[535] Fanny Loviot & Amelia Ann Blanford Edwards - [Translator], *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, originally published – (Farringdon Street: Geo. Routledge & Co., 1858), v, 141-144.

their activities. Portuguese lorchas were particularly infamous for raiding local merchant shipping, to the point that the October 1853 issue of *遐邇貫珍* (*Chinese Serial*) ran an exposé on both recent activities by Portuguese maritime predators and the long history of such activities going back to the Ming Dynasty.[536] The threat of Portuguese raiders resulted in joint investigations between the Qing and British into the issue in 1851.[537] The British were less eager to investigate the possibility that any of their citizens were engaged in such activities, insisting to the Qing that all such attacks were committed by the Portuguese.[538] That is until the death of a Portuguese officer investigating the matter came at the hands of British maritime predator William Fenton in 1851.[539] Fenton continued raiding Qing merchant ships until overpowered by some of his victims and brought to Hong Kong for trial later that year.[540] Eli Boggs was an American maritime predator who operated in the Hong Kong region from the 1840s to the 1850s.[541] Officially, he was there to work as a convoy escort to protect against local maritime predators, though he and several other convoy escorts, including William Fenton, quickly established a reputation as being worse than the predators they were supposed to protect against.[542] The Hong Kong government eventually put a considerable price on his head, which was collected by Bully Hayes who brought Boggs to stand trial in 1857; ironically Hayes was an

[536] *遐邇貫珍*, 1853-10 = *Hsia Erh Kuan Chen*, HEKC185310, 香港: 英華書院, Page 4, <https://mmis.hkpl.gov.hk/coverpage/>.
[537] Bonham to Hsü Kuang-chin, Portuguese lorchas have been plundering Chinese shipping along coast. Urges that Briton P'i-erh [Beale] be accepted as Portuguese Consul at Shanghai and Briton Tien-ti [Dent] as Portuguese Consul at Canton, FO 682/1984/20, June 9, 1851.
[538] Norton-Kyshe, *The history of the laws and courts of Hongkong*, 317-316.
[539] Ibid.
[540] Ibid.
[541] Blue, "Piracy on the Coast of China," 73.
[542] Ibid.

infamous maritime predator himself, only staying in Hong Kong's waters briefly before returning to Southeast Asia to continue his predations there.[543]

Era of Hijacking

The 1860s saw a vast increase in the amount of shipping that was done by steamships in the South China Sea, replacing foreign sailing ships outright, yet local sailing vessels such as junks not only survived but thrived. Some observers, such as the Shanghai customs office, attributed this to the suppression of maritime predation in the region by steamships and gunboats, making it safer to transport goods by junks rather than taking the slow and difficult overland routes.[544] With the speed and armor protection of a civilian steamship, boarding or disabling one from a junk was a difficult prospect at best, and small numbers of steam gunboats could easily defeat vast amounts of predator sail craft, as was clearly demonstrated at the battles of Bias Bay and Tonkin, and by the general reduction of maritime predator incidents following the expansion of the Qing steam fleet.[545] This led to a hope, for a while, among the European and American merchant communities that non-state maritime predation would be a thing of the past; this hope would soon be dashed with a string of well-publicized attacks that utilized innovative tactics.[546]

The hijacking of the steamship *Spark* in 1874 is important both as one of the first major instances of a steamship being taken over by maritime predators, and as a demonstration of the standard modes and methods of these specialized maritime predators.[547] The attackers came aboard under the guise of being simple passengers, hiding weapons in their clothing and

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[543] Ibid.
[544] *Decennial Reports on the Trade, Industries, etc., of the Ports Open to Foreign Commerce, and on Conditions and Development of the Treaty Port Provinces; Fifth Issue*, (Shanghai: The Statistical Department of the Inspectorate General of Customs), 136-137.
[545] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482, 485-486.
[546] Blue, "Piracy on the China Coast," 77.
[547] Ibid 78.

luggage.[548] As the technique was repeated and perfected, the hijackers usually boarded in small groups at various docks so as to avoid suspicion, while others infiltrated the crew instead, or both as they infiltrated the ship multiple times in different roles in order to scout the vessel out before attempting a hijacking.[549] In any case, the disguised predators would await a prearranged signal, at which point they would grab their weapons to storm the bridge, engine room, and saloon, counting on surprise and fear to ensure a quick surrender, though things could get bloody quickly if the maritime predators encountered any resistance.[550] Once control was achieved, all weapons on board would be seized, patrols set up, orders given (such as setting a course for the crew), and valuables stripped from the ship and passengers; often the lights would be put out and the trip to the meeting point would be made in darkness.[551] After arriving at the arranged point, often Bias Bay, the hijackers would signal to waiting boats who would help strip even more goods to be unloaded onto their sampans and taken away; hostages were known to be taken as well, to endure incredibly protracted ransom negotiations.[552] In the case of the *Spark*, the captain, mate, purser, one fireman, and four passengers died in the attack, leaving only the ship's engineers, who had hidden throughout the hijacking, to return the ship and its remaining passengers to a safe harbor after the hijackers had left.[553]

Naturally, the owners of such steamers quickly moved to protect their ships and created countermeasures to hijacking tactics leading to something of an arms race between steamer companies and hijacking operations. One of the most basic but effective tactics was the hiring of

[548] FROM A HONG-KONG CORRESPONDENT. "Staging A Piracy." *Times*, 12 Dec. 1929, p. 13. The Times Digital Archive, link.gale.com/apps/doc/CS218309004/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=ddc88c99. Accessed 17 Mar. 2022.
[549] Ibid.
[550] Ibid.
[551] Ibid.
[552] Ibid.
[553] Blue, "Piracy on the China Coast," 77.

armed guards for the ships, most often from Indian groups such as Sikhs, though there were also instances of hiring Han or Vietnamese guards, usually under Russian officers or British soldiers from the Hong Kong garrison.[554] Such guards were in turn made into priority targets for hijackers.[555] Ships also installed several mechanical safeguards into their ships, such as "anti-piracy grilles," which could be rapidly closed to prevent hijackers from accessing key areas.[556] They also increased measures to check the identity of the passengers and screen passengers' belongings for weapons, though this often proved difficult due to the sheer number of passengers constantly boarding and disembarking compared to the small number of crew.[557] Ironically, many successful defenses against hijacking attempts rested not on the ship's internal security, but rather other passengers noticing something suspicious, like an unusually large number of unrelated people boarding together or people moving around redistricted areas at odd hours, and reporting it to the crew, which allowed the ship's guards to get the element of surprise in their favor and overpower the hijackers, as was the case on the British steamer *Nan-Ning* on August 22, 1906.[558] Despite this, the hijackers still had the advantage, especially since they also operated in disciplined and organized outfits who carefully selected targets ahead of time, identified defenses, and came up with strategies to overcome them.[559] In the rare cases where unprofessional hijackers attempted these operations, they were more likely to fail and the attempts were much more likely to result in bloodshed, which professional hijackers attempted to

[554] FROM A HONG-KONG CORRESPONDENT, "Staging A Piracy," 13; Blue, "Piracy on the China Coast," 79.
[555] FROM A HONG-KONG CORRESPONDENT, "Staging A Piracy," 13
[556] Ibid.
[557] Ibid.
[558] "Chinese Piracy." *Times*, 24 Aug. 1906, p. 3. The Times Digital Archive, link.gale.com/apps/doc/CS50787096/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=a8899b66. Accessed 17 Mar. 2022.
[559] FROM A HONG-KONG CORRESPONDENT. "Staging A Piracy." *Times*, 12 Dec. 1929, p. 13. The Times Digital Archive, link.gale.com/apps/doc/CS218309004/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=ddc88c99. Accessed 17 Mar. 2022.

reduce.[560] Instead of continuing to invest in their own security, steamer companies tried to persuade governments, particularly the Qing and British empires, to do more to prevent such attacks from happening and punish perpetrators afterwards.[561]

While government efforts were successful for a time and brought about a lull in hijacking after the 1870s, there was a resurgence near the beginning of the twentieth century, as the Qing state became increasingly unstable both politically and economically, creating more incentive to risk such attacks and reducing the Qing's ability to counter them.[562] A particularly notable incident during this period occurred in July and August of 1910; when a maritime predator group calling itself the Society of Perfect Justice held kidnapped schoolchildren for hostage on the disputed island of Coloane, the Portuguese government in Macao launched a rescue mission which caused considerable collateral damage, killing hundreds of local civilians and destroying the homes and fishing boats of many others, justifying such force with the argument that the local population had not reported said predators and readily did business with them.[563] The government of Macao also used the incident as an excuse to fully annex Coloane into their territory over the protest of the Qing, claiming their presence was needed to deter such predation despite the fact there had long been a Portuguese garrison on the island by the time of the incident, which did little to prevent its use as a predator den, as well as the fact Portuguese maritime predators had also been reported operating in the Pearl River Delta in the first decade of the twentieth century.[564] After the fall of the Qing and rise of the Republic, the frequency of these attacks would fluctuate, but some level of predation would continue to flourish along the

[560] Ibid.
[561] "Chinese Piracy." *Times*, 24 Aug. 1906, 3.
[562] Blue, "Piracy on the China Coast," 75, 79.
[563] Robert Antony, "We are Not Pirates: Portugal, China, and the Pirates of Coloane (Macao), 1910," *Journal of World History* 28, no. 2 (2017): 249, 251-252, 263-264, 275.
[564] Ibid 252-253, 255, 272-273.

South China Coast until the outbreak of the Second Sino-Japanese War in 1937, though it had been on the decline by that time.[565] Furthermore, according to accounts such as Aleko E. Lilius' *I Sailed with Chinese Pirates*, while these maritime predators may not have had the far reaching power and numbers of earlier predator groups in the region, they still managed to dominate certain stretches of river and coast, as well as reach deep into the major port cities.[566] He also describes them taking on a variety of activities; in addition to the steamer hijackers who drew international attention, there were heavily armed river raiders running protection rackets over many villages and waterways, as well as predators for hire who would protect fishing fleets while striking at other fishermen under the protection of rival gangs.[567] All kinds shared a taste for kidnapping rich individuals to hold for ransom, with the taking of physical goods often a supplementary source of income do in the midst of other operations.[568]

Modern Maritime Predation

While maritime predation has greatly declined in the twentieth and twenty-first centuries, it has far from vanished. The growing disparity between the kind of military power that could be utilized by state actors and those wielded by non-state actors has been multiplied by the increasing control of information by state powers that turned the once boundless and mysterious realm of the sea into a well monitored highway of ships and merchandise, as well as a world legal order intolerant of non-state violence and threats to international commerce.[569] However, in those places where the political, economic and geographical conditions are conducive to non-state maritime predation, it can persist in spite of these challenges. Politically, in locations where

[565] Ibid 79, 85.
[566] Aleko E Lilius, *I Sailed with Chinese Pirates*, (New York: Appleton, 1931), 66, 134-135, 157.
[567] Ibid 16-17, 40-41, 219-220.
[568] Ibid 179, 235.
[569] Antony, *Pirates in the Age of Sail*, 56.

legitimate rule is unclear, the ambiguity is a useful shield for maritime predation, as it is difficult to enforce rules if it is not clear who is supposed to enforce them and who should be held accountable if they are not enforced; for that reason, maritime predators often thrive in disputed borderlands, or in regions beset by constant conflict and unstable rule.[570] Relatedly, maritime predators rely on having populations sympathetic to their activities or at least willing to do business with them, similar to terrestrial bandits and raiders, so they can sell goods, buy supplies, and recruit more predators without being reported to hostile authorities.[571] Additionally, it is important to note that even the most powerful of states cannot regularly patrol their entire coastlines, so hotspots of maritime predation cannot be chalked up to the weakness of a state alone, there are usually other local dynamics in play that influence such things.[572] Economically, maritime predation most often occurs in locations where a great amount of wealth passes through or by without entering into the poorer communities, creating incentives to, in essence, use violence to reroute trade into areas that would otherwise be ignored.[573] Geographically, the best conditions for maritime predations are coastlines or archipelagos with many places to hide, both to ambush and to hide from pursuit, such as the Horn of Africa, the South China Sea Coast, or the straights of Melaka.[574]

Somalia has become in some ways the face of modern maritime predation in the popular imagination; not nearly as romanticized as the raiders of the Caribbean or the South China Sea, yet in the early 2000s they managed to gather a similar amount of attention as their predecessors and a similar response of the deployment of international military power to protect the shipping

[570] Antony, *Like Froth Floating on the Sea*, 122-123.
[571] Ibid 123.
[572] Gaynor, "Piracy in the Offing," 851.
[573] Nadal, "Corsairing as a Commercial System," 126-127.
[574] Ibid

they harassed.[575] The maritime predators of Somalia were known to think of themselves as an unofficial coast guard, filling in the role that the collapsed government used to have policing and protecting Somalia's coastal waters.[576] After all, the collapse of the Somalian government in 1995 did result in foreign companies exploiting Somalian waters via dumping garbage as well as illegal and destructive fishing, both of which harmed the already struggling local fishing community, who then formed the backbone of the early maritime predators.[577] It wasn't long, however, before maritime predation went from a means to protect local businesses to a business in and of itself, shifting from targeting dumpers and illegal fishermen to targeting passing oil tankers to ransom their cargoes and crew, as simply reselling such goods was impractical at best.[578] Eventually, the financial losses of such activities were enough that an international task force was put together to hunt down the Somalian maritime predators and protect shipping around the Horn of Africa, yet it is has been recognized that this is merely treating the symptoms rather than the root causes and that more innovative methods might be needed to ensure long term results.[579]

The maritime predators of the Straits of Malacca might not have captured the public imagination in the way that the Somalian maritime predators did, but the region has been one of the most consistent in having high rates of predation throughout much of history, including the modern day.[580] In many ways, the region is geographically perfect for the hunting of ships, as a considerable amount of the world's traffic passes through the narrow straits, where clumsy

[575] Gary Wier "Fish, Family and Profit: Piracy and the Horn of Africa," in Bruce A. Elleman, Andrew Forbes, David Rosenberg, and Naval War College, *Piracy and Maritime Crime: Historical and Modern Case Studies. Newport Paper*; *No. 35*, (Newport, R.I.: Naval War College Press, 2010), 208-209.
[576] Ibid 210-211.
[577] Ibid 211-212.
[578] Ibid.
[579] Ibid 218.
[580] Bateman, "Confronting Maritime Crime in Southeast Asian Waters," 137.

tankers and cargo ships are especially vulnerable to the agile speedboats favored by maritime predators of the region, while providing many small islands, coves, difficult shorelines, and other pieces of terrain nearby that act as perfect hiding spots for the predators.[581] Like many other modern maritime predators, the raiders of the Straits of Malacca often focus more on taking crews hostage rather than seizing and reselling the ships and cargo, though the latter does happen more often in this area than other modern hotspots of maritime predation, sometimes with the aid of local officials.[582] Additionally, maritime predators tend not to be specialists, and are instead poor sailors who engage in a variety of maritime crimes as patsies for larger organizations run by opportunistic businessmen and professional criminals; despite such sponsors maritime predation in the straits has also been on the decline, which has been obscured by conflating maritime predation with maritime terrorism, smuggling, and other types of crime.[583]

While it is difficult to know for certain how much maritime predation occurred in the chaos of the Chinese Civil War and Second World War, in 1952 the *Hupeh*, belonging to the China Navigation Company, was hijacked in the standard style and brought to Bias Bay; shortly after this, the Chinese Communist Party seized the coastlines and there would be no more recorded instances of maritime predation for many decades.[584] The South China Seas saw a resurgence of maritime predation in the 1990s and early 2000s after a nearly fifty-year lull in the behavior. The most infamous of these incidents was the hijacking of the *Cheung Son* in November 1998; during this incident, an organized group of maritime predators came aboard the Chueng Son by pretending to be government officials, only to kill the crew and dump their

[581] Ibid 144.
[582] Antony, *Pirates in the Age of Sail*, 57-58.
[583] Bateman, "Confronting Maritime Crime in Southeast Asian Waters," 137, 139.
[584] Blue, "Piracy on the China Coast," 85.

bodies overboard before pillaging the vessel and fleeing.[585] Later, the Chinese police would arrest 38 men, sentencing 13 of them to death under the charge of piracy.[586]

Conclusion

While it is easy to reduce maritime predation into cliches of wild criminals ravaging lawless seas until they are hunted down by state navies, it is clear with a wider look at the history of maritime predation that the motivations for and practice of maritime predation could vary highly depending on the particular socio-economic context of a given time and place. This is not to say that there are not some large-scale trends visible in the general history of maritime predation. Often, maritime predation enjoys some degree of support among communities and governments alike as a political and economic tool that can weaken the opposition while enriching and empowering its sponsors. Yet, almost as often this very growth eventually leads to a backlash; as the sponsor's wealth and power grow, the benefit they gain from predation decreases relative to the potential liability maritime predators can be, and as the predator's own wealth and power grows, the harder they are to control and more likely they are to challenge their former sponsors. Finally, the more powerful a state becomes, and the more knowledgeable it becomes about the seas it wishes to control, the more likely it is to see the eradication of maritime predation both possible and worthwhile, from Rome's attempts to turn the Mediterranean into its placid lake to Britain's attempts to do the same on a global scale millennia later. Thus, it is useful to turn to the words of Amedo Policante, who, while examining how the term piracy had been used to discredit political opponents in a way similar to "terrorists" and "rogue states" of modern times, commented that he considers "the marginalization,

[585] Antony, *Pirates in the Age of Sail*, 58.
[586] Ibid.

criminalization, and suppression of piracy throughout the world not as a natural by-product of the advance of morality and civilization but as part of a much more ambiguous political project."[587] He continues "While the demonization and eradication of piracy have often been presented as an unambiguous linear tale of progressive civilization, Schmitt shows that it might be more accurately understood as a constituent part of the history of European imperialism and the genealogy of global capitalism."[588] However, the important details of how, why, when, and where these patterns played out varied highly depending on the local contexts, as did how successful those anti-predation measures were.

For instance, there are some key turning points that changed the direction of the relationship between maritime law and maritime predation. Rome's anti-predation campaigns set a precedent defining maritime predators as separate from legal combatants and lacking the rights the latter enjoyed. The fall of Constantinople saw Europeans seek new maritime trade routes with maritime predators following close behind the explorers and traders, if they were not one and the same. The Battle of Lepanto accelerated this tend while simultaneously ending conventional naval warfare in the Mediterranean and starting the traditional of mutual corsair warfare and economics that would last centuries to come. The 1603 hijacking of the Santa Catarina in retaliation for the hanging of Dutchmen as pirates in Qing waters the previous year, and justification of that capture via the *Mare Liberum* unleashed centuries of state backed piratical imperialism upon the world. Mughal backlash against uncontrolled English privateers, however, helped start a trend to reverse that acceptance of maritime predation as a legitimate tactic of Empire, which culminated in the banning of such practices in the Declaration of Paris

[587] Amedeo Policante, "The Return of the Pirate: Post-Colonial Trajectories in the History of International Law," *Política Común* 5, no. 20210301 (2014): n. pag.
[588] Ibid.

Concerning Maritime Law in 1856; while not all states signed it, it was not long that even non-signatories were following its provisions. Meanwhile in the waters of the Pacific the *wokou* crisis demonstrated that even stateless seafarers could challenge the mightiest of empires, and ultimately the Ming accepted they had to loosen some of their control over maritime trade in order to have any control over the people of the maritime world. The fall of Taiwan, however, saw things swing in the other direction as the Qing more actively controlled islands and coastlines to deal with maritime threats, abetted by strategies of divide and conquer. The end of Guangdong Confederation saw the beginning of the end of the period where organized maritime predators could openly oppose states on the sea, brought low by internal divisions as much as outside threats, something further solidified with the fall of Shap-ng-tsai and the invention of steam vessels which put the advantage of raw power squarely in the hands of states and companies. This did not spell the end of maritime predation though, just a transformation for a new form reliant on stealth and speed, which survives in scattered pockets to the modern day.

Additionally, sometimes patterns can be made more visible by studying unique circumstances that go against the general trend. Pompeii's military campaign against maritime predators in the Mediterranean was noticeably a great deal more effective than most; while militaries can often wipe out large groups of maritime predators or drive predatory behavior away from certain areas at a time, it usually came back in short order as long as the basic incentives of predatory activity would remain in place, the Romans under Pompeii stand out for being able to almost eliminate it from their waters entirely for the remainder of Rome's existence as a unified empire, even in times of crisis. By comparing it with similar campaigns in other regions, it is easy to see some key differences that account for these outcomes; namely, though the Mediterranean is large, it is smaller and more closed than most oceans and seas, and at the

time of Pompeii's campaign, Rome controlled most of its shoreline, and thus they were able to systematically chase, trap, and eliminate the maritime predators as they fled, rather than the predators being able to scatter and flee across open ocean. Even still, the Roman campaign was a difficult and expensive affair even for such a prosperous empire, and it was backed up by economic programs to resettle surviving maritime predators in places far from the sea with good economic opportunities, as Pompeii understood his military victories over maritime predators would be little more than a brief relief from maritime predation unless maritime predators had other, more attractive careers available.

In contrast, in many other places with seemingly successful anti-maritime predator campaigns, when studied from a world history perspective it soon becomes clear that they often simply displaced the predation from one region to another. For instance, European maritime predators transitioned from the Atlantic to the Indian Oceans multiple times throughout the Golden Age of Piracy as prey dwindled and persecution increased in each area. Similarly, successful campaigns against maritime predators along China's southern coastline often resulted in those predators fleeing into Southeast Asia, as can be seen in the last years of the wokou, the origins of the maritime predators recruited by the Tay Son regime in Vietnam, and in response to joint British-Qing anti-predator campaigns after the First Opium War. In turn, the opposite can happen as well, as it did when the maritime mercenaries of the Tay Son were driven out by Vietnam's new ruling dynasty and returned to terrorize the South Chian Coast as the Guangdong Confederation.

In addition to this geographical openness, the political situation was important as well, as can be seen in the resurgence of maritime predation in the Mediterranean after the division of the Roman Empire, particularly how political and religious warfare among Mediterranean states

from the Crusades to the Early Modern Era saw predation not only survive but thrive in the form of Corsairing. In short, no state managed to control the entirety of an ocean or seas' coastlines and islands quite like the Roman Empire in the Mediterranean, not even the Spanish or British with their expansive fleets and overseas colonies and other holdings. Instead, the decline of surges of maritime predation in most other instances arouse from cooperation between states, particularly the crafting of international legal orders and systems that facilitated the sharing of information and the coordination of military campaigns and economic programs needed to deny maritime predators safe havens and provide alternative legal careers instead. This cooperation could be largely equal and voluntary, as it was with European regimes coming together to oppose privateering against each other, or it could be something enforced in heavy handed manner, as can be seen in British interactions with various states in the South China Sea and maritime Southeast Asia to force their compliance with British anti-maritime predator activities. In any case, even the most powerful of empire could not succeed in eliminating maritime predation alone, cooperation and coordination under a shared legal regime,[589] even one implemented by force, was necessary.

When examining the history of maritime predation in the South China Sea during the nineteenth and early twentieth centuries, it is important to avoid the temptation of simply seeing it as an inevitable clash of state power and random nonstate violence, but rather understand the specific historical contexts that drove both the states and nonstate predators involved. In

[589] A set of rules and customs which regulate behavior and create frameworks for dispute resolution. Despite the name, legal regimes do not have come from formal written laws – some areas controlled by maritime predators had informal legal regimes – and could come from cultural understandings of proper behavior, and they do not have to come from a single source of authority, as can be seen in how the eighteenth century South China Sea had at least three overlapping legal regimes in the form of the Qing, Western Empires imposing their ideas of universal laws, and the maritime predators themselves, particularly in their more organized periods. See Benton and Ford, *Rage for Order*, 453-454; Sung Hee Ru, "The State Formation of Late Qing China within Global Geopolitical Dynamics," *Sungkyun Journal of East Asian Studies 22*, no. 1 (2022): 100-101.

particular, European and American frustrations with Qing anti-predator strategies and Qing wariness of foreign anti-predator activities, can best be understood by keeping in mind each side's history with maritime predation. For Europeans and the United States, maritime predation was often a tool of state competition, or at least a side effect of it as unemployed privateers and navy sailors turned to predation to survive after conflicts ended, and it was a tool increasingly seen as illegitimate and its continued existence a threat to global peace and posterity. Yet, at the same time, even at the height of early modern western predation in the "golden age of piracy," predators were not able to directly challenge state fleets in open battle the way they were in the South China Sea. Finally, anti-predation activities proved to be a useful political tool to either exchange for favors from other states or provide a pretext to intervene in foreign affairs to one's own benefit. Meanwhile, for the Qing, the threat of maritime predation to overseas trade had generally been secondary to the threat posed to state control of coastal regions, and arguably the predation had as often been in support of maritime trade as a threat to it, and at times a threat that could not be quelled through force only, but rather through a combination of force, economic pressure, and the incentivization of surrender through generous terms.

The hijackers and small-scale raiders of the post-Opium War period, however, challenged both European and Chinese authorities in ways they were not used to; rather than hiding in the trackless sea or tropical islands, they hid among the populace. They rarely had ships to hunt down, what leadership these groups had was known only by speculation and rumor, and thus proved difficult to execute or bribe into surrender. While these predators did not act on the scale of their pre-Opium War counterparts, and their operations were less likely to end in bloodshed than the kind of bloody raids on towns and ships alike by many groups of maritime predators throughout history, they nevertheless spread terror and undermined the authority of the states that

opposed them by resisting most attempts to prevent or retaliate for their strikes, aided in part by an increasingly widespread media that told their stories to ever growing audiences. Interestingly, their primary tactic of hijacking ships by boarding disguised as passengers remains fairly unique even among more modern maritime predators around the globe who generally rely on pure speed instead; albeit the infamous story of the *Cheung Son* demonstrates that deception can still be a devastatingly effect tool in modern maritime predation. One thing the post-Opium War hijackers did have in common with previous waves of South China Sea maritime predation, and indeed large scale outbreaks of maritime predation in general, was that it was created by and thrived in political and economic instability; economic instability that forced people to take risks if they wanted to survive, and political instability to prevent established powers from effectively coordinating against and focusing on the maritime predators.

Thus it is no surprise then that this form of maritime predation finally ended only when the end of the Chinese Civil War allowed for a greater control of information that took away the hijacker's stealth, and provided economic opportunity in safer and more stable career paths. This raises implications that the return of maritime predation to many areas in the 1990s and 2000s after an absence of nearly half a century or more, even on relatively small scales, might indicate growing instability in our modern world system, though that is beyond the scope of this dissertation. What is important is that the scale of maritime predation and the effectiveness of counter strategies depends on the greater historical, political, economic, and legal contexts. Even this historical context, however, merely sets the stage for the historical drama at play, so that it can be better understood on its own terms.

Chapter 3: Diplomacy, Communication, and International Law

No matter how one defines "piracy," it remains a matter of international law, for to refer to maritime predation as piracy is to criminalize it, yet it is a crime that can occur outside the jurisdictions of any legal power, in that great legal void known as the open ocean just as easily as it can occur in more jurisdictionally distinct rivers and coastal waters.[590] Thus, cooperation is needed to define the crime, even more so to enforce it, and in turn cooperation requires communication; and not simply between governments and officials, but between merchant communities, scholarly groups, and even general populations. That said, such communication and cooperation is no easy thing even in waters where there were only a few powerful states that also shared common cultural backgrounds and legal systems. In the South China Sea of the late nineteenth and early twentieth centuries sailors and politicians of numerous states, languages, and legal traditions intermingled and competed, all while dealing with complex and evolving issues surrounding sovereignty, maritime predation, and the legal rights and responsibilities of all involved. While many of these issues had long historical roots and historical consequences that lasted into the present, the middle of the nineteenth century proved to be a pivotal turning point, with the Treaty of Paris and Opium Wars resulting in period of intense change and debate until things stabilized for a time in the early twentieth century. Efforts to eliminate private maritime predation in this period were thus not simply a matter of guns and ships, but of communication, diplomacy, and international law.

To examine these issues, this chapter will examine a number of legal issues and documents. First, there is the issue of jurisdiction, both in terms of how jurisdiction is determined in the realm of international politics, especially on the trackless waters of the oceans,

[590] Barring, of course, the predation that occurs on rivers and lakes, as well as within a certain distance of the shoreline, which has shifted a great deal over time.

and who has the authority to demarcate lines of international jurisdiction. This section will focus on the European concepts of freedom of the seas and brotherhood of nations, particularly how both are interpreted through various ideological lenses such as natural law and positive law, and various interpretations of interstate relations utilized by Chinese scholar-gentry, especially the Confucian tributary system which combined economics, politics, and cosmology into a singular ideological package. The next section discusses the state of all those ideologies and systems in the eighteenth and nineteenth centuries, as well as how they came together and clashed in complex ways to create a concrete yet fluid system of international law at that time. While it is clear that this system was dominated by European imperial powers in many ways, it is also clear that non-European states such as China and Japan were not merely victims or empty receptacles of international law, but active participants in that legal system with their own understanding of it and contributions to it. This section also discusses how maritime predation was increasingly defined as outside of international law rather than a part of it during this period. The next section examines in greater detail the rise and influence of new theories of race and nationalism this period, particularly how such ideology was used to defend ideas that non-European states had obligations under international law, but not rights, or at least limited rights dependent on a fulfillment of those obligations based on ever shifting benchmarks of sovereignty.

The next four sections discuss the intersection between military law, maritime law, and international law, as exemplified by a pair of critical international agreements, the Paris Declaration Concerning Maritime Law and the Legality of Maritime Predation and Treaty of Tianjin, which banned private maritime predation even with state sponsorship and made the suppression of maritime predation a Qing international obligation, respectively. In particular, these sections deal with how ideas of just war were interpreted in regards to the rights and duties

of sovereignty, and how just war could be applied to non-state violence and its potential legitimacy. The next two chapters in turn examine how ideas of military, maritime, and international law influenced British and Qing naval defense and enforcement strategies, and how those strategies influenced legal ideas in turn. The final four sections discuss how all these factors came together in the diplomatic discussions and legal battles that surrounded maritime law enforcement and maritime predator suppression along the South China Coast in the nineteenth and twentieth centuries. These sections also highlight how these legal issues could be interpreted and implemented differently between the central governments of the empires involved and their local officials, specifically coastal officials of the Qing and European colonial authorities. These sections present evidence that the latter were often, if not always, more willing to cooperate with each other to deal with maritime predators and diffuse international tension than the central governments were, and sometimes worked together behind the backs of their central governments to those ends, while at other times they had their cooperation overturned or interfered with by the larger goals of their respective empires.

Jurisdiction in Maritime and International Law

Since maritime predators often operated in areas outside any state's jurisdiction, in waters of unclear jurisdiction, moving between differing jurisdictions, or some combination of the above, the question becomes who had the right to declare their activities to be criminal, and the right to enforce that judgment upon them. Theoretically, today's observers might say, the answer would be the international community, but historically, the concepts of international community and law were in a critical state of development in the 1800s. This in turn raises questions about who got to decide whether a state is a legitimate member of that community, what criteria could be used to judge membership, and how members of that community are supposed to interact with

each other and resolve any disputes that may arise. In the South China Sea of the nineteenth century this question would be particularly complicated by the clash of at least two competing systems with their own answers. One concept was the Family of Nations,[591] which was of European origins and based on the concept of legitimacy by mutual recognition of each other's equal sovereignty as well as the respect of each other's certain set of rights as a legitimate state, though what exactly those rights were varied depending on the time period in question.[592] Notably, while European in origin, it was not initially limited to European states, and in fact many earlier philosophers of international law based their conclusions on observations of the interactions between Europeans and non-Europeans; Francisco de Vitoria, for instance, judged relations between Europeans and Native Americans and established principles of natural laws based upon their interactions, while Hugo Grotius derived his conclusions about international law, national rights, sovereignty, and the law of war from European interactions with Asian states.[593]

Both works laid down important foundations for the modern conception of maritime law as well, particularly Grotius' 1608 work *Mare Liberum* (The Free Sea), where he examined the local laws and practices of numerous European and non-European states to describe the principles of free trade and travel on the sea, specifically countering Spanish and Portuguese

[591] Exactly when and how such a system came about is subject to ongoing research and debate. In the past, it was commonly thought that the Treaty of Westphalia in 1648 marked a clear turning point in the transition from a geopolitical system based on personal ties of family and fealty to a more modern nation-state system, but scholars such as Benno Teschke have demonstrated that it is more complicated, with geopolitical institutions and interests still largely driven by family and fealty politics for centuries after Westphalia. See Benno Teschke*, The Myth of 1684: Class, Geopolitics and the Making of Modern International Relations*, (London: Verso, 2003). Meanwhile, scholars such as Jonathan Skaff have highlighted how the broad system of family and fealty allegiances and interests served as common ground for otherwise different cultures throughout Eurasia. See Jonathan Karam Skaff*, Sui-Tang China and its Turko-Mongol Neighbors: Culture, Power, and Connections, 580-800*, (Oxford: Oxford University Press, 2012).

[592] Liu, "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations," 169.

[593] Ibid 173.

claims on the world's oceans.[594] That said, as influential as Grotius writings were, they were far from universally accepted or unchallenged, and the publication of *Mare Liberum* saw other scholars write their own works specifically to counter it; for instance, in 1626 Serafim de Freitas wrote *De justo imperio Lusitanorum Asiatico* (The Just Portuguese Rule in Asia) which contained his own version of maritime law based upon the canon law of the Catholic church and supported by a wide range of legal arguments and precedents concerning issues such as the classification of sovereignty, territorial rights, and the problems inherent in the application of the ideas of freedom of navigation and trade to the East Indies.[595]

Throughout the nineteenth century, the governments of many European states increasingly saw Asian states as existing outside of this framework of international and maritime law, and in need of meeting increasingly higher standards to be allowed the status of a sovereign state.[596] It is important to neither overstate nor understate the importance of this concept as a legal framework. It is true that most leaders and governments within the system were concerned more with their own geopolitical interests than they were with any abstract ideology governing geopolitical interactions, as can be seen in how leading legal experts and advocates such as the *Institut de droit international* were often ignored, with the *Intitut*'s rulings only being cited officially in a minor border dispute in 1878.[597]

Yet it is also true that the transition from natural law, with natural rights for states regardless of their origin, to constructed law, which only gave rights to states that met vague standards of civilization, would have a profound effect on the histories of non-European states. It justified imperial expansion at their expense in the form of unequal treaties, extraterritoriality,

[594] Ibid 174.
[595] Ibid.
[596] Ibid 175.
[597]Koskenniemi, *The Gentle Civilizer of Nations*, 42, 89.

and transgression of basic principles of international law in dealing with the non-Christian world, while also incentivizing the adoption of European standards and practices to curb such behavior, and provided the leaders of these states "a set of tools for playing the games of international politics for their own benefit even though they remained in positions of profound military weakness."[598] It has been argued that while the exact standards to meet have changed, there is a still a strong subtext in international discourse that certain standards need to be met to be considered a real state, and that this has been made worse by a general lack of understanding of the history of international law.[599] Phil C.W. Chan has noted that China's history is a particularly useful illustration of how international law can be used as weapon, both by Western powers against the Qing, and by the Qing to defend against those same powers after adopting and adapting the international framework to fit their needs.[600]

Due to the fact that the topics and geographic areas affected by international law have shifted over time, and to avoid both projecting modern globality into the past before it existed and Eurocentrism in general, scholars such as Maria Adele Carrai have argued that is best to "write a global history of normative orders rather than of international law," with the Family of Nations system as simply one of many normative orders (systems of rules and shared expectations that govern specific social situations) that have governed relations between states in many flexible and shifting regions throughout history.[601] At the same time as the shift in the concept of sovereignty, there was a rise of the concept of universal jurisdiction, where certain crimes in certain places could be punished by any authority, which evolved in three distinct

[598] Richard S. Horowitz, "International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century," *Journal of World History* 15, no. 4 (2004): 455
[599] Chan, *China, State Sovereignty and International Legal Order*, 63-64.
[600] Ibid 64.
[601] Carrai, "Historiographies of International Law from a Chinese Perspective", 33.

phases; first as *complimentary* to the European state system, then as a *constitutive* component of the international system, and finally becoming an *alternative* to the absolute sovereignty of the state in the twentieth century.[602] In the beginning states were sovereign on the land, but challenged by multinational predator crews in waters outside their terrestrial borders, so the universal jurisdiction to hunt down maritime predators in these domains complimented the rights and goals of the states.[603] In the nineteenth century, the classical image of the pirate was repurposed as a tool of imperialism, as groups who resisted European commercial penetration too strongly, such as several Malay communities or Barbary coast city states, could be labeled "pirate states" and said to be opposed to civilization, honest labor, and trade.[604] As such, they were not only treated as separate from other states in the international community and without sovereign rights, but considered to be enemies of all mankind that every state in the community had a duty to oppose.[605] Since many states within the European centered community of nations employed maritime predators of their own in the form of privateers, even after the declaration of Paris, it becomes clear that, in the words of Amedeo Policante, "Separating legitimate political communities, worthy of being part of the international system, from illegitimate communities of outlaw pirates is a political operation in itself, by which the limits of an international order are negotiated."[606] Finally, in the twentieth century it became an alternative to absolute state sovereignty, allowing one member of a community to judge other members by the agreed upon standards in a more formal way than had been done before, including war crimes trials and crimes against humanity trails of the legitimate heads of sovereign states.[607]

[602] Policante, "The Return of the Pirate: Post-colonial Trajectories in the History of International Law," n. pag.
[603] Ibid.
[604] Ibid.
[605] Ibid.
[606] Ibid.
[607] Ibid.

Meanwhile, the East Asian region of the world had its own system of interstate relations, referred to as the tributary system as a result of the importance of tributary missions in establishing legitimacy, particularly in the region the Qing knew as the *Nanyang* 南洋 (Southern Sea).[608] Namely, the current ruling dynasty of the Middle Kingdom would receive diplomatic entourages carrying high quality goods from their homeland to give as tribute to the Emperor, who would demonstrate his generosity by giving a larger value of gifts in return. In addition to serving as a kind of ritualized trading, the neighboring states were demonstrating that they recognized the current emperor as the legitimate ruler of the Middle Kingdom by sending the tribute missions, and by receiving the missions and gifts the emperor gave to them recognized the kings of the neighboring states as the rightful rulers of their realms.[609]

Notably, even European states took part in the tribute system, with seventeen different tribute missions being sent to the Qing court between 1655 and 1795, before the industrial revolution changed the balance of power in Europe's favor; Russia sent six, Portugal sent four, Holland and the Papacy both sent three, and Britain sent one, with Britain's as the only one that refused to perform the traditional kowtow.[610] As noted by Wensheng Wang, the exact operation of the tribute system could vary greatly depending on the time period in question and the interests and goals of the ruling emperor of the time. For instance, Emperor Jiaqing (r.1796-1820), in sharp contrast to his interventionist and expansionist father Qianlong (r.1735-1796), refused to intervene in the internal affairs of his vassal states, such as when he took no side in the struggle between Nguyen Anh and the Tay Son over the throne of Annam, or the conflicts of tributary states with each other and even those outside the tribute system, such as when he denied

[608] Po, *The Blue Frontier*, 48.
[609] Immanuel Chung-Yueh Hsü, *China's Entrance into the Family of Nations: The Diplomatic Phase, 1858-1880*, (Cambridge: Harvard University Press, 1960), 4-5.
[610] Ibid 5.

a Nepalese request for military aide against British incursions from Bengal.[611] The reason for this shift in policy had much to do with how the Qing had overstretched its military and political might under the Qianlong Emperor and how they needed an increasingly larger amount of their remaining resources dedicated to dealing with internal threats and protecting their borders against intrusion; regardless of their reasoning, this diplomatic retreat signified to their tributaries that the Qing "did not have the international capacity to meet its moral obligations as the supreme patron of the tributary network."[612]

Combined with other factors, particularly the Qing's defeat in the Opium Wars, this encouraged states to start leaving the tributary system and create treaties with Western powers according to their system of international diplomacy in the 1860s.[613] This transition was not a clean break from one system to another, and for a time the tributary system persisted alongside local implementations of European international law, and the tribute system saw something of a revival around 1865 with a decree of benevolence in the wake of the Taiping conflict.[614] The tribute system lasted until Japan's take-over of Korea in 1895 which ended Korean's tributary relationship with the Qing, Korea being the Qing's last tributary, and during that last period the tributary system existed in a manner that was more egalitarian than the hierarchical system it had been in the past. The tribute system had persisted as long as it did largely by being flexible and pragmatic, and in the face of the threat of imperialism and a competing world order that came with it, more emphasis was placed on building alliances than establishing international rank.[615]

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[611] Wang, *White Lotus Rebels and South China Pirates*, 227.
[612] Ibid 228.
[613] Ibid.
[614] Maria Adele Carrai, *Sovereignty in China: A Genealogy of a Concept since 1840*, Cambridge Studies in International and Comparative Law, (Cambridge: Cambridge University Press, 2019): 59.
[615] Zhang Feng, "Rethinking the 'Tribute System': Broadening the Conceptual Horizon of Historical East Asian Politics," *The Chinese journal of international politics* 2, no. 4 (2009): 555-556, 573-574; Zhang Yongjin, and Barry Buzan, "The tributary system as international society in theory and practice," *The Chinese Journal of International Politics* 5, no. 1 (2012): 31-32.

Even before this systemic shift many states within both systems had strong differences of opinion over what exactly their systems meant and how they should operate. For instance, the Qing's origins among non-Han peoples from the steppe meant that other states such as Japan and Korea disagreed with the legitimacy of the Qing's place at the top of the Confucian tribute hierarchy, though they rarely had the power to directly contest the issue.[616] Japan instead undermined the Qing by offering under the table support for anti-Qing forces including maritime predators.[617] While Korea felt too vulnerable to its Qing neighbors to attempt such a bold strategy, its official written records were sympathetic to the Zheng and other Ming loyalists while subtly but distinctly describing the Qing in terms that denied their legitimacy as an imperial dynasty.[618]

Furthermore, it is questionable how much smaller states in the tribute system believed its stated values as opposed to simply seeking to access the material and political advantages of participating in it; notably, even when the Qing or one of their predecessor dynasties was in conflict with another state in the system, it was not uncommon for neutral go-betweens to facilitate commerce and diplomacy between the sides in conflict, such as how the Kingdom of Ryukyu acted as a go-between between the Tokugawa in Japan and both the Ming and Qing Dynasties.[619] Vietnam would also set up a parallel tribute system in South East Asia during the nineteenth century with itself as its center while still participating in the Qing centered one, though their tribute system placed less emphasis on hierarchy and more on mutual support and goodwill, in order to maintain peace even when Vietnam's position was not strong.[620]

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[616] Hang, *Conflict and Commerce in Maritime East Asia*, 13-14, 32, 100-101, 252-253.
[617] Ibid.
[618] Ibid.
[619]Gipouloux, *The Asian Mediterranean*, 70-71.
[620] Thi My Hanh Nguyen, "Vietnam's Chinese-Style 'Tributary System' in Southeast Asia in the Nineteenth Century," *South East Asia research* 29, no. 4 (2021): 504-505, 507-508, 516-517.

Furthermore, the lords of the Satsuma region of Japan even legalized smuggling during this period to get around the trade ban, and it became a highly regarded profession, despite it undermining the tribute system.[621]

Well before the rise of the Qing, its dynastic predecessors would label armed maritime resistance against their objectives as piracy to dismiss it, similar to how European states would also label maritime violence in the South China Sea as piracy whenever it interfered with their objectives, regardless of whether that violence came from states or non-state actors.[622] This was a fairly common tactic of European powers in any ocean, even in conflicts with each other which theoretically allowed privateering under certain rules of engagement, as both sides would exploit every ambiguity or loophole concerning what exactly constituted a legitimate privateering commission in order to label someone as a "pirate" or "privateer" to suite their interests, if they didn't just ignore their own rules outright.[623] To provide an example of how the Ming used the same tactic: the official chronicles of Zheng He's expedition labeled his opponent Chen Zui a pirate chief, similar to various other opponents the expedition encountered, he might have simply been a local chief who could be made an example of in order to project Ming power into the region and bring other local rulers into line.[624] In fact, it has been argued that the best way to understand the political situation in the South China Sea in the nineteenth century is not as a slow expansion of European imperial law into the area overriding that of the Qing's, but rather an area with three overlapping and directly competing legal regimes: that of the Qing which was

[621] Antony, "The Shadowy world of the Greater China Seas," 8.
[622] James Kai-sing Kung and Chicheng Ma, "Autarky and the Rise and Fall of Piracy in Ming China," Journal of Economic History 74:2 (2014): 509, 534; Ng Chin-keong, *Boundaries and Beyond: China's Maritime Southeast in Late Imperial Times* (Singapore: NUS Press, 2017): 101-46.
[623] Kenneth R. Andrews, *Elizabethan Privateering: English Privateering during the Spanish War, 1585–1603* (Cambridge: Cambridge University Press, 1964): 5-6, 16.
[624] Gaynor, "Piracy in the Offing," 824-825, 832.

mostly focused on coastal security, the imperialist powers attempting to impose what they saw as universalistic laws and jurisdiction, and the regime of the maritime predators themselves "who, as outlaws, were left to devise their own codes of behavior and self-regulation in the dark spaces of the outer ocean."[625]

It would be easy to overstate the differences between the two international systems, as well as the Qing's willingness to understand and participate in the Brotherhood of Nations. Notably, in the leadup to the First Opium War, Lin Zexu wrote a letter arguing eloquently using the reciprocity-based ideals of the Brother of Nations against British aggression and the smuggling of opium to begin with, noting the hypocrisy of demanding that Qing legalize a substance illegal under Britain's own laws and the laws of many other states, and that the Qing's sovereignty was being violated in ways which the Qing was not doing to Britain or any other state.[626] In another incident, the recently appointed Prussian ambassador to the Qing, Guido von Rehfues, captured three Danish ships at the entrance of the port of Dagu Kou near Tianjin as while on his way to the recently established German embassy in Beijing (Prussia having assumed the role of representative of all German states, part of the same process of German unification driving Prussia's war with Denmark), justifying the act as prizes of the Second Schleswig War between Prussia and Denmark .[627] Prince Gong and his associates were concerned if nothing was done that it would create precedent for European powers to blockade Qing ports as part of European wars, as well as being annoyed that the new ambassador would cause trouble for them so soon, but they also saw the event as an opportunity to test the usefulness of international law

[625] Robert Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," in *Piracy in World History*, eds Stefan Amirell, Hans Hägerdal, and Bruce Buchan, (Amsterdam: Amsterdam University Press, 2021), 174.
[626] Lin Zexu, "Letter to Queen Victoria," in *The Chinese Repository*, Vol. 8, (Canton: Printed for the proprietors, 1840), 497–503.
[627] Weijian, "The Prussia-Denmark ship incident at Dagu," 87.

as a tool in the Qing's diplomatic arsenal, to justify continuing their translations of works of international law; while they did not directly cite any of their translations, those works did provide information that served as the foundation of the Qing argument.[628]

Prince Gong was able to argue in a series of diplomatic exchanges that it had happened in Qing territorial waters (or inner ocean in Qing terminology) and thus was not legitimate, as well as it being in violation of a specific Qing-Prussia treaty, thus successfully forcing von Rehfues to release the Danish ships and pay a significant compensation.[629] Von Rehfues attempted to argue that since the conflict was between Prussia and Denmark the Qing had no right to interfere, to which Prince Gong continued to point out that the event took place in Qing territorial waters, which overrode the Prussia right to capture any ships, further supporting this by pointing out that there were specific rules governing the conduct of warships in neutral ports that such an attack violated.[630] Prince Gong added that these actions displayed a clear contempt for the Qing's sovereignty.[631] When Prince Gong offered to act as an impartial mediator between the Dutch and Prussians, von Rehfues attempted to claim he did not have the authority to negotiate such a thing.[632] Prince Gong then questioned his appointment as ambassador, citing how European powers in the Opium War had refused to meet with Qing ambassadors unless they had the full authority to negotiate on their government's behalf.[633] Through Prince Gong's deft arguing, Prussia's relatively weak hand in the area, and some European powers, such as Britain, taking the Prince's side von Rehfues not only had to surrender the issue at hand, but leave the area all together, returning to Prussia to gain the authority he needed before finally being accepted as an

[628] Ibid 88.
[629] Hsü, *China's Entrance into the Family of Nations,* 133.
[630] Weijian, "The Prussia-Denmark ship incident at Dagu," 88-89.
[631] Ibid 89.
[632] Ibid.
[633] Ibid.

ambassador for the Qing by the end of that year.[634] This incident, also known as the "disputes between ships at Dagu Forts" (*Dagukou chuanbo shijian* 大沽口船舶事件), was notable not just because of the Prince and his followers' use of this system of international law, but also their contribution to it via a logical application of its basic principles to an unusual situation. While the Qing are oftentimes depicted as simply passively accepting European international law systems, in truth many Qing officials actively and creatively used it to force European powers to acknowledge them as, if not total equals, then more equal than Europeans would have liked, and avoided the fate of becoming an exploited colony.[635]

Marilyn Lake and Henry Reynolds[636] similarly note that political campaigns by racial equality organizations such as the Universal Races Congress, aided by individuals such as Lowe Kong Meng, Cheok Hong Cheong and Louis Ah Mouy, the authors of *The Chinese Question in Australia*, to end discrimination against Chinese and Japanese immigrants in places such as Australia and the United States often relied on arguments based on the principles of equality and reciprocity enshrined in international law.[637] To this appeal American and Australian politicians simply insisted it was their right of sovereign self-determination to keep out anyone they wished, even as they created treaties which forced open territories in East Asian states for their citizens.[638] In essence they took up a position which Lake and Reynolds described as "of the elevated sovereign masculine subject," i.e. the superior people who would control all movement to and from their homeland, even if it meant conflict with the British metropolitan government's

[634] Ibid 89-90.
[635] Ru, "The State Formation of Late Qing China within Global Geopolitical Dynamics," 101, 103-104.
[636] A pair of scholars who have examined and explained the rise of white nationalism on a global scale in their work *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality*.
[637] Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality*, (Cambridge: Cambridge University Press, 2008) 7-8.
[638] Ibid 8.

stance of maintaining reciprocity to some extent, albeit only in the form of not allowing its people to settle in East Asian states.[639]

It is worth noting that ideas about scientific racism found their own support within East Asian communities; in addition to Japan's wholesale adoption of the idea to justify its own imperial expansion, many within the Qing territory also came around to the idea of superior and inferior racial categories in the wake of the Opium Wars, specifically Han Chinese who saw themselves as superior to the Manchu who founded and ran the Qing government, and thus saw all the problems the Qing faced as a result of that perceived racial inferiority.[640] After the fall of the Qing and the rise of the Republic of China and People's Republic of China, Manchu and other minorities along the former Qing frontier regions were increasingly brought under the umbrella of "Chinese," but as a way to secure claims by those governments to frontier land and deny claims by the people of those frontier lands to the same self-determination that fueled both governments' resistance to European encroachment.[641] In the words of Maria Carrai, "self-determination had a strong racial component in China and was not intended for China's colonies and minorities. Rather, both communists and nationalists proposed that the Han people lead in the process of self-determination for the creation of one Chinese sovereign nation."[642] At times possible autonomy is discussed, as was the case with Tibet, but with the hypothetical autonomy to be granted based on reaching "certain vague and changeable standards," similar to how European and American powers had justified their protectorates and colonies; to given an

[639] Ibid 20, 186, 282.
[640] Peter Zarrow, "Historical Trauma: Anti-Manchuism and memories of atrocity in late Qing China," *History & Memory* 16, no. 2 (2004): 68-69, 96-97.
[641] Carrai, Sovereignty in China, 113.
[642] Ibid 113-114.

example, for Tibet the condition was that "Tibet must give proof that it can consolidate its independent position and protect its continuity so as not to become another Korea."[643]

International Law in the Eighteenth and Nineteenth Centuries

It is important to keep in mind that when international law is discussed in the context of the nineteenth century and early twentieth century, it is not the same as the modern concept of international law, shaped by international organizations such as the United Nations which provide a centralized and theoretically standard set of rules to govern or guide the interactions of states, as well as a forum for settling disputes. Instead, international law of the late nineteenth and early twentieth centuries was something that arose organically out of the eighteenth and early nineteenth centuries' complex web of treaties, alliances, gentleman's agreements, and other interactions both formal and informal in nature.[644] Moreover, even within the late nineteenth century it evolved at a rapid pace, with interpretations of the basic rules of diplomacy and law shifting from decade to decade.[645] As a result, it was highly variable in nature, with certain areas of the world or groups of polities having certain standards of interaction that were universally respected if not universally enforced. To provide an example, Britain's campaigns against piracy and slavery throughout the eighteenth century were officially intended to be a global effort based on universal natural standards but instead took on subtle yet important differences in distinct regions depending on the nature of the treaties and relations that the British Empire had with local polities in the area.[646] This variability did not mean that international law was not

[643] Ibid 126-127.
[644] Koskenniemi, *The Gentle Civilizer of Nations*, 111-114.
[645] Horowitz, "International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century," 452-453.
[646] Benton and Ford, *Rage for Order*, 119-121, 146, 194-196.

important and the invocation of international law could be every bit as politically powerful in the nineteenth century as the twentieth or twenty-first centuries.

To provide an example of how this system worked in practice when dealing with the issue of maritime predation, it would be worthwhile to examine the *Treaty of Friendship and Commerce between Her Majesty and the Sultan of Borneo*, signed in 1847.[647] While the agreement itself was specifically with "His Highness Omar Ali Saifadeen, who sits upon the throne and rules the territories of Borneo," the treaty was framed as part of a larger effort to encourage commerce between Great Britain and "the independent Princes of the Eastern Seas," and to secure that commerce from the threat of maritime predation.[648] To that end, Article 7 of the treaty required Borneo to allow warships from the Royal Navy and the East India Company free access to all of its ports, rivers, and creeks, and it was further required to provide supplies to those ships "at a fair and moderate price."[649] Article 9 has both states solemnly swear to suppress maritime predation in their territorial waters, with the Sultan of Borneo further swearing to not give "shelter or aide" to any maritime predators and to allow the British navy the right to investigate and enforce that clause.[650] Notably, it included slave traders with pirates in the aforementioned article and Article 11 further enforces that both Britain and Borneo were to legally treat slave traders as pirates.[651] While most of the treaty focused on issues of commerce and maritime predator suppression, an extra clause is added at the end of the treaty which established that the English Consul-General had the sole right to try English subjects accused of

[647] *Treaty of Friendship and Commerce between Her Majesty and the Sultan of Borneo. Signed, in the English and Malay Languages, at Bruni, May* 27, 1847, in *Hertslet's Commercial Treaties: A Collection of Treaties and Conventions,…Volume 8*, (London: Foreign Office, 1851), 86-90.
[648] Ibid 86.
[649] Ibid 87-88.
[650] Ibid 88.
[651] Ibid 89.

a crime in Borneo, as well as arbitrate in any dispute between an English subject and a subject of Borneo or any other foreign state.[652]

This is an example of the concept of extraterritoriality, where the subjects of one state would be under the laws and jurisdictions of their homeland even when in a foreign territory, often on the excuse that either local laws are unjust or that the local government is untrustworthy. This would be said of the Qing Dynasty by advocates of extraterritoriality in states such as England, France, and the United States. The Ottoman Empire and Siam would also sign treaties establishing similar systems of privilege and protection for European visitors.[653] Hugh Lindsay was one of the key proponents of extraterritoriality in the 1830s, and he argued that the Qing judicial system was not only in conflict with reason and humanity itself, but Qing law as well, thus placing it outside the status of a "civilized" state worthy of having its laws respected.[654] Notably, while these advocates would get their desired laws in various unequal treaties, they did not have an easy time convincing their countrymen to agree with them; the idea that a state controlled the laws in its territory and thus any visitor automatically submitted themselves to local law was strongly ingrained in the minds of most, so that even many who did look down on Qing law and government felt extraterritoriality would be a step too far and go against the natural laws that governed the interaction between states.[655] That said, the desire for extraterritoriality often transcended the justifications given for desiring it; as can be seen in how, by the twentieth century, the justification for extraterritoriality had shifted from barbarity to the

[652] Ibid 89-90.
[653] Horowitz, "International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century," 460-461.
[654] Chen, *Chinese Law in Imperial Eyes*, 209.
[655] Ibid 24, 244.

weakness of the central government; as more and more outlying regions came under the control of local leaders whose loyalty to the government was often nominal at best.[656]

There are several things that can be inferred from the Anglo-Bornean friendship and commerce treaty. The first is that even almost a decade before the Paris Declaration concerning maritime law, which many historians[657] have seen as a critical turning point in maritime law and warfare,[658] states sponsoring or aiding maritime predators who were not formal members of their own navy was increasingly seen as not in keeping with the standards of a true state and even delegitimized those that practiced it. Furthermore, it shows that despite the Brotherhood of Nations idea supposedly having been built around reciprocity, treaties could demand a lot more of one side than the other, particularly when it came to a great power making treaties with a small state, as well as a European state negotiating with a non-European one. Indeed, this treaty is notably like the unequal treaties that would so vex the Qing and Tokugawa states later on, eventually contributing to both of their collapses and replacements by the Republic of China and Meiji state, respectively. Such lopsided agreements were possible in no small part due to how the wealth and military power of the European empires could be used as both carrot and stick in negotiations; besides the obvious risk of conflict with a powerful force if the treaty was refused or broken, complying with the treaty made a government politically valuable to its imperial treaty partner and thus more likely to be propped up by them, and defended against threats both

[656] Cassel, *Grounds of Judgment*, 177.
[657] Such as Jan Lemnitzer, *Power, Law and the End of Privateering*, (London: Palgrave Macmillan, 2014), 4-5.
[658] That said, it is far from a universal view. With Janice Thomson noting that some legal experts saw the Declaration of Paris as "more of a travesty than a contribution to international law," on the grounds that it linked established practice with new laws in ways not practically implementable or enforceable, in particular since it did not define "contraband" which was exempt from legal protection. Furthermore, Thomson notes that actual adherence to the agreement was inconsistent at best after it was signed, with states taking every excuse to declare the treaty non-binding in a conflict, from any of the combatants being non-signatories to arguing that "volunteer navies" were different than privateers, though the declining military value of privateers made the point largely moot. See Janice Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*, (Princeton: Princeton University Press, 1996), 71-72, 75-76

foreign and domestic. In the case of Borneo, while the treaty may have favored Britain, it still helped elevate the ruling Sultanate over regional rivals, promised aide against any internal rebellion against the Sultan, and helped reduce the threat of some other empire inserting itself into Borneo at the Sultan's expense.[659]

Similarly, foreign support for the Qing in their desperate struggle during the Taiping conflict was largely due to the fear that a Taiping regime might not honor Qing treaties if it came to power, or worse, might not pay back the considerable financial indemnities that had been imposed on the Qing in the Opium Wars.[660] Sir John Bowring, governor of Hong Kong and one of the main architects of the Second Opium War, had previous experience in extracting a similarly unequal treaty and free trade agreement from the Ottoman Empire in 1838 in exchange for military aide against the breakaway regime in Egypt.[661] He took a month off his governor duties to negotiate an agreement with Siam in 1855, again in exchange for support to attempts by the Siamese monarchy to centralize its power over its own powerful and rebellious subordinates.[662] For these accomplishments he was considered an expert in managing "the East" in the interests of British merchants.[663] Finally, we can see that despite the rise of nationalism and popular sovereignty[664] during this time period, there was still a great deal of emphasis on the

[659] Benton and Ford, *Rage for Order*, 137.
[660] Stephen R. Platt, *Autumn in the Heavenly Kingdom: China, the West, and the Epic Story of the Taiping Civil War*, (New York: Alfred A. Knopf, 2012), 240-241.
[661] Horowitz, "International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century," 445-446, 458.
[662] Ibid.
[663] Ibid.
[664] Albeit, unevenly, as it was often the upper classes of a given state with their greater access to education who began to think of themselves in term of national identity and engage in projects to further that identity, whereas peoples of lower classes tended to define themselves in other ways, such a more local identity or a religious one. Yet at the same time, elite education and contacts could allow for the development of distinct international identities, such as a brotherhood of monarchs that included not only European ones, but also Chinese, Japanese, and Indian rulers and princelings. Furthermore, elite nationalists of this period where often focused on maintaining political independence even at the cost of local cultures and traditional political structures, often angering local populations, especially minority groups that were often excluded from the elite vision of national identity entirely

heads of state as almost personifying their governments, and thus diplomatic relations were treated as extensions or reflections of the personal relationships between the monarchs, or some other symbolic leader, in the case of a republic. The history of diplomats debating maritime predation within the context of inter-state power relations, however, was motivated by far more than pure Westphalian-style state realpolitik.[665]

White Nationalism in International Politics

The confluence of nationalism and internationalism in the nineteenth century was a catalyst for the rise of white nationalism; not simply the idea that people of European descent were "superior" in some matter to other categories of people, but that they specifically shared a sense of brotherhood and common geopolitical interests that transcended the political divides and agendas of individual European and European settled states, and that "whiteness" was in some ways an ideal to aspire to and a claim of ownership over the entire earth.[666] Like many other forms of nationalism during this period, it was not a passive state of being but actively constructed, with states and other interested parties intentionally trying to create and shape national identities to unite diverse bodies of people, to give them a shared political identity and goal. Usually discussion of this phenomena is focused on the creation of the idea of a nation-state which tied together cultural identities with political boundaries in order to convince the population that the two were naturally and intimately connected; but during this period there were also attempts to create pan-national identities which crossed state boundaries and united

and made scapegoats for the issues of the state. See Benedict Anderson*, Imagined Communities: Reflections on the Origin and Spread of Nationalism*, (London: Verso, 2016), 21, 99, 101-102.

[665] The Peace of Westphalia in 1648 were a pair of peace treaties that ended the Thirty Years War (1618–1648) and Eighty Years War (1568–1648); as they had clauses for non-interference, they have been traditionally seen as the origin of modern ideas of sovereignty, though more recent scholarship paints a more complex picture. Realpolitik is the idea that international politics is driven more by pragmatism than ideology or morality.

[666] Lake and Reynolds*, Drawing the Colour Line*, 2, 247-248.

various peoples based on some other perceived commonality, such as language, religion, or racial classification.[667]

This feeling of white nationalist brotherhood was particularly strong between Anglophone nations who further narrowed down this sense of white nationalism to one of Anglo-Saxon nationalism; for example, Australia and the United States worked closely together to project naval power into the Pacific in order to defend each other's interests, and each took inspiration from the other when implementing polices to exclude non-white populations from engaging in immigration or voting, due to an increasing belief that multi-racial democracy was impossible and thus freedom could only be preserved by excluding or suppressing people.[668] Additionally, in the midst of the Second Opium War, when British forces were suffering heavy casualties from artillery fire from the Qing's defensive fortifications at the Second Battle of the Taku Forts, the American captained chartered steamer *Toey-Wan* came to the aide of the British by providing cover fire for their retreat despite America's official neutrality in the conflict, with the ship's commander, one Josiah Tattnall, citing racial brotherhood as his motivation for doing so, stating simply that "blood is thicker than water."[669] At the same time, an uprising against Rajah Brooke occurred and English language newspapers such as *The Evening Telegram* attributed the incident entirely to how "secret organizations" connected to those in the Qing state "were excited, and sympathized with their homelands, and so sought to drive out the English on Borneo, especially after hearing that an English fleet was repulsed by the Canton forts."[670] The

[667] Ibid 1-2, 5-7.
[668] Ibid 6-7, 27, 49, 53-54.
[669] Charles Colcock Jones, *The Life and Services of Commodore Josiah Tattnall*, (Morning news steam printing house. 1878), 83-87.
[670] *The Evening Telegraph*, (Philadelphia, PA), 24 November 1866, *Chronicling America: Historic American Newspapers*, Library of Congress. http://chroniclingamerica.loc.gov/lccn/sn83025925/1866-11-24/ed-1/seq-11/, 12.

newspaper article in question had no hesitation in accusing all immigrants of Chinese descent of being dangerous and hypocritical, traveling to wherever they could make money while "not identifying with their new lands," and maintaining loyalty to each other and the secret organizations of their homelands.[671] As such, it can be seen that part of the ideology of white nationalist brotherhood was expecting other cultures to have similarly racialized allegiances, all directly competing with one another for wealth, territory, and power.

The work of Marilyn Lake and Henry Reynolds has done a great deal to demonstrate the degree to which this idea spread during the nineteenth and early twentieth centuries and reshaped global politics to be increasingly hostile to the possibility of non-European states being members of a brotherhood of nations.[672] This concept of white brotherhood and nationalism was driven as much by fear as it was by a sense of superiority; specifically the fear that the great empires of Europe and their former colonies would not always be at the center of global politics as other powers rose to take their place. Much of this fear can be traced back to Charles Pearson's *National Life and Character, A Forecast*, in which Pearson used his experiences as a politician in Melbourne to reach the conclusions that so alarmed his readers.[673]

This anxiety was focused primarily on Asian states, with white nationalists especially terrified of the possibility of the Qing becoming an economic and military power once its technological capabilities matched those of Europe, especially once combined with the empire's considerable population.[674] In particular, there was a great fear of large scale immigration into "white countries," which included not just Europe but places such as Australia, America, and South Africa, or otherwise an increase in non-white populations that would render European

[671] Ibid.
[672] Lake and Reynolds, *Drawing the Colour Line*, 305-306.
[673] Ibid 76-77, 356.
[674] Ibid 36-37, 77, 87.

power irrelevant and people of European descent inconsequential.[675] As such, politicians drafted policies aimed at isolating and weakening the Qing on the global stage, particularly in terms of projecting increasing amounts of naval power into the Pacific Ocean and South China Sea.[676] For instance, when an American fleet visited Australia in 1905 on its journey throughout the Pacific, the officers on the ships, Australian politicians, and both the Australian and American press openly discussed how the operation fit both the ideals of white brotherhood and their mutual interest in intimidating Japan back into line after its victory in the Russo-Japanese War.[677] This made the issue of how maritime predation threatened trade with China a politically charged one, since it gave an excellent excuse to both increase naval power close to the coastline of key provinces such as Fujian and Guangdong and to pressure the Qing government into concessions on other issues, such as limiting the immigration of Qing citizens to European controlled countries and colonies.[678]

Even non-white states would occasionally use some of this rhetoric to grapple with their own anxieties about the changing world; for instance, many in the late Qing feared not only the fall of their dynasty, but the extinction of "yellow race" (miezhong 灭种), and from the 1890s onward these nationalists sought to unite all such people, within or without the Qing territories, in order to catch up to the Europeans and stave off extinction.[679] They called upon mid-nineteenth-century Chinese translations of German biologist Johann Friedrich Blumenbach's five-race theory and saw the white race as an example of survival of the fittest while "the red, black, and brown races are negative examples" and "Only if the yellow race strove to become

[675] Ibid 3-4, 53.
[676] Ibid 104-105.
[677] Ibid 2-3.
[678] Ibid 20, 39, 125, 165, 253-254.
[679] Carrai, *Sovereignty in China*, 96.

strong could it avoid the fate of being eliminated like the red, black, and brown races;" Yan Fu, in four translations of Darwin and Spencer published in the Zhibao in 1895, went so far as to argue that "the white and yellow races were in a perpetual state of war, *yousheng liebai 優勝劣敗* (the superior wins, inferior loses)," only believing in a yellow victory unlike similar European works.[680]

It is important to recognize the limitations of this ideology and its political agenda, as, despite its spread and popularity in certain circles, it was not able to completely drown out competing ideas and interests. On one level, simple political pragmatism meant that European states often found it in their interests to work against other European states, including working with non-European states whose interests aligned with their own. On another, while this was a period of rising nationalism, it was also a period of rising universalism where many grew increasingly uncomfortable with the hypocrisies inherent in imperialism and argued for fairer standards and practices.[681] The two factors could also go together, as decisions born out of political convenience could be justified to the public and the international community with a rhetoric of fairness, freedom, and equality. To provide an example, during the Russo-Japanese War, the Russian Empire tried to appeal to the idea of white solidarity and portrayed itself as the defender of European civilization against the "Yellow Peril" embodied by the Empire of Japan, but largely failed, with British and American sympathies in particular largely falling on the Japanese side of the conflict.[682] This was partially because of geopolitical considerations that

[680] Ibid 96-97.
[681] Gustav Spiller, "Papers on Inter-Racial Problems: Communicated to the First Universal Races Congress, Held at the University of London, July 26-29, 1911," (London: P.S. King & Son, 1911), 41-42, 47.
[682] John Albert White, *The Diplomacy of the Russo-Japanese War*, (Princeton, New Jersey: Princeton University Text, 1964), 75.

saw Russia as the larger threat to British and American trade and political influence in the region, while Japan was seen as a potentially useful ally.[683] Japanese diplomats went out of their way to avoid any appearance of a race war, including turning down an offer of alliance from the Qing despite a mutual enemy and the war being fought largely in Qing territory, and to make itself look like a protector of trading rights from Russian monopolistic ambitions.[684]

The American and British stance on the water was also a result of general ideological factors, with many in Anglophone countries seeing Russia as a tyrannical, bullying state, while finding Japan's stated goal of defending its sphere of influence to be reasonable and justified.[685] Other European states such as France where more aligned with Russia, but not enough so to risk the economic or political consequences of angering England and its allies by openly siding with Russia in the conflict.[686] Theodore Roosevelt thought of the Japanese as scrappy underdogs worth supporting, an impression strengthened through Japan's use of a personal friend of Roosevelt, Baron Kaneko, as an ambassador.[687] This was reflected in popular media, as there were many comics, stories, and even early films that depicted Japanese victories in the conflict, or simply featured stories of heroic samurai going up against evil Cossacks.[688] However, after the Japanese victory Roosevelt became disturbed about its implications concerning the future of European domination of the globe, especially in light of his fascination with Pearson's *National*

[683] R. M. Connaughton, *The War of the Rising Sun and the Tumbling Bear,* (London: Routledge, 1988), 6-7.
[684] White, *The Diplomacy of the Russo-Japanese War*, 90.
[685] Gerald E. Markowitz, *American Anti-Imperialism, 1895-1901*, (New York & London: Garland Publishing Inc., 1976), 23-25.
[686] White, *The Diplomacy of the Russo-Japanese War*, 23.
[687] Tyler Dennet, *Roosevelt and the Russo-Japanese War*, (New York: Doubleday, Page and Company, 1925), 32-33.
[688] "American Perceptions of the Russo-Japanese War". Library of Congress. http://frontiers.loc.gov/intldl/mtfhtml/mfpercep/gal_AmerPerc.html.

Life and Character which warned of such a decline, and felt that while the Japanese were not inferior they were still too different to immigrate to America.[689]

The Paris Declaration Concerning Maritime Law and the Legality of Maritime Predation

Idealism and pragmatism were united in the March 30, 1856 Treaty of Paris, specifically the Paris Declaration Concerning Maritime Law which deals directly with matters of maritime predation and naval warfare.[690] While the treaty was drawn up to end the Crimean War (1853-1856), it set an important precedent about widely practiced norms of warfare, thus setting the stage for later treaties on the subject such as the Geneva Convention of 1864. The declaration's rules and principles were based on more informal codes of conduct agreed upon by the allied powers of the Crimean War between themselves in 1854, particularly France and the United Kingdom, to respect neutral shipping and not issue letters of marque.[691] The Declaration itself opens with a bold proclamation of purpose, stating:

"That maritime law, in time of war, has long been the subject of deplorable disputes; That the uncertainty of the law and of the duties in such a matter, gives rise to differences of opinion between neutrals and belligerents which may occasion serious difficulties, and even conflicts; That it is consequently advantageous to establish a uniform doctrine on so important a point; "[692]

The provisions of the declaration consist of four main points, stated in a short and simple manner, creating room for ambiguity despite the declaration's emphasis on establishing a uniform doctrine to resolve any differences of opinion on the proper behavior of maritime

[689] Dennet, *Roosevelt and the Russo-Japanese War*, 34-46; Lake and Reynolds, *Drawing the Global Colour Line*, 2, 193.
[690] Paris Declaration Respecting Maritime Law. http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.
[691] Ibid.
[692] Ibid.

powers during wartime. The first point is to simply state that "Privateering is, and remains, abolished."[693] No attempt is made to define the term privateering, presuming the various signatories all know and agree on what kind of behavior constitutes privateering. The second declares that "The neutral flag covers enemy's goods, with the exception of contraband of war;" again there is a noticeable lack of a definition of what kinds of goods are considered contraband of war within the text of the treaty.[694] After that it declares that neutral goods under enemy flags were not valid targets for capture, again with the exception of the vaguely defined category of "contraband of war."[695] The Declaration's final rule is that in order for a blockade to be considered binding, it must actually have the force required to effectively deny access to the coast of their enemy.[696] While such a situation may seem to be self-evident and not something that needed to be defined by international treaty, since blockades had the right to stop, investigate, and possibly seize neutral shipping, this act prevents such shipping from being harassed under the legal cover of a blockade by a small number of raiders, or frightened away from trade by the mere declaration of a blockade; an act known as a "paper blockade."[697]

Afterwards, the Declaration makes clear that it is not to be considered binding except between fellow signatories of the Declaration; thus, not only were non-signatories free to ignore these rules of naval warfare, signatories were not held to those standards when fighting non-signatories.[698] Yet despite this acknowledgment of the Declaration's legal boundaries, the writers of the Declaration felt "Convinced that the maxims which they now proclaim cannot but

[693] Ibid.
[694] Ibid.
[695] Ibid.
[696] Ibid.
[697] Charles Noble Gregory, "The Law of Blockade," *Yale Law Journal* XII, No 6. (1903), 340.
[698] Paris Declaration Respecting Maritime Law, http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.

be received with gratitude by the whole world," as they believed it reflected natural and logical principles governing human interactions, which reflected how common the positivist[699] interpretation of law was during this period, though this universalist sentiment lay in quiet, yet far reaching, conflict with the ideological division of the world into civilized and uncivilized states, increasingly defined along cultural or racial lines.[700] As such, they included in the Declaration an open invitation for states that had not "taken part in the Congress of Paris" to "accede to it." The writers further included a clause stating that they were confident in the worldwide adoption of the Declaration's rules and regulations, writing that "the undersigned Plenipotentiaries doubt not that the efforts of their Governments to obtain the general adoption thereof, will be crowned with full success."[701]

However, while the treaty is often treated as an end to privateering, it is important to remember that not everyone signed the treaty, and while the general opinion was against privateering, this made actual enforcement of the treaty difficult in some situations and thus allowed maritime predation a degree of legal ambiguity to operate in. Furthermore, the existence of the treaty was not necessarily the final word in the debate over state sponsored maritime predation even in signatory states. For instance, Lord Portsmouth introduced a proposal in the House of Commons to officially denounce the agreement and one Percy Wyndham argued that the treaty would only be a disadvantage to Britain as many states had not signed it and were not bound to its rules.[702] This follows a long ingrained pattern among states to abandon their rules of

[699] The idea that laws are social rules derived logically from historical precedent and study of human behavior in a manner similar to scientific study of the natural world.
[700] Paris Declaration Respecting Maritime Law, http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.
[701] Ibid.
[702] Folios 253 - 261: Memorandum by Cecil Hurst concerning: Lord Portsmouth's proposal to denounce the 'Declaration of Paris': encloses notes for the use in the debate on Lord Portsmouth's motion in the House of Commons; includes a copy of the Declaration respecting Maritime Law, dated 16 April 1856.FO 800/96/101. July 22, 1916.

just war when faced with enemies who do not follow their rules, particularly those of greatly different cultures on account of both simple xenophobia and the inevitable clash between different just war ideologies.[703] This stance also echoed that of some of its early critics in Britain, who argued that Britain was giving up practices that had long been defended by British legal experts, and which only it could practice because of its naval superiority, in exchange for other states merely agreeing to continue to act as they had in the past.[704] However, ultimately most politicians saw the banning of privateering as worth whatever compromises they had to make, as French privateering had done considerable economic damage to England during the Napoleonic Wars.[705]

The Qing government was not a signatory of the treaty nor its Declaration Concerning Maritime Law.[706] While there is little evidence to suggest the Qing ever engaged in any institution directly comparable to the formalized privateering of early modern Europe, they and their Ming predecessors did have a long history of recruiting "sea lord" maritime predators directly into their navies in ways that blurred the lines between private maritime predators and formal naval forces, acting almost as maritime feudal vassals of the dynastic state.[707] A famous example of this was Shi Lang, a former subordinate of the Zheng family[708] who defected to the Qing and then led the Qing's efforts to overthrow the Zheng's regime on Taiwan.[709] He also helped convince the Kangxi emperor to keep Taiwan as part of the Fujian province, rather than

[703] James Turner Johnson, "Historical Roots of Just War Tradition in Western Culture," in John Kelsay and James Johnson, *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions*, (New York: Greenword, 1991), 4.
[704] Thomson, *Mercenaries, Pirates, and Sovereigns*, 71-72.
[705] Ibid 72-73.
[706] Paris Declaration Respecting Maritime Law. http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.
[707] Shapinsky, "Envoys and Escorts: Representation and Performance among Koxinga's Pirate Ancestors," 48.
[708] Whom also got their start as legitimized maritime raiders under the Ming Dynasty.
[709] Po, *The Blue Frontier*, 94-95.

abandon it as was originally planned, recognizing that the island was strategically vital to Qing maritime defense, both against private raiders and foreign empires who might use it as a naval base, and that it was not just the worthless "ball of mud" that the emperor initially thought it to be.[710] Similarly, the end of the threat of the Guangdong Confederation of maritime raiders in 1810 saw many of those raiders join the Qing navy, even gaining high rank in the organization, often maintaining their own ships and units in the process.[711] Shap-ng-tsai would also receive a pardon and a command in the Qing fleet after the defeat of his maritime predator organization, much to the alarm and displeasure of foreigners trading in the region.[712]

Another major state that did not sign the treaty was the United States of America, and its short-lived breakaway regime, the Confederate States of America. When the Declaration was signed, the United States objected on the grounds that if privateering was banned but commerce raiding by official naval forces was not, the shipping of states with weak navies would be at the mercy of those with stronger ones, something of particular concern to the United States which at the time had a massive merchant fleet but only a small navy to protect it.[713] The Union adhered to the rules of the treaty despite not being a signatory in order to bolster its diplomatic reputation on the world stage as well as out of a hope for a more comprehensive treaty with a complete exemption of private property from capture at sea.[714] The Confederacy, in contrast, ignored the treaty and engaged in privateering, even expanding the practice by offering to pay for Union

[710] Ibid 123.
[711] Yüan Yung-Lun, *History of the Pirates who Infested the South China Sea from 1807-1810*, (London: the Oriental Translation Fund, 1831), translated by Charles Friedrich Neumann, 96.
[712] Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869*, (London: K. Paul, Trench, Trubner & Co. Ltd, 1940), 109.
[713] Henry Wheaton, *Elements of International Law, Volume* 1, (Boston: Little, Brown, and Company, 1863), 636-637.
[714] Paris Declaration Respecting Maritime Law, http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.

ships sunk as well as those captured as prizes.[715] While this was partially the result of the need to counter the Union's overwhelming naval advantage, it was also ironically an attempt to assert its status as a state on the world stage, following the pre-treaty logic that since states had a right to give letters of marque to captains to engage in legitimate maritime predation, then giving out letters of marque showed one's status as an independent state, much like a constitution or currency system.[716] This was far from an unusual tactic, and was used extensively during the Spanish Wars of Independence from 1810 to 1830, to varying degrees of success depending on the circumstances.[717] Overall this tactic backfired on the Confederate States and helped further turn global opinion against them and in favor of the Union which publicly stated it would abide by the terms of the treaty despite not being a signatory. France, Britain, and Spain closed their prize courts to Confederate privateers, though the CSA had some success in getting under the table support for their efforts. Notably, the CSS *Stonewall* was built specifically as a commerce raider and blockade runner for the Confederacy by the French Emperor Napoleon the Third, sold to the CSA via Dutch third parties, for the Confederacy's failed attempts to counter the Union blockade. It was chased across the Pacific Ocean after the American Civil War had ended before finally surrendering, the crew captured, and the ship eventually sold to the fledgling Imperial Japanese Navy to participate in the Boshin War (1868-1869)[718] under the name *Kōtetsu*.[719]

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[715] *Official records of the Union and Confederate Navies in the War of the Rebellion*, (Washington: Government Printing Office, 1894–1922), Series 1, volume 3, page 97.
[716] Thomson, *Mercenaries, Pirates, and Sovereigns*, 76.
[717] Matthew McCarthy, *Privateering, Piracy and British Policy in Spanish America, 1810-1830*, Woodbridge: Boydell & Brewer, 2013, 29-30.
[718] The Boshin War (1868-1869) aka Japanese Civil War or Japanese revolution, was a conflict where the ruling Tokugawa Shogunate was overthrown by those who wished to restore power to the Japanese Emperor.
[719] Lynn M. Case & Warren F. Spencer, *The United States and France: Civil War Diplomacy*, (Philadelphia, Pennsylvania: University of Pennsylvania Press) 429-433.; Letter from Susumu Nishiura, Staff-in-Chief, War History Room, Ministry of Defense, Japan, to Faith Kravitz, Eleutherian Mills, Hagley Museum, Delaware, USA September 25, 1965. https://archive.org/details/KravitzNishiuraLtrJapanese/

Additionally, while this approach did not work out for the Confederate States of America, it was successfully used in South America around the same time, as can be seen in the case of the Buenos Aires *corsarios insurgents* (insurgent privateers) and similar maritime predators fighting in the Spanish Wars of Independence during the early nineteenth century. Their attacks on the shipping of powerful states, including Britain, not only drew little ire, so long as they stuck to the rules laid down by South American governments, but drew the British to the negotiating table both to protect their commerce and in hope of using the fledgling states as allies in the future, having proven their military worth through maritime predation.[720] Technically, the British response did not fully treat them as privateers, nor did it treat them fully as pirates, and could do neither without risking its position as a neutral power and undermining "Britain's interpretation of neutral and belligerent maritime rights, which was considered one of the pillars of British strength in the early nineteenth century."[721] This contrast in reaction to the employment of similar tactics a scant few decades apart demonstrates just how quickly and decisively international opinion can shift on the standards expected of a legitimate state.

Furthermore, the chronological overlap between the American Civil War and the Taiping Rebellion contributed to a number of Americans fighting as mercenaries in the Taiping War alongside European, Filipino, and African mercenaries, including some naval mercenaries that engaged in maritime predation on behalf of the Taiping Kingdom,[722] such as Henry Burgevine who defected from the Qing's own mercenary corps.[723] In fact, Burgevine had been promoted to

[720] McCarthy, *Privateering, Piracy and British Policy in Spanish America, 1810-1830*, 69, 77-78, 159-160.
[721] Ibid 31, 162-163.
[722] The Taiping Kingdom (1851-1864) was an unrecognized state established by rebels against the Qing. While the core of the rebellion's leadership consisted of a group attempting to establish a theocracy based on their unique interpretation of Christianity, they were supported by a broad coalition opposed to the Qing for a variety of reasons, such as economic desperation, the view of the Qing as corrupt, and hatred of the Qing's non-Han origins.
[723] Caleb Carr, *Devil Soldier: The Story of Frederick Townsend Ward*, (New York: Random House, 1992), 312.

replace Fredrick Townsend Ward[724] as commander of the "Ever Victorious Army" (常勝軍 *Changshengjun*), a Qing military unit led and trained by European officers (the exact composition varied throughout the unit's brief but eventful history), by the Qing.[725] This was done over Ward's own choice of his Filipino subordinate Vicente Macanaya in 1863 after Ward's death, as well as several other candidates put forth by ambassadors from other powers.[726] Despite this honor, Burgevine felt compelled to defect to the Taiping that same year due to a combination of unreliable and insufficient payment by the Qing, frequent attempts to replace him as commander, and personal antagonism with Qing, English, and American officials culminating in Burgevine being dismissed from command after striking an official that insulted him.[727]

Initially, Burgevine was put to work creating a Taiping version of the EVA by recruiting 1,000 westerners under the noses of the Qing and Western officials to train Taiping troops.[728] After that fell through, Burgevine captured the EVA steamer *Gaoqiao* with the help of an officer recently removed from command of said vessel and fled to Taiping waters, where he was received warmly and was well paid by Taiping officials for the vessel.[729] This spread fear among American and European residents, with British diplomats in particular worried that he might combine his forces with the Confederate commerce raider *Alabama*, operating in Asian waters at the time, or help lead a Taiping assault on Beijing.[730] While neither such outcome came to pass, Burgevine did come to command a gunboat squadron in the Taiping navy, and ultimately his

[724] Who himself had experience in the Crimean War and as the XO of the anti-predator riverboat steamer *Confucius* prior to the conflict, alongside Burgevine. Robert Harry Detrick, "Henry Andrea Burgevine in China, A Biography," ProQuest Dissertation Publishing, 1968: 24-25.
[725] Detrick, "Henry Andrea Burgevine in China, A Biography," 83-84
[726];Caleb Carr, *The Devil Soldier: The Story of Frederick Townsend Ward*, (New York: Random House, 1991): 91.
[727] Ibid 96-97, 101-102, 108, 116-117.
[728] Ibid 147, 149.
[729] Ibid 150-151, 165.
[730] Ibid 156.

defection and maritime violence on their behalf had made him an embarrassment to the American government, who resolved to punish him as a demonstration to the Qing government that America respected the laws governing their citizens living in Qing territory.[731]

On a wider scale, Shanghai became a gathering ground for mercenaries and others who sought to profit off the conflict, such as arms dealers.[732] While these maritime mercenaries and their land-based counterparts were not as well-known or impactful as Charles Gordon and the other officers who helped organize the EVA on the Qing side of the conflict during the unit's height, partly because they largely ended up deserting the cause due to a lack of pay as Taiping funds decreased, they nevertheless demonstrated how the Paris Declaration Concerning Maritime Law did not represent an immediate and global end to the concept of state-sponsored maritime predation.[733] Furthermore, in 1898 during the Spanish-American War (Apr-Dec 1898) the United States would reaffirm its commitment to the principles of the Paris Declaration despite still not being an official signatory, demonstrating the extent to which the rules laid down in the Declaration were considered part of a general body of international law, at least among the Anglophone portion of the world, in spite of its own statement of being non-binding except between fellow signatories.[734]

Just War and Maritime Predation

Because the Paris Declaration Concerning Maritime Law approached the issue of state sponsored maritime predation from a just war perspective, the influence of the Declaration cannot be understood without first understanding how various relevant powers active in the

[731] Ibid 172-173.
[732] Ibid 5, 18.
[733] Platt, *Autumn in the Heavenly Kingdom: China, the West, and the Epic Story of the Taiping Civil War*, 261, 316.
[734] Paris Declaration Respecting Maritime Law, http://avalon.law.yale.edu/19th_century/decparis.asp https://ihl-databases.icrc.org/ihl/INTRO/105?OpenDocument.

South China Sea during the nineteenth and twentieth centuries understood the concepts of just war ideology, and how those conceptions might have impacted their views of maritime predation and how to deal with it. Moreover, it is important to understand that just war ideology can be divided into two distinct yet related components; in European intellectual tradition *jus ad bellum*, or when it is justified to fight a war, and *jus in bello*, or how someone wages war in a just manner.[735] A similar yet distinct dichotomy exists in East Asian literary canon as well, as the combination of Confucian, Daoist, Mohist, and military classics gave rise to the concepts of *yizhan* 義戰, the idea of being justified in starting a war to address a great injustice that cannot be dealt with any other way, and *yibing* 義兵, the idea of an army behaving in a manner that makes it just.[736] There seems to have been relatively little direct discussion and comparison of these concepts at the time, and in fact comparative history approaches to just war ideologies are still relatively recent and rare in modern scholarship.[737] However increasingly global commentary on the actions of every side of the many conflicts that arose in this period can give clues as to the similarities and differences between the philosophies; for instance in 1860 during the Second Opium War, British and French troops and officers were outraged by the death of ambassadors going to meet with Prince Yi (due to a complicated series of misunderstandings and confusion), and burned the Qing Old Summer Palace in retaliation (which they had already partially destroyed via a brutal looting campaign), an action that would outrage the Qing government and populace.[738]

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[735] Johnson, "Historical Roots of Just War Tradition in Western Culture," 3.
[736] Ellen Zhang, "Weapons are Nothing but Ominous Instruments: The Daodejing's View on War and Peace," *Journal of Religious Ethics* 40, (2012), 487-488.
[737] Torkel Brekke, "Editor's Preface" and G. Scott Davis "Introduction" in Torkel Brekke, *The Ethics of War in Asian Civilizations: A Comparative Perspective*, (London: Routledge, 2006), ix-x, 21-22.; Paul Robinson, "Introduction" in Paul Robinson, *Just War in Comparative Perspective*, (London: Routledge, 2016), 4-5.
[738] Hsü, *China's Entrance into the Family of Nations*, 102, 104.

It is important to remember that cultural standards towards just war ideology are also open to interpretation within those cultures, and thus the British, French, and Qing faced some internal criticism for their actions during the war; for example, Charles Gordon participated as a young engineer in the destruction of the Old Summer Palace, and later lamented the act, stating that it was "vandal-like" and "wretchedly demoralizing work for an army" that "made one's heart sore" as "You can scarcely imagine the beauty and magnificence of the places we burnt."[739] The decision to end the official use of privateers largely falls under the umbrella of *jus in bello* as it was about limiting a particular method of waging war, though it does have elements of *jus ad bellum* in that the actions of state sponsored maritime predators had the risk of drawing parties into conflicts they were otherwise uninvolved with. Additionally, since the division of maritime predators into privateers and pirates was often arbitrary fiction put over a more complicated situation, the effect of such legislation was to further limit who could engaged in armed conflict on the world's oceans, and thus theoretically limit just causes for conflicts to those in the interests of states rather than private individuals, even if in practice the division remained complex and unclear.

According to the model pioneered by James Turner Johnson, European just war theory can be understood as a combination of many factors and influences that evolved over time, originating in a combination of Roman legal ideas and Germanic warrior beliefs about honorable combat.[740] The evolution of Chinese just war is less well understood, with most studies on the topic focusing on the writing of Warring States Era philosophical and military classics, which differ considerably in some ways but overall trend towards the idea that the key justification for war was to uphold the moral order of the universe, if all other conceivable options had failed,

[739] Alfred Egmont Hake, *The Story of Chinese Gordon, volume 1*, (London: Remington and Co., 1884), 33.
[740] Johnson, "Historical Roots of Just War Tradition in Western Culture," 12-13.

and arguably more as a large scale police action than war as defined by these authors.[741] It was often the case that these ideas were tied to the specific military needs and socioeconomic situation of the local area.[742] For instance, during the 1500s, troops stationed in the southeastern frontier of Fujian and Guangdong had a completely different political, economic, and military mindset than those on the northwestern frontier of Xinjiang, partially because of the difference between the low level yet constant threat of maritime predation versus the unified threat of nomadic factions under the command of Altan Khan, whose unity made them more powerful yet easier to negotiate with.[743] Another factor in shaping these local military cultures was the attitude of the region's merchant population and general economic situation; in the northwest military and commercial interests were united in creating a system of trade and fortified defenses that would encourage the nomads to cooperate rather than raid, while in the southeast the military and central government's attempts to control the borders by limiting trade clashed with the desire of the mercantile community to profit from foreign trade, leading to large scale "pirate" uprisings that consisted not just of outcasts and foreigners, but also powerful local merchants and officials.[744]

While these particular examples were from centuries before the Paris Declaration, similar reasoning combining military and economic needs to design efficient approaches to regional defense can be witnessed in debates in the nineteenth century concerning maritime defense, particularly in regards to how best to prioritize resources to meet the Qing's complex

[741] Nadine Godehardt, "The Chinese Meaning of Just War and its Impact on the Foreign Policy of the People's Republic of China," *German Institute of Global and Area Studies* (GIGA) September 22, 2008. 10, 19, 26.; Thomas M. Kane, "Inauspicious Tools: Chinese Thoughts on the Morality of Warfare," in Paul Robinson, *Just War in Comparative Perspective*, (Hampshire: Ashgate, 2003), 139-141.
[742] Peter C. Perdue, "Coercion and Commerce on Two Chinese Frontiers," in Nicola Di Cosmo, *Military Culture in Imperial China*, (Cambridge: Harvard University Press, 2009), 317-318.
[743] Ibid 321-32, 326-327.
[744] Ibid.

needs concerning the defense of maritime trade, protection against European maritime intrusion, and the suppression of various rebel factions seeking to overthrow the Qing. In particular, while the Qing government has often been portrayed as neglecting maritime defense out of ignorance of its value, more recent scholars such as Ronald Po have argued that the Qing government as a whole was well aware of its importance, but was unable to fully devote its efforts to improving its navy in the face of so much of its time, energy, and resources being needed to counter internal threats, such as the Taiping Kingdom which nearly overthrew the Qing, so the details of coastal defense was often left to regional governments.[745]

The ideas of justified warfare are not solely the domain of states and officials; despite numerous contextual differences, the actions of Caribbean maritime predators demonstrate how those commonly thought to be beyond any bindings of law or justice had their own justifications for attacking whichever states they most disliked, and regulations about who was a valid target, as well as how their foes should be treated both during and after battle. For example, there are records of maritime predators putting captured captains on trial with crews as witnesses and jury, punishing greedy and cruel captains while rewarding those who treated their crews well, such as William Snelgrave, who upon being captured in 1719 was not only released with apologies by Thomas Cocklyn's maritime predators after being vouched for by his crewmen, but was even offered a captured ship and cargo, which he politely declined lest he face legal charge for being complicit in its capture.[746] Of course, it is important to not speak too generally, as individual captains, crews, and fleets often operated in vastly different ways, as can be seen in the contrast between Edward "Blackbeard" Teach's tyrannical, intimidation-based style of captaining and the

[745] Po, *The Blue Frontier*, 136-137.
[746] Rediker, "The Seaman as Pirate: Plunder and Social Banditry at Sea," 147-148.

egalitarian contracts drawn up by earlier crews such as Henry Morgan's.[747] Interestingly, it was the latter approach that was the more unnerving at the time, at least for certain segments of the population, for oaths and contracts were seen as being legitimated by divine and secular hierarchy, so making oaths and contracts without or in defiance of such authority affirmed the radical autonomy of the individual and their own judgment; to many thinkers at the time, this was near blasphemous, and a sign that maritime predators could never be trusted to keep their oaths and bargains.[748]

As such it is important to consider what maritime predators operating in the region of the South China Sea thought of their own actions. This is a task as difficult as it is important, as for the most part only the largest and most organized maritime predator groups left behind written records, and even then, what is left is fragmentary at best; due to the illicit nature of their activities such records would be too risky for smaller predators to create, assuming they had any literate members in the first place.[749] In particular, while the term *sīlüèzhě* 私掠者 (private plunderer) is probably the closest to the English term privateer, most Han language historical records, at least by the time of the Qing Dynasty, used *hǎidào* 海盗 (sea-robber), *hǎizéi* 海賊 (sea-thief), *hǎifěi* 海匪(sea-rebel/bandit), and *hǎikòu* 海寇(sea -enemy/invader) interchangeably, conflating ideologically and financially motivated maritime predators, even if they were in the service of state powers, such as the maritime predators who were brought into the service of the

[747] "Henry Morgan's Articles of Agreement, 1669," in Kris Lane and Arne Bialuschewski. *Piracy in the Early Modern Era: An Anthology of Sources*, (Indianapolis: Hackett Publishing Company, 2019) 81-86.; Defoe, *A General History of the Pyrates*, 84-89.
[748] Bruce Buchan "All at Sea: Locke's Tyrants and the Pyrates of Political Thought" in in *Piracy in World History*, eds Stefan Amirell, Hans Hägerdal, and Bruce Buchan, (Amsterdam: Amsterdam University Press, 2021), 73-74.
[749] Antony, "The Shadowy world of the Greater China Seas," 2.

Vietnamese Tay Son Dynasty at the end of the eighteenth century.[750] Similarly under Qing law, pirate crime and punishment was covered under the statue of the "mounted bandits" (*mazei*) of Manchuria, which delineated different punishments for leaders and followers; leaders were executed, usually by beheading, immediately after a trial sidestepping normal judicial procedures and oversight, whereas followers were exiled to the inland parts of Manchuria and Xinjiang in the case of sea bandits while mounted bandits were sent elsewhere.[751] In any case, the terminology used by the state linked the very act of maritime predation to treason, as well as denying the predators any sense of humanity and thus the right to live, even sentencing them to beheading, which was a particularly severe and dehumanizing form of execution in the Confucian worldview.[752] There was also a conception, under the Ming at least, that maritime predators and merchants were not so much opposed as two sides of the same coin, with armed robbery resulting from and enforcing conspiracies of illicit trade, and to be dealt with collectively; sometimes by force, other times by ensuring that opportunities for legitimate trade remain abundant so that there was no need to turn to illicit dealings.[753] What terminology maritime predators in the region might have used for themselves is difficult to say due to lack of records describing their own actions and ideologies.

What is clearer is the type of images and impressions they tried to project for themselves into the minds of those they encountered, though this varied depending on the maritime predator group in question, and sometimes even upon the motivation and taste of the individual predator.

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[750] Patricia Risso, "Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century," *Journal of World History* 12 (2001:) 297-298; Antony, "Maritime Violence and State-Formation in Vietnam," 125.
[751] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 177-178.
[752] Antony, "The Shadowy world of the Greater China Seas," 8, 15.
[753] Anthony Reid, "Violence at Sea: Unpacking "Piracy" in the Claims of States Over Asian Seas," in Robert Antony *Elusive Pirates, Pervasive Smugglers: Violence and clandestine trade in the Greater China Seas*, (Hong Kong: Hong Kong University Press, 2010), 17.

The *woku* carefully crafted the image of themselves, that Shapinsky refers to as the "sea lord," around the stereotypes and assumptions that ambassadors and officials had assigned to them, an archetype of refinement and benevolence mixed with intimidation and theatricality that could be employed flexibly to negotiate with and extract wealth from terrestrial states through both violence and commerce; nearly all later generations of large maritime predator organizations in the region would borrow their imagery and mannerisms to a degree.[754] Zheng Chenggong and his Tungning Kingdom left behind the most evidence, yet he and his successors seem to have vacillated between different justifications depending on their current political objectives and operations, such as going from Ming loyalism against the Qing to trying to secure their status as an independent kingdom on Taiwan through diplomacy and economic power with its maritime predator fleet as leverage, even if the faction favoring Ming loyalism ultimately won out on major factional struggles and prevented a lasting peace accord with the Qing.[755] Zheng Chenggong had also left behind a positive reputation in many of the places he touched often as a benevolent provider, for example he is eulogized as a god by the people of southern Taiwan after his death in 1662, though such sentiments could be shaped by centuries of romanticization.[756] Notably, though Zheng Chenggong was remembered as a bastion of loyalty to the Ming state for a long time, he has been increasingly viewed as the founder of Taiwan as a country and a fierce fighter against mainland domination as sentiment in favor of independence has risen on the island in recent years.[757] The Guangdong Confederation left behind its founding charter and other documents, but as pointed out by Dian Murray, they showed little interest in justification or

[754] Shapinksy, "Envoys and Escorts," 40, 46-47, 52-53, 57.
[755] Hang, *Conflict and Commerce in Maritime East Asia*, 246-249.
[756] Antony, "The Shadowy world of the Greater China Seas," 8.
[757] Chong Wang, "Interpreting Zheng Chenggong: the politics of dramatizing a historical figure in Japan, China, and Taiwan (1700-1963)," (PhD diss., University of Hawaii at Manoa: 2007), 8-9, 57-58; Hang, *Conflict and Commerce in Maritime East Asia*, 6-7.

ideology, and read more like business contracts or company charters, as they divided up territory and set rules to ensure the mutual profitably of all involved in their enterprise.[758] There is even less evidence of Shap-ng-tsai, his followers, and other maritime predators operating in the latter half of the nineteenth and early half of the twentieth centuries.

That said, sometimes their opinions and views were recorded in newspapers, albeit in a form filtered through the viewpoints and biases of the reporters, writers, and editors of the newspapers in question. For instance, a maritime predator leader known as Lam Kwa Se had his last words recorded by *The China Mail*, including his belief that the only reason he became a maritime predator was because the Qing would rather spend time, resources, and effort on oppressing and impoverishing their own people rather than standing up to predatory foreign interests.[759] Such recordings were few and far between enough that it is difficult to know if his beliefs were representative or unusual. Similarly, in Fanny Loviot's description of her captivity among maritime predators in 1854, she was given an impression through her fellow captive and translator, Than-Sing, that the maritime predators had nationalistic feelings, to the point of wanting to kill English captives, despite their value, in revenge for England's recent victories over the Qing, even though the Qing government would have also executed the predators.[760] However, since this information comes to us through a chain of commentators, not just Fanny and Than-Sing but also Amelia Edwards who translated the text into English, it is once again difficult to deduce if this belief had any accuracy or was mere rumor.

The Treaty of Tianjin

[758] Murray, *Pirates of the South China Coast*, 57-59.
[759] *The China Mail*, 1905-03-21. NPCM19050321. Hong Kong: Geo Murray Bain, page 4. <https://mmis.hkpl.gov.hk/coverpage/>.
[760] Fanny Loviot, and Amelia Ann Blanford Edwards, *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, (Originally published - Farringdon Street: Geo. Routledge & Co., 1858), 68.

While the Paris Declaration Concerning Maritime Law serves as a main focal point on the issue of maritime predation and international law in the South China Sea during the nineteenth and early twentieth centuries, it is far from the only relevant treaty involved. For the Qing Dynasty in particular, it was a time defined by unequal treaties, as Qing officials tried to both meet the requirements of the treaties forced upon them to avoid further conflict, and to simultaneously work around, undermine, or outright challenge the treaties in order to preserve their own culture and political interests, a task made increasingly difficult as more treaties were concluded and the situation grew complicated enough to puzzle even the greatest legal specialists of the time.[761] Similar situations occurred with other states in the area; the Tokugawa regime in particular fell under the weight of such agreements, yet its Meiji successors managed to renegotiate those treaties to their benefit, even managing to eliminate the clauses of extraterritoriality that so encapsulated the subordinate legal status of non-European states in the nineteenth century.[762] As a result, they provided both a beacon of hope and an example to follow for other states, even as the Meiji joined the ranks of the imperial powers in using unequal treaties to force its will on others.[763] Additionally, this period was a time of increasingly large scale treaties on the matters of war and maritime governance, moving from simple bilateral or regional agreements to ambitious documents that sought to be global standards of behavior and interaction.

One political concession that loomed particularly large in the Qing's interactions with foreign powers in this period was the Treaty of Tianjin, which ended the Second Opium War and opened more of Qing coast to foreign trade and travel. To be more precise, the treaties of Tianjin,

[761] Cassel, *Grounds of Judgment*, 6-7.
[762] Ibid 149-151.
[763] Ibid 159-160.

as several agreements and documents were signed together in the June of 1858 in the city of Tianjin, which represented parallel negotiations conducted with diplomatic attachments from the British, Russian, and Second French Empires as well as those from the United States of America. Notably, while the British and French were co-belligerents in the war, Russia and America were officially neutral, and indeed willing to criticize the British for their behavior in the conflict, though the American delegation leaned towards the British side of the conflict and was eager to use the Qing's compromised position to obtain concessions they had long desired, or at least make sure they did not fall behind Britain or France in terms of concessions and be cut out of the lucrative Qing markets.[764] The British government in turn, having foreseen ahead of time that their gains would entice other states to similarly intervene in Qing affairs if for no other reason than fear of what Britain might gain if it went unchallenged, would include a "most favored nation" clause to ensure that it would be granted whatever concessions the Qing would grant to any other state in future negotiations, which would eventually expand up to twenty states, including Peru and the Congo Free State.[765] For their part, Qing officials and negotiators such as Gui Liang hoped to play the various empires against one another, and as such were willing to grant many of the same rights and privileges that Britain had demanded to the other states involved in the negotiations so that the British wouldn't be able to totally dominate the oceans and coast.[766] Little was arranged in this initial treaty for the administrative or legal systems to govern the treaty ports and other concessions, as the focus was on economic issues, at least for the British negotiators who led the pack in this round of negotiation, and few would imagine at

[764] Hsü, *China's Entrance into the Family of Nations*, 28-29.
[765] Robert Nield, *China's Foreign Places: the Foreign Presence in China in the Treaty Port Era, 1840-1943*, (Hong Kong: HKU Press, 2015), 2-3, 6.
[766] Hsü, *China's Entrance into the Family of Nations*, 55-56.

the time there being anything more than a small number of merchants dwelling within Qing lands for any length of time.[767]

The British delegation led by Lord Elgin focused mainly on issues of trade and travel, building on the Treaty of Nanjing that ended the first Opium War in 1842 by forcing the Qing to remove most of their remaining restrictions on those topics when dealing with British citizens and subjects.[768] Much of the rest is spent setting up a new embassy-based diplomatic system for future negotiations and communications between the two empires.[769] Two of the articles of the treaty are particularly noteworthy in regards to issues of maritime predation and naval law. Article LII granted British ships traveling peacefully or engaged in anti-maritime predation operations the right to dock at Qing ports and, while there, purchase supplies and engage in repairs as needed.[770] Meanwhile Article LIII states that "In consideration of the injury sustained by native and foreign commerce from the prevalence of piracy in the seas of China, the High Contracting Parties agree to concert measures for its suppression."[771] While seemingly a simple enough statement, the fact was that the British and Qing navies had already engaged in multiple maritime predator suppression campaigns in the region at this point, including joint operations, it therefore raises questions about what exactly Elgin hoped to change by including it in the treaty. Combined with the requirement about supporting the British navy in its own anti-maritime predation operations. It is hard to see Article LIII as anything other than either an expression of intense dissatisfaction with the results of those operations or the use of maritime predation as an excuse to project their naval power into the region.

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[767] Nield, *China's Foreign Places*, 3-4, 10, 235.
[768] Treaty of Tien-Tsin Between the Queen of Great Britain and the Emperor of China, Tien-tsin, June 26, 1858, https://oelawhk.lib.hku.hk/items/show/1025.
[769] Ibid.
[770] Ibid.
[771] Ibid.

The American version of the Treaty of Tianjin focuses largely on establishing protocols and channels for future communication and negotiation, with the general aim of making sure that the United States is not disadvantaged in its deals with the Qing in comparison with any other state and securing guarantees for similar rights and privileges.[772] In contrast to the British, William Reed and the American delegation did not push for a permanent embassy, but instead arranged for more access to local officials, specifically the governors-general of the Fujian and Zhejiang provinces, and the ability to have temporary visitations to Beijing during urgent situations, of a year at most, though they did insist on being able to enjoy the same rights and privileges that would be extended to other states in future treaties.[773] As noted by Immanuel Hsü, there were a few, specific ways in which American and Qing approaches to diplomacy were more similar to each other than with the European standard, and in fact to the modern standard than the standard of the time, such as how both required treaties to be openly reviewed and ratified after having been negotiated by diplomats and other government agents, whereas European states usually conducted negotiations in secret then made them official by public ratification, which would always happen unless the negotiators grossly exceeded their powers or secret instructions.[774]

In terms of maritime laws and rights, Article IX of the treaty granted American ships and sailors several rights while in Qing waters; while most of the rights are simply about the ability to use port facilities to resupply and repair if needed, the treaty also grants them the right to pursue any maritime predators that attack American vessels or plunder American shipwrecks.[775]

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[772] The Treaty OF Tientsin [Tianjin], 1858, https://web.archive.org/web/20160304224140/http://chinaforeignrelations.net/node/206.
[773] Ibid.
[774] Hsü, *China's Entrance into the Family of Nations,* 35-36.
[775] The Treaty OF Tientsin [Tianjin], 1858, https://web.archive.org/web/20160304224140/http://chinaforeignrelations.net/node/206.

At the same time, it required that the American vessels turn over any captured maritime predators for the Qing to try and punish in accordance with their own laws.[776] It is also worth noting that while United States citizens enjoyed the protections of extraterritoriality similar to the subjects of the European empires involved in the treaty, Article XIV removes that protection from any US citizen who engages in contraband trade, allows the Qing to confiscate ships involved in that trade and their cargo even if they fly an American flag, and pledges that the United States shall take measures "to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the laws of the Empire."[777]

The French version of the treaty is similar to the British one in most respects, though with even stronger protections for the property of French subjects, specifically noting in Article XII that Qing officials were not allowed to ever embargo French ships or requisition them regardless of circumstances.[778] In the case of maritime predator attacks on French ships in waters under Qing jurisdiction Article XXXIV requires the nearest Qing civil and military authorities to act with every resource at their disposal to actively pursue the maritime predators and recover any stolen goods.[779] If the attackers are not caught or the cargo not recovered and returned to the French Consul, then the article requires that the functionaries responsible be punished according to the law, without giving any specifics other than noting the functionaries will not be held financially responsible.[780]

Meanwhile, the Russian delegation led by Count Yevfimiy Vasilyevich Putyatin focused on issues concerning its Inner Asian border with the Qing and the rights of Russian missionaries

[776] Ibid.
[777] Ibid.
[778] The Treaty OF Tientsin [Tianjin], 1858, https://web.archive.org/web/20160305022918/http://www.chinaforeignrelations.net/node/162.
[779] Ibid.
[780] Ibid.

within Qing territory, as Russia already had broader diplomatic and trading rights than other European powers thanks to the treaties of Nerchinsk (1689) and Kiakhta (1727).[781] They did seek to broaden those rights somewhat, particularly by gaining the right to trade by sea and not just at specific checkpoints along their terrestrial border, but it was not their main concern.[782] Of all the treaties of Tianjin, the Russian one was the only one to not specifically mention maritime predation and the Qing's responsibilities concerning it, though like the other powers Russia did gain the right to dock its warships in Qing harbors.[783] Looking at all four versions together, it becomes clear that there was a general sense that the Qing should be responsible for quashing maritime predation in the waters along its territory, an idea with roots in the maritime predation crisis at the turn of the nineteenth century,[784] though what that responsibility was exactly took on different forms based on its specific relations and agreements with each foreign power.

The Qing, Just War, and International Law

While the Qing did not sign the Paris Declaration Concerning Maritime Law, they did sign the Hague's Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864 in 1904, a few years after it was first ratified in July

[781] Hsü, *China's Entrance into the Family of Nations,* 14.
[782] The Treaty OF Tientsin [Tianjin], 1858, https://web.archive.org/web/20160306012334/http://chinaforeignrelations.net/node/233.
[783] Ibid.
[784] The increase in maritime predation between 1805 and 1810 further strained Sino-Anglo relations already weakened by the first British attempt to claim Macao in 1802, which failed due to Qing support of the Portuguese. While there were attempts to coordinate anti-predator activities and merchant escorting between the two governments, this coordination was hampered by disagreement over which areas the English would be allowed to operate in, what forces would be contributed, and how independently they could act. Moreover, the English used these negotiations to test the Qing's likely response to further military operations in the region, and enough officials and officers interpreted the results as positive enough to argue for a second attempt to take Macao, which came in 1807 as Portugal fell to the French and the British justified the takeover by claiming to protect the city from the French and Chinese pirates alike, only to again fail due to Qing and Portuguese resistance being stronger than expected. Wang, *White Lotus Rebels and South China Pirates*, 238-239, 241, 243-244.

29th, 1899.[785] In this treaty, many of the rules of naval warfare from the Paris Declaration were repeated, reinforced, and clarified in order to cover more complex situations, while at the same time applying and adapting principles of terrestrial military law to the realm of naval warfare. The stated goal of the document, spearheaded by the International Committee of the Red Cross at the request of the Swiss Federal Council and the aide of the Tzar of Russia, was "to diminish, as far as depends on them the evils inseparable from warfare" by making sure naval warfare was as well-regulated and codified as the Geneva Convention had made land warfare.[786] One such regulation was ensuring the absolute protection of hospital ships, which in contrast to the vagueness of the Paris Declaration were carefully defined as "ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick or shipwrecked, and the names of which shall have been communicated to the belligerent Powers at the beginning or during the course of hostilities."[787] This protection was also extended to private hospital ships, as long as they are given an official commission by one of the belligerent powers and their names are given to the other belligerent powers before the ships are deployed and see use.[788] In turn, hospital ships were required to be impartial in their aide and not hinder any combatants or be used for any military purposes, and belligerents had numerous rights and privileges over hospital ships to enforce this neutrality, such as the right to order them to chart certain courses or leave certain areas, or to place a commissioner on board to monitor their activities.[789]

[785] Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864, The Hague, 29 July 1899, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=2B134D111958C73AC12563CD002D66C8&action=openDocument
[786] Ibid, Preamble.
[787] Ibid Article 1.
[788] Ibid Article 2.
[789] Ibid Article 4.

Similar protections were given to the medical, hospital and religious staff onboard captured ships of any type, stating that they could not be taken as prisoners of war.[790] Neutral merchant ships, yachts, and other civilian vessels were also given the right to rescue sailors from any belligerent and otherwise provide aide to sick, wounded, or shipwrecked sailors, though they might be seized for any perceived breach of neutrality.[791] Overall, the articles did much to protect the lives of sailors after battles were finished, though those protections were dependent upon all parties involved being signatories of the convention and of sharing of information before hostilities commenced, leaving little room for non-state combatants to benefit from their guarantees.[792]

On the 18th of October, 1907 a new convention was held at the Hague and produced a new set of rules concerning naval warfare, superseding and replacing the earlier 1898 convention; once again the Qing government joined the agreement a few years after the initial signing, in 1909.[793] While most of the articles from the older version were included without change, several more were added, doubling the number of articles overall.[794] The ability of neutral civilian vessels to render aide was expanded to allow neutral warships to act similarly, though they were required to be careful in turn to ensure that the soldiers and sailors they rescued were not allowed to return to combat duties for the duration of the conflict.[795] Meanwhile, the warships of belligerents were now required to rescue wounded and shipwrecked sailors of either

[790] Ibid Article 7.
[791] Ibid Article 6.
[792] Ibid Article 11.
[793] Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention, The Hague, 18 October 1907. https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=E5397A0FB560D0A9C12563CD002D6832&action=openDocument
[794] Ibid.
[795] Ibid Article 13.

side after the battle had finished, as well as do their best to recover and identify the bodies of the deceased, with all bodies to be carefully examined before being buried or cremated.[796]

Special care was required of the signatories to make sure their naval commanders were duly informed of and clearly understood the treaty and its requirements.[797] Similarly, the legislatures of the signatories were supposed to ensure that their criminal laws were adequate to prevent the abuse of prisoners, the pillaging of sick and wounded, and the adoption of certain symbols, such as the red cross, if not authorized to do so by the treaty and their government.[798] Compared to the earlier Hague naval convention and the Paris Declaration which were fairly open about adding signatories to their regulations, this agreement had much more detailed and specific requirements and protocols for joining, starting with a formal appeal to the Netherlands Government, and continuing with various pieces of paperwork as well as contacting all other powers already a part of the pact.[799] Similar processes were put into place to allow for states to formally denounce the treaty, showing a great shift in attitude from the self-assured optimism of the Paris Declaration of a half-century earlier.[800] However, the two documents were similar in that they explicitly only applied to conflicts between "Contracting Powers, and then only if all the belligerents are parties to the Convention."[801] It is also noted that in operations involving both land and sea forces, the provisions only apply to those forces actually on board ship.[802]

Before the Qing joined any of these treaties specifically governing naval warfare, they were a signatory of the 1899 Hague International Peace Conference, which had several rules and

[796] Ibid Articles 14, 16, 17.
[797] Ibid Article 20.
[798] Ibid Article 21.
[799] Ibid Articles 23, 24.
[800] Ibid Article 25.
[801] Ibid Article 18.
[802] Ibid Article 22.

regulations concerning maritime combat, particularly the development and use of specific ship-borne weapons as part of the conference's overall goal of arms reduction and limitation.[803] For example, one of the issues discussed at the Conference was a call for agreements to be made concerning the development of new types and calibers of naval guns and rifles.[804] More ambitiously, the Conference sought to create agreements limiting both land and sea forces, and military budgets in general.[805] There was also a move to create a declaration of "the inviolability of private property in naval warfare," far more ambitious than the limitation on state sponsored maritime predation adopted by the Paris Declaration.[806] There were also proposals to deal with the issue of naval bombardment of ports, towns, and villages, an important issue rarely mentioned by other naval treaties.[807] While most of the issues discussed were postponed to a second conference in 1907, which in turn was signed by the delegates but not ratified by participating states, making it non-binding in nature, they nevertheless provide a useful barometer towards shifting attitudes about naval warfare in the time period, with a noticeable increase in concern for the lives and property of civilians and neutral powers.[808]

Another important treaty regarding the standards and practices of naval warfare was the Convention Relative to the Creation of an International Prize Court which attempted to standardize and regulate the capture of ships and the seizure of their cargo during naval

[803] Final Act Of the International Peace Conference, The Hague, 29 July 1899, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=8FCF14D950797012C12563CD00515C0A
[804] Ibid.
[805] Ibid.
[806] Ibid.
[807] Ibid.
[808] Ibid.

warfare.[809] Attempts had been made to create an international prize court since the eighteenth century, and on several occasions international commissions and arbitration tribunals allowed for bilateral settlement of prize cases, but overall consensus on the issue remained elusive.[810] Specifically, the Convention hoped to establish a court of appeals for national prize court system, one in which neutral states as well as neutral and enemy nationals might contest the judgments of prize courts that had ruled against them, and in the process both reducing the hardships of war and the bad feelings between combatants, allowing for an easier return to peacetime relations.[811] Ultimately, the convention failed to secure the ratifications necessary for the creation of an international prize court, on account of the numerous divergences between the different prize laws which the court would have to arbitrate.[812] Despite this, the mere existence of this convention, and the prize courts it sought to legitimize, demonstrated that while the Treaty of Paris might have officially banned privateering, the basic concept of state sponsored maritime predation was still in effect so long as those who profited from claiming other vessels as prizes were commissioned naval officers.[813]

The British Navy and Maritime Predation

It is one thing to make a law and another thing to enforce it, particularly when the laws in question cover the standards of interaction between states or try to control the behavior of populations who thrived in the margins between states, such as maritime predators. It is commonly said that maritime predators were the "enemies of all mankind," with the implication

[809] Convention (XII) relative to the Creation of an International Prize Court, The Hague, 18 October 1907 https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=FEFF373CB0480A04C12563CD002D685E&action=openDocument.
[810] Ibid.
[811] Ibid.
[812] Ibid.
[813] Ibid.

that they were to be treated like enemy soldiers in a war, to be killed without trial whenever they were encountered with as much force as could be mustered against them. In truth, the situation was far more complicated than that, even as late as the nineteenth century. While there were certainly many incidents in which naval forces of one or more states hunted down and eliminated maritime predators with overwhelming force or engaged them in pitched battles as lethal and brutal as any of a conventional war, there were also other cases where state navies hesitated to engage maritime predators out of concern for overstepping their authority or where maritime predators were freed by state courts on the grounds that the navy had acted out of its jurisdiction. Furthermore, maritime predators had plenty of places to hide; not just physically in bays and shoals, but amongst sympathetic civilian populations, complex political situations that might make maritime predators and official navies indistinguishable, or ambiguous borderland regions where authorities might fear to enter lest they start an international incident.

This raises a question: to what degree was maritime predation considered to be a military issue as opposed to a matter of law enforcement? As might be expected, this could vary heavily depending on the context, influenced by any number of factors ranging from how close to the coast the maritime predation occurred to the size and power of the state and private navies involved. Notably, some officers in Hong Kong's maritime police department became frustrated by the transition of treating maritime predation as an act of war to a simple crime.[814] The clearest case of legal authority would be when maritime predation occurred along the coastal territory of a state, with both predator and victim coming from that land, allowing it to be treated as a simple case of robbery, albeit a case of robbery where the robbers would be apprehended by

[814] Ian Ward, S*ui Geng: The Hong Kong Marine Police 1841–1950*, (Hong Kong, Hong Kong University Press, 1991), 22, 161.

a military force rather than a police one.[815] This was one of the more common types of maritime predation, especially along the South China Coast, with fishermen and merchants striking opportunistically at weak looking targets, namely other merchants and fishermen.[816] Meanwhile, the sheer power of the Guangdong confederation of maritime predators necessitated dealing with it as a military threat – and even more tellingly, as a foreign power to be negotiated with when military campaigns were faring poorly. In between the two extremes were several legal gray areas and edge cases, which lead to no small amount of debate in the halls of governments and naval bases around the world about the best ways to respond to the dangers and annoyances of maritime predation.[817]

The Royal Navy of Great Britain was particularly famous for its aggressive campaign against non-state maritime predation, as well as state-sponsored maritime predation on occasion, yet even they had their doubts and limitations. Initially the Royal Navy was extremely hesitant to act against maritime predation that did not directly attack British ships and shipping, seeing such things as simply outside their jurisdiction, even after the concept of *hostis humani generis*[818] had been formulated and circulated for centuries.[819] For instance, while British officials in Calcutta in the 1830s were gravely concerned with maritime predation in Southeast Asia, they were equally concerned about their ability to control their fleets over long distances and make sure their activities were "politically desirable, legally possible, morally defensible or physically practicable," and particularly wanted to prevent them from detaining those vessels "of the

[815] That said, the distinction between military and police can be relatively modern even on land. See Clive Emsley, *A Short History of Police and Policing*, (Oxford: Oxford University Press, 2021), or David Strand, *Rickshaw Beijing: City People and Politics in the 1920s*, (Berkeley: University of California Press, 1989) for a discussion of the history of the rise of police as distinct institution in a specifically Chinese context.
[816] Antony, *Like Froth Floating on the Sea*, 11, 19-20, 91-92.
[817] Ibid 170-171.
[818] "Enemies of All Mankind" - The legal principle that pirates were outside of the law and thus could be dealt with by any nation, even one they had not directly attacked.
[819] Benton and Ford, *Rage for Order*. 118-119, 130-131, 133-134.

peaceful character of which there might be no reason to doubt."[820] In turn, naval officers were just as concerned with controlling their subordinates, as can be seen in J. D. Dunas' orders to Rear Admiral Collier in 1848, instructing him to do everything he could to prevent maritime predation in the region, but to do so "by enforcing the observance of treaties with the naval chiefs" rather than using unilateral violence and coercion."[821] In that same year, British naval offices explicitly informed their forces operating along the Qing coast that there were to be no major operations against maritime predators in the region without the permission and cooperation of local officials.[822] British law officers struck down the year before a local ordinance that would allow officials in Hong Kong the right to board foreign ships and declare them to be pirates based on their own criteria, noting the ability to do either "are high powers which parliament has reserved to itself so far as the exercise of such power even by parliament is compatible with the law of nations."[823] While this attitude did change and the British fleet became increasingly willing to attack those it considered to be pirates, the change came gradually, often out of a concern that even if British ships were not directly attacked, British profits would still be harmed if the ships of their trade partners were assaulted and driven away, and its actions were never without some consideration of the political and economic consequences.[824]

Another factor that contributed to a more aggressive stance towards maritime predation was that the navy had significantly expanded after the Napoleonic wars, and sought new missions to justify its continued existence at that size, as well as to allow its officers

[820] Marine Department, Calcutta, no. 1 of 1839. TNA, ADM 125/33, F70. January 4, 1849.
[821] Benton and Ford, *Rage for Order*, 139.
[822] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 479.
[823] Ibid.
[824] Benton and Ford, *Rage for Order*, 144-145, 147.

opportunities to distinguish themselves and earn financial rewards.[825] There were times where the navy did strike, only for the legal system itself to disagree with their judgment and rule against the navy.[826] This was particularly true during the royal navy's anti-slavery campaign in the Atlantic; despite political language equating slavers to pirates as "enemies of all mankind," the initial rules strictly required slavers to be caught with slaves on board, even if a ship was seen dumping its slaves on shore and was clearly outfitted for slave trade.[827] In one instance, captured slavers from the Brazilian ships *Echo* and *Felicidade* had been released by the court even after they killed several British sailors in a surprise attack after their initial surrender because the *Felicidade* was taken without slaves currently onboard and the *Echo* was taken by the British crew in control of the *Felicidade* while taking it for trial, so it was not technically a ship of the Royal Navy.[828] Ultimately, according to Benton and Ford, the Royal Navy's anti-slavery enforcement measures were less important to the end of slave trade than a growth of treaties banning slaving at its source and its markets, particularly after economic changes had already made the slave trade less profitable than it had been.[829]

One of the most important pieces of legislation concerning Britain's attempts to end private maritime predation was the Piratical Ships Act of 1825 and its successor the Piracy Act of 1850. The former set a bounty on any maritime predators encountered by Royal Navy crewmen, specifically 20 pounds for every pirate captured or killed, and 5 pounds for every pirate in a crew identified but not killed or taken, to be paid to the navy crew by the Treasurer of the Navy, giving strong incentive for captains to be proactive in engaging maritime predators

[825] Ibid 120.
[826] Ibid.
[827] Ibid 124-126.
[828] Ibid 128.
[829] Ibid 126, 129-130.

wherever they could.[830] The Qing had a similar bounty system, with the Ministry of War offering bounties in silver for soldiers and officers who killed maritime predators in battle.[831] Further incentives were provided to the British Royal Navy in the form of being rewarded for any stolen cargo recovered, namely by being paid by the original owners in lieu of the crew being able to practice their traditional salvage rights.[832] These rights were extended beyond those directly enlisted in the navy to include ships merely hired by the navy for various purposes.[833] However, there was a requirement to receiving the reward, namely that one would have to participate in the "actual taking, sinking, burning, or otherwise destroying" of a vessel "engaged in acts of piracy."[834] As the reward was for ships caught red-handed in the act of maritime predation, this demonstrated something of a hesitation to hunt down even known maritime predators and engage them in their own territories; more specifically, it reflected a hesitation on the part of the naval treasurer to pay for such expensive operations, particularly since they would be more difficult to verify as legitimate without relying solely on the testimony of those that would receive the reward.[835] In 1846 the bounty and prize rules were updated, which made it more clear how much a member of each of the royal navy's 13 classes of seamen could expect to receive of each prize, from the 100 shares of high ranking officers down to the boys of 2nd class, who received 3/8ths of a share; passengers who aided in fighting maritime predators would be counted as 11th class (3/4ths share) if over 20 or 13th class if under 20.[836]

[830] Piratical Ships Act 1825 (6 Geo. 4c. 30).
[831] Da Qing Lü Li an Yu: [104 Juan]. (China: Pan shi Hai shan xian guan), Daogong 27 [1847]. V13-27sequence No.1055.
[832] Piratical Ships Act 1825 (6 Geo. 4c. 30).
[833] Ibid.
[834] Ibid.
[835] Benton and Ford, *Rage for Order*, 145.
[836] *British Order in Council, for the Distribution of the Proceeds of Naval Prizes of War; of Customs, Slave Trade, and Piratical Seizures, and of Awards for Salvage*, May 19th, 1846, in *Hertslet's Commercial Treaties: A Collection of Treaties and ..., Volume 8*, (Great Britain: Foreign Office, 1851), 194-195.

Despite such strictly defined rules of engagement, many disputes arose over proper conduct and reward. Eventually, it was decided that a new, clearer set of regulations covering more contingencies would be needed, and on the 25th of June, 1850, Parliament put into effect the Piracy Act.[837] One change it made was to specifically include that East India Company ships and employees were eligible to be rewarded for destroying maritime predator ships and killing or capturing maritime predator crews, reflecting the degree to which the company had become an arm of the British state at this time.[838] The legislation similarly expanded the list of legitimate targets, offering bounties for "any Persons alleged to be Pirates afloat or ashore" rather than just those engaged in piratical acts.[839] At the same time, more oversight of the naval bounty system was put into place, including a requirement for courts "to take Cognizance of and to determine whether the Persons or any of them so attacked or engaged were Pirates" as well as determine the number of pirates and ships to be eligible for reward.[840] Furthermore, the findings of the courts would be reviewed by the Lords Commissioners of the Admiralty, with the courts periodically sending the original evidence and statements of the proceedings of all cases in the last six months.[841] Provision VI of the law specifically notes that giving false testimony in these trials is subject to perjury.[842] Finally, the fees that the owner of stolen cargo would pay for its return was set at one-eighth of its market value, and this right was briefly mentioned to extend to foreign powers as well as British subjects, with the Lord High Admiral adjudicating in cases of joint captures.[843]

[837] The Piracy Act 1850 (13 & 14 Vict c 26).
[838] Ibid.
[839] Ibid.
[840] Ibid.
[841] Ibid.
[842] Ibid.
[843] Ibid.

Qing Maritime Defense, Ideology and Policy

While the British had their naval doctrine and legal precedents on countering maritime predation which set the standard followed by many other imperial states,[844] the Qing had their own schools of approaches to the challenges posed by maritime predation, reflecting their own military capabilities and political interests. Following and expanding upon Ming naval doctrine, the Qing court set up a system designed as a comprehensive coastal defense strategy known as the "land – sea protection scheme" (*hailu lüanfang*海陸聯防), where naval and land-based forces would coordinate their efforts and resources to protect towns and shipping while denying maritime predators any areas where they could hunt and hide.[845] In particular, it was a series of coastal forts known as *paotai* which formed the linchpin of the Qing coastal defense strategy, as they served as places for warships to refit and rearm, sentries to locate maritime predator threats, signals for the navy, barriers that prevented maritime predators from fleeing into rivers or inland, and artillery batteries that could lend their impressive firepower to support navy ships in combat.[846] While these forts were in a state of supreme disrepair by the nineteenth century as a result of a combination of various political and financial crises that made their upkeep a low priority for later Qing emperors, it would be a mistake to dismiss their effectiveness.[847] In fact, despite how the opium epidemic further drained Qing coffers and decreased military readiness as whole garrisons of soldiers became addicted to the substance, the Taku forts managed to hand

[844] According to Benton and Ford, this was in general a time of legal reordering in many empires from Spain to Qing China, creating many variations of a kind of centralized legal pluralism which could be flexible for local needs without sacrificing central state control, even increasing it in most cases. While the various empires tried numerous schemes and strategies to that end, Benton and Ford argue that it is the British efforts which most laid the groundwork for the increasing legal separation between colonial and metropole imperial subjects, and between "civilized" and "uncivilized" states in the nineteenth century. See Benton and Ford, *Rage for Order*, 5-7.
[845] Po, *The Blue Frontier*, 116-117, 134.
[846] Ibid 133-134.
[847] Ibid 136-137.

the British military one of their few military setbacks in the midst of the Second Opium War.[848] Similarly, the riverine and oceanic navies would work together to corner and capture maritime predators that tried to flee upriver, with the ocean going ships blockading the river mouth to prevent escape while the riverine navy went in for the final blow.[849]

One of the keys to understanding the Qing coastal defense strategy, and their maritime governance strategy in general, is to understand the Qing central court's concept of inner sea (*neiyang* 內洋) and outer sea (*waiyang*外洋), which mirrored their approach of inner and outer regions of the Inner Asian frontier,[850] and indeed an understanding of cosmology based around a relational hierarchy of the superior and civilized inner to the peripheral and untamed outer.[851] There is a great deal to be learned about the mindset behind maritime commerce, strategies, and laws by how societies socially construct their mental image of the oceans as a space based on factors of external utilization, internal perception, and regulatory representation; was it seen as a barrier or a roadway, a place of danger or safety, a great unknown or a source of information, a way to transport wealth or the origin of that wealth, is the sea open to all or are certain parts of it restricted to certain people or uses, plain and featureless or full of distinct areas, so on and etc.[852] For instance, the Roman view of the Mediterranean as a space outside of territorial control but amenable to stewardship by land based powers informs much of modern international maritime law.[853] Particularly noteworthy from a maritime law and violence perspective is that sometimes

[848] Platt, *Autumn in the Heavenly Kingdom*, 46-48.
[849] Po, *The Blue Frontier*, 118.
[850] Specifically, the Qing divided its Inner Asian neighbors into inner polities, dependencies of the Qing, who would be afforded military protection, such as Nepal and Kanjut, while outer polities such as Tashkent, Bukhara, Badakhshan, and Kazakas, were considered client states without a direct connection to the Qing, and thus not entitled to Qing military protection. Ibid 60-61.
[851] Ibid 60-61, 68-69.
[852] Philip Steinberg, *The Social Construction of the Ocean*, (Cambridge: Cambridge University Press, 2001), 3-4, 33, 210.
[853] Ibid 60-61, 69.

societies comfortable with transporting goods on the seas did not develop a conception of the sea as a way to transport troops and fight battles; furthermore, even if they did develop an idea of naval warfare it might still be primarily as accessory to land battles, rather than the sea itself being a battle space worth fighting over.[854] Maritime predators in particular often thrived in the ambiguous spaces created by certain social constructions of ocean-space, especially where conflicting constructions of the ocean meet and sustained interactions between non-state groups matter more than legally defined boundaries.[855]

To return to the Qing government's idea of inner and outer waters, Ronald Po states that many historians incorrectly described the inner and outer approach to maritime territories as simply reflecting a fear of the ocean, whereas it is in truth simply a way to implement certain defensive strategies suited to each area and also reflected an older and broader understanding of space in general which consisted of inner and outer regions.[856] The outer sea, for instance, with its deeper water and scattered islands, was patrolled by large warships on long term and long distance patrols, whereas the shallower inner seas were patrolled by smaller, faster ships which could intercept invaders or maritime predators.[857] Similarly, the two regions were governed differently, with the *neiyang* managed by local officials, naval patrol officers, and base officers; while responsibility for the *waiyang* was held by the province's governor-general and high ranking naval officers.[858] The exact dividing line between inner and outer waters varied depending on the province in question and the local environmental and political divisions, though it was often decided by the presence of small chains or clusters of islands; namely, inner

[854] Ibid 16-17.
[855] Wang, *White Lotus Rebels and South China Pirates*, 41, 90, 103-104.
[856] Po, *The Blue Frontier*, 68
[857] Ibid 62-64.
[858] Ibid.

waters would be those closer to shore, outer waters would be those closer to the islands, and beyond the islands would be Blackwater Ocean (*Heishuiyang* 黑水洋), beyond any form of control; the islands for the Guangdong province, for example, are Laowanshan and Jingxingmen.[859] These divisions were often unclear and not marked on maps, but simply referred to in scattered descriptions of the waters in a vague and inconsistent matter.[860] The islands were seen as problematic because they constantly slipped in and out of state control as maritime predator groups were chased from them only to stealthy return or be replaced by another group a short time later; additionally the sheer number of islands left many uncharted and unnamed, and home to completely autonomous communities that could support maritime predators.[861]

In any case, Qing authorities saw the deep waters as endless distance, rather than territory that could be controlled or regulated like the coastal waters, and made no attempt to enforce laws or investigate crimes that occurred there, yet such a division made little sense to the sailors of the coastal region who made up the bulk of the rank of maritime predators and merchant sailors alike, as they crossed those boundaries and worked in those waters constantly, and their most powerful groups even controlled expanses of such water for a time.[862] Yet, Qing conceptions of which waters were what category were flexible enough to change depending on circumstances and needs. For instance, Longmen Island in the Gulf of Tonkin had been considered part of the lawless realm of the black sea pirates, as well as existing in an ambiguous location between Qing and Vietnamese waters, but after the defeat of the maritime predators there in 1683, Longmen

[859] Ibid 64-65, 67.
[860] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 178.
[861] Ibid 180.
[862] Wang, *White Lotus Rebels and South China Pirates*, 101-102, 104-105; Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 180.

island was reclassified as part of the Qing's inner ocean "…thereby not only extending the empire's sovereignty but also integrating this bothersome area into its regular legal regime."[863]

By the late nineteenth century the Qing court adapted to the persistence of maritime predation and the challenge of foreign empires by changing the way it understood its own notions of maritime sovereignty in order to extend its legal regime ever deeper into the outer waters.[864] That is to say, the Qing not only increased their ability to enforce its laws in more distant waters, it increasingly saw doing so as important to its existence as a state, both in practical terms of repelling invasions and securing the revenue and material of maritime trade, and in terms of recognizing maritime regions as integral a part of itself as its terrestrial frontiers. One example of this was the Qing's fleet modernization program; whereas in the past the Qing government had left coastal defense to local officials with divided, localized commands, reform minded officials in the late nineteenth century saw a centralized and modern Qing navy as vital to the country's sovereignty, both by defending against direct threats in war time and as effective anti-predation weapons in peacetime, denying foreign navies their excuse to operate in Qing waters.[865] Similarly, whereas in the past Qing coastal defenses had been satisfied with driving away maritime predators into more distant waters, throughout the nineteenth century they grew increasingly willing and able to actively hunt down maritime predators in distant, disputed, or foreign waters. For instance, they coordinated with British and Vietnamese officers and officials to hunt down a large predator fleet hiding in the Gulf of Tonkin in 1849, as well as how the next year officials and gentry along the southern coast coordinated to raise a force to hunt down

[863] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 184-185.
[864] Ibid 192.
[865] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 484-485; Kwan, "Barbarian Ships Sail Freely about the Seas," 99.

remaining predators in the area.[866] Law itself was a tool in these endeavors as much as military force, as can be seen in how the Qing implemented laws to outlaw ship weapons and register vessels to owners to more clearly separate predators from civilians.[867] The later Qing court also grew more willing to challenge other states for control of remote islands, such as the Dongsha (Pratas) Islands. For centuries these islands 340 kilometers from the Guangdong coast had been an anchorage for Qing sailors and maritime predators alike, and became embroiled in a protracted three way dispute between the Qing, Britain, and Japan that ended in 1909 with the Qing's victory, after which they settled the tiny atoll.[868]

The concept of inner and outer was also applied to diplomacy with other states and regions on a macro level; as noted by Wensheng Wang the Qing also had inner and outer borderlands, which separated three shifting zones of interaction and tension: China proper (primarily Han population, direct and sustained control through elaborate and centralized local bureaucratic administration), the "outer provinces" (largely non-Han, limited control due to sparse populations, difficult terrain, and clashes with local systems of power and governance – i.e. Xinjiang, Tibet, and Mongolia during the late Qing), and tributary polities (little Qing state authority, instead just political influence with native government – i.e. Korea and Vietnam).[869] Specifically, the inner frontier demarcated the areas between China proper and the out provinces, and also marked the sparsely populated peripheries from the rich cores of provinces in China proper, while the outer frontiers separated Qing territory as a whole from other polities; the

[866] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482; Kwan, "Barbarian Ships Sail Freely about the Seas," 99; Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 190-191.
[867] Bruce Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," in Elleman, Forbes, and Rosenberg eds, *Piracy and Maritime Crime: Historical and Modern Case Studies*, (Newport: Naval War College Press, 2010): 61-62.
[868] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 191.
[869] Wang, *White Lotus Rebels and South China Pirates*, 38.

South China Sea was considered the second type of frontier.[870] Throughout much of the nineteenth century, the Qing's large scale defensive priorities would shift from the northwest to the southeast and from the inner to the outer ocean due to the growing political and economic importance of those areas, as well as the mounting threat to them in the form of both organized predator bands and the increasingly industrialized naval forces of Europe, Japan, and the United States.[871] Additionally, before being incorporated into a more European derived system of interstate diplomacy, the Qing did not see a need to have a rigidly defined and guarded border instead of a borderland, and some officials were actively opposed to creating well defined boundaries because that would reduce the Qing to the status of their neighbors and reduce their claims of universal rule.[872] Instead, the Qing principle of international relations and border management was based around the idea of "the integration of heterogeneity" in which there was a united and universal Qing centered world with distinct yet connected cultures and regions.[873] Similarly, Qing emperors and central court officials often did not see much value in outer border regions until then, portraying them negatively as places of banishment, or spaces "that generated cycles of crisis and catastrophe."[874]

Additionally, the Qing's provincial governments employed different defensive strategies along different coastal provinces in keeping with their strategic interests in each area. For instance, when defending the northern coasts, particularly around the Bohai sea, the local officials' and military commanders' emphasis was on controlling access to strategic harbors and ports so as to deny any threats access to the Manchu homelands and the administrative center of

[870] Ibid.
[871] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the Southern Coast," 477-478, 486-487; Po, *Blue Frontier*, 212-213.
[872] Ru, "The State Formation of Late Qing China within Global Geopolitical Dynamics," 95.
[873] Ibid 97
[874] Ibid 95.

Beijing.[875] Meanwhile, in the mercantile provinces of Fujian and Guangdong, the emphasis was on the protection of maritime commerce and coastal rice shipments, both by escorting merchant vessels and by regularly clearing out areas that maritime predators would use as bases of operation; this region's fleet became more interventionist after the fall of Taiwan to prevent any rebellions in the unstable and newly acquired territory from threatening the prosperity of the surrounding waterways.[876] This strong division of maritime forces had the added benefit of making it harder for the navy to be used in a coup, or otherwise united under a charismatic leader for that leader's personal ambitions.[877] The weakness of such an approach was that it was all the more difficult for them to work together on a large scale, such as coordinated anti-maritime predator operations, a situation that the Daoguang emperor bitterly complained about throughout the 1840s.[878] In short, the Qing had sacrificed efficiency for the sake of security by parceling out bureaucratic and military authority, as they had often done with inland defenses as well as maritime ones.[879]

It is also worth noting that while the Qing did recognize the need for trade for coastal prosperity and the threat maritime predators posed to said trade, it is also true that they traditionally saw trade and piracy as closely linked, rather than being opposites like they were in European thought.[880] As such, whenever Qing maritime security was threatened it would not be long before someone proposed banning trade to starve maritime predators out as an expedient means of restoring order at sea, which can be seen in the coastal clearance used during the Ming-

[875] Po, *The Blue Frontier*, 139.
[876] Ibid 124-125, 135.
[877] Bruce Elleman, "The Neglect and Nadir of Chinese Maritime Policy under the Qing," In Andrew S. Erickson, Lyle Goldstein, and Carnes Lord eds., *China Goes to Sea: Maritime Transformation in Comparative Historical Perspective*, (Annapolis.: Naval Institute Press, 2009), 293.
[878] *Qing Shilu: [394 Juan]*, (Beijing: Zhonghua Shuju, 1987), Daogong 24 [1843], p. 1073.; *Qing Shilu: [473 Juan]*, (Beijing: Zhonghua Shuju, 1987), Daogong 29 [1849], p. 947.
[879] Po, *The Blue Frontier*, 70-71, 79-80; Murray, "Piracy and China's Maritime Transition," 56.
[880] Murray, "Piracy and China's Maritime Transition," 44.

Qing transition which ended in 1684, and the 1717 edict forbidding Chinese merchants from trading in Southeast Asia.[881] This ban was rescinded in 1727, though with the condition that "Chinese emigration was then restricted to a three-year return date."[882] This also contrasts with the Qing's northwestern frontier, which had a long tradition of merchants and soldiers working together to ensure that nomadic groups were more interested in trading than raiding, and by the late nineteenth century faced a unified threat in Russia's territorial expansion and domination of land based trade in the region.[883]

These differences in approach and attitude between maritime and terrestrial security became especially apparent in 1874, when the duel threat of a Muslim uprising in Xinjiang led by the Kokandi adventurer Muhammed Yakub Beg while his Russian allies seized the rich Ili valley in that region and a Japanese incursion on Taiwan in a retaliation for Taiwanese aborigines killing some shipwrecked Ryuku sailors resulted in an intense debate at the Qing court over whether the government's sparse financial resources should be focused primarily on a campaign to retake rebel territory in the northwest or to improve the fleet to scare off further incursions from naval empires.[884] The terrestrial focused side of the debate was led by Zuo Zongtang, the Viceroy of Shaan-Gan (which included the Shaanxi and Gansu provinces) and former Provincial Governor of Zhejiang, who evoked Xinjiang's traditional role as the first line of defense against nomadic invasions in his arguments and made emotional appeals that filial piety required them to not give up on land that previous Emperors had shed so much blood over, but with Russia as the newer foreign threat that might take advantage of the weakness caused by

[881] Ibid.
[882] Ibid.
[883] Immanuel C. Y. Hsü, "The Great Policy Debate in China, 1874: Maritime Defense vs. Frontier Defense," *Harvard Journal of Asiatic Studies*, vol. 25 (1964): 212, 222-223; Perdue, "Coercion and Commerce on Two Chinese Frontiers," 321-32, 326-327.
[884] Hsü, "The Great Policy Debate in China, 1874," 212-213.

the rebellion to strike at Beijing, or annex larger parts of the Qing frontier.[885] He and his supporters did not deny that it was important to defend the coastline, but felt that the threat of the Muslim rebels and Russian intervention or invasion was far more pressing on account of being more existential; Japan and the Western European powers were interested primarily in trade, it was argued, whereas Russia wanted both commercial domination and land which could damage the territorial integrity of the Qing state.[886] Others such as Ding Baozhen of Shandong province and Li Hanzhang the Viceroy of Huguang, a combination of the Hubei and Hunan provinces, added that showing weakness in their own territory by ceding land to the rebels would make the situation on the coast worse by encouraging foreign powers to be more aggressive.[887]

The chief advocate of focusing on maritime defense was Li Hongzhang, the Marquess Suyi and Viceroy of Zhili, Huguang and Liangguang, with additional support from Ding Richang, the ex-governor of Jiangsu, leading member of Self-Strengthening Movement and advisor to Li Hongzhang, and even Prince Gong himself.[888] Their argument was that the coastal threat was unprecedented, particularly that of Japan which was closer to China than the Western powers or the sea of Russian government and thus able to quickly take advantage of any weakness on the part of the Qing, that the naval program was vital to demonstrating the success of the Self-Strengthening Movement, and that focusing on traditional defensive priorities "was like prescribing the same medicine for all kinds of disease."[889] While Japan was seen as the main threat, it was also inspiration that maritime self-strengthening was possible; after all, Li Hongzhang and his supporters argued, if a country as small, poor, and weak as Japan could build

[885] Ibid 212, 218-219, 222-223.
[886] Ibid 220-221.
[887] Ibid 218-219, 221-222.
[888] Ibid 212, 214.
[889] Ibid 214-215, 217-218, 223.

a powerful navy and throw off the yoke of foreign empires, surely the great Qing could do the same if they tried hard enough and gave it enough resources, possibly even surpassing Japan if the Qing acted quickly and decisively enough.[890] They also argued that Xinjiang was ultimately low on resources and less valuable to Qing than the coastal provinces, while being difficult and costly to retake, and probably almost impossible to hold once retaken because it was surrounded by strong and covetous neighbors.[891] To further support this point, they drew attention to the fact that Yakub Beg's newly declared state of Yettishar, also known as Kashgaria, already had diplomatic and commercial treaties with Russia and Britain, and the Ottoman empire granted him the title of Emir and "Champion/Captain Father of the Faithful;" and went so far as to suggest an independent Xinjiang would be more useful as a buffer state than a difficult to hold province.[892] They countered arguments about filial piety by stating that many previous dynasties had abandoned marginal land to defend more vital regions, and so there was no shame in doing so again.[893] Ultimately, the terrestrial side of the campaign won the debate and naval upgrades and expansion was put on hold as the campaign against the rebels took longer and was more expensive than its supporters originally thought.[894] In hindsight, many historians such as Immanuel Hsü have felt that the arguments of the maritime side of the debate had more merit and might have saved the Qing Dynasty in the long run, though it is impossible to say what effects losing a large chunk of the northwestern frontier might have had.[895]

Returning to Qing management of maritime security, while there was a great deal of emphasis on coastal defense and control, the Qing navy as a whole was willing and able to

[890] Hsü, "The Great Policy Debate in China, 1874," 216-217.
[891] Ibid 217-218.
[892] Ibid 216.
[893] Ibid 217.
[894] Ibid 223-224, 226.
[895] Ibid 227-228.

launch sophisticated offensive operations when it felt it was in its strategic interests to do so, as can be seen in the invasion and conquest of Taiwan in 1683.[896] Overall, Qing coastal strategies included both sea defense (*haifang*) and sea warfare (*haizhan*); the difference being that sea defense was more passive, focused on the inner sea, and included elements of pacification (*zhao'an*) through diplomacy or bribery, whereas sea warfare involved aggressively destroying the enemy at sea or along borderlands before they could enter Qing waters.[897] While sea defense was generally the preferred option, the Qing could switch between them as needed; for instance, by 1797 Tay Son sponsored maritime predation was bad enough that the Qianlong Emperor entered an aggressive sea war against any maritime predators within or trying to cross his borders, and when that policy of extermination (*jiafu*) failed as well in 1799, the Qing went instead for a "policy of pardon and pacification (*zhao'an, zhaofu*)" as had been used against rebel groups in the past.[898] Alliances with foreign powers fit more with the philosophy of sea warfare as the extra men and material would be needed for a more aggressive approach, though ultimately even this alliance could not defeat the Guangdong Confederation via force alone, and instead served to make them more aimable to pardon and pacification.[899]

Ma Xinyi (1821-1870), also known by his posthumous title Duke Duanmin, was a Hui Muslim official and military commander of the Qing Dynasty who often wrote on the importance of naval defense in his memorandums, which were collected and published in 1894, over twenty years after his death at the hands of rival factions in the Qing state.[900] He called for improvements to be made in the kinds of warships the Qing navy used, more comprehensive

[896] Po, *The Blue Frontier*, 139.
[897] Murray, "Piracy and China's Maritime Transition," 56-57.
[898] Ibid.
[899] Ibid 58-59.
[900] Ma Xinyi, *Ma Duanmin Gong Zou Yi*: *[8 Juan]*, Min Zhe du shu, 1894. v1-4 sequence No.272 p 267.

patrolling of key island locations and coastal trade routes, and a closer watch on the southeastern maritime border, commenting that over "6,000 foreign criminals" had operated from there recently; though it is worth noting that he does not make clear to what degree these "foreign criminals" share similar origins or crime, and thus if this refers specifically to maritime predators or border crossers of every description.[901] He goes on to comment that though both the Northern and Southern oceans were quiet recently after the larger maritime predator organizations had been defeated, it was not an excuse to be complacent in his eyes, as on the ocean such tranquility is always temporary and it was important to use the current peace to prepare for potential conflicts in the future.[902]

At the same time, he recognized that there was a strong connection between land and sea, and thus between maritime and terrestrial predators. Notably, he felt that when it came to governing the Qing's southern coastal provinces, such as Zhejiang, it was also important to control the mountainous regions, in this case the Taizhou region of Zhejiang province, as they were the source of many "fierce people" (*Xiongmeng de ren*兇猛的人) who had long resisted the control of the central government.[903] In other parts of the work, Ma Xinyi uses terms such as bandit (*Feiwei* 匪圍), pirate (*Haidao* 海盜), robber (*Qiangdao* 強盜), and gangster (*Daofei*盜匪) fairly interchangeably, and he used all of those words to describe the same group of enemies ambushed by his subordinate An Taishi.[904] This language, while in some ways vague, mirrors that used in many descriptions of the hill populations of China's southern population, to the point of almost being a bureaucratic cliché, as can be seen in the work of Robert Antony, who analyzes

[901] Ibid.
[902] Ibid.
[903] Ibid v1-4 sequence No.315 p 310.
[904] Ibid v1-4 sequence No.248 p 243.

the relationship between the Qing state and various communities who often flaunted Qing law in nineteenth century Guangdong.[905]

Highland and coastal communities are similar in how they provided alternative social orders to centralized and bordered state based society, and in how they have long been treated as marginal in traditional, state centered history, but are quite important in historical narratives re-centered on their own regions.[906] Nowhere is this similarity between highland and maritime populations more evident than places such as Zhejiang and Fujian, where the coasts and highlands were intimately connected and shared much of the same population, and provided similar frustrations to the local government. Ma Xinyi recognized that the rough terrain made monitoring people outside of the region's main cities difficult, but he felt that was all the more reason to focus on doing so.[907] Similarly, the rough waves and many small islands around the province's main ports made it easy for maritime predators to launch hit and run attacks along the coast, which in Ma Xinyi's opinion only increased the importance of regular, well trained and well equipped naval patrols, and it prompted him to arrange a meeting with several naval commanders in the province, such as Admiral Ma Deshun ,to plan out these patrols and training for years in advance, as well as hunt down remaining maritime predators.[908]

Despite his grand ambitions, it is clear from Ma Xinyi's reports that numerous challenges faced the Qing, particularly domestic conflicts such as the Taiping Rebellion (1850-1864), Nian Rebellion (1851-1868) and Dungan Revolt (1862-1877).[909] In one instance, Ma Xinyi was

[905] Robert Antony, *Unruly People- Crime, Community, and State in Later Imperial South China*, (Hong Kong: Hong Kong University Press, 2016), 1, 105, 232.; Stephen C. Averill, "The Shed People and the Opening of the Yangzi Highlands," *Modern China* 9, no. 1 (1983): 100-101, 121-122.
[906] Jean Michaud, "Editorial–Zomia and Beyond," *Journal of Global History* 5, no. 2 (2010): 194.
[907] Ma, *Ma Duanmin Gong Zou Yi*, v1-4 sequence No.315 p 310.
[908] Ibid v1-4 sequence No.271 p 266.
[909] The Nian Rebellion took place in northern China, and initially was a loose association of small groups with no unifying goal or ideology beyond opposition to the Qing, eventually becoming more organized and adopting the symbolism and tactics of the earlier White Lotus rebels. The Dungan Revolt resulted from Muslims in Northwest

unable to support his ally Cai Fengshan as a result of ongoing conflicts, who died as a result, though An Taishi was able to hunt down and eliminate many of the maritime predators along the coast, despite being ambushed in an area of fog and high winds.[910] Furthermore, Ma Xinyi commented that in the chaotic situation it became increasingly difficult for civilians to even be able to tell the difference between newly raised state armies and both maritime and terrestrial raiders, complicating attempts to coordinate defenses against the latter groups.[911] Large populations of refugees also provided cover for maritime predators, as well as tempting targets for their attacks; Ma Xinyi's forces rescued over 400 abducted refugees from maritime predators over the course of two years.[912] He also worried that the navy's frequent military deployments and long patrols left little time to upgrade their aging warships.[913] Intrusive agreements with foreign powers further complicated Ma Xinyi's plans to deal with waterborne predators, both riverine and oceanic. For example, he was forced to arrange a meeting with prominent officials such as Ding Richang, the famous reformist, expert of foreign affairs, and governor of Jiangsu and Fujian at different points in his career, and to discuss how recent treaties with the British Empire would affect the patrolling of rivers as well as the enforcing of trade laws and regulations there.[914] Ultimately it was agreed that Ma Xinyi's forces would seek to avoid foreign complications by dealing with pirates, bandits, and rebels before any foreigners could get involved; Ma Xinyi admitted the foreigners were well armed and powerful, but thought of them

China pushing back against Qing sponsored Han settlement of the region, and the class and ethnic conflicts it created. The three rebel groups had some degree of mutual recognition and approval, but did not coordinate their efforts. Elizabeth J. Perry, *Rebels and Revolutionaries in North China, 1845-1945*, (Stanford: Stanford University Press, 1980), 120-121, 148; Rashon Clark, "The Northwestern Muslim Rebellions," *SINO-PLATONIC PAPERS* 228 (2012): 289, 293-294.

[910] Ma, *Ma Duanmin Gong Zou Yi*, v1-4 sequence No.248 p 243.

[911] Ibid v1-4 sequence No.25 p 20.

[912] Ibid v5-8 sequence No.122 p 117.

[913] Ibid v5-8 sequence No.121 p 116.

[914] Ibid v5-8 sequence No.439 p 434.

as unreliable at best, and so thought it best to learn to implement their weapons and tactics while keeping the Westerners themselves at a distance.[915] So effective was Ma Xinyi in suppressing maritime predators that when he was assassinated, suspicion initially fell on predators seeking revenge for their fellows, which was boosted by reports that his killer, Zhang Wenxiang, had attempted to flee to a group of maritime predators in Nantien, Zhejiang.[916] Afterwords, however, his assassination proved to be a lightning rod of rumor and speculation, since the aftermath of the Taiping war was full of political tension among the Qing's forces, as some were professionals, others rag-tag militias with their own motives, and others yet maritime and terrestrial predators given pardons to fight for the Qing but otherwise untrusted by their fellows.[917]

Another factor important to the Qing's attitude towards coastal defense was how Qing officials recognized that many maritime predators were driven to their profession out of economic desperation or inequality, and thus considered it every bit as important to seek economic solutions to deal with attacks on their shipping rather than simply rely on brute force to suppress maritime predation. Notably, although the Yongzheng Emperor himself feared that maritime trade would bring back dangerous ideologies and foreign interests that might undermine Qing rule, he was afraid to be too strict with a maritime trade ban lest the coastal populations be driven to raiding or at least ignoring the ban and engaging in undercover, unregulated trading, including dangerous items such as weaponry.[918] Yan Ruyi, an independent gentry scholar who led militia forces in the Miao Rebellion from 1795 to 1797 and was considered a leading expert on Qing frontier affairs by his death in 1826, specifically compared

[915] Ibid v5-8 sequence No.468 p.463.
[916] Ibid v5-8 sequence No.484 p.479.
[917] Daye Zhang and Xiaofei Tian, *The World of a Tiny Insect: A Memoir of the Taiping Rebellion and Its Aftermath*, (Seattle: University of Washington Press, 2013) 115-116.
[918] Kong Yuxun, "Xiurong yanhai botai yinfang shi," in *Yongzheng zhao zhupi yuzhi*, no. 1 [1732], 26b-27a.

maritime predators with land based rebels such as the Miao in his *Yangfang jiyao*, seeing the maritime predators as easier to deal with because their motives were largely profit driven and thus could be handled with the promotion of peaceful prosperity, as opposed to more complicated issues of land ownership and ideology that came with terrestrial uprisings.[919]

This does not mean that the Qing were unaware of the damage maritime predators could do to coastal economies, thus creating cycles of economic decline and violent disorder. Writers such as Xiejin Luan described at length the scale of the horrors faced by populations under siege from maritime predators, such as the nearly twenty thousand people that Xiejin Luan described as in dire financial straits after maritime predator attacks near Haikou, the capital and main port of the island of Hainan, then part of the Guangdong province.[920] For that matter, it would not be accurate to state that former maritime predators were much trusted or liked either. For instance, a spate of maritime predation around Wuzhou was blamed by some on the decision to pardon a local maritime predator leader and bring him into government service.[921] More famously, the Qing's feud with the Zheng family had arguably began when the Qing arrested Zheng Zhilong, a maritime predator in the Ming service who had defected to the Qing, both out of distrust towards him and as an attempt to use him as leverage against his son, Zheng Chenggong.[922] Furthermore, even small-time pardoned criminals settled along the coast were supposed to be carefully observed, lest they take up maritime predation again.[923] Still, by the second half of the eighteenth century, long and bloody experience with maritime predator suppression had convinced many

[919] Po, *The Blue Frontier*, 127-128.
[920] Xièjīn luán, *Gé zǐ nán jì lüè*, [1834], Sequence 15, p10.
[921] A supplementary confidential letter from a prefect in Kwangsi: the fact that piracy has reached such an uncontrollable state around Wu-chou is due to a certain official who recruited a pirate leader in his service and gave him authority. FO 931/1422. c. 1853-1854.
[922] Hang, *Conflict and Commerce in Maritime East Asia*, 76-77.
[923] *Da Qing Lü Li an Yu: [104 Juan],* (China: Pan shi Hai shan xian guan), Daogong 27 [1847], V1-12 sequence 1181.

Qing coastal officials that providing incentives for maritime predators to return to civilian life was a better long term solution than simply trying to stamp them out, for as long as the economic problems that led the maritime predators to take up their bloody profession in the first place remained, those slain would simply be replaced; but if the underlying issue was solved then there would be little or no replacement, or at least not enough to build up state threatening armadas.[924]

Notably, this approach was often confusing and frustrating to European observers, who interpreted it as either unwillingness or inability to pursue and defeat maritime predators.[925] For instance, European and American businessmen and news outlets expressed outrage over the recruitment of Shap-ng-tsai into the Qing navy and expressed concern that the forcibly recruited raiders would be a threat to peaceful trade again in the future.[926] This observation was completely false, not to mention hypocritical as European powers including the British Empire had frequently pardoned and recruited maritime predators in the past; for instance the British government used a general pardon in 1696 to convince maritime predators in Madagascar and the Indian Ocean to surrender and give up their lifestyle, specifically excluding Captain Kidd for political reasons, adding to the controversy surrounding his execution.[927] Furthermore, Ritchie makes note of the frequency of the application of this tactic by the British Empire, listing sixteen instances between 1498 and 1603.[928] Moreover, the Qing merely wished to combine the incentives of economic improvement and pardons with the threat of military force to convince

[924] Po, *The Blue Frontier*, 128, 210-212.
[925] Bonham to Xu, 20 Sep. 1849, enclosed in Bonham to Palmerston CO129/30. October 23, 1849.
[926] *Bathurst Free Press (NSW: 1849 - 1851)* 9 March 1850, Web. 20 Oct 2018 http://nla.gov.au/nla.news-article62215928, 3.
[927] See Ritchie, *Captain Kidd and the War Against the Pirates*, 133, 137, 142.
[928] Ibid 216-217.

maritime predators to surrender, and were quite willing to punish naval officers who were in fact timid in the face of maritime predator aggression.[929]

It was a misconception with far reaching consequences as both businessmen and politicians increasingly saw the Qing as unable to protect their commercial interests in the region, and thus the need for other powers to patrol those waters.[930] In some cases, individuals such as one Dr. MacDonald and his family requested financial compensation from the Qing government in response to losing assets to maritime predation, enlisting the aid of the British government to do so, and demonstrating by the 1900s that the Qing were considered legally responsible for maritime predation in their waters.[931] Furthermore, Lord Elgin included a demand in 1858 that the Qing do more to end maritime predation in a list of terms he made towards the Qing government as one of his main treaty conditions he wished to discuss with an imperial commissioner, alongside issues such as diplomatic access to Beijing, the protection of Christians from persecution, access to all the Qing's ports and riverways, and free access to the Qing interior.[932]

There was even some talk of partitioning the Qing's territory into smaller states controlled directly or indirectly by foreign powers, even among certain groups in the United States, despite the fact the government officially took the position of supporting Qing sovereignty and promoting equal access to trade, which would be threatened by partition.[933]

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[929] Memorial of Hsü Kuang-chin impeaching Brigade General Wang P'eng-nien of the water force for timidity and his attempt to conceal the facts in connection with a case of piracy, FO 931/1285, April 28, 1851.
[930] *The Pacific commercial advertiser*. (Honolulu, Hawaiian Islands), 11 July 1899, *Chronicling America: Historic American Newspapers*. Library of Congress, <http://chroniclingamerica.loc.gov/lccn/sn85047084/1899-07-11/ed-1/seq-4/>.
[931] Folios 322-324, China: Code 10, Case 314, Paper 35370. Sent by Marshall Hartley, Secretary, Wesleyan Methodist Missionary Society, London. Requests steps be taken to claim compensation from the Chinese Government for Dr MacDonald's family since their loss was due to an act of piracy as opposed to an anti-missionary riot, FO 371/183/37, October 20, 1906.
[932] Elgin to Yü-ch'eng, Has arrived at Shanghai after capturing Canton, FO 682/1991/23, February 10, 1858.
[933] *The Pacific commercial advertiser,* (Honolulu, Hawaiian Islands), 13 January, 1900.

Ultimately, however, the political and economic complications of such an action ensured that it remained a minority opinion in comparison to maintaining favorable treaties with the Qing, as there was a concern that any replacement government might refuse to honor those agreements, as the Taiping did during its own struggle to overthrow the Qing.[934] Additionally, Britain in particular was worried about being "drawn into continental affairs" and having the situation become "another India;" while India was treated as the crown jewel of the British Empire, the process of taking it over had been long, difficult, expensive, and ultimately only possible because of the region's political disunity, so most British officials dealing with the Qing wanted to avoid attempting to repeat such a thing in a region more unified and populated.[935]

Another issue which created friction between Qing and the other great powers of its time, particularly the British Empire, was that they had different working definitions of piracy. In particular, the Qing divided maritime predation into two categories of piracy; one large scale, organized maritime predation which was serious and required immediate attention, the other small, opportunistic maritime predation by fishermen which was considered a minor nuisance not worth devoting a great deal of resources to deal with, while the British felt by 1840s that all maritime predation was piracy and required a direct, immediate, and overwhelming response.[936] Notably, this was one of the strongest sources of disagreement between the British officials in Hong Kong and the Qing Officials in Guangdong, with many letters passing back and forth arguing over the appropriate response to minor maritime attacks that happened in the waters around the city.[937] That said, despite the Qing's division of "piracy" into two categories, both

[934] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 60.
[935] Gerald S. Graham, *The China Station: War and Diplomacy 1830-1860*, (Oxford: Clarendon Press, 1978) 407, 419.
[936] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast," 477.
[937] Xu to Bonham, 12 Nov. 1849, enclosure 2 in Bonham to Palmerston 27 Nov. 1849, FO 228/95, November 27, 1849.

were ultimately crimes in Qing eyes, and Chappell argues the distinction was more institutional than legal and came about in large part because local officials had so many duties and concerns that small scale maritime predation was generally a low priority, while large and powerful bands were a high priority.[938] In fact, he notes that the terms that Qing records often used to describe maritime predation, namely *yangdao* 洋盗, (sea-robber), *haidao* 海盗 (also sea-robber) and *haifei* 海匪(sea-rebel), were if anything broader than the English term "pirate," including political opponents as well as economically motivated raiders, and even illicit traders.[939]

Regardless of differences of opinion over issues of maritime defense and law enforcement, as well as competing political interests, the Qing and the rising imperial powers recognized the importance of interstate coordination in dealing with the challenges posed by private maritime predation, as well as the risks that could arise from a lack of coordination, such as giving maritime predators more ambiguous regions to operate in or allowing maritime predators to play states against each other for their own benefit. Notably, even though the Viceroy of Liangguang, Ye Mingchen, was most famous for his resistance to Western imperial intrusion into Chinese affairs, he stressed in a letter to Hong Kong Governor Sir John Bowring the importance of cooperation when dealing with maritime predation in the South China Seas, claiming that he and Bowring's predecessor, Sir George Bonham, had worked together to great effect in 1851 and 1853, effectively clearing the region of maritime predators.[940] To his pleasure, Bowring expressed similar sentiments about the importance of such cooperation and hopes about their ability to work together, unaware that their differing views on maritime

[938] Additionally, Chappell does not list any Chinese terminology to distinguish between the categories of maritime crime, nor does any other scholar or primary source cited in this paper. Chappell, Maritime Raiding, "International Law, and the Suppression of Piracy on the South China Coast," 477.
[939] Ibid 476.
[940] Yeh Ming-ch'en to Bowring, Last June he despatched marine forces to suppress piracy in South China Sea, FO 682/1988/29, December 12, 1855.

predator hunting jurisdiction would contribute to the outbreak of war between their empires in little over a year.[941] Additionally, for all the power of Britain's Royal Navy and the incredible breadth of its operations, British officials recognized that they fundamentally could not afford to act as a global maritime police force and thus needed the cooperation of local allies to deal with maritime predator threats to its commerce.[942]

International Politics and Maritime Predator Suppression in the South China Sea

Maritime predation is usually international in nature, and this was true in the South China Sea as well, with a long history of various governments interfering in struggles between the Qing Dynasty and maritime predators, whether they aided the Qing in predator suppression, collaborated with the predators for profit and political gain, or played both sides against each other for their own benefit. The Portuguese were among the first to offer the Qing aide against maritime predators in exchange for trading rights and the ability to lease Macau from the Qing government, a pattern many other imperial powers would follow in the years to come.[943] The Dutch, particularly the main Dutch trading company the VOC (*Vereenigde Oostindische Compagnie* or United East India Company), were happy to play maritime predators and the Qing state against one another, selling maritime predators the latest naval artillery and then offering to help the Qing in defeating the newly well-armed raiders, while at the same time weakening trade rivals such as Portuguese and Spanish traders with these sponsored maritime attacks.[944] This strategy backfired when Zheng Chenggong was able to use the Dutch supplied equipment to drive the Dutch from Taiwan and then turn the island into a base for their own trading empire

[941] Ibid.
[942] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast," 474.
[943] Zhidong Hao, *Macau: History and Society*, (Hong Kong: Hong Kong University Press, 2011), 16-17.
[944] Michael Laver, "Neither Here nor There: Trade, Piracy, and the "Space Between" in Early Modern East Asia," in Tonio Andrade and Xing Hang, *Sea Rovers, Silver, and Samurai: Maritime East Asia in Global History, 1550–1700 (Perspectives on the Global Past)*, (Honolulu: University of Hawaii Press, 2016): 32.

that would be the VOC's greatest rival in the region for some time, though ultimately the VOC and Qing did come closer together in their struggle against the Zheng family and their supporters.[945] The British Empire and their own East India Trading Company would follow suit, especially after their attempt to use the Napoleonic Wars to seize control of Macau in 1802 failed as a result of the Qing support for the Portuguese forces.[946] As a local power, Japan had a long history in the region, yet it did not seem to have acted in concert with the Qing to deal with maritime predation. Indeed, the Tokugawa *bakufu* (military government) was a major supporter of Zheng Chenggong and his Tungning Kingdom on Taiwan, sending him arms, money, and unemployed warriors so that they might undermine the Qing Dynasty, which they saw as barbaric and illegitimate because of its non-Han origins, as well as reduce the risk that such restless warriors might pose to their own regime at the same time.[947] There was even a popular play that portrayed Zheng Chenggong as a heroic samurai helping to restore the Ming Dynasty.[948] It also helped that Zheng Chenggong was half-Japanese himself, with many familial and business contacts in Japan, including the Tokugawa government.[949]

Even when not directly engaged in joint operations, states in this period became increasingly open about reporting instances of maritime predation to each other and sharing information relevant to each other's investigations. For example, when the Portuguese chargé d'affaires Vereador reported a maritime predator attack to the Qing government, expressing special fear about the threat the attack posed to silver shipments passing through Xiamen in the

[945] Ho, "The Empire's Scorched Shore: Coastal China, 1633–1683," 67-68.
[946] Shantha Hariharan, "Relations Between Macao and Britain During the Napoleonic Wars: Attempt to Land British Troops in Macao, 1802," *South Asia research* 30 (2010), 193.
[947] Xing Hang, 'The Shogun's Chinese Partners: The Alliance between Tokugawa Japan and the Zheng Family in Seventeenth-Century Maritime East Asia', *The Journal of Asian Studies*, lxxv (2016), 113.
[948] Andrade and Hang, "Introduction: The East Asian Maritime Realm in Global History, 1500-1700," 14.
[949] Hang, *Conflict and Commerce in Maritime East Asia*, 101.

Fujian province and the fact that sailors were taken hostage,[950] it was taken seriously and they launched an investigation and assessment of the potential threat, with its military detachment was careful to keep Imperial Commissioner Xu Guangjin updated on their progress.[951] An interesting linguistic choice made by Vereador in his letter was the use of the term 交涉(*jiaoshe*), which can mean "negotiate" but also "make representation" (to officially complain about something) or "take up", and is generally considered less formal than 談判 (*tanpan*), which is what is generally used in negotiations between states.[952] While it is possible this was just a linguistic quirk of whoever wrote the letter, it is also possible that the choice was to deliberately invoke a sense of informality and equality or to emphasis that any talks would be about making adjustments to or help implement an already existing agreement to deal with maritime predation in the region.

Despite such sentiments, there remained evidence of tension in the reports; in the second report, while the Brigade General in charge of the hunt for the attackers expressed confidence that the culprits would soon be caught, he rhetorically asked how long can the bullying of the Western powers be endured.[953] In another incident, Xu Guangjin was told directly by Sir George Bonham that Portuguese *lorchas* (a type of hybrid vessel that combines Chinese batten sails with a European hull, often specifically Cantonese and Portuguese, respectively) were responsible for attacks on Qing merchant vessels in the vicinity of Shanghai and Ningbo (one of the main ports of the Zhejiang province), despite the fact that British vessels had not been directly imperiled by

[950] Portuguese chargé d'affaires Vereador to Imp. Com. Hsü Kuang-chin re case of piracy, FO 931/907, March 6, 1852.
[951] Brigade General of Chieh-shih to Imp. Com. Hsü Kuang-chin re case of piracy reported by Vereador, FO 931/905. March 3, 1852.; Brigade General of Chieh-shih to Imp. Com. Hsü Kuang-chin re case of piracy reported by Vereador, FO 931/906, March 8, 1852.
[952] Portuguese chargé d'affaires Vereador to Imp. Com. Hsü Kuang-chin re case of piracy, FO 931/907, March 6, 1852.
[953] Brigade General of Chieh-shih to Imp. Com. Hsü Kuang-chin re case of piracy reported by Vereador, FO 931/906, March 8, 1852.

such assaults.[954] Bonham also uses the opportunity to suggest to Hsü his preferred candidates for the open Consul positions, which he insisted that he chose in the Qing's best interest out of a sense of international brotherhood and peace, which he believed was imperiled by the reckless actions of the lorchas, and that his choices as consuls would help cool down rising tensions.[955] A few years later in 1855, Sir John Bowring reported to Ye Mingchen that recent political instability had resulted in numerous members of secret societies to join the ranks of maritime predators operating along the southern coast, and formerly requested his aid in investigating and dealing with the problem.[956]

By the latter half of the eighteenth century, competition for greater shares of the China trade had decreased and more effort was put into protecting the trade of all the states operating in the region. Additionally, the rise of specialized, ironclad warships with increasingly professional crews reduced the military utility of simply allowing civilian vessels to engage in maritime predation on enemy cargo vessels, as can be seen with the overall poor performance of the Confederate privateers of the American Civil War, especially in comparison to the damage done by mercantile raiding at the hands of the regular Confederate Navy.[957] Thus, maritime predators had lost much of their potential uses as tools of politics and solely became obstacles to state economic objectives. Furthermore, the Qing were not the only power that feared that they would lose some of their possessions if they failed to deal with maritime predation in the area; both the Spanish and Dutch engaged in expansion and brutal maritime predator suppression campaigns in

[954] Bonham to Hsü Kuang-chin, Portuguese lorchas have been plundering Chinese shipping along coast. Urges that Briton P'i-erh [Beale] be accepted as Portuguese Consul at Shanghai and Briton Tien-ti [Dent] as Portuguese Consul at Canton, FO 682/1984/20, June 9, 1851.
[955] Ibid.
[956] Bowring to Yeh Ming-ch'en, Because of upheavals in China, members of secret societies have swollen ranks of pirates in South China Sea, FO 682/1988/28, November 22, 1855.
[957] Spencer C. Tucker, *Blue and Gray Navies: the Civil War Afloat*, (Annapolis: Naval Institute Press, 2006), 76.

the nineteenth century in part due to the fear that if they failed to do so, the British or another power would take over those areas instead under the pretext of protecting their shipping; as such, there was political pressure to take increasingly hard line stances on maritime predation.[958] In particular, the 1824 Treaty of London restored to the Dutch their lost Indonesian claims, but also placed upon both parties an obligation to cooperate in the suppression of piracy in Article V, with the Dutch government worried that its claims to the region would be challenged if maritime predation was not suppressed, and it was in no military or economic position to defend its claim without the treaty.[959]

However, even when great powers pool their resources and attention, there are often limitations on what can realistically be enforced, particularly regarding the control of liminal spaces which allowed for individuals to quickly crossover from one jurisdiction to another. The South China Sea was full of countless small islands of great use to maritime predators in launching ambushes or hiding from pursuit, and the coastline itself was full of rivers and bays that served a similar purpose.[960] In fact, the island clusters around the Jiangsu-Zhejiang region in particular were so difficult to navigate that the navy had to use specifically designed ships to do so.[961] Perhaps a bigger obstacle to anti-maritime predator operations, particularly by foreign powers, was the ambiguous separation of maritime predator from civilian. A predator base could be disguised as a village and many villages on the coastline and islands of the South China Sea played home to maritime predator forces. Even at sea it was easy for a maritime predator ship to pretend to be a fishing vessel or merchant junk plying their trade, and claim all weapons were

[958] Reid, "Violence at Sea," 23-24.
[959] Ibid 21.
[960] Po, *The Blue Frontier*, 57, 116-118, 210.
[961] Li Zengjie, *Waihai jiyao*, p. 21a; Gao Jin, "Waiyang ge shandao qingxing," *Junjichu dangan* (Qianlong 36 nian), June 18, no. 014274.

only for defense against maritime predation.[962] In fact, that could even be true, as many acts of maritime predation were opportunistic attacks by people who spent much or most of their time as simple civilian seafarers.[963] This is something Goncal Nadal refers to as "synergetic alteration," highlighting that for many seafaring people in different places and times, such as the corsairs of the Mediterranean that Nadal studied, maritime predation is not the opposite of being a merchant or a sailor, but simply another way of being a merchant or sailor, with many who were "sometimes one, sometimes the other, sometimes both simultaneously."[964] For all their military and technological strength, the foreign imperial navies were ill-equipped to deal with ambiguity, and thus had to rely on Qing officials and military commanders to provide context and other types of support.

That said, it is important to remember that the Qing ruled over a diverse populace, that regulations required that officials were assigned away from the place of their birth, and the population of its southern coast had a distinctive culture of its own that officials steeped in centralized Confucian court culture had difficulty understanding, and thus the Qing had their own problems hunting down maritime predators in the region.[965] As described by Barbara Ward, the culturally constructed self-identities, which she refers to as their "conscious model," is very complex in China, particularly along the maritime dwelling populations of the Southern Coast, taking into account not only widely known central Confucian ideals, but also the local practices of their home villages or subcultures and knowledge of the practices of neighboring settlements

[962] *The Argus (Melbourne, Vic.: 1848 - 1957)* 20 February 1850: 4. Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.
[963] Antony, *Like Froth Floating on the Sea*, 18-20.
[964] Nadal, "Corsairing as a Commercial System," 131-132.
[965] Ng Chin-keong, *Boundaries and Beyond: China's Maritime Southeast in Late Imperial Times*, (Singapore: National University of Singapore Press, 2016), 1-2, 55-56.

and groups.[966] All of these different ideals were considered genuinely and naturally "Chinese," if not equally so, as even among groups that could not afford to send members to sit for the examination with any regularity still considered Confucian literati culture to be the most "authentically Chinese;" but generally saw any deviations from that ideal by their group as an acceptable result of their economic and geographical circumstances.[967]

For instance, the group of Guangdong fishermen commonly known as the Tanka[968] note that Confucian mores were designed for a terrestrial, agrarian society, therefore certain adjustments had to be made to adjust to a maritime lifestyle of houseboats, fishing, and transportation, such as the eschewing of lineage organizations in favor of nuclear families, as well as networks of friendships and business contacts.[969] Given that the mariners of the Southern Coast were, on the whole, more familiar with the culture and mindset of the literati officials sent from other provinces to rule over them than those officials were with the mariners, it is possible that there existed a small but important information disparity between maritime predators and the officials trying to hunt them down. Yet this is not to say that the worldviews were completely incompatible, as the Tanka and other coastal groups had their own ways of understanding Confucian ideals and reconciling their own cultures with it, and officials assigned to or originating from coastal regions similarly developed methods to bridge terrestrial and maritime worldviews and advocate for the importance of maritime spaces to the Qing Empire, acting as the kind of middle power described by Benton and Ford.[970]

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[966] Barbara E. Ward, "Varieties of the Conscious Model of the Fishermen of South China," in Michael Banton, *The Relevance of Models for Social Anthropology*, London: Routledge, 2004, 113-114,134-135.
[967] Ibid 123-124.
[968] While the term Tanka is sometimes used internally, most in that community disputes its usage because of its association with the derisive attitude held by other communities towards them. Yet it remains the most common terminology associated with the group, and while Barbara Ward notes and agrees with the criticism of the term, she continues to use it and offers no alternative. Ibid 127.
[969] Ibid 127-128.
[970] Ward, "Varieties of the Conscious Model of the Fishermen of South China,"116-117, 129-130.

Since privateering is an activity that distinguishes itself from the crime of piracy, any international discussion on what constitutes privateering must also bring into question what constitutes piracy, an issue not easily resolved even in the legal circles and popular discourse of a single state or empire, much less on a global scale. For example, in 1693 some legal experts refused to try privateers working for the overthrown King James II as pirates on account that they were not "enemies of all mankind" (*hostis humani generis*) but enemies of the current British regime alone; supporters of the new King William III argued that *hostis humani generis* was not meant to be taken so literally but rather was a rhetorical device to demonstrate the "Odiousness of that Crime."[971] In essence, the argument was that pirates need not be literally at war with everyone, but by flagrantly breaking the laws established between legitimate sovereigns, they deny the very possibility of law and sovereignty, thus making themselves figurative enemies of the rest of humanity, and that serving an illegitimate monarch with no right to issue letters of marque put them in that category.[972] The line between legitimate and illegitimate maritime violence could be just as hotly debated regarding non-European regions; while many in British and other English-speaking circles in the late nineteenth century considered the Iranun and Sulu to be pirates, there were a few who argued that since they engaged in their raiding on behalf of the Sultan of Sulu they were legitimate privateers or even a navy, despite the lack of an official letter of marque or declaration of war on the states to which their victims belonged.[973]

One of the largest and most revealing debates over the effective jurisdiction of anti-maritime predation efforts occurred in 1843 and 1844 when British forces under the command of

[971] Kempe, "Publique Enemies to Mankind," 40
[972] Ibid.
[973] Warren, *the Sulu Zone,* 255.

Captain Henry Keppel attacked the Saribas and Skrang Dayaks, ethnic groups living on the outlying islands near Borneo, at the behest of James Brooke, a British subject who ruled the state of Sarawak on Borneo in the name of the Sultan of Borneo; Brooke justified the attack by accusing their victims of engaging in piracy.[974] Brooke admitted he was stretching the term "piracy" to the breaking point by doing so, but still felt strongly that "warfare conducted among nonrecognized states" should be counted as a maritime crime and that Britain should follow the Dutch example of signing extensive anti-maritime predation treaties with local rulers to allow for preemptive strikes against communities suspected of maritime predation, rather than waiting to catch predators in the act before putting them on trial.[975] While the attacks were celebrated at first, competing narratives began to arise and all involved became engulfed in a massive controversy both over whether the victims really did meet the definition of pirate as understood at the time, and if the attack was justified or excessive even if that was the case, something discussed everywhere from public taverns to the halls of parliament.[976] Ultimately, official inquiry refused to take a clear stance on anything, in what has been termed "a spectacle of official befuddlement," albeit one that demonstrated a continued reluctance to claim universal jurisdiction over cases of maritime predation.[977] These conflicting priorities of wanting to eliminate the threat of maritime predation to British commerce while not overstepping their own jurisdiction was likely a contributing factor in Britain's attempts to gain by treaty and political pressure either a greater effort from the Qing to snuff out maritime predation in their waters or permission from the Qing to enter those waters and do it themselves.

[974] Benton and Ford, *Rage for Order*, 140-141.
[975] Ibid.
[976] Ibid 143
[977] Ibid 144.

This is further driven home by the arguments used by the opposition to Brooke and the Royal Navy attacks, most of which were based on the writings of Alexis Chamerovzow and George Foggo in their pamphlet *Borneo Facts versus Borneo Fallacies: An Inquiry into the Alleged Piracies of the Dyaks of Serebas and Sakarran*. Chamerovzow and Foggo attacked Brooke's behavior from a variety of angles. For instance they claimed there was no actual evidence of maritime predation on the part of the attacked groups that was not manufactured after the attack, and provided evidence to their innocence by citing numerous eye witnesses who had seen Malays and other groups of Dayaks engage in maritime predation, but never mentioned the Saribas and Skrang Dayaks doing so despite describing their culture in some detail.[978] Chamerovzow and Foggo also contested that there was any immediate threat to commerce that required such drastic actions, as maritime attacks had decreased and foreign trade in the region had increased in the years leading up to the attack, and in fact insurance rates were low because of the safety of the region.[979] Furthermore, they argued that even if the locals had been a threat to commerce, the British navy was still acting out of its jurisdiction and that they should work with local governments to deal with the issue rather than unilaterally act via "hostile operations and expeditions of coercive character."[980] Notably, they directly compare the situation to Britain's relationship with the Qing, stating "…with regard to the coast of China, you will carefully draw a distinction between the repression of acts of robbery on the coast, which ought rather to be controlled by the police of China than by Her Majesty's ships…"[981] In particular, they point to the existing treaty with Borneo which allowed for the investigation of maritime

[978] Chamerovzow, *Borneo Facts versus Borneo Fallacies*, 46-48.
[979] Ibid 47, 60.
[980] Ibid 53-54.
[981] Ibid 53-54.

predation, but not military assaults on suspected predator bases and villages.[982] Instead, they propose, the reason for the attacks was that the Saribas and Skrang had simply been political opponents who had refused to submit to Brooke after his rise to power in Borneo; while Brooke was from Britain, he was acting as the Rajah of Sarawak, theoretically working for the Sultan of Borneo, and as such Chamerovzow and Foggo felt the Royal Navy had no business being involved in the affair, since it was a local, internal power struggle.[983]

Another argument made by Chamerovzow and Foggo in *Borneo Facts versus Borneo Fallacies* was that brute force approaches to maritime predator suppression were both morally inferior to and less effective than a humane approach combining diplomacy with economic incentives, though they went out of their way to assure the reader that they did not support or sympathize with maritime predators and it would be absurd for anyone to do so.[984] Specifically, they note that despite Brooke's claims of having eliminated the threat of piracy from the region, records, specifically insurance claims and rates for British ships passing through the region, show little difference in either commerce or local raiding warfare, whereas maritime predation around Singapore had been greatly reduced by way of engaging diplomatically with small, Malaysian states in the region, by co-opting local chiefs and providing them with economic rewards for encouraging their own people to engage in trade rather than raiding.[985] In turn, supporters of Brooke in both British Parliament and the Anglophone press derided the idea of showing even the slightest bit of restraint or mercy towards maritime raiders and stated that it was only out of political ambition that such accusations of wrongdoing were made; any right

[982] Ibid 55.
[983] Ibid 35-37.
[984] Ibid 5, 62-63.
[985] Ibid 62-63.

thinking person, they insisted, would know that overwhelming and indiscriminate force was the only appropriate response to maritime predation.[986]

Debates between severity and mercy occurred in Qing circles throughout its existence as well. Jiaoluo Manbao, for instance, was a Manchu official[987] from the late seventeenth and early eighteenth centuries who favored a forceful approach that combined disciplined soldiers with well-trained coastal officials and collective punishments for coastal communities in Fujian, arguing that the law could be easily implemented once the people were controlled and regulated.[988] While the eighteenth century is long before the time period focused on here, Jiaoluo Manbao would be massively influential in Qing naval defense strategy for centuries to come, particularly for the Fujian navy.[989] The independent Confucian gentry scholar Yan Ruyi, in contrast, wrote in the nineteenth century that people were not born as maritime predators, but took to it out of desperation and most would surrender if surrendering gave them better opportunities; despite his lack of official position, his writings were influential, especially in Western Hunan, and helped shape Qing strategies during the White Lotus and Taiping conflicts.[990]

There were also incidents where maritime predators operating in the South China Sea were believed to be engaging in privateering on behalf of the Taiping Kingdom. While the Taiping did not officially offer letters of marque or any identifier of affiliation, their sponsorship and cooperation with maritime predators was considered an open secret.[991] Notably, many of the

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[986] *The Evening Telegraph,* (Philadelphia [Pa.]), 24 Nov. 1866, *Chronicling America: Historic American Newspapers.* Lib. of Congress, <http://chroniclingamerica.loc.gov/lccn/sn83025925/1866-11-24/ed-1/seq-11/>.
[987] Who served as governor of Fujian from 1711 until his promotion to governor-general of Fujian and Zhejiang in 1715, finally dying in office in 1725.
[988] Po, *The Blue Frontier*, 153.
[989] Ibid 127, 153.
[990] Ibid 127-128; Daniel McMahon, "Identity and Conflict on a Chinese Borderland: Yan Ruyi and the Recruitment of the Gelao During the 1795-97 Miao Revolt," *Late Imperial China* Vol. 23, No. 2 (December 2002): 57.
[991] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 54-55.

Taiping's earliest followers had been maritime predators driven upriver and other outlaws to the Qing state, while at the same time the Taiping eliminated or recruited maritime and terrestrial predators that preyed on the Taiping's followers and territories, directing their activities outward.[992] In particular, many of these maritime predators had grudges against Hong Kong's merchant elite and their collaborators in both Qing and British bureaucracies, such as Governor Pottinger and Viceroy Xu Guangjin of Guangdong and Guangxi, both for their increasingly broad and intrusive powers to enter Qing waters to eliminate anyone they called "pirates," and because its growth as a trade center had put sailors and merchants in many coastal cities out of work, particularly around Canton, reflecting a maritime version of the basic Taiping dissatisfaction with foreign influence and Qing weakness in the face of that pressure.[993] The sheer number of maritime predators pledging allegiance to Taiping and attacking Qing and foreign shipping utterly overwhelmed the escort system set up protect trade in the region, even as the British fleet sent in what few reinforcements it could spare from other conflicts.[994] By 1854, these raiders took two out of every five passenger ships around Hong Kong and there was a great fear of an attack on the city itself.[995] A few of these riverine and maritime predators, such as General Lou Dangan, would achieve high ranks in the Taiping military and government.[996] This would contribute a great deal to Britain and other foreign powers ultimately siding with the Qing despite their own conflicts with that state, particularly after the Taiping made it clear they would not honor the Qing's existing treaties.[997] In fact, the Taiping's willingness to exploit Britain's

[992] Wolfgang Franke, *A Century of Chinese Revolution, 1851-1949,* translated by Stanley Rudman, (Oxford: Basil Blackwell, 1970), 30.
[993] Johnathan Spence, *God's Chinese Son: the Taiping Heavenly Kingdom of Hong Xiuquan*, First edition, (New York: W.W. Norton & Company, 1996), 82-85.
[994] Graham, *The China Station*, 287, 299.
[995] Ibid 284.
[996] Spence, *God's Chinese Son*, 132-134.
[997] Joshua A. Fogel, *Maiden Voyage: The Senzaimaru and the Creation of Modern Sino-Japanese Relations*, (Berkley: University of California Press, 2014), 146.

war with the Qing to make their own gains, nearly taking the cities of Shanghai and Guangzhou, put pressure on Elgin and the expedition to end the Second Opium War as quickly as possible.[998]

The British fleet operating in the area, notably the same one involved in the Borneo incident including Captain Kipping, who commanded the raids ordered by Brooke and played a major role in both Opium Wars, responded to alleged Taiping privateers with little restraint, as the Declaration of Paris banned privateering as a legitimate form of warfare, and while neither the Taiping nor Qing were signatories of that treaty, British officers and officials stationed in the region still saw it as a good justification for aggressive actions to protect their trading interests from any threat sponsored by the rebel regime in Nanjing.[999] Additionally, the British did reluctantly favor the Qing side of the conflict, and eventually joined the conflict as an ally of the Qing along with the French and as such had little reason to give Taiping privateers legitimacy or mercy. It did not help matters that Britain had initially declared its neutrality in the Taiping conflict, but maritime predators claiming to be in the service of the Taiping gleefully ignored this neutrality and attacked British shipping anyway, pushing the British as well as their American and French trading partners ever more into the Qing camp.[1000] Even at the height of the privateering system privateers were often treated no different from other maritime predators by their enemies, for in truth any separation between pirate and privateers was more a matter of theory than practice, so the Declaration of Paris could be considered as simply reinforcing existing attitudes with further legal justification.[1001]

The Place of Local Context in Inter-state Communication

[998] Graham, *The China Station*, 297, 362.
[999] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 54.
[1000] Graham, *The China Station*, 280, 297.
[1001] Lane and Bialuschewski, "Introduction," Xxvi.

To create the treaties that defined international law and to put that law into effect required a great deal of communication between states, especially since the actual practice of maritime law enforcement would reveal numerous gray areas and complex situations unanticipated by the original legal theorists and politicians who created the laws. To resolve these complexities, lower-level officials on the scene would need to work out solutions amongst themselves, often across the borders of different polities with their foreign counterparts. This communication took on numerous forms in the South China Seas, both because of the complex political situation that came about from international competition and internal division, and because of technological advancements that would change how people communicated, particularly in how it allowed for information to travel quickly over long distances, solving some complexities while introducing new ones.

Embassies might seem like the natural way for states to communicate with each other based on modern standards, but in truth the practice was far from universal, and in fact the creation of permanent embassies, as opposed to temporary ambassadorial delegations, was a cause of a great deal of conflict between the Qing Dynasty and other imperial powers impinging on Qing customs and views. For a long time the Qing had felt that a foreign embassy in their capital would be unacceptable since they were apprehensive of the kind of trouble foreigners could get into during a long stay in the capital, they saw no benign reason anyone would want access to a city with little trade, and preferred foreigners pass any concerns they might have up the chain of command from local officials in Canton.[1002] Many foreign governments felt that this was a sign of Qing arrogance and disregard for other states, as they made ambassadors deal with relatively low level functionaries rather than the Emperor and other highly ranked government

[1002] Hsü, *China's Entrance into the Family of Nations,* 14-15, 58-59.

officials.[1003] Furthermore, the foreign merchant community in Canton felt that the local officials were corrupt and unresponsive, and thus put pressure on their respective governments to find a way for them to go over the heads of the Canton officials and *cohong* merchants, the latter being a small number of businessmen with the exclusive legal right to trade with Western merchants.[1004]

In particular, one British official by the name of Lord James Bruce, Eighth Earl of Elgin, was the greatest advocate for a Beijing embassy, and centered his military campaign and diplomatic efforts during the Second Opium War on getting the Qing to agree to having an embassy, against the official instructions of parliament which were more focused on obtaining trade concessions and only included the demand for an embassy so that it could be bargained away for concessions elsewhere.[1005] Elgin felt that an embassy would be best not only for Britain's interests, but for the Qing's as well, on the grounds that it would help prevent future conflicts by way of quick and clear communication.[1006] This was reflected in the language used to describe the practice in the Treaty of Tianjin, commenting that it is "in accordance with the universal practice of great and friendly nations."[1007]

These issues came to a head during the two Opium Wars, with the first lasting from 1839 to 1842, and the second from 1856 to 1860. While the initial spark of the conflict might have arisen from the confiscation and destruction of opium supplies from foreign traders, as much as supporters of the war tried to downplay that aspect and emphasize the war as a matter of national honor, many politicians saw it as an opportunity to resolve older and longer standing disputes

[1003] Ibid 15-16.
[1004] Chen, *Chinese Law in Imperial Eyes*, 77.
[1005] Hsü, *China's Entrance into the Family of Nations,* 25-26, 47.
[1006] Ibid 46-47.
[1007] Treaty of Tien-Tsin between the Queen of Great Britain and the Emperor of China. Tien-tsin, June 26, 1858. https://oelawhk.lib.hku.hk/items/show/1025.

with the Qing government.[1008] This was true for states besides Great Britain, and as such Russia, France, and the United States sent their own diplomats to travel along with Lord Elgin and hoped to use the opportunity created by British aggression in the Second Opium War to secure their own political and economic interests; France was an ally of Britain in the conflict, but Russia and the United States were technically neutral, if still eager to make sure they were not left behind in comparison to whatever concessions Britain and France might claim. It did not help that there was lingering mistrust between Britain and Russia over the recently ended Crimean War, which led to enough paranoia about Russia's goals in the China Sea that the royal navy in the Pacific positioned most of its ships to prevent a potential Russian attack on Hong Kong despite the fact that Russian pacific fleet was based far to the north and Hong Kong was threatened by maritime predators coming from the south.[1009]

There was a great deal of disagreement and debate among the negotiators as well; for instance, the head of the American delegation William Reed sympathized with the Qing cause and condemned Britain's actions in the war, though he still argued in favor of Lord Elgin's idea for embassies to prevent future conflicts, albeit via temporary missions rather than permanent structures to avoid making the city into a center of intrigue.[1010] For that matter, Lord Elgin himself was not overly fond of the opium trade, but still felt the other ambassadors were self-righteous hypocrites for condemning his actions in the war while hoping to profit from the successes those actions brought.[1011] The negotiations were further complicated by global developments such as rebellion in India and the collapse of the Anglo-French alliance when the French made a separate peace deal with the Qing, as well as Elgin' mutual antagonism with the

[1008] Chen, *Chinese Law in Imperial Eyes*, 212-215.
[1009] Graham, *The China Station*, 281, 287.
[1010] Hsü, *China's Entrance into the Family of Nations*, 28, 40, 49.
[1011] Ibid 46-47.

other top members of the British expedition.[1012] This was emblematic of the British government's internal factionalism in regards to its policy towards the Qing, and its tendency to delegate a tremendous amount of on-the-spot decision-making authority to both civilian and military officials; the combination of both factors made the British foreign policy in the region highly erratic to outside observers.[1013] Additionally, even beyond conflicts over policy, there was often a lack of clear goals for British officials beyond dealing with one immediate problem after another in ways that saved money and reduced hassle while still maintaining some sense of imperial pride.[1014]

Beyond simply being the subject of government regulation and maritime predation, merchant communities acted as political agents in their own rights, capable of providing a further line of communication between different states. Indeed, as highlighted by Catia Antunes and Amelia Polonia in their introduction to *Beyond Empires* Volume 21, merchant groups were one of many kinds of self-organized networks that transcended imperial control and boundaries, and could both threaten and help build empires depending on their interests; in short, they were major players on the political as well as economic level.[1015] They had three primary tactics when dealing with imperial boundaries and monopolies, each with their own subcategories: opposition (through defiance, litigation, or illegality), cooperation (buying shares, working as subcontractors, or lobbying), and appropriation (working within the system to use it for their own ends).[1016] Furthermore, mercantile groups could easily utilize multiple, even conflicting

[1012] Ibid 28, 49, 84-88.
[1013] Graham, *The China Station*, 411-412.
[1014] Ibid 407.
[1015] Catia Antunes and Amelia Polonia "Introduction" in Catia Antunes and Amelia Polonia, *Beyond Empires: Global, Self-Organizing, Cross-Imperial Networks, 1500-1800* Vol. 21, (Leiden: Brill, 2016), 1-3, 7-8.
[1016] Ibid 10.

approaches, in alternation or simultaneously to maximize profit and security.[1017] For instance while the *cohong* merchant system, established in 1720, was originally intended to limit the amount of contact foreign merchants had with the Qing populace and officials, by limiting the right to trade to specialized licensed merchants known as *cohong* in the city of Canton, by the nineteenth century it had grown into a major player in coastal politics. It both helped foreign merchants have their concerns heard by the scholar-officials of the Qing bureaucracy and helped the scholar-officials understand and effectively manage the foreign traders, particularly British and French merchants.[1018]

Historians debate the full extent of the influence and historical impact of the *cohong* merchants; for instance John M. Carroll argues against the older view of the canton system representing either a failure on the Qing's part or any fundamental incompatibility between Qing and Western economic and cultural systems, instead presenting it as fairly free, flexible, effective, and well-liked by many of the European and American merchants involved in it, they were undoubtedly positioned to be key mediators in early international maritime predator suppression efforts, before both ports and embassies were opened by the treaties of Tianjin.[1019] However, when the Tokugawa and Qing cut off official contact with each other over political conflicts, and Tokugawa Japan was rather isolationist in general, the joint merchant-maritime predator communities in Hirado and Nagasaki provided a way for agents of the two states to keep in contact with each other and engage in unofficial negotiation, as well as for the merchants

[1017] Ibid 11.
[1018] Po, *The Blue Frontier*, 55, 164, 169, 171.
[1019] John M. Carroll, "The Canton system: conflict and accommodation in the contact zone," *Journal of the Royal Asiatic Society Hong Kong Branch* 50 (2010): 51-52, 61.

and predators to keep informed of recent events in the region, even without anything as formal as the *cohong* system.[1020]

The status of merchants as middlemen between states was something they took advantage of for their own benefit, as can be seen in how opium traders were at the forefront of attempts to portray the Qing legal system as inherently cruel, injustice, and arbitrary to the eyes of Euro-American audiences, and thus build support for the opium wars and extraterritoriality despite the general unpopularity of opium and the standing legal principal that if one traveled to another sovereign state one was subject to their laws.[1021] In turn, vast networks of Qing merchants used their contacts to avoid inspection and taxation in foreign trade ports and trade what items they wished, which often undermined European control, both economic and administrative, of their colonies in the Pacific and Southeast Asia, as is attested to by an 1879 Dutch report from Bangka which emphasized how easily these merchant networks could operate in areas outside their effective control.[1022] Additionally, they could be quite active in shaping and aiding anti-maritime predator activities themselves, and as a result helped to define what was "piracy" and who engaged in it. To give an example, the Peninsular and Oriental Steam Packet Company donated the steamer *Canton* to a combined anti-maritime predator taskforce in the conflict against Shap-ng-tsai, towing the slower but more powerful warship *Columbine* into position, as well as carrying personnel to and from the battle zones as needed.[1023] Another steamer, the *St. Mary Wood*, was donated by the same company to aide in the rescue of Fanny Loviot and the

[1020] Laver, "Neither Here nor There," 32-34.; Shapinsky, "Envoys and Escorts," 42, 49-51.
[1021] Chen, *Chinese Law in Imperial Eyes*, 24, 39, 186.
[1022] Eric Tagliacozzo, "Smuggling in the South China Seas: Alternate Histories of a Nonstate Space the Late Nineteenth and Late Twentieth Centuries", in Robert Antony, *Elusive Pirates, Pervasive Smugglers: Violence and clandestine trade in the Greater China Seas*, (Hong Kong: Hong Kong University Press, 2010), 146.
[1023] *The Argus* (Melbourne, Vic.: 1848 - 1957) 20 February 1850: 4. Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.

destruction of the maritime predator base she and her fellow hostages were previously held at as well as its supporting villages, transporting a force of 24 bluecoat Royal Navy marines to the island.[1024]

Hong Kong was especially important as a location that facilitated communication between the Qing and British empires, and between the Qing and rest of the world in general to a lesser extent, on both official and unofficial levels. It was also notable as both a location central to maritime predation in the region and to strategies to suppress the danger posed by that predation. In fact, the treaty of Nanjing stated that it was specifically given over to the British Empire for that exact purpose.[1025] It served as a major base for the British Royal Navy in the region, as well as its own specialized naval police force after 1841.[1026] Admiral King's reports concerning the "Number of Chinese Pirate Vessels Captured, or Burnt, or otherwise Destroyed by Her Majesty's Vessels of War" in the region tallies in its various columns the number of captured raiders "given up to the British Authorities at *Hong Kong*," as well as the number handed over to "The Chinese [Qing] Authorities" from the same operations, and the location of each encounter during their patrol out from Hong Kong.[1027] King's reports also made note of "what Amount of Prize Money was Shared by the respective Captors."[1028] That said, as noted by Chappell, Hong Kong's own anti-maritime predator activities led not only to legal and political clashes with the Qing, but with their own metropolitan government as well, with Hong Kong's relative independence running into attempts to further centralize colonial administration during

[1024] Loviot, and Edwards, *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, 126.
[1025] Treaty of Peace, Friendship, and Commerce Between Her Majesty the Queen of Great Britain and Ireland and the Emperor of China, 1842, http://libdb1.npm.gov.tw/ttscgi/capimg2.exe?1:121345731:910000108001-0-0.pdf.
[1026] Ward, *Sui Geng*, 1.
[1027] Great Britain Admiralty, *Chinese Pirates: Return to an Order of the Honourable the House of Commons, Dated 12 April 1866*, (London: s.n., 1866), 7, 9.
[1028] Ibid.

this period.[1029] In particular, when Hong Kong planned to create its own fleet of anti-maritime predation cruisers manned by local Chinese crewmen and captained by British officers, many metropolitan officials expressed concern over the amount of power this would give the colony, as well as relief when the plan ultimately fell through due to a lack of funding.[1030]

At the same time, it was common for maritime predators to purchase weapons in Hong Kong, at times having better access to high grade European made cannons than the Qing forces had, as well as acquire basic supplies, recruit potential predators, and spy on potential targets to determine who would be the most vulnerable and profitable of maritime prey.[1031] This kind of behavior was difficult to track and suppress on account that it was perfectly legal for civilian ships to purchase cannons, as it was necessary for civilians to defend themselves against maritime predators.[1032] Moreover, the city's administration's insistence that Qing subjects living in its boarders were its subjects, often refusing to allow Qing officials the right to investigate crimes in the city, combined with a shocking ignorance of the identities and histories of those subjects made it easy for maritime predators to hide out in Hong Kong.[1033] For instance, Chui Apoo, the second in command of Shap-ng-tsai's fleet, spent years working as a barber in Hong Kong, using his position to gain information on potential targets, according to what British intelligence discovered in the wake of the campaign against that band of maritime predators.[1034] Furthermore, throughout the 1840s, 50s, and 60s, the city served as an entry point and home base for British, American, French, and other foreign maritime predators who eagerly worked with

[1029] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast," 479.
[1030] Grey to Davis, CO129/16. October 17, 1846.
[1031] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast," 478.
[1032] Ibid.
[1033] Ibid.
[1034] Sir John Charles Dalrymple Hay, *The Suppression of Piracy in the China Sea, 1849*, (London: Edward Stanford, 1889), 27.

their local counterparts to abuse the registration system and spread confusion, such as the American sailor Eli Boggs who had a bounty of $1,000 placed on his head by the Hong Kong government.[1035]

This state of affairs was well known at the time by all parties involved; some British officials, such as Chisholm Anstey, treated the city as a blight on the reputation of the British Empire and called for large scale reform, even as others, such as Bowring and Pottinger, tried to cover up the situation and present Hong Kong as a beacon of law and order.[1036] Qing civilian officers and military officials, in turn, kept a close eye on the city to track maritime predator activity in the Pearl River Delta.[1037] Furthermore, when Ye Mingchen, Viceroy of Liangguang, wrote to Bowring in Hong Kong, explaining the recent success he had concerning the elimination of private maritime predators along the coast and expressing pleasure that the British Royal Navy had mounted similarly successful expeditions, he singled out Hong Kong and stated that he would "…be happy to give any assistance to clear Hong Kong of outlaws to make the island a better place for foreigners to live in."[1038]

Hong Kong's importance is reflected by a series of ordinances implemented to regulate its relationship with the Qing state and its interactions with Qing citizens, as well as its internal policies to best maximize its potential as a source of revenue for the British state. For instance, one ordinance noted that the prisons available in other British holdings among the Consular ports opened up by the treaty of Tianjin were insufficient for their purpose, so arrangements were

[1035] Blue, "Piracy on the China Coast," 72-73.
[1036] *The New York herald*. (New York [N.Y.]), 29 Oct. 1859. *Chronicling America: Historic American Newspapers. Lib. of Congress*. http://chroniclingamerica.loc.gov/lccn/sn83030313/1859-10-29/ed-1/seq-8/.
[1037] A report by Hsiao Ting-an to G. G. Yeh Ming-ch'en re situation at Hong Kong and piracy. FO 931/957. January 7, 1855.
[1038] Yeh Ming-ch'en to Bowring, Has issued strict orders to wipe out piracy along coast and many pirates have been captured. FO 682/1989/5, April 7, 1856.

made to transport prisoners from those locations to Victoria in Hong Kong for long term incarceration.[1039] The same ordinance granted the Consul or Consular Agent the authority to make whatever arrangements were necessary for the prisoner to arrive safely and securely, and legal protection from any lawsuit that may erupt over this.[1040] It was also clarified that Consuls and Consular Agents had authority over British subjects within China or within 100 miles of the coast.[1041]

By the 1870s, the British central government remained dissatisfied with Hong Kong's actions to suppress the threat of maritime predation in the region, and issued an ordinance requiring the city's local government and forces to be more active towards that goal and to cooperate more effectively with the Qing officials and military officers towards that effort.[1042] Guangzhou, also known as Canton, is another city that served as a key center of communication, commerce, and diplomacy between the Qing Dynasty and the rest of the world. Notably, even before the "Canton system" that required foreign merchants to trade only at Guangzhou with designated *hong* merchants was put into place, Guangzhou was already a favorite stop for foreign merchants on account of its easy access to the largest markets, and it remained so after other coastal cities were increasingly opened up to foreign maritime trade.[1043] Simply put, it was rarely worth the effort and expense to travel to other ports further north.[1044] Additionally, while the Qing coastal defense strategy was more dispersed than foreign strategies, which focused on

[1039] *British Ordinance, for the safe and better Custody of Offenders sentenced to imprisonment by the Consular Courts in China,* Hong Kong, July 19, 1849, in *Hertslet's Commercial Treaties: A Collection of Treaties and Conventions,…Volume 8*, (London: Foreign Office, 1851), 130.
[1040] Ibid.
[1041] *British Ordinance, relative to the Office and Duties of Consular Agent in China*, August 1, 1849, in *Hertslet's Commercial Treaties: A Collection of Treaties and Conventions,…Volume 8*, (London: Foreign Office, 1851), 131-133.
[1042] CHINA: Ordinance (Hong Kong), Suppression of Piracy. Co-operation with Chinese Authorities, FO 881/2853, March 30, 1870.
[1043] Po, *The Blue Frontier*, 132, 179.
[1044] Ibid.

protecting traffic around a few key ports and islands, Guangzhou's central location in trade and maritime predation gave it special importance in late Qing naval doctrines, with special attention paid to how to protect against maritime predators in the region around the city, full of both hiding places and potential targets for the raiders.[1045]

This was true inland as well, and an attack on the 13th of July, 1906 on the British owned and operated steamer *S.S. Sainam*, which resulted in the death of the missionary Dr. MacDonald, on the West River near Guangzhou prompted the British to try and pressure the Guangzhou local government to allow the Maritime Customs Office to take over patrolling the West River in place of the Guangdong Navy, which they saw as incompetent.[1046] However, the local government denied the recommendation and refuted any responsibility for the attack and the death of the missionary, frustrating the British into deciding to patrol the West River themselves, despite determined local protest over the idea.[1047] This does not mean that the Guangzhou government did not take the maritime predation of the West River seriously, and they proposed many plans to deal with the issue, such as the Viceroy of Liangguang Cen Chunxuan's proposal to station Qing soldiers directly on steamers to deal with the threat of hijackers disguised as passengers, but disagreements about exactly how to implement such plans prevented them from being applied in time to avert the diplomatic incident.[1048] This can be seen in how the British Consul-General in Guangzhou, R.W. Mansfield, rejected the plan because he did not trust the

[1045] Chinese Secretary's Office: Civil disturbances: Inspector-General of Customs to Viceroy of the two Kuang: scheme to combat piracy in the Canton area, FO 233/129/42, 1906.; Chinese Secretary's Office: Civil disturbances: Sainam [Hsi-nan] piracy, Canton. Viceroy to Wai-wu-pu. FO 233/130/41. 1907.
[1046] Chinese Secretary's Office: Civil disturbances: Sainam [Hsi-nan] piracy, Canton. Viceroy to Wai-wu-pu. FO 233/130/41. 1907.
[1047] Ibid.
[1048] Memorandum of Interview between Consul-General and Viceroy Ts'en at Whampoa on the 24th of July, 1906, FO 371/183/26, September 17, 1906.

discipline of lower ranked Qing soldiers, and wanted the Customs Service to handle the inspection of tickets and baggage instead.[1049]

Furthermore, even the capture and trial of the maritime predators responsible for the attack, with seven executed and the last "remanded," did not assuage British fears of predation and general feeling of Qing incompetence.[1050] Sze Hang Choi attributes the disproportionate British reaction to a single act of maritime predation, even though riverine predators often specifically avoided vessels flying foreign flags for locally owned ones, to competition between British and locally owned businesses.[1051] Since vessels flying the British flag were less likely to be attacked, they were more likely to be utilized for cargo and passenger transportation, and could charge higher prices due to the security; the attack on the *S.S. Sainam* was a blow to that reputation, and thus cut into the profits of the British merchant community in Guangzhou by opening them up to more local competition.[1052] In addition to being a center of trade and commerce, Guangzhou was also a major manufacturing, political, and cultural center of the Qing Dynasty, producing an unusual number of scholar-officials and home to multiple publishing companies and organization.[1053] As such, the opinions and interests of the city's literati and merchants could easily spread throughout the Qing empire and influence both elite and public

[1049] Ibid.
[1050] Folios 407-410, China: Code 10, Case 314, Paper 42137, Sent by Sir J Jordan, the British Legation, Peking. Transmits a copy of a despatch from Consul General Mansfield regarding the trial of eight pirates who took part in the attack on the SS 'Sainam,' FO 371/183/51, December 17, 1906.
[1051] Sze Hang Choi, *The Remarkable Hybrid Maritime World of Hong Kong and the West River Region in the Late Qing Period*, (Boston: Brill, 2017), 222, 227.
[1052] Ibid 231.
[1053] Jan Kiely, "Spreading the Dharma with Mechanized Press: New Buddhist Print Cultures in the Modern Chinese Print Revolution 1866-1849," in Cynthia Brokaw and Christopher Reed, *From Woodblocks to the Internet: Chinese Publishing and Print Culture in Transition, circa 1800 to 2008*, (Boston: Brill, 2010), 188.

views. In the case of the *S.S. Sainam*, the British patrol of the West River quickly became a rallying cry for nationalist activism in those who feared it could be a forerunner to partition.[1054]

Local Officials, Global Communications, and turning Law into Practice

The frequent mercantile encounters and resulting diplomatic and political connections that occurred in these coastal cities gave rise to an interesting branch of the Qing government that served as a medium for cultural and political contact and exchange, the Maritime Customs Service, founded in 1854. While officially simply part of the Qing government that employed foreign personnel such as Horatio Nelson Lay and Sir Robert Hart, in many ways it combined British and Qing governmental systems in order to better facilitate maritime trade for revenue purposes, with a particular emphasis on representing the interests of the merchant community to other branches of the Qing government.[1055] It has been argued that the Maritime Customs Service played an important role in convincing the Qing to change their conception and definition of piracy to closer match that of European states, as the increase in custom revenue made the Qing more invested in stamping out large and small scale maritime raiding alike, lest such activities cut into a vital part of their finances.[1056]

That said, as an institution it could also be a source of frustration and struggle as well. This can be seen when an attempt to modernize the Qing navy's warships fell apart because the Customs Service and the Qing central government both insisted that they would have control over the modernized fleet.[1057] This bureaucratic dispute was exacerbated by the kind of racial tension and paranoia highlighted by Lake and Reynolds, as Sherad Osborn, a British officer who

[1054] Edward J. M. Rhoads, *China's Republican Revolution: the Case of Kwangtung, 1895-1913*, (Cambridge: Harvard University Press, 1975), 131, 135.
[1055] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast," 475-476.
[1056] Ibid.
[1057] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 59.

was supposed to command the new fleet, refused to take orders from any Qing officer, insisting he worked only for the Qing emperor, whose orders would be relayed by Horatio Lay, the British subject who headed the Qing Customs Service, as well as British concern that if the modernized fleet fell under direct Qing control it could be used against them.[1058] Furthermore, while the Customs Service's predecessor in the Qing government, the Customs Office, did not employ foreign employees, at least in such key management positions, it was still an organization created with a keen focus on facilitating trade and the associated revenue, and thus served as an important vessel for government communication with both foreign and domestic merchants.[1059]

Since communication between states was needed to define and suppress maritime predation, communication was at least as important as weapon or ship technology in reducing the scale and effectiveness of maritime predation in the South China Sea, possibly even more so. As John Britton has argued, some of the technology of communication that became important during this period, such as telegraphs and cheaper printing technology, allowed for more regular international communication and discussion, rather than relying on long journeys and grand formal meetings. Telegraphs were a particularly important and transformative method of transmitting information across great distances at high speeds, particularly once states started to lay cable across the ocean floor to allow for transcontinental communication.[1060] The value of this speed can best be seen in the 1881 "wire treaty" between Chile and Argentina, as negotiating entirely by telegraph instead of mail or traveling diplomats allowed for misunderstandings and other issues to be resolved in days instead of weeks or months, which might have caused them to

[1058] Ibid.
[1059] Po, *The Blue Frontier*, 176-179.
[1060] John Britton, *Cables, Crises, and the Press: The Geopolitics of the New International Information System in the Americas, 1866-1903*, (Albuquerque: University of New Mexico Press, 2013), 1-2, 6.

fester into a collapse of negotiations or even spark a war.[1061] This technology also allowed for newspapers and other private media to receive their information much more quickly and with less chance for interested governments to control or censor it, making the shaping of public opinion through mass media a key tool of politics during this time, to a degree as eagerly embraced by some of the world's ruling elite as much as it disturbed and alarmed many others.[1062]

Furthermore, it is worth following the lead of Simone Müller and consider the expansion of these communication technologies and infrastructures from an actor-network theory perspective, which emphasizes the social and cultural changes that came about organically from the interactions of shifting networks of private individuals and groups pursuing their own interests and agendas.[1063] In particular, private communication facilitated the spread of political and social ideologies as much as state sponsored propaganda or newspaper companies; throughout the nineteenth century this often took on something of a utopian bent, with widespread hopes that the spread of communication and trade networks might lead to an end of war, or at least an increased respect for neutrality during conflicts.[1064]

In the context of the South China Sea, this cultural and political influence of communication technology can be seen in the increasing power of what is often referred to as the Chinese diaspora. The Chinese diaspora consisted largely of the southern Chinese coastal groups and sub-cultures such as the Hakka, Hokkien, and Tanka, who frequently made up the ranks of maritime predators and other mariners in the South China Sea, as they were able to avoid Qing

[1061] Ibid 63-65.
[1062] Ibid 165, 315.
[1063] Simone M. Müller, *Wiring the World: The Social and Cultural Creation of Global Telegraph Networks*, (New York: Columbia University Press, 2016), 6-9.
[1064] Ibid 3, 84-86, 189-190.

control and censorship overseas while still continuing to transmit their experiences and ideologies back home, often taking the form of a new kind of nationalism born out of an international opposition to imperialism.[1065] This resulted in the fall of the Qing and the foundation of a republic in 1911, led by a Hakka and Cantonese man, Sun Yat-sen, who had lived and been educated in Hawaii for many years, though by no means did the political and intellectual importance of the diaspora end there.[1066] Meanwhile, this diaspora itself was colored by the culture and experiences of the coastal provinces, particularly the Shanghai literary style exemplified by writers such as Eileen Chang, Lin Yutang, and Yao Ke.[1067]

It is also worth noting that while the diaspora took on a new form and more mainstream political influence, it had existed and been socially, economically, and at times even militarily powerful in the region for centuries. For instance, while the Zheng organization of the seventeenth century was a diverse one with members from places as distant as Africa and Europe, the backbone of its power lay with its connections, particularly extended kin ties, with the population of the southern coastal provinces, principally the Hokkien people to which the Zheng family belonged.[1068] Even in the case of the Qing's relations with imperial powers, networks of personal connections could do much to secure smoother communications; for instance, Rear Admiral Collier was noted to be better at securing the cooperation of Qing coastal officials and provincial admirals than either his predecessors or successors in the China Squadron, primarily because of his many personal and professional contacts he had cultivated in the region.[1069] Such contacts were especially important because provincial bureaucrats and

[1065] Shen Shuang, *Cosmopolitan Publics: Anglophone Print Culture in Semi-Colonial Shanghai*, (New Brunswick, NJ: Rutgers University Press, 2009), 95-100.
[1066] Liu, "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations," 160.
[1067] Shen, *Cosmopolitan Publics*, 159-160.
[1068] Chin, "A Hokkien Maritime Empire in the East and South China Seas, 1620-83," 102, 107.
[1069] Graham, The China Station, 275.

military commanders alike often had a great deal of autonomy, as well as their own interests and agendas, despite Qing aspirations towards central control, and it was often their cooperation that determined if anti-predator campaigns were successful or not.[1070]

The infrastructure to support the telegraph system crossed national boundaries in a time when those same boundaries were becoming increasingly rigidly defined and contested, and thus telegraph technology was a source of distrust, disagreement, and tensions as well as communication and cooperation.[1071] This distrust was further amplified by the utility of telegraph networks for espionage, as they allowed states to keep close eyes on one another and respond quicker to each other's actions.[1072] Since telegraphs presented such a powerful weapon in politics and war, arguably tipping the balance of both world wars, control of them became vital to both empires and non-state actors of every stripe.[1073] There was a labyrinthian struggle of boardroom and backroom deals, political debates, and public opinion manipulation over the control of the Qing's burgeoning and lucrative domestic and foreign communication network from 1870 to 1901.[1074] The participants in this struggle were as diverse as their methods of operations, and included not only foreign businessmen and imperial politicians, but also internal Qing reformers and conservatives who wished to use the communication technology and infrastructure to resist outside influences and cultural change.[1075] This was especially true in cities such as Hong Kong and Shanghai, who had their own struggles with the central Qing

[1070] Ibid 274-275.
[1071] Daniel R. Headrick, *The Invisible Weapon: Telecommunications and International Politics, 1851-1945*, (Oxford: Oxford University Press, 1991), 1.
[1072] Ibid 68.
[1073] Ibid 238, 272-274.
[1074] Dwayne R. Winseck and Robert M. Pike, *Communication and Empire: Media, Markets, and Globalization,1860-1930*, (Durham: Duke University Press, 2007), 113-115.
[1075] Ibid.

authority in Beijing over who would control the infrastructure and how it would be used, to the point where Winsek and Pike outright refer to them as "city-states."[1076]

This is not to say that the judgment of local officials no longer mattered because they were better able to communicate with their superiors or because central governments could directly communicate more easily without local intermediaries. For all the importance of treaties, embassies, and other forms of direct communication between higher levels of government, it was often local officials who did the bulk of the work translating the theory of maritime law into practice, and in the process creating a working definition of maritime crime. As noted by scholars such Anne Gerritsen, just as studying global history can help contextualize events in local history, so too can local history reveal a great deal about patterns of globalization, both in how locations fit into those larger patterns and how they do not, as is demonstrated by her own work concerning how the seemingly small and isolated towns of Ji'an and Jingdezhen fit into and shed light on the Confucian world order and the global economy of the fifteenth century, respectively.[1077] In the context of the South China Sea during the latter half of the nineteenth century to the first half of the twentieth century, the global geopolitical concerns of the Qing and Western powers gave directives to eliminate maritime predation, protect trade, secure their respective sovereign rights and interests as they understood it, but it was numerous Qing coastal officials and military officers alongside foreign colonial bureaucrats and naval commanders who interpretated this directives and implanted actual policies, with the results of their interpretation and implementation influencing further goals and directives from their superiors in turn.

[1076] Ibid.

[1077] Anne Gerritsen, "Scales of a Local: the Place of Locality in a Globalizing World," in Douglas Northrop, *A Companion to World History 1st ed,* (Chichester: Wiley-Blackwell, 2012), 216-217, 223-224.

Notably, the local interpretation of global directives often resulted in a fair amount of communication, negotiation, and collaboration despite the larger geopolitical competition going on around them. This negotiation and dialogue often took the form of communiques that went back and forth between representatives of various foreign concessions along the coast and islands of the region and their counterparts in Qing territory. For example, Qing officials were, by the late 1840s, required to try to match their record of maritime predator attacks with those of foreign victims and witnesses, carefully noting when and where the attacks occurred as well as how much was taken.[1078] They were also tasked with working closely with Korean officials to track down and deal with maritime predators who fled to Korea, making note of any vessels that tried to cross into Korean waters without permission.[1079] When British lorchas had been plundered after running aground, Bonham argued to Imperial Commissioner Xu Guangjin that the local villagers should be made to pay the full price for the stolen goods.[1080] Xu Guangjin in turn replied that he thought it made no sense to punish a whole community because some of them have engaged in the plunder of a British ship, arguing that more investigation was needed to pinpoint the exact culprits so that they could be fairly tried and punished.[1081]

Jurisdiction and Sovereignty in Maritime Investigations

An issue that arose frequently during discussions between Qing and foreign officials dealing with crime was a disagreement over the jurisdiction of the investigators. Foreign officials such as Bowring often complained that the Qing did not take the issue of maritime predation

[1078] *Da Qing Lü Li an Yu: [104 Juan]*, (China: Pan shi Hai shan xian guan), Daogong 27 [1847]. V13-27 sequence No.1036.
[1079] Ibid V 39-50 sequence No.168.
[1080] Bonham to Hsü Kuang-chin, Villagers who plundered British lorchas which ran aground near Hu-men should be made to pay full compensation, FO 682/1981/87, September 8, 1848.
[1081] Hsü Kuang-chin to Bonham. Refuses to make whole village liable just because some of its villagers have plundered British lorcha, FO 682/1981/91, September 14, 1848.

seriously and that Qing officials were often corrupt and untrustworthy, a sentiment repeated often in a wide variety of diplomatic and journalistic discourse.[1082] In turn, Qing officials such as Governor-General Xu Guangjin of Liangguang felt that the foreigners did not respect Qing sovereignty and were too brutal and arbitrary, not to mention ignorant about how to conduct a proper investigation in Qing controlled territory, though he was often forced to be conciliatory to them to avoid giving them an excuse for further intrusions.[1083]

Yet, despite such issues, cooperation during these investigations was not always so fraught, as is illustrated by the incident surrounding *Lorcha No.11* in 1843, which has been overlooked by many scholars in the field. After the vessel was struck by maritime predators, Pottinger worked with many Qing officials to track down the maritime predators responsible and recover the lost cargo. Specifically, Pottinger began by reporting the attack to a Qing military official, Colonel Lai En-chüeh, emphasizing the death of British passengers on board and his suspicions that some of the vessel's locally hired crew acted as accomplices for the attackers.[1084] Colonel Lai, notably, had previously been given orders to coordinate with British forces to enable the suppression of maritime predation, and had drawn up detailed plans for that task which he shared with Pottinger.[1085] Afterwards, Qing authorities quickly expanded the investigation, assigning not only Colonel Lai, but also the provincial judge of Guangdong, the local magistrates of Xiangshang and Bao'an (then Xin'an) counties, and the Sub-Magistrate of

[1082] South Australian Register, (Adelaide, SA: 1839 - 1900), 1 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article38444771>.
[1083] Chen, *Chinese Law in Imperial Eyes*, 193-194.; Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast," 482.
[1084] Pottinger to Colonel Lai En-chüeh, Pirates have attacked Lorcha No. 11 and killed British passengers, Suspects Chinese sailors on board are accomplices, FO 682/1976/102, July 20, 1843.
[1085] Ch'i Kung to Pottinger, Has ordered Colonel Lai En-chüeh to arrange with British authorities for co-operation in suppressing piracy, FO 682/1976/55, March 13, 1843; Colonel Lai En-chüeh to Pottinger. Gives details of his plans to suppress piracy along coast of Kwangtung; requests co-operation. FO 682/1976/49. February 22, 1843.

Macao.[1086] Notably, some of Colonel Lai's subordinate officers also kept in direct contact with Pottinger to keep him updated on the status of the investigation and pursuit of suspects.[1087] By the end of the next month, Qing officials Qi Gong, the Viceroy of Liangguang, and Cheng Yucai, the Governor of Jiangsu, informed Pottinger that they had caught the maritime predators responsible for the destruction of Lorcha No.11, as well as another boat near Macao, and an opium clipper.[1088] They made assurances that the prisoners will be punished severely for their crimes, and then instructed Pottinger to not send any British officials to act as witnesses, as "Chinese law does not provide for government officials to act as witnesses against criminals."[1089]

While this might not have been a particularly remarkable incident in and of itself, it provides a useful insight into how maritime predation investigations proceeded in this era of imperial competition and cooperation in the South China Sea. Despite the Qing code's contemporary and historic reputation of harshness and emphasis on punishment over other aspects of law, scholars such as Thomas Buoye have argued that Qing law in practice had a "longstanding judicial ethos to seek leniency and save life."[1090] Furthermore, Qing lawmakers were well aware of the potential for legal punishments to be used as weapons by corrupt officials, and thus limited the ability of officials to abuse their power by instituting many complex laws about court cases, as can be seen in how officials were not allowed to act as

[1086] Ch'i Kung and Ch'eng Yü-ts'ai to Pottinger, Have ordered Colonel Lai En-chüeh, Provincial Judge, Magistrates of Hsiang-shan and Hsinan, and Sub-Magistrate of Macao to investigate attack on Lorcha No. 11, FO 682/1976/106, July 22, 1843; Sub-Magistrate Hsieh Hsiao-chuang of Macao to Pottinger, Will do all he can to apprehend pirates who attacked Lorcha No. 11, FO 682/1976/105. July 21, 1843.
[1087] Captain Ts'ai to Pottinger, Is acting in place of Colonel Lai En-chüeh. Has mobilized marine forces to hunt down pirates who attacked Lorcha No. 11., FO 682/1976/104, July 20, 1843.
[1088] Ch'i Kung and Ch'eng Yü-ts'ai to Pottinger, Have arrested pirate-suspects in connection with the plundering and burning of Lorcha No. 11, of another boat near Macao, and of an opium clipper, FO 682/1976/114b, August 25, 1843.
[1089] Ibid.
[1090] Buoye, "Bare Sticks and Naked Pity," 4-5.

witnesses which thus required civilian witnesses or physical evidence, and carefully monitored the proceedings of any case involving harsh punishments.[1091]

This would remain true as a general principle even after foreign pressure on the Qing to end maritime predation increased, as can be seen in the investigation of the theft of the lorcha *Mandarin*.[1092] In February of 1878 a vessel originally believed to have been the *Mandarin* was detained and brought to the British authorities in Shanghai for identification.[1093] The owner of the vessel, identified in the reports as Wu A-Yuan, insisted that it was not stolen, but rather a vessel purchased from an American shipbuilding firm based in Fuzhou, and by March of that year, Qing officials, including Fuzhou's governor-general, had taken the owner's side after verifying his story with the local *daotai* 道臺 (circuit intendant).[1094] They also noted that the *Mandarin* was larger than the seized lorcha, with the *Mandarin* being one the few lorcha of 100 meters or more in length operating on the Yangzi in contrast to the seized ship's more standard 60 meters; this fact would cause a great deal of internal debate among the British officials involved in the case, with some, such as Hugh Frasier, Esquire, thinking the discrepancy made it doubtful that it was the *Mandarin*, while others such as one Mr. Wallace, who inspected the vessel at Shanghai, insisted that it could have been cut in size to hide its identity, citing vague "discrepancies" in A-Yuan's account to justify ongoing suspicion.[1095] Even Yixin, commonly known in the West as Prince Kung or Prince Gong, weighed in on behalf of the accused ship

[1091] Ibid 7.; Bradly W. Reed, "Bureaucracy and Judicial Truth in Qing Dynasty Homicide Cases," *Late imperial China* 39.1 (2018): 71-72, 75.
[1092] Capture of the Lorcha Mandarin by Pirates in the Yang-tsze River. Volume 2. FO 17/851. 1878-1880.
[1093] Ibid 7-9.
[1094] Also commonly translated as *taotai*. Ibid 19, 35, 51.
[1095] Ibid 12-16, 47

owner and the American firm he purchased the ship from, Hedge and Co (aka Yi-li), provided a certificate of purchase from July 1874, before the *Mandarin* went missing.[1096]

Given the importance of trade to officials along the coasts of the South China Sea, and the threat maritime predation placed on it, another frequent topic of communication was the status of any property taken by maritime predators or otherwise lost through misfortune and mishap. When Acting Colonel Shen Zhenbang of Dapeng,[1097] for instance, discovered sixteen bags of spice that had likely come from a recently plundered lorcha, he informed Pottinger of their recovery, as well as his interrogation.[1098] In other instances, the issue of property ownership and appropriate criminal punishments were not easily agreed upon and required no small amount of debate between officials of different governments over how to proceed in such cases. To give an example, in November of 1855 when a Hong Kong lorcha was caught engaged in illicit trade, Bowring agreed with Ye Mingchen that the Qing was in the right to confiscate the illegal cargo itself but felt it was too far to confiscate the entire vessel, to the point that he had the Royal Navy move to secure its release.[1099] He particularly expressed his disagreement with the argument that the captured lorcha was Chinese and thus under Qing jurisdiction, insisting that a law passed in Hong Kong earlier that year meant that all Chinese and foreign vessels had the right to register their vessels in Hong Kong for the ability to fly the British flag and enjoy the protections that flag afforded.[1100] Bowring even went so far as to enclose a full copy of Hong Kong registration regulations with his letter to further emphasize his point.[1101]

[1096] Ibid 17, 34, 40.
[1097] A peninsula north-east of Hong Kong.
[1098] Acting Colonel Shen Chen-pang of Ta-p'eng to Pottinger. Three men admit that they picked up sixteen bags of spices floating in the sea. FO 682/1976/118b. October 5, 1843.
[1099] Bowring to Yeh Ming-ch'en, Hoppo is entitled to confiscate the cargo of the Hong Kong lorcha caught smuggling but cannot detain the vessel itself, FO 682/1988/26, November 21, 1855.
[1100] Ibid.
[1101] Ibid.

In this case, normal channels of communication proved insufficient in resolving the fundamental disagreement, and almost a year later in October of 1856 a similar incident involving the arrest of the Qing citizen crewmen of a lorcha flying the British flag, the *Arrow*, under charges of piracy would spiral into the Second Opium War, also known as the Arrow War.[1102] In the *Arrow* incident, Ye Mingchen asserted to Bowring that his marines had testified to the fact that no flags were flying when the ship was taken and that the crew confirmed that the ships owners were Qing subjects, even if they had purchased a register in Hong Kong.[1103] He follows this statement up with a request that Bowring and his subordinates more closely observe the existing treaty by not selling Hong Kong or any foreign registers to Qing ships.[1104] Ye Mingchen continued to stand by the legality of his actions after fighting had broken out; in December 1857, several weeks before his capture by British forces, he insisted in a letter to Elgin that he had jurisdiction over the maritime predators on the *Arrow*.[1105] Even the Second Opium War that resulted from this failure, with all the destruction it caused and hatred it created, did not totally stop communication between the two governments, and cooperation in maritime predator suppression in particular continued despite the conflict.[1106]

Conclusion

New communication technology combined with bureaucratic reforms played a key role in the suppression of maritime predation and illicit trading in the region from the fall of Shap-ng-tsai in 1859 to the rise of warlords in 1916 which saw a breakdown in this integrated system and a resurgence of such activities, which only became worse with the Chinese Civil War around

[1102] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 76.
[1103] Yeh Ming-ch'en to Bowring, Chinese marines have testified that no flags were flying when they boarded lorcha Arrow. FO 682/1989/13, October 21, 1856.
[1104] Ibid.
[1105] Kwan, "Barbarian Ships Sail Freely about the Seas," 98.
[1106] Graham, *The China Station*, 286-287.

1927, even if some hijackings of passenger ships occurred in between.[1107] While maritime predators had always been able to recover from military defeats in the past by recruiting and rearming, an increased focus on registering ships and their owners combined with increased restrictions on the ownership of large weapons on private ships made it ever more difficult for prospective maritime predators to acquire the weapons they needed to effectively pursue a raiding career.[1108] Furthermore, as the Qing navy modernized and communications technology's ability to signal for help improved, the Qing government was finally able to make civilian ownership of military grade weaponry illegal in 1866 as they could more readily promise merchants and fisherman that they would be able to aide in case of any maritime predator attack.[1109]

On a larger level, these events can demonstrate how law plays a large role in the social construction of maritime space, even outside of issues concerning state jurisdiction over coastal waters. Most pre-modern legal systems understood on some level that the open ocean was impractical if not outright impossible to totally control and enforce law upon, legal attitudes towards that oceanic space and the activities there could still shape how governments and populations imagined the space to be. There is an important distinction between those who imagined the sea as being lawless because it was beyond the reach of state authority, and those who saw as instead bound by natural or international law. The concept of *Mare Liberum*, freedom of the seas, established a legal theory that the sea being beyond any state's authority to deny access to or otherwise control was itself a self-evident legal principle, in which any individual or group was justified in using violence to enforce. It is worth remembering that

[1107] Ward, *Sui Geng*, 84, 140.
[1108] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 61-62.
[1109] Ibid.

while the concept of *Mare Liberum* originated as a justification to engage in maritime predation, the concept was also used to justify the elimination of maritime predators later, on the grounds that maritime predators prevented others from enjoying their rights to access and freely travel the seas. This shows even without direct revision of the relevant legal documents and theories, they can be reimagined and reinterpreted to help support new social constructions of the oceans.

Meanwhile, for the Qing ruling class, the primary way of constructing the ocean was to adapt the classical Confucian division of inner and outer regions to the ocean, with inner seas controlled by local officials and outer seas controlled by provincial and higher officials when activities there threatened order closer to shore, sometimes with the addition of blackwater oceans which were completely beyond the realm of law, inhabited only by lawless pirates and barbarians. Yet this three-part division was itself very flexible, and the size of each area varied along the coast depending on the physical traits of the seas and islands that facilitated or limited greater government control. Furthermore, the Qing were able to modify and expand their construction of the ocean throughout the late eighteenth century to meet the threat of persistent maritime predation and intrusion by foreign powers.

The Declaration of Paris Concerning Maritime Law in 1856 is not simply important in turning the tide against the legitimization of privateering, it is also a turning point in the construction of the ocean going from being lawless, with maritime predators as much wartime foes of the rest of the world as they were criminals, to it instead being governed by an international maritime legal order in which the seas could be regulated. While the Declaration was technically something that only applied to conflicts between signing states, it set an unofficial standard that even non-signing states, such as the United States and Spain, tried to live up to in order to maintain their international standing.

These varying and ambiguous legal construction of the ocean contributed a great deal to the practice of maritime predation and the tension between states in which maritime predators best thrived. This tension stretched from the high reaches of governments to the lowest ranked frontier agents, as can be seen along South China's coast as ambassadors and statesmen battled over competing ideas of maritime sovereignty and law while local officials along the coast attempted to enforce maritime order despite butting heads over what maritime predation was and how it should be dealt with. Another example is how the anti-predation campaigns of the British Empire were at times launched by combinations of local officials and naval officers while the British parliament, admiralty, and especially courts worried about colonial overreach, legal propriety, and the larger political ramifications of local acts. While at times the British central government was brought around to the colonial point of view, as was the case with both Opium Wars, this consensus was largely brought around via intra-imperial negotiation on numerous administrative and spatial levels. Moreover, the maritime legal order the British empire haphazardly constructed relied a great deal on interstate negotiation as well, with both local officials and the central government creating by various means treaties that would sooth over legal ambiguities in regards to maritime spaces and justify anti-maritime predation campaigns alongside other types of maritime law enforcement.

Additionally, the ambiguous spaces that maritime predators thrived in were not just physical and legal ones, but even conceptual ones. For instance, before the Declaration of Paris delegitimized privateering many maritime predators made their fame and fortunes by carefully navigating the conceptual line between "pirate" and "privateer," which was often far thinner and murkier than legal theorists of the time were willing to admit. Furthermore, even after that agreement, there were still often debates about whether maritime predators in service to non-

signatory states, mainly in Southeast Asia but there were other examples such as those who served the Taiping in their rebellion against the Qing, counted as privateers and whether than meant they should be treated any different from self-employed maritime predators. Moreover, both Qing and Western anti-predator operations ran into the issue that it was difficult to tell who was a maritime predator and who was a simple fisherman or small-time merchant armed for self-defense against pirates, since the concept of opportunistic maritime predation meant that one could turn into another at any moment. Only by reconstructing the ocean as a place where the government provided enough security that weapons for self-defense were not needed, and thus regulations put in place to limit and register ship armaments, was this ambiguity eliminated. Even then, maritime predators simply moved into a new ambiguous space between paying customer and dangerous hijacker.

Maritime predator suppression, similar to many other projects of maritime and international law, was in some ways a conceptual ouroboros; international treaties shaped the context in which the discussions between states occurred, yet the treaties themselves arose from the contexts of earlier small scale discussions between officers and agents of those states, and it would be up to those local officers and agents to interpret and implement the treaties in their dealings with one another. As such, the technologies and techniques of communication between states proved to be a key aspect for the reduction of maritime predation of the late nineteenth and early twentieth centuries. Yet those same communication technologies and techniques gave rise to an international system that increasingly demanded uniformity and was hostile to variation. As such, the Qing at this time went through a process of exclusion, justified in the eyes of those doing the excluding for many reasons, from the ethnicity of its inhabitants to its justice system, to its inability to eliminate maritime predation from its waters entirely, regardless of the enormity

of the task and the other issues that prevented the Qing from devoting a great amount of attention or resources to the issue.

Chapter 4: Maritime Predators and International Law in Nineteenth Century Global Public Discourse

While there can be no doubt that treaties, court cases, and laws have had a great impact on the history of the world, such things are most often the result of, rather than the cause of, changes in public attitudes and beliefs.[1110] Before any legal action was debated upon in a place of power, it typically had been analyzed and discussed in thousands of conversations around dinner tables, taverns, coffee shops, tea houses, markets, schools, and any other place where people would gather and converse. Furthermore, after the treaties had been signed and laws passed, public discourse could still have a large effect on exactly how such legalities were implemented in practice, with particularly unpopular laws all but ignored not only by common folk but by officials and administrators who did not think it worth their time to enforce such regulations.

To examine these issues, this chapter first discusses the definition of the term "public discourse" and describes the debate about how broadly applicable the term and its implications can be outside of its original context of early modern Europe and colonial America. Its applicability to nineteenth and twentieth century China is hotly contested; on the one hand there are many differences in the relationship between state, community, and individuals in this context and the context described by Habermas, particularly in regards to official government tolerance of criticism of itself in media and civilian discussions, whereas others have argued that the term is still useful because it was a time and place of vibrant communication and political discussion that, whatever differences in context there may have been, had a similarly important influence on government attitudes and policy in China as it did in the West.

[1110] Benton and Ford, *Rage for* Order, 195-196.

After that, the next three sections discuss how newspapers portrayed incidents of maritime predation to an increasingly global audience, as well as how they portrayed the actions and general character of the governments involved in capturing or killing those maritime predators when such things happened. Some of the important themes of these sections include how reporters discussed or ignored issues of jurisdiction, conflicts between the newspaper ideal of objective reporting vs how sensationalism often distorted the narratives presented by the papers, and how newspapers became increasingly critical of the Qing government for the continued existence of Chinese piracy as time went on. The newspapers articles in question are presented chronologically to better highlight the evolution of how newspapers presented maritime predation and related legal issues over time.

The next section explores pirate narratives in popular literature in this period, including popular history works, captivity narratives, poetry, classic novels, and other fictive or biographical accounts of maritime predators and encounters with them. One thing that is common to many of these tales is an interesting mixture within most narratives of the traditional demonization of maritime predators as forces of chaos and depravity with touches of sympathy or even romantic narratives of maritime predators as truly free people striking back at the conformity and oppression of conventional society. The final section discusses the use of images, both paintings and photographs, to stir the imagination and emotions of the viewers. Many of the images try to make the audience feel proud of the power and justice of government forces crushing maritime predators, while others evoke sympathy for the subjects of the art, yet still often create a sense of emotional distance that allows the viewer to feel superior to the subject in question, twisting sympathy in condescension, and others still shock yet titillate the viewer with depictions of cruelty and violence of a bizarre or exaggerated nature.

The Definition and Use of Public Discourse

The dialectical play between debate and legislation can be imagined by deploying Jürgen Habermas' notion of public discourse. Public discourse is defined by Habermas as the combination of the sites of discourse (such as newspapers), modes of discourse (e.g. "validation by reasoned critique") and communication actors (e.g. the bourgeoisie class), in shaping political, social, and economic systems. According to Habermas, the rise of long distance trade, national markets, and the international exchange of printed news were deeply intertwined, which all took place in the public sphere, which is defined as when private individuals come together to discuss and decide on the general rules governing relations, possibly overriding rules set down by rulers and their legal systems in the process.[1111] Exactly how applicable the idea of the public sphere is to China, especially in the nineteenth and twentieth centuries, is hotly debated. A common position is that it is not applicable at all; that the public sphere is built on the idea of a clear divide between state and society, and that no such divide exists in either the Qing, Republican China, or People's Republic of China; rather state and society blended in ways that made it impossible to tell where one ended and the other began.[1112] While the importance of a growing media to transmit ideas and debates is acknowledged, it is commonly thought that they did not constitute a true public sphere because they lacked institutional protection from state interference, and because they were immediately seen to be, and used as, tools of political mobilization to promote political agendas rather than independent bodies in their own right.[1113]

[1111] Jürgen Habermas, *The Structural Transformation of the Public Sphere: an Inquiry into a Category of Bourgeois Society*, (Cambridge, Massachusetts: MIT Press, 1990), 27, 67-70.
[1112] Sebastian Veg and Edmund W. Cheng, "Alternative Publications, Spaces and Publics: Revisiting the Public Sphere in 20th- and 21st-Century China," *The China Quarterly* 246 (2021): 317.
[1113] Ibid 318.

Philip Huang goes in to more detail, noting that Habermas had two meanings of "public sphere;" the first, and more well known, specifically refers to the "bourgeois public sphere" that arose in France and England during the industrial revolution as a result of social forces drawing a clear line between state and society as well making them opposed to one another, with Habermas making it clear that even in England and France such a divide did not exist in the manorial system before the industrial revolution, and was already on the decline in the nineteenth century "under the twin processes of state intervention in society (statification) and societal assumption of state authority (societalization)."[1114] The second meaning was much broader, consisting of the phenomena of an expanding public realm in the early modern era, such as the "the plebiscitary-acclamatory form of regimented public sphere characterizing dictatorships in highly developed industrial societies"[1115] that Habermas contrasted with the bourgeois public sphere; if the first meaning was too specific to apply to China, this was too broad to apply to China in any meaningful way, especially as Habermas does not describe it in anywhere near the detail that he does the first definition.[1116] Huang also notes that Habermas was as much a moral-philosopher as a sociologist-historian, and so his model of a public sphere was as much an abstract standard to judge what he thought were the social ills of his own time as an attempt to explain the historical processes of the periods he studied.[1117]

Still, Huang believes that there is a core idea that can be very useful when studying China and other non-European societies, that there exists a realm between state and society in which both participate and both are influenced by, which he adapts to the context of the Qing, Republic

[1114] Philip C. C. Huang. "'Public Sphere'/"Civil Society" in China?: The Third Realm between State and Society." *Modern China* 19, no. 2 (1993): 216, 218-219, 238.
[1115] Basically, modern dictatorships controlling public discussion so that the public is constantly in praise of decisions that the ruling elite have already made.
[1116] Ibid 217.
[1117] Ibid 219.

of China, and PRC as the concept of the third realm.[1118] The third realm consists of places where state and society meet, blend, and negotiated with each other; this includes the numerous merchant organizations of the coastal cities, the judicial middle ground between informal mediation and formal court sessions where the magistrate and community would interact with and influence each other.[1119] The third realm was also where unsalaried semiofficial village *paizhang* and township *xiangbao*[1120] who bridged the administrative divide between the county *yamen*, the office of the local magistrate, and the wider populace in nearby population centers.[1121] These semiofficial administrators were chosen by community nomination, confirmed by the government, and filled important duties such as collecting taxes, judicial administration, and in emergencies coordinating relief supplies, water control, and collective defense.[1122] Even as the state bureaucracy expanded downwards and societal engagement expanded upwards in the Republican era after 1911, this only increased the scale and scope of the third realm rather than contract it, though this third realm remained largely rural and local, as opposed to Habermas' national and urban bourgeois public sphere.[1123]

Those who do think that an adapted version of the public sphere model can be applicable in the Chinese context can be divided into three camps.[1124] First, there were those that focused on the third realm, and specifically the growth of gentry management and political mobilization

[1118] Ibid 224.
[1119] Ibid 225-226.
[1120] *Xiangbao* were supposed to be messengers who assisted magistrates by spreading or collecting information. While some acted like this, others used their intermediary status to obtain wealth and power, settling disputes or leading villages. *Xiangbao* generally were responsible for about 20 or so villages in the late Qing, whereas *paizhang* handled a single village or ten households in a larger settlement, and were principally in charge of collecting taxes. Philip C. C. Huang, "Centralized Minimalism: Semiformal Governance by Quasi Officials and Dispute Resolution in China," *Modern China* 34, no. 1 (2008): 11-12, 17-18.
[1121] Huang, "'Public Sphere'/"Civil Society" in China?," 226-227.
[1122] Ibid 227.
[1123] Ibid 230, 232.
[1124] Veg and Cheng, "Alternative Publications, Spaces, and Publics," 318.

after the Taiping war under the Qing's "official oversight, gentry management" (guan du shen ban 官督绅办) arrangement; though it is commonly argued this is more considered "civil society" than public sphere, since it was primarily the realm of the upper class.[1125] Still, others argue that "civil society" is in fact the term more tightly tied to Europe and America in this period, as it covers a wide range of interlinking assumptions such as private property, freedom of speech, and not really present in the Qing until it started adopting European institutions near the end of its existence.[1126] To this group, public sphere better fits what arose among the gentry in this period, driven by a combination of three factors; participation in local affairs was increasingly seen as a something to aspire to rather than a burdensome obligation, a notable increase in overall literacy, and the creation of a hybrid gentry-merchant in many places with their own systems of social and economic support less tied to the state than previous scholar-gentry had been.[1127]

The second camp are those who emphasize the role of foreign concessions, particularly Shanghai and to a lesser extent Hong Kong, in establishing a modern press and media; essentially this new class of journalists and publicists used the press as a "political tool which enabled them to articulate modern political projects, connect public opinion with the notion of people's rights, and open up a "middle realm" of discussion and debate."[1128] The third major group examined pre-modern spaces of public discussion and representation where norms could be questioned or even upended, such as tea houses or opera playhouses; this group also notes such spaces were often repressed and shut down in the name of progress rather than

[1125] Ibid.
[1126] Mary Backus Rankin, "Some observations on a Chinese public sphere," *Modern China* 19, no. 2 (1993): 159, 177-178.
[1127] Ibid 161-162.
[1128] Veg and Cheng, "Alternative Publications, Spaces, and Publics," 318.

supported.[1129] An argument can be made for this last group that the emotions and public sentiments disseminated in small-circulation student or literary journals (*tongren zazhi* 同仁杂志), middlebrow fiction, women's journals, the tabloid press, commercial journals, and entertainment publications had more of an influence in the crystallization of public opinion and mass political mobilization than the highbrow literature of the gentry.[1130] In any case, state control of public discussion was no more absolute than freedom of speech in the late Qing, and there existed a delicate and tenuous balance, always pushed on from both directions, between state control and political mobilization, which led to an increased blurring in the lines between public and private affairs.[1131]

As for scholars attempt to apply the public sphere model outside its intended context of enlightenment era Europe, Sebastian Veg and Edmund Cheng argue that it provides an invaluable link between three strands of scholarship: "history and sociology of the press and media, public opinion, and participative democracy."[1132] Notably, despite the number of different positions there are on the applicability of the specific theory of the public sphere, all agree that the late nineteenth and early twentieth centuries were a time of increasing political participation and activism on the part of the Qing and Republican Chinese populace, driven at least in part by an increase in widely available publications providing venues for the spread of different points of view.[1133]

For an example of how the results of public discourse can overturn law, coastal officials and elites often participated in subverting various Qing bans on maritime trade, particularly the

[1129] Ibid.
[1130] Ibid 319, 322-323.
[1131] Frederic Wakeman Jr, "Boundaries of the public sphere in Ming and Qing China." Daedalus (1998): 181-182.
[1132] Veg and Cheng, "Alternative Publications, Spaces, and Publics," 319-320.
[1133] Ibid 325-326.

lucrative and important silver trade with Japan[1134] in the sixteenth century and later the opium trade in the nineteenth century, which many local leaders saw as vital to their economies, prompting extensive intervention from the central government.[1135] Furthermore, attempts to ban trade with and support for the Zheng's family Kingdom of Tungning on Taiwan were so ineffective that the Qing were only able to enforce it by taking the drastic step of forcibly moving coastal populations inland and leaving the coast barren in 1661, 1664, and 1679, and even this drastic step was not totally effective, requiring further naval operations to cut Tungning off from Southeast Asian trade partners.[1136] On the other hand, while even the strictest of law enforcement failed to curb the opium epidemic, the discourse generated from an anti-opium campaign during the early 20th century in newspapers, temples, guild halls, and public rallies, which often played on nationalistic sentiments that opium weakened the country, succeeded in gathering enough popular support to all but eliminate opium planting and consumption in key areas by 1911.[1137]

The nineteenth and early twentieth centuries stand out as a time of particularly vigorous and energetic public discussions, predominantly in regard to international events, as new technologies such as the telegraph allowed information to spread to an increasingly widespread and diverse audience with unprecedented speed, which had profound political and economic implications, particularly in the Qing's coastal cities.[1138] Furthermore, the combination of the telegraph and the growth of the newspaper industry had a profound ideological impact, as people

[1134] Hang, *Conflict and Commerce in Maritime East Asia*, 29-30, 224.
[1135] Timothy Brook and Bob Tadashi Wakabayashi, "Introduction: Opium's History in China," in Timothy Brook and Bob Tadashi Wakabayashi, *Opium Regimes: China, Britain, and Japan, 1839-1952*, (Berkeley: University of California Press, 2000), 11.
[1136] Xing, *Conflicts and Commerce in Maritime East Asia*, 218-220, 224.
[1137] Judith Wyman, "Opium and the State in Late Qing Sichuan," in *Opium Regimes: China, Britain and Japan, 1839-1952*, Timothy Brook and Bob Tadashi Wakabayashi, eds., (Berkeley: University of California Press, 2000), 221-223.
[1138] Winseck and Pike, *Communication and Empire*, 1-3, 113-115.

throughout the nineteenth century hoped that improved communication infrastructure might at last bring global peace and universal brotherhood.[1139] Amid this discourse, with audiences hungry for excitement and eager to express their opinions, maritime predators captured the public imagination. Sometimes they were romanticized, sometimes treated as a public nuisance, more often portrayed as demonic figures of terror, and yet other times it was a strange mixture of all the above; regardless of the exact portrayal, people were every bit as fascinated with maritime predators in this period as they were during the "Golden Age of Piracy" a century beforehand. In particular, maritime predation in the South China Sea became increasingly central to global discussions of maritime predation, owing both to the decline of maritime predation in many other regions and the area's growing importance as an economic and political arena to those outside the traditional tributary system and Confucian sphere of influence.[1140] This invited a clash of ideas concerning law and international relations as the European "family of nations" diplomacy was forced to deal with the Qing's own family of nations and diplomatic norms, namely having the dynasty ruling over "the Middle Kingdom" act as the head of the family at least in a symbolic fashion if not necessarily in practice, causing mutual misunderstandings and frustrations between the Qing and European states as they could not even agree about how to discuss the issues involved, much less solve them.[1141]

Furthermore, even for those more traditionally involved in the region, its economic and political importance increased during the nineteenth and twentieth centuries, both as a source of danger and of opportunity, making the maritime predators who hunted these waters a public issue beyond those of the traditional maritime merchant and sailor communities. This in part due

[1139] Müller, *Wiring the World*, 3, 6-9, 84-86, 189-190.
[1140] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 473-474.
[1141] Hsü, *China's Entrance into the Family of Nations*, 3-6, 36.

to an increase in the sheer scale of economic activity occurring in the region, particularly in the late nineteenth century where it experienced a growth in sea traffic and shipping rarely rivaled in history; so many ships and crews plied those waters that an industry sprung up to provide constantly updated maps, navigation guides, weather reports, and charts for the region.[1142] The Qing had typically ignored small scale maritime predation so long as it did not threaten state stability; this attitude changed as maritime trade became an increasingly important source of revenue for the state, leading to more comprehensive legal and military measures to counter it.[1143] Similarly, the British government and navy shifted to actively hunting maritime predators who did not directly attack British ships, as trade in the South China Sea and maritime Southeast Asia, particularly around the vital Pearl River Delta region which connected the economic heartland of Southern China with the larger South China Sea area, grew more profitable and British officials and merchants became concerned that maritime predation would reduce potential trade partners, and thus profits.[1144] British public discourse then did much to fuel the British Empire's colonial projects in the South China Sea, with its dubious legality, fragile institutions, and militarism undermining Qing rule and helping fuel the more violent strands of non-state violence, including maritime predation, that worried it in the first place, at least in part to creating an opposing public discourse in these regions that sought any means to oppose imperial encroachment.

Newspapers and Jurisdictional Uncertainties

Newspapers were often at the heart of public discourse during these times, not only providing the public with the information with which to form their opinions but also with a

[1142] Tagliacozzo, "Smuggling in the South China Seas," 144.
[1143] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 477, 484.
[1144] Benton and Ford, *Rage for Order*, 134-135.

vessel in which to express them to an increasingly wide audience. The number of newspapers steadily proliferated, with many created in places and cultures that had not had them before; newspapers such as the *Canton Register* and news heavy magazines such as the *Eastern Western Magazine* popped up along China's coast in the 1830s.[1145] This was in turn part of a larger trend of the increasing prominence of newspapers and other publications in daily life since the 1600s, as well as the spread of the Gutenberg style movable type printing press outside of Europe, though the Gutenberg printer was integrated at different paces in different areas, according to the economic and cultural needs of those places.[1146] In particular, woodblock printing remained the primary method of printing in the time of the Qing's first newspapers, and was still in use for specialized purposes until the end of the Second World War.[1147] The influence of newspapers on both public thought and government policy cannot be overstated, with entire international conflicts being driven by journalism, as is illustrated by the Spanish-American War of 1898; the sensationalist reporting of journalists, such as rising political star Richard Harding Davis, on the Spanish actions in Cuba, rampant speculation about the Spanish role in the Maine disaster, and in general substituting jingoistic opinions to fill in gaps of information, were all major impetuses in the American government's decision to go to war and American public support for that conflict, fitting in with what John Bitton saw as a larger pattern of media driven patriotic belligerence in many states in this time period.[1148]

[1145] Andrea Janku, "The Uses of Genres in the Chinese Press from the Late Qing to the Early Republican Period," in Cynthia Brokaw and Christopher Reed, eds*., From Woodblocks to the Internet: Chinese Publishing and Print Culture in Transition, circa 1800 to 2008*, (Boston: Brill, 2010), 111-113, 153.
[1146] Kai-wing Chow, "Reinventing Gutenberg: Woodblock and Movable-Type Printing in Europe and China," In Sabrina Alcorn Baron, Eric N. Lindquist, Eleanor F. Shevlin, *Agent of Change: Print Culture Studies after Elizabeth L. Eisenstein*, (Amherst: University of Massachusetts Press, 2007): 169-170.
[1147] Jan Kiely, "Spreading the Dharma with Mechanized Press: New Buddhist Print Cultures in the Modern Chinese Print Revolution 1866-1849," in Cynthia Brokaw and Christopher Reed, eds., *From Woodblocks to the Internet: Chinese Publishing and Print Culture in Transition, circa 1800 to 2008*, (Boston: Brill, 2010), 188.
[1148] Britton, *Cables, Crises, and the Press*, 229-231, 336.

Maritime predators were often the subject of heated and intense debate in newspapers, as competing narratives of what constituted "piracy" and what was legitimate maritime violence, to say nothing of what should be done in response to either, came head to head in the headlines and bodies of countless articles and opinion pieces.[1149] For example, furious debate arose over whether the Saribas and Skrang Dayaks targeted by "White Rajah" in 1843 were actually pirates under British law or just victims of Brooke's greed and ambitions, particularly since Brooke had used the South China Squadron under Captain Henry Keppel to do so, and they were supposed to be fighting pirates.[1150] Notably, a key issue of the debate was whether or not the maritime headhunting style of warfare was to be considered "piracy" – Brooke and his supporters argued that it was, and thus the navy had done its duty of protecting British shipping and free trade by launching the attack, but his opponents, most importantly Alexis Chamerovzow who headed an inquiry into the attack and Brooke's actions in Borneo in general, insisted that headhunting was legitimate, if distasteful to British sensibilities, warfare which was practiced just as much by the Dayak groups Brooke ruled as those he fought against, and furthermore there had been no attacks on neutral shipping by the Saribas and Skrang Dayaks.[1151] As such, they concluded it was not to be considered piracy, but rather a local conflict between sovereign territories where the Royal Navy had no business interfering.[1152] Even countries not directly involved in a certain region and the violence therein would weigh in on issues and shape public perception of certain people, places, and events, which could be seen in how American newspapers also commented on the moral and legal issues surrounding the Borneo case. For example, Philadelphia's *The Evening*

[1149] Benton and Ford, *Rage for Order*, 140.
[1150] Ibid 141-143.
[1151] Alexis Chamerovzow, *Borneo Facts versus Borneo Fallacies: An Inquiry into the Alleged Piracies of the Dyaks of Serebas and Sakarran*, 2nd ed., (London: Charles Gilpin, 1851.), 51.
[1152] Ibid 53-55.

Telegram, which notably wrote about the controversy years after the fact, took Brooke's side, singing his praises as the salvation of Borneo and dismissing the charges against him as petty attacks by lesser men.[1153]

Hong Kong quickly became the center of maritime predator related news, seeing as it was a major gathering center of maritime merchants of diverse origins deeply concerned with threats to their profits, a base for the British Royal Navy to deploy from on joint missions against local raiders with its allies, as well as a place for those predators to gather together, obtain information, purchase weapons, and sell loot and hostages.[1154] Newspapers both in English and Chinese such as the *Hong Kong Daily Press*, *China Mail*, *遐邇貫珍* (*Xiaerguanzhen* commonly *Chinese Serial*, literally *Gems from Near and Far*), and *循環日報* (*Xunhuan ribao Universal Circulating Herald*) kept the population informed of the movement and activities of the maritime predators which threatened the city's all-important maritime trade. Other newspapers around the world often quoted Hong Kong publications at length regarding maritime predation along the South China Coast and neighboring islands, as can be seen when *The Argus* printed its report on the campaign against Shap-ng-tsai.[1155] Another example of other newspapers repeating the words of Hong Kong journalists was *The Daily Union and American*'s 1865 report of the predator capture of the steamer *Kossuth*.[1156]

[1153] *The evening telegraph,* (Philadelphia [Pa.]), 24 Nov. 1866. *Chronicling America: Historic American Newspapers.* Lib. of Congress, <http://chroniclingamerica.loc.gov/lccn/sn83025925/1866-11-24/ed-1/seq-11/>.

[1154] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869." 475, 477-478.

[1155] *The Argus (*Melbourne, Vic.: 1848 - 1957) 20 February 1850: 4. Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.

[1156] *Daily union and American*, (Nashville, Tenn.), 28 Dec. 1865, *Chronicling America: Historic American Newspapers*. Lib. of Congress, http://chroniclingamerica.loc.gov/lccn/sn85038519/1865-12-28/ed-1/seq-3/.

One of the earliest Chinese language newspapers to report on the topic of maritime predation, and the earliest Chinese language newspaper in Hong Kong, was *遐邇貫珍* (*Chinese Serial*), whose October 1853 issue, just a few months after the paper's first printing in August of that year, described the history of the Portuguese presence along the Chinese coast, and was highly critical of their role in promoting maritime predation there.[1157] Specifically, it accused them of having engaged in corruption and underhanded dealings to secure trade and build fortresses along the Chinese coast, bringing in large stockpiles of weapons and numerous shady characters that the Portuguese were not interested in governing, instead turning over day-to-day affairs involving such people to Chinese local officials, and even giving shelter to maritime raiders so long as they were able to turn a profit.[1158] Notably, this newspaper went far beyond current events and explained the history of the Portuguese in China going all the way back to the Ming Dynasty centuries earlier.[1159] This is not to say that Chinese language newspapers always went to such lengths, however, as is evident in how the May 18th, 1874 issue of the *循環日報* (*Universal Circulating Herald*) reported that a case of oceangoing robbery happened around Puwan, at the junction of the Guangxi province and Vietnam, without providing much context or commentary beyond the location where the attack occurred.[1160]

English language newspapers in Hong Kong, in contrast, often trended towards a narrative approach in the 1800s, and turned the reports of maritime predation and anti-predator campaigns into chilling tales of terror or thrilling chases and battles. This approach was similar to the literary inspired Qing newspapers that freely mixed subjective opinions and analysis with

[1157] *遐邇貫珍*, 1853-10 = *Hsia Erh Kuan Chen*, HEKC185310, 香港: 英華書院, Page 4, <https://mmis.hkpl.gov.hk/coverpage/>.
[1158] Ibid.
[1159] Ibid.
[1160] *循環日報*, 1874-05-18 = *Tsun Wan Yat Po*, NPTWYP18740518, 香港: Tsun Wan Yat Po, Page 2.

objective fact, in contrast to the more clinical style of newspapers that would arise after 1905.[1161] A clear example of the latter type of narrative was "Destruction of Pirates by the *Grasshopper*" in *Hong Kong Daily Press*, printed August 10th, 1864.[1162] The H.M.S. Grasshopper was a gunship in pursuit of four junks that had been witnessed attacking a trading junk not long beforehand, and in addition to taking the maritime predators prisoner was supposed to rescue crew and prisoners taken from the trader junk.[1163] Not much detail is given on the facts surrounding the circumstances of the hunt, like the nature of the stolen cargo or who owned any of the vessels involved, but the chase and battle is described vividly to the audience.[1164] Similarly vivid is the description of the capture of some of the maritime predators and how they led the *Grasshopper* to a larger prize, a fortified village base, where the *Grasshopper* and its crew destroyed 26 out of 28 armed junks and a substantial fortified arms storehouse, though some 600 maritime predators on the shoreline escaped by fleeing inland.[1165] Afterwards, the articles describes some of the maritime predators, particularly their leader, the former Hong Kong pickpocket named Yow-wing-siug, and notes that they were apparently aware of the operations of the gunboat and hoped to escape it, but were unable to do so.[1166] Their leader still had contacts in Hong Kong and his ships had been sighted there before the attack, suggesting that was how this group knew both of their target and their gunboat enemy, though the article does not long dwell on the implications of that fact.[1167]

[1161] Barbara Mittler, *A Newspaper for China? Power, Identity, and Change in Shanghai's News Media, 1872– 1912*, (Cambridge, MA: Harvard University Asia Center, 2004), 97, 113.
[1162] *Hong Kong Daily Press*, 1864-08-10, NPDP18640810, Hong Kong: Hong Kong Daily Press Ltd, Page 2.
[1163] Ibid.
[1164] Ibid.
[1165] Ibid.
[1166] Ibid.
[1167] Ibid.

Hong Kong journalists' reporting on maritime predation continued into the twentieth century despite the rise of other concerns for populations along the coast and Hong Kong in particular, such as increasing warlordism and the growing territorial ambitions of other imperial powers. For example, the January 28th, 1901 issue of the China Mail contained two articles on the subject "Pirates Captured" and "Europeans Attacked by Pirates: Serious Outrage near Canton," but had no articles on the threats of warlords or imperialists.[1168] The first repeated a report from the January 21st issue of the *North China Daily News* on the capture of a maritime predator junk by an Italian cruiser, unnamed in the article, with said junk having been caught "red-handed" transferring cargo and hostages from a smaller merchant junk it had just attacked.[1169] The Italian cruiser brought the junk and surviving predators to Ningbo for punishment, and Cheng Taotai rewarded the crew with cattle and other goods, executed six of the eleven prisoners, and sent to the rest to Hainan to serve out their punishments near Taizhou, where all the captured predators had come from.[1170] The second article describes an ambush by Chinese maritime predators on a private houseboat in the mouth of a river near Canton, with several of the Europeans and their Chinese servants wounded, and one servant killed – it is notable that while the Europeans had their names and homelands listed, the Chinese largely went without any kind of biographical description.[1171] Additionally, the article includes multiple descriptions of the events from different correspondents, some with great amounts of detail while others were very brief. The article ends by assuring the readers that gunboats had been sent to

[1168] *The China Mail*, 1901-01-28, NPCM19010128, Hong Kong: Geo Murray Bain, Page 2, <https://mmis.hkpl.gov.hk/coverpage/>.
[1169] Ibid.
[1170] Ibid.
[1171] Ibid.

investigate, specifically noting German involvement as one of the victims was Swiss, who were under German protection.[1172]

This highlights another factor of sovereignty and international law during this period, that there was not a clean and clear divide between fully independent states and fully subjugated colonies. Instead, states existed anywhere on a spectrum of relationships, created through treaties, unspoken agreements, and traditions, with highly variable and often fiercely debated rights, privileges, and responsibilities. For instance, the highly ambiguous nature of Britain's "sovereign protector" status in regards to the Ionian Isles caused both internal and international debate, particularly over the degree to which Ionians had the rights and privileges of British subjects.[1173] Similar conflict arose concerning the Chinese residents of Hong Kong, with the local government insisting they had the rights and protections of British subjects, specifically against the reach of the Qing government, while the Qing claimed sovereignty over all people of Chinese descent, particularly in Hong Kong and the treaty ports, as the Qing saw those places as having merely been leased to Europeans, similar to how Macau was leased to the Portuguese with Qing oversight.[1174] Such disputes played a notable role in the Second Opium War, also known as the Arrow War, which was sparked when the Qing arrested some Chinese crewmen on the *Arrow* when it was flying a British flag, the Qing arguing that the British had no right to give out their flag and its protection to a ship crewed by Chinese, even if it had a British captain.[1175] More broadly, while a relatively small number of states had treaties granting their citizens and subjects legal privileges in Qing territories, many of them extended rights to those they saw as

[1172] Ibid.
[1173] Benton and Ford, *Rage for Order*, 105.
[1174] Elleman, "The Taiping Rebellion, Piracy, and the Arrow War," 52-54.
[1175] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast, 1842-1869," 483.

allies and kinsmen, such as the Swiss being under German protection as mentioned above, and with Swedish and Norwegian subjects being represented by an American official in the mixed court system of Shanghai; furthermore, there could be a surprising amount of choice and flexibility in terms of citizenship during the nineteenth century, as can be seen in the case of the merchant Nils Möller, who renounced his Swedish citizenship in favor of being a Qing subject after he felt the Swedish government and their American appointee failed to uphold his interests in court.[1176] Newspapers, however, did not have a clear or consistent view of how to present specific cases of jurisdictional complexities.

In *The China Mail*'s March 21st, 1905 issue, an article entitled "The Last of the Pirate Chiefs: Dying Words of Wisdom" was displayed to the reader before an article on the Russo-Japanese War, when two emerging superpowers sought to take control of the China Sea, commenting that the condemned maritime predator Lam Kwa Se conducted himself with "great decorum" and "at one time, to have delivered his soul to great effect."[1177] Namely, when Lam Kwa Se was being fitted with a second set of iron restraints, he explained to his jailer that it was unnecessary, and if the time, labor, skill, and metal spent on forging "these cruel irons" had been spent on the creation of cannons and other weapons, the Qing could easily resist foreign conquest, and "Nor should I have been compelled to become a robber."[1178] He concludes his argument by stating that "China's sons know how to crush their own race, but don't know how to meet foreign foes."[1179] The article in turn ends with a statement that "this straightforward satire will be read throughout Canton this morning, and the partial truth will be a sting to officials

[1176] Cassel, *Grounds of Judgment*, 3-4.
[1177] *The China Mail*, 1905-03-21, NPCM19050321, Hong Kong: Geo Murray Bain, page 4, <https://mmis.hkpl.gov.hk/coverpage/>.
[1178] Ibid.
[1179] Ibid.

which they will not like," displaying a surprising amount of support for a Chinese maritime predator by an English language newspaper from a center of trade and predator suppression.[1180] The issue also included an article called "The "Iphigenia" and the Pirates," which described the mission of the *Iphigenia* to recover cargo from the wreck of the *Shrewsbury*, a mission which the *Iphigenia* ultimately abandoned when it found several junks already busy salvaging booty from the *Shrewsbury*. The paper subtly criticized the decision, expressing surprise that the captain would give up the opportunity to capture the presumed maritime predators involved or at least take some of their prize, noting that some of the junks were slow and vulnerable from the weight of the loot on board.[1181] This criticism stands in sharp contrast to the sympathy shown to Lam Kwa Se and his last words.

The reason for such a contrast likely lies in the competing ideals of jurisdictional control over territory versus that based on population; namely, while there had long been a widely supported standard that a government had final say over laws and justice within its defined territory, growing nationalist ideals argued instead that a nation, defined more by a common language, culture, and history than pure territory,[1182] had a right to defend "its people" from abuse anywhere, regardless of territorial jurisdiction, and even had the right to intervene on behalf of its subjects against foreign law if that law was itself unjust.[1183] Such attitudes played a part in laying the foundation for extraterritoriality, where Europeans, Americans, and the Japanese could not be tried in Qing territory for a crime by the Qing government alone.

[1180] Ibid.
[1181] Ibid.
[1182] Though in practice governments manufactured linguistic and cultural commonality within their territories through a careful and deliberate process of nation building, in which the emerging field of professional history played a large part. See Kenneth Pomeranz, "Histories for a Less National Age," *American Historical Review* 119, no. 1 (2014): 1-22.
[1183] Chen, *Chinese Law in Imperial Eyes*, 64-65.

Theoretically this meant that they took their local legal rights and protections with them into Qing territory, though in practice it was often messy and situational as the legal apparatuses to deal with extraterritoriality cases were built in an ad hoc manner. The Regina vs George homicide case in 1869 demonstrated that, despite an extensive rewrite of the rules that had taken place a few months beforehand, members of the mixed court were still unsure about the exact jurisdiction and function of the court; when George, an English carpenter, murdered a Chinese coworker, the court quickly found him guilty and sentenced him to death, yet English and Chinese reports on the case describe it very differently from each other.[1184] Specifically the English accounts of the case barely mentioned the Qing officials, it simply described them as having sat on the bench and helped summon witnesses, having played a role similar to English assessors, who sat in on trials to guard the interests of a foreign community.[1185] The Qing description of the case, on the other hand, indicated that those Qing officials thought of themselves as having participated in a joint trial with equal say on the outcome, highlighting the negotiations over the exact nature of George's punishment.[1186]

Furthermore, it should be remembered that European and American imperial powers switched between the two ideas concerning jurisdiction depending on the situational utility of one or the other, so they could both use the threat of force to shield missionaries and their converts from Qing law,[1187] and try to dissuade the Qing from intervening on behalf of Chinese nationals facing discrimination in European controlled territories in Southeast Asia.[1188] Hong Kong would be a particularly thorny issue in this debate since the Qing government saw itself as

[1184] Cassel, *Grounds of Judgment*, 73-74.
[1185] Ibid 75.
[1186] Ibid.
[1187] Koskenniemi, *The Gentle Civilizer of Nations*,112.
[1188] Birgit M. Tremml, "The Global and the Local: Problematic Dynamics of the Triangular Trade in Early Modern Manila," *Journal of World History* 23 (2012): 571.

having jurisdiction over Chinese living in Hong Kong, following the example of Macao, whereas the British metropolitan and local authorities, which had their own disputes over legal jurisdiction in the colony, fought back against this viewpoint and saw the Chinese in Hong Kong as British subjects, with all the legal power that implied.[1189] With these factors in mind, *The China Mail* likely favored Lam Kwa Se's comments because they supported the narrative of Qing incompetence and despotism that contributed to the creation of Hong Kong in the first place, whereas the *Iphigenia's* lack of action against the unlicensed salvagers was seen as ignoring a danger to the people and economy of Hong Kong.

Beyond the coast of the South China Sea, many early reports on the region's maritime predation approached the topic in a rather matter of fact nature, and often focused a great deal on the numbers involved. For example, *The Sydney Gazette and New South Wales Advertiser* issue of November 23rd, 1811 described an engagement of a joint squadron of Portuguese and imperial Chinese ships, supplied with ammunition and other naval supplies by the East India Company, against a group of "ladrones," as local maritime predators were often labeled.[1190] The information is very detailed, with breakdowns given of the number of men and guns carried by each ship in the Portuguese fleet, the size of the allied Qing fleet, the number of landrone ships and men who surrendered at the end of the battle, as well as the much larger number of men, women, ships, and weapons which surrendered themselves to Chinese authorities three days later when a general amnesty was given out for maritime predators.[1191] While more focus was given to the European part of the allied fleet, even though the Qing provided 60 war junks compared to

[1189] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy along the South China Coast, 1842-1869," 477-478.
[1190] *The Sydney Gazette and New South Wales Advertiser* (NSW: 1803 - 1842) 23 November 1811: 2. Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article628368>.
[1191] Ibid.

the 6 ships the Portuguese contributed, the reporting was more balanced than many later reports would be, and there was significantly less skepticism about the strategy of offering amnesty to those willing to surrender to government authority. Indeed, the article over-optimistically declared "thus terminated the system of piracy which has been the scourge of China for the last twenty years."[1192]

It is also worthwhile to compare this report of anti-maritime predation campaign in the waters of China with another report right next to it, describing the capture of an English ship at the hands of French privateers off the coast of Sierra Leone and its subsequent recapture, specifically how despite the differences in scale between the two incidents, there remained an almost formalized framework for negotiation between the predators and their foes that followed the shooting and allowed both to survive, if the victor was far more wealthy at the end.[1193] This demonstrates how the inter-European legal and social frameworks that allowed for legitimate private maritime predation in the form of privateers, even if in practice the difference between "pirate" and "privateer" was slippery at best and nonexistent at worse, allowed maritime predators and their targets to act with more certainty of each other's actions, and thus with less fear on the part of the attacked. In contrast the lack of a shared legal and moral maritime framework often made European conflicts with non-European predators more brutal and violent, and contributed to the widespread dismissal of the applicability of Qing laws and jurisdiction to Qing legal disputes with non-Qing groups, especially in a maritime context.[1194]

[1192] Ibid.
[1193] Ibid
[1194] Ibid.

One particular maritime predator who captured the attention of the world's media was Shap-ng-tsai,[1195] whose threat to both international trade and the very stability of the Qing Dynasty, namely by threatening its grain transport routes that kept much of the empire fed, resulted in a large joint operation in 1850 between the British and Qing Empires' naval forces against his fleet, chasing them down to the coast of the Vietnamese region of Haiphong, where the allied forces received additional support from local troops and fortifications.[1196] This was one of the last large-scale direct military engagements against maritime predators, not just in the South China Sea but anywhere in the world, presaging a general shift in predator tactics from boarding vessels at sea to hijacking them disguised as passengers.[1197] The battles surrounding this naval campaign were widely reported in a detailed manner, as newspapers around the world raced to relay eyewitness accounts of the fighting. The accounts were for the most part quite triumphant in tone, full of hope that the downfall of Shap-ng-tsai's fleet would spell the end for all maritime predation in the region, with praise heaped on the British Royal Navy for making those waters safe for trade.

Although the Qing government, or more specifically the coastal fleet of the local government operating with minimal oversight from the central government, played a large role in the operation and overall contributed more forces to the hunt, reactions to Qing contributions were mixed in English language reports. In some instances, they were almost entirely ignored, with the operation treated as a solo mission by the British forces of Hong Kong. In other instances, their contributions were acknowledged, and they were treated as valuable allies,

[1195] While most names in this work are written in Pinyin, Shap-ng-tsai and Chui Apoo will be referred to by their Wade-Gyles spelling, to be consistent with how those names are written in English language literature about them.
[1196] Chappell, "Maritime Raiding, International Law, and the Suppression of Piracy on the South-China Coast," 481-482.
[1197] Ibid 486.

though attention was still more focused on the contribution of British forces. Finally, some articles were rather critical of the Qing, accusing them of ignoring the issue and allowing maritime predators to control the coast and shipping lanes. As for the maritime predators themselves, while the articles were universal in their glee to see Shap-ng-tsai's forces shattered, surprising twinges of respect for the courage and tenacity of the maritime raiders could be found in multiple articles.

The *South Australian Register*'s February 1st, 1850 issue recounted the operation by printing the report of Commander John Hay, captain of Her Majesty's Sloop *Columbine*, which was sent to Rear Admiral Sir Francis Collier on October the 11th, 1849.[1198] Commander Hay goes into great detail about the hunt, listing the numerous ports they searched for information as they chased the fleet down the coast to Vietnam, repeating tales of destruction and woe he heard from local informants, and describing how he recruited local pilots and junks with fourteen foot draughts in order to counter Shap-ng-tsai's plans to hide in water too shallow and maze-like for European ships to navigate and follow him.[1199] Hay's report describes the engagement in similar detail, noting the exact times important events occurred, such as the explosion of Shap-ng-tsai's flagship at 5:05 on October 20th and the successful blockading of the river by 8 o'clock that day.[1200] He also singled out several individuals he felt preformed with admirable courage or skill in the battle, such as Lt. George Handcock of the paddle steamer *Fury*, which single-handedly took down nine war junks in an hour and twenty minutes.[1201] While still focused on the actions of his own forces, Hay's report does give more credit to the contributions of the Qing naval

[1198] *South Australian Register (Adelaide, SA: 1839 - 1900)* 1 February 1850: 4. Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article38444771>.
[1199] Ibid.
[1200] Ibid.
[1201] Ibid.

forces than most other accounts of the operation. He describes how from the beginning he coordinated information gathering and military planning with the local Qing official and officer Ho who was "in great fear of the pirates, and with a most friendly feeling towards the English nation", how Ho sent eight war junks under the command of Major-General Wong, listing the kill tallies of Qing forces alongside his own, and stating near the end of his report that Wong "proved himself a gallant, active, and efficient ally, and I trust his own Government may reward him for his good services."[1202] Hay similarly credits the local Vietnamese garrison with preventing the maritime predators from fleeing inland and destroying several junks that were chased close to shore.

The issue also presented the Chinese government's point of view by including the report of Commodore Ho, the Acting Naval Commander-in-Chief at the Hainan station, to Governor Bowring of Hong Kong, translated into English by Assistant Chinese Secretary Thomas Francis Wade.[1203] Or, more accurately, what the translator wanted to present as the Qing viewpoint, since the act of translation is never entirely free of bias and subjectivity; in this case Wade was an important architect of Britain's policy and attitudes towards the Qing.[1204] He had influence on Qing policy as well, having helped set up a Qing maritime custom service largely staffed by foreigners, and convinced Qing officials such as Prince Gong of the value of establishing embassies in England and other foreign capitals by pointing out this would give the Qing another source of information besides foreign envoys in China, who might use their control of the information to their advantage.[1205] While Wade did much over his long career, his most consistent priority, beyond advancing said career, was to ensure smooth and continued British

[1202] Ibid.
[1203] Ibid.
[1204] Hsü, *China's Entrance into the Family of Nations: The Diplomatic Phase, 1858-1880*, 157.
[1205] Ibid 177.

trade with the Qing by convincing and coercing them to adopt diplomatic and economic policies in line with the European world order, and as such it is important to remember that he likely translated Ho's report to sell the readership on the benefits of Sino-Anglo cooperation.[1206]

In Ho's report as told by Wade, the mission is portrayed as a mostly Chinese operation, carried out because the maritime predators "had, for some time, been burning and destroying merchant vessels" and Ho feared that they would enter waters near Kung Chau, and "cause trouble therein." Commodore Ho gives an in-depth description of his efforts in gathering the information, consulting with other Qing officials, arming the ships, gathering troops, raising militia, planning the engagements, and setting the timetables, notably fixing the date of October 14th, the 28th of the 8th moon in the Chinese calendar, as "the day which they were to go to sea in quest (of the pirates)."[1207] The British force of two steamers and one warship were described as requesting to join the imperial force in its mission to "exterminate and make prisoners" of the maritime predators.[1208] In contrast to Hay's account, Ho focuses less on the details of the battle, and more on the legal aftermath of the battle, namely the capture of forty eight men, eight women, and six children, some of which he identifies by name, whom he had brought to his city, "examined strictly" and upon receiving their confessions of "their share in several acts of piracy," he "forwarded them to the Provincial City, to be tried and disposed of."[1209] Ho ends his report by informing Bowring that he has given orders to ensure that Shap-ng-tsai will be found, captured, and brought to trial.

[1206] Ibid 178-179.
[1207] *South Australian Register,* (Adelaide, SA: 1839 - 1900), 1 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article38444771>.
[1208] Ibid.
[1209] Ibid.

Finally, the *South Australian Register* also described the build up to the operation by including an exchange of letters sent back and forth between Bowring and Imperial Commissioner Sii concerning the escalation of maritime predation in the region around Hong Kong. Notably, here the friendly relations and cooperative attitudes displayed in the military reports cannot be found, with Bowring taking a hostile and accusatory tone in his messages to Sii.[1210] Bowring opens his first letter on September 20th 1849 by stating he had on several previous occasions advised Sii to be less lenient on acts of maritime predation, but "as long as they remained at a distance and did not interfere with British vessels, I did not consider myself bound to interpose."[1211] With maritime predator attacks coming ever closer to Hong Kong and targeting British shipping and business interests, Bowring felt that "It is clear that your naval authorities have not the power to destroy, or disperse, these marauders."[1212]

Bowring was particularly incensed by the death of two English officers at the hands of Chui Apoo (referred to in this source as Tsu à-pò), a leader in Shap-ng-tsai's forces, complaining that he had written twice before on the subject after the suspect had fled Bowring's jurisdiction into Sii's, and felt that "nothing appears to have been done towards his apprehension." He follows this assertion with an ominous declaration that if in the course of his own attempts to hunt down Tsu "…accidents should happen through ignorance on our part, the blame of these must attach to your Excellency, for not having earlier caused this miscreant to be apprehended."[1213] At this point Bowring backtracks and acknowledges the difficulties of capturing a skilled maritime predator operating with powerful support in favorable terrain, but affirms that he believes "if your Excellency would take the usual steps to secure him, it would be

[1210] Ibid.
[1211] Ibid.
[1212] Ibid.
[1213] Ibid.

in your power to send him to me to be tried and punished."[1214] Bowring further contrasts the Qing lack of substantive gains with the British navy successes against small divisions of Shap-ng-tsai's forces, noting that their actions were supported by local informants and won the praise of the Chinese authorities on the coast.[1215]

The newspaper includes another letter from Bowring to Sii from October 8th, 1849, where he mostly repeats his points, but adds that the maritime raiders are a greater threat to Chinese merchants than British ones, so it is in the best interest of the Qing to cooperate in naval operations, like they did in a recent battle where Chinese forts gave fire support to a British task force, resulting in Chui Apoo being wounded and forced to flee inland.[1216] Finally, he follows this suggestion up with a forceful assertion that he will continue to hunt down these "common enemies of mankind, wherever they are to be found in these waters" regardless of whether Sii cooperates or not.[1217]

The final correspondence included in the paper is Sii's reply on October 11th of that year, with Sii now the "High Commissioner, Governor-General of the Two Kwangs,"[1218] where he does not directly address Bowring's threats and insults, and instead focuses on positive developments and the ways the two countries have worked together on the issue.[1219] He states that his mind is "most anxiously concerned" about the injuries that the officers and men "of your Honorable Nation" had suffered, and proceeds to list some of the actions done by "Civil and Military officers" to aide in the fight. He particularly highlights the bravery of Shin, "the Chief

[1214] *South Australian Register,* (Adelaide, SA: 1839 - 1900), 1 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article38444771>.
[1215] Ibid.
[1216] Ibid.
[1217] Ibid.
[1218] Viceroy of the Two Guangs aka the Viceroy of Liangguang. Person in charge of the modern-day Guangdong, Gaungxi, and Hainan provinces. One of the eight regional viceroys/governors-general/zongdu during the Ming and Qing dynasties.
[1219] Ibid.

Magistrate of this district of Kewi-shen, who worked with military authorities to lead troops and volunteers from the fort of Cheh-tsang" on an attack which sunk three and burned one of the pirate vessels, killing hundreds, with only tens of their own forces wounded.[1220] After listing a few more instances of local forces driving the pirates back to sea to face the British ships, he comments that the deaths of the maritime predators will "...gladden the hearts of all men."[1221] Sii further assured Bowring that he has given orders among civil and military officials to conduct more sweep and destroy operations to wipe the pirates out, and expressed confidence that "Sü-à-pàù (Tsu à-pò)" would not be able to escape far given his condition, and would soon be captured, assuming he was not already dead. Sii ends his correspondence with a wish that "the blessings of the season (autumn) may daily increase to your Excellency."[1222]

Journalistic Tensions between Factual Reporting and Sensationalism

Technology was central to imperialism, particularly the use of superior firepower to assert authority and steamships to consolidate it, both enabling it through the gaps of power it created, and justifying it, as can be seen in a quote by MacGregor Laird listing technology as important as religion and race in asserting Europe's right to rule in European minds.[1223] The effects of such an attitude can be seen in the February 20th 1850 issue of *The Argus*, a newspaper based in Melbourne Victoria, with three articles relevant to maritime predation in the South China Sea; the differences in the tone of their descriptions and the focus of their attention was made all the more apparent by how they were placed side by side with each other.[1224] The first

[1220] Ibid.
[1221] Ibid.
[1222] Ibid.
[1223] Daniel R. Headrick, *The Tools of Empire: Technology and European Imperialism in the Nineteenth Century*, (Oxford University Press, 1981), 11-12, 17, 43.
[1224] *The Argus (Melbourne, Vic.: 1848 - 1957),* 20 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.

was a short and simple description of the death of Rear Admiral Sir Francis Collier, commander-in-chief in the region, whose health had long been in decline even as he fought against non-state maritime predators in the China Sea, for which he had been honored in a celebration by the merchants of Hong Kong.[1225] He had in fact come to Shanghai, as soon as the *Fury* returned from its anti-predation mission, for the sake of his health when his health finally failed him.[1226] The second focused on the contributions of The Peninsular and Oriental Company's steamer *Canton* to an initial skirmish with Shap-ng-tsai's forces. In particular, the fast but unarmed *Canton* worked with the slower but powerful frigate *Columbine*, with the *Canton* towing the *Columbine* to give chase to enemy junks, as well as block off potential escape routes once the *Columbine* engaged in battle.[1227] Finally, the *Canton* carried messages from the *Columbine* as well as seven wounded sailors and the body of Mr. Goddard back to Hong Kong after an incident where a junk blew itself up upon being boarded by marines from the *Columbine*.[1228] While this incident is recorded in other accounts of the battle, only this version focused on the sheer horror of the destruction from an eyewitness account, even if the maritime raiders ultimately killed far more of their own than their enemies. The one surviving pirate they managed to take prisoner pointed the allied Anglo-Qing fleet towards its next target, but as the *Canton* left early, the narration ends just as they decide to blockade Bias Bay and wait for reinforcements rather than engaged the large number of heavily armed junks and forts within the bay.[1229]

The third and final article was by far the longest, and was notable for its extremely emotive and enthusiastic narration of the operation, particularly the actual destruction of Shap-

[1225] Ibid.
[1226] Ibid.
[1227] Ibid.
[1228] Ibid.
[1229] Ibid.

ng-tsai's fleet, which is described in loving detail, with flowery language and abundant metaphors. Its narration is focused on the viewpoint of the man-of-war steamer *Fury*, which joined with the *Columbine* at Bias Bay to help strike a final blow against the last large and organized fleet of maritime predators in the South China Sea.[1230] Everything about the Fury is glorified, from how it "gratified so many" to merely be able to look upon it as it left port, to the power of its 32 inch guns to be able to puncture multiple junks in a row, and its 68-pound gun to be able to do the same and leave the shell with enough strength left to bounce off the shore and into the maritime predator's "strong and well-built houses."[1231] The terrain too was often praised – the author noted the region's many inlets as "beautiful and picturesque spots" even as they allowed the maritime predators to escape pursuit until information from local fishing sampans allowed "hope to return."[1232] However beautiful the terrain may have been on its own, the author evidently felt its beauty was much enhanced by the death of those he saw as pirates and the destruction of their homes and ships, describing the sunset scene in the wake of the largest engagement in Bias Bay as one that was "beautiful in the extreme…one which far surpasses our poor ideas of the picturesque" on account of the wrecked ships making the small bay appear as "a single burning mass," enhanced by the periodic low boom of distant explosions of gunpowder stores aboard the sinking vessels, and the exchange of canons, glowing white hot in the darkening sky from their long use in the day.[1233] He directly compared this scenery to how it looked before, "vomiting forth these "messengers of destruction."[1234] The author's glee at the death of maritime predators was matched only by his outrage and horror at the hypothetical

[1230] *The Argus (Melbourne, Vic.: 1848 - 1957),* 20 February 1850: 4, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article4773618>.
[1231] Ibid.
[1232] Ibid.
[1233] Ibid.
[1234] Ibid.

atrocities missing ship crews might have suffered at their hands, stating that the presence of English gunpowder in the maritime predator base may suggest incidents where none survived to "tell to the world the horrible cruelties enacted by these celestial barbarians, the mere retrospect of which causes all well-regulated minds to shrink with horror."[1235] This was in spite of admitting elsewhere in the article that the high number of modern European weapons and ammunition used by the maritime raiders was more likely openly purchased in Hong Kong, only forty miles from Bias Bay.[1236]

Yet despite this glee at the death of maritime predators and destruction of their ships and weapons, there remained some twinges of sympathy and admiration for the maritime predators, particularly the "cool determination" with which they braved gunfire to rescue their cannons and munitions from their burning vessels and warehouses, actions which the narration states "had it been exerted in a worthier cause, must have excited feelings of wonder and admiration."[1237] It even goes into some depth about the life and personality of a carpenter named Loo-sam, employed by the maritime raiders and captured by the attackers.[1238] That said, these moments are few and fleeting, with the text more often describing the maritime raiders with insulting phrases such as "cunning and overreaching," and stating the crew of the Fury more feared that the pirates would engage in the chicanery of pretending to be simple fishermen armed only for self-defense than that they would fight, a fear that was "pleasantly dispelled" by them opening fire.[1239] Something notably missing from the account is any mention of the Qing fleet that fought alongside the British against the maritime predators. Indeed, the author makes it clear they

[1235] Ibid.
[1236] Ibid.
[1237] Ibid.
[1238] Ibid.
[1239] Ibid.

believe that "were the Chinese a race of beings to whom appeals to their sense were possible" they would appreciate how the British, considered by the Chinese to be barbarians, risked their lives, and spent thousands of dollars to remove a force that was a greater threat to Chinese trade than their own.[1240]

Another newspaper that reported on the incident was the *Bathurst Free Press*, a New South Wales based paper whose March 9th, 1850 issue, which used information provided by the bi-monthly mail from Galle, was one of the more opinionated descriptions of the battle against Shap-ng-tsai.[1241] In particular, it was viciously critical of the Qing Dynasty's response, or lack thereof, to the growth of the maritime predator problem prior to the events described, stating that "The Chinese are under deep obligations; and notwithstanding the deceit and misrepresentation of their rulers, the people know it, particularly on the west coast."[1242] In fact, the article barely bothers to distinguish between the maritime raiders and the Qing government, referring to both as simply "the Chinese."[1243] While describing the events as a series of "dashing affairs," it was also more pessimistic than most other articles, noting that while Macao had been quiet since the battle, the danger was not totally gone, pointing to recent events that had removed all doubt about "the report that the Viceroy Seu[1244] offered the pirate chief high rank if he would join the government with his fleet." This was of concern since no one had confirmed that any dead body belonged to "the formerly dreaded pirate chief" Shap-ng-tsai; the article notes that members of the expedition were convinced he was either killed with his body lost or had been forced onto land without support where Vietnamese troops could catch him, but the author still expressed

[1240] Ibid.
[1241] *Bathurst Free Press,* (NSW : 1849 - 1851), 9 March 1850: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article62215928>.
[1242] Ibid.
[1243] Ibid.
[1244] Xu Guangjin, Viceroy of Liangguang from 1848 to 1852.

concern that there was lack of confirmation.[1245] Indeed, later Shap-ng-tsai would turn up alive and enter into Qing service, though there is no evidence of him being a continued threat to trade.[1246]

Despite these concerns, the author of the article still expressed respect for the courage some of the maritime predators demonstrated, and highlighted an incident in which the sloop *Pilot* engaged in a broadside duel with some junks. He stated that every time a helmsmen fell on a predator junk another took his place without hesitation, and "one fellow had three or four shots before he gave up the tiller – he did not relinquish his grasp until a limb was shattered and musket ball passed through his neck."[1247] Finally, the article placed special emphasis on the importance of technology, especially cannons and other artillery, noting that it was the new American and European made guns in their junks and forts that had made the maritime predators so brash and confident in their attacks, but were in turn unprepared for "the terrific effect of the 84 pound hollow shot" and that even most Europeans did not appreciate "the perfect accuracy with which these missiles can be projected, and the dreadful havoc committed when they burst."[1248] There is a sense of unease at the use of relatively modern artillery at the hands of non-Europeans, especially maritime predators instead of a government that had obtained them from a European state and thus could be influenced that way, but the article reassures the reader that the British navy still has more advanced weapons to protect their rights and interests. Additionally, though the Bathurst Free Press does not mention it, it is important to remember that the technology of newspaper printing and telegraph cables used to create the article were potent tools

[1245] Ibid.
[1246] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482.
[1247] *Bathurst Free Press* (NSW: 1849 - 1851), 9 March 1850: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article62215928>.
[1248] Ibid.

of imperialism as well, allowing the empires of the time to keep an eye on far flung possessions and stamp out problems before they became threats, albeit they were tools that could be subverted and utilized by anti-imperialist factions.[1249]

While the downfall of Shap-ng-tsai was one of the most widely reported stories involving maritime predators of the South China Sea, reporting on the topic did not stop with his defeat. French newspapers in 1854, for example, swiftly took note of the kidnapping of a French woman named Fanny Loviot at the hands of maritime predators while she had been traveling in the region on a business trip.[1250] On the 20th of December, 1854, for instance, *La Presse* published information it had received in a letter from Hong Kong concerning what it called a little "*drame maritime*," describing how the Chilian ship *Caldera* was captured by maritime predators after having been damaged in a storm, before fleeing from a second force of armed junks looking to dispute the prize, as well as the predators attempts to ransom the *Caldera*'s passengers, and the passengers subsequent rescue by a steamer from Hong Kong.[1251] Special attention is paid to Mademoiselle Loviot, with much of the article being an extended quote from her, the only person involved to be quoted. Otherwise, the article is brief and to the point without much commentary, with the exception of the last sentence which speculates and hopes that "an expedition will soon be fitted out against these assassins and their haunts."[1252] *La Presse* also made sure to update its readers on Loviot's return to France in its December 30th issue of that year.[1253] The *Moniteur* provides more details about the larger context of the incident in its January 20th, 1855 issue, identifying the maritime predators involved as those based on the isle of

[1249] Headrick, *The Invisible Weapon*, 1, 272-274.
[1250] Fanny Loviot & Amelia Ann Blanford Edwards - [Translator], *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, originally published – (Farringdon Street: Geo. Routledge & Co., 1858), 141-144.
[1251] Ibid 141-142.
[1252] Ibid.
[1253] Ibid 142.

Symoug, near Macao, and described the mopping up operations conducted against the maritime predators after the rescue.[1254] Interestingly, the article specifically praises the good conduct of the soldiers involved as well as their bravery, whereas in her published account Loviot was taken aback by how bloodthirsty some of the soldiers were, and that there was dissent among the marines over whether some had been too brutal in their operations.[1255] Finally, on February 12th, 1855 *La Patrie* published another account of the incident, this time placing emphasis on how the French Vice-consul in Hong Kong coordinated with English forces to rescue Loviot from the maritime predators, whom it openly referred to as monsters.[1256] It is worth noting that the French press never refers to the captured Chinese passenger, Than-Sing, by name, only mentioning him as "the Chinese" whereas Fanny herself considered him a dear friend and referred to him by name often in her own account.[1257]

The May 12th 1856 issue of *The Hobarton Mercury* is notably upfront about why it is writing about campaigns against maritime predators in the China Sea, as the article is written based off of dispatches sent by Admiral Stirling with the explicit intention of demonstrating that the officers and crew under his command were "not deficient in dash and enterprise when they have the opportunity of gaining distinction."[1258] Specifically, Stirling wished to improve the public perception of his squadron after it was humiliated in an incident in the Japanese Sea, Castries Bay, when they missed a chance to destroy Russian naval power in the region and allowed a Russian fleet to escape.[1259] To counter any charges of cowardice and incompetence,

[1254] Ibid 143-143.
[1255] Ibid 130, 143.
[1256] Ibid 142-44.
[1257] Ibid 141-144.
[1258] *The Hobarton Mercury (Tas.: 1854 - 1857),* 12 May 1856: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article3338157>.
[1259] Ibid.

Stirling describes instances where his officers and men displayed acts of skill and bravery, charging headfirst into overwhelming fire from fortified batteries in the course of their operations against maritime predators.[1260]

At this point in the article, the writing goes on to pay the predators many compliments, if only to increase the squadron's glory for defeating then, stating while "the enemies who have been vanquished were but Chinese pirates, but these are no despicable foes."[1261] The phrase "but Chinese pirates" may seem strange given their continued survival in the face of multi-national opposition and Stirling's own glory seeking motives, but his target audience would likely be aware of the vast difference in firepower between any government fleet and their non-government force at this stage, with even the destruction of Shap-ng-tsai's fleet described as more an "indiscriminate slaughter" than a battle.[1262] Furthermore, Stirling clearly expects his audience to have a racist view of the Chinese as a timid, unmartial people, as he goes out of his way to describe the maritime predators of the region as a breed apart from most of the region's inhabitants. Stirling particularly compares them favorably to the Qing fleet and its mariners faced by the British in earlier conflicts, which were by Stirling's admission more important, describing them as "the Vikings of the eastern seas" and saying they were to most Chinese sailors what "the warlike hosts of Punjab…were to the puny and effeminate population of Southern India."[1263] He notes that the recent disturbances in the Qing Empire had increased the maritime predator's numbers and boldness, as well as their expectations of gaining immunity for their actions, but also that they had long been a power in the region, and even at the height of its

[1260] Ibid.
[1261] Ibid.
[1262] *Bathurst Free Press, (NSW: 1849 - 1851*), 9 March 1850: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article62215928>.
[1263] *The Hobarton Mercury, (Tas.: 1854 - 1857),* 12 May 1856: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article3338157>.

power the Qing could not vanquish them entirely.[1264] Stirling uses this as a jumping off point to briefly explain the history of Chinese maritime predators to an audience most likely unfamiliar with it, highlighting the vast size and strength they could reach at their heights, and the way their well-organized fleets "levied war, made peace, concluded treaties, and organized rebellion and piracy almost into the semblance of a recognized power."[1265] He drives home their power by comparing them to maritime predators the readers would be more familiar with, stating that "Never did the black flag sweep into the seas in a more complete manner, not even in the hands of Kidd and his fellows of the Jamaican Seas, than it has done in the hands of Chinese pirates."[1266] This somewhat grandiose view of the maritime predators of the South China Sea stands in contrast to Chinese language reporting, which mostly saw them as a nuisance to trade; albeit those newspapers were aimed at a middle and upper class coastal audience involved in maritime trade, the group most opposed to maritime predation.[1267]

Still, the point of the article was to glorify the British fleet rather than maritime predators, so while he states that the Chinese maritime predators would have been impossible to defeat if they had limited their attacks to other Chinese, comparing a merchant junk's attempts at self-defense to "a door fowl fighting a hawk," and makes it plain that their attacks on British vessels had sealed their fates by bringing them into confrontation with the Royal Navy; their cunning and bravery made them a challenging prize, but not an equal foe.[1268] He then uses this idea to transition into a discussion of the importance of international efforts to enforce maritime order,

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[1264] Ibid.
[1265] Ibid.
[1266] Ibid.
[1267] *遐邇貫珍, 1856-01 = Hsia Erh Kuan Chen*, HEKC185601, 香港: 英華書院, Page 7, <https://mmis.hkpl.gov.hk/coverpage/>.
[1268] *The Hobarton Mercury, (Tas.: 1854 - 1857),* 12 May 1856: 3, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article3338157>.

as the British government saw it, and defend against those who threatened maritime trade, according to how the British government defined legitimate trade and threats to it. He notes that the maritime predators' indiscriminate attacks against the ships of other lands brought a unified front of powerful fleets against them, with Stirling taking time to thank the United States in particular for its efforts to suppress threats to international trade.[1269] He highlights two engagements as testaments to the power of an Anglo-American alliance against armed anglers of ships; one where Captain Fellowes of the *Rattler* was joined by a volunteer force under Captain McCluney of the United States Navy the July of the previous year, to defeat a force of 34 junks lead by 9 heavy war junks with 130 guns and 1000 crewmen between them, and another engagement on August 7th of that year where Captain Vansittart's operations in the Bay of Leotung, supported by US marines from the frigate *Macedon*, saw the destruction of another formidable maritime predator force.[1270] At this point Stirling moves on to a secondary objective of the dispatches he has sent; to plead the case for the United States to work together against Russia as they had against maritime predators in the waters off of China, seeing Russia's actions as a similar common threat, though he does not explain why that is so. He ends the article with the statement that "The present war of the Western Powers against Russia is essentially an attempt to put down piracy on the largest and most formidable scale."[1271]

The Opium Wars and Public Discussion of Foreign Relations

On the 29th of October, 1859 *The New York Herald* published an article that was critical of Britain's actions in both the Opium Wars and in managing Hong Kong, and described British actions in the South China Seas as a major contributor to maritime predation in the region rather

[1269] Ibid.
[1270] Ibid.
[1271] Ibid.

than a counter to it.[1272] Specifically, in the European affairs of the paper, the *Herald*'s London correspondence opens on a conciliatory tone, expressing a desire for the United States and Great Britain to peacefully resolve their dispute over the colony of St. Juan along the US-Canda border, better known today as the Pig War, but quickly shifts to a more critical angle, noting that while many believed a conflict between these countries was impossible, those people gravely underestimated the powerful combination of filibustering and "incarnate, oligarchic stupidity, obstinacy, and malignity may do" when national pride is involved.[1273] The author directly compares the situation with how "Sir John Bowring plunged Great Britain into an unjust, wicked, and discreditable war with the Chinese" with the support of Lord Palmerston, the British Prime Minister (1859-1865) who was famous for his expansion of the British Empire.[1274]

This was in turn used to discuss Bowring's more recent actions in Hong Kong, portrayed in this article as a wretched hive of scum and villainy where everything was for sale, and "where British authority and Chinese piracy traded in close partnership," particularly the escalating legal and political conflict between Bowring and Hong Kong's recalled Attorney General, Chisholm Anstey.[1275] Anstey is more sympathetically portrayed in the text than Bowring, described as a "dragon of virtue, a monster of morality, against whom all combined" who was determined to bring Bowring to justice for his many crimes.[1276] Though the London correspondent was cynical about there being any chance of real change, bluntly stating that the "the British government hates zeal and honesty," some of the charges Anstey brought up were sure to cause massive political scandal in the correspondent's opinion. Most important was Anstey's revelation that the

[1272] *The New York Herald*, (New York [N.Y.]), 29 Oct. 1859. *Chronicling America: Historic American Newspapers,* Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn83030313/1859-10-29/ed-1/seq-8/.
[1273] Ibid.
[1274] Ibid.
[1275] Ibid.
[1276] Ibid.

lorcha known as the *Arrow*, a ship so central to the Second Opium War that it is also known as the Arrow War, "was a pirate, owned by a man whom he himself, Anstey, indicted and caused to be punished at Hong Kong."[1277]

These opinions were not as unusual as they first appear, as contrary to the common view of a united European mindset determined on imperialism and invading the Qing, both Opium Wars were decidedly controversial conflicts, particularly as both were sparked by relatively minor issues that were used to push for resolution of other, long standing disputes; the first Opium War started with the seizure of opium by Qing officials as part of an anti-smuggling campaign, and the second with the arrest of twelve Qing sailors flying a British flag under a British captain on charges of piracy, all but two of whom were eventually released. The actual British goals in both conflicts were to establish more favorable trade relations and gain more political influence with the central Qing government, particularly out of fear that Russia might do so instead after the Crimean War.[1278] In fact, the very name "opium war" was coined by opponents of the first conflict, who viewed the idea of fighting for opium disgraceful, whereas supporters of the conflict tried to distance the war from opium, instead framing the issue as an insult to British pride and a threat to British property, while leaving out that the property in question was opium.[1279]

The second war in turn caused no small amount of controversy both over the morality of what opponents saw as a violation of Qing sovereignty, and over Lord Elgin exceeding his mandate by trying to force the Qing to allow embassies in Beijing and adopt other elements of a

[1277] Ibid.
[1278] Hsü, *China's Entrance into the Family of Nations*, 21. The Crimean War (1853-1856) was a far fought by Russia against the Ottoman Empire and its allies, such as Britain and France, primarily in Crimea but with fears that the war could extend elsewhere, especially East Asia where Russia was expanding.
[1279] Chen, *Chinese Law in Imperial Eyes*, 212-215.

western styled, nation-state based system of diplomacy, rather than focusing on the commercial rights that parliament was interested in, particularly after a humiliating defeat of the British at the Taku forts.[1280] In fact, the official demands for an embassy were originally included specifically so that they could be bargained away for commercial concessions, yet Elgin was disgusted with what he saw as the corrupt reasons for the war and instead focused on those diplomatic concessions, which he felt would be best for China as well as Britain in the long run, even when Qing officials were offering the commercial concessions to avoid the diplomatic ones.[1281] Envoys from other states joined in Elgin's expedition to the Qing interior and also wanted direct diplomatic access to Beijing, but disagreements about Elgin's methods and differences in their objectives, such as the French delegation favoring missionary objectives over trade and the US mainly not wanting to get left behind and locked out by the others, meant they butted heads with each other frequently.[1282]

Furthermore, even those who supported the war in principle questioned the wisdom of waging war on the Qing while they were engaged in a life or death struggle with the Taiping, who most feared would be more hostile to outside commercial and political interests than the Qing; Elgin himself feared this outcome and thus resolved to finish the war as quickly as possible to avoid the possibility of a collapse.[1283] There was also the matter of Elgin's reputation as a leader coming under question the longer the conflict was drawn out; for instance the *Times* wrote a scathing article criticizing his decision to hold and wait in Canton with too small a force, waiting for reinforcements that could not be spared, wasting time and lives for "the pedantry of

[1280] Hsü, *China's Entrance into the Family of Nations: The Diplomatic Phase, 1858-1880*, 22, 94-98.
[1281] Ibid 24-25, 46-47, 77, 83.
[1282] Ibid 26-31, 41, 86-88.
[1283] Fogel, *Maiden Voyage*, 146.

diplomacy" rather than striking at the Qing capital right away.[1284] English language newspapers around the world contributed to this fear, and portrayed every act of maritime predation as another harbinger of the chaos that would arise with the collapse of the Qing.

The December 28th, 1865 issue of the *Daily Union and American* based in Nashville Tennessee reported a story from Hong Kong that the steamer *Kossuth* had been captured by maritime predators while traveling from Shanghai, and declared that this demonstrated that piracy in Chinese waters was on the rise.[1285] Next to this short and simple description on an act of maritime predation were the accounts of a number of attacks by non-state forces across China, such as the force of "banditti cavalry" that ravaged the region southwest of Beijing with a troop of "180 mounted Rancheros" who raided within 200 miles of the capital and escaped pursuit.[1286] Overall, the article depicts a bleak vision of a China torn asunder, despite noting that the last rebel stronghold in the Guangxi province had fallen with their forces in retreat, particularly since a force of Muslim rebels had been massacred to the man after surrendering.[1287] Some commentary is also provided, with a declaration that the Qing's foreign relations were "quite out of joint" with the problem being "the modern worshiping policy which characterized the career of Sir F. Bruce."[1288] No elaboration is provided, so it was assumed on the author's part that any interested reader would be familiar with Sir Bruce's policies and why they had contributed to disaster.[1289]

[1284] Graham, *The China Station*, 329.
[1285] *Daily union and American*, (Nashville, Tenn.), 28 Dec. 1865, *Chronicling America: Historic American Newspapers*. Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn85038519/1865-12-28/ed-1/seq-3/.
[1286] Ibid.
[1287] Ibid.
[1288] Ibid.
[1289] Ibid.

The *South Australian Register* issue of May 17th, 1879 was rather terse on the subject, simply stating under a headline of "Piracy in the Chinese Seas" that "Piracy is Prevalent in the China Seas."[1290] Despite this frugality of verbiage, even in comparison with the other short updates of world affairs in its section, the mention is still noteworthy, as it was deemed important enough to send by means of a special submarine cable.[1291] Furthermore, the news that maritime predation was on the rise in the China Sea was deemed worthy to be included alongside such important international events as the progress of the Zulu War and a conflict between Chili and Peru, which speaks volumes of how concerned Australian readership might be to any threats to trade in the region.[1292]

The *Omaha Daily Bee*'s issue of April 3rd, 1887 took a notably hostile tone, being openly contemptuous of both the South China Sea maritime predators and the local authorities who failed to suppress them.[1293] The article on the issue of maritime predation in the China Sea opens with an assertion that maritime predation had not been seen in European controlled waters in any serious ways since "the early period of Marryat and Cooper" who at the "beginning of the present century" infested the seas and carried on "their merciless business of butchery and plunder."[1294] The author contrasts this with the persistence of maritime predation around China in the modern day, stating "Our brethren in the Celestial empire, however, are slow to remove evils, and piracy with them seems to die hard."[1295] He attributes a part of the survival of maritime predation in the region to the terrain, which he called a "happy hunting ground" for that

[1290] *South Australian Register, (Adelaide, SA: 1839 - 1900),* 17 May 1879: 5, Web. 20 Oct 2018 <http://nla.gov.au/nla.news-article42975714>.
[1291] Ibid.
[1292] Ibid.
[1293] *Omaha daily bee*, (Omaha [Neb.]), 03 April 1887, *Chronicling America: Historic American Newspapers,* Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn99021999/1887-04-03/ed-1/seq-12/.
[1294] Ibid.
[1295] Ibid.

profession; shallow waters with strong currents flow between countless islands with hidden coves and wooded creeks, easily allowing pirates to wait in ambush for merchant ships or flee pursuit.[1296] Worse, when it was not Monsoon season, the region was prone to calm and dead headwinds that could last for days, which forced sailing ships to anchor close to islands lest they be swept out to sea by strong currents, making them easy targets for maritime predators lurking around the islands.[1297] However, it is clear that the author thinks the larger problem lies with what he perceives to be the cowardice and incompetence of the Qing military; he states that while Chinese maritime predators are "abject coward[s] where Europeans are concerned" small numbers of them can terrorize large stretches of the Chinese coast.[1298] To support his claim, the author cites several incidents whereupon maritime predators proved disproportionately powerful, such as an incident where a small number of junks with a single two-pounder gun between them was able to successfully blockade a port city of four thousand souls, or when a maritime predator force of five hundred managed to hold off a local force of forty war junks and fifteen hundred men, only to surrender to a single small gunboat and its 20 to 30 blue jackets.[1299]

It is worth noting that the author does not provide any details about the specific places, times, or individuals involved, making it difficult to follow up on the veracity of his claims.[1300] Furthermore, it is likely that the heavily racialized contempt the author showed towards the Chinese in his article, maritime predators or not, was part of a larger trend of racialized politics described by Marilyn Lake in her work "From Mississippi to Melbourne via Natal," which was

[1296] Ibid.
[1297] Ibid.
[1298] Ibid.
[1299] Ibid.
[1300] Ibid.

based on a transitional identity of white brotherhood.[1301] There were especially strong ties between English speaking parts of the world, at this time in response to the increasing use of ideals of equality and self-determination to challenge colonialism.[1302] Many in this sphere were both sure of their right to rule, and unnerved at the possibility of that being challenged, leading into an increasing amount of time and energy being put into a transnational public discourse which would create a racialist view of the world with white countries on top of it.[1303]

The *Sacramento Daily Record-union* comments on maritime predators much more briefly in its February 13th, 1890 issue, relaying information it received directly from Hong Kong sent on January 25th of that year, and from a report by the *North China Daily News*.[1304] It simply notes that there had been an attack on a junk on January 12th of that year, resulting in the death of the junk's captain and three of the crew.[1305] The article instead spends more space describing the ambitions of the "young emperor," the Guangxu Emperor who goes unnamed in the article, to deal with government abuses and inefficiency; he censured the Beijing police force for their corruption, had them close down the opium shops and gambling dens, insisted that Viceroys effect retrenchments, and closed several sinecure boards.[1306] It also briefly mentions the opening of a paper mill that used foreign machinery only ten miles from Canton, highlighting English language media's interest in the industrialization of the Chinese economy.[1307]

[1301] Marilyn Lake, "From Mississippi to Melbourne via Natal: the invention of the literacy test as a technology of racial exclusion," in Ann Curthoys and Marilyn Lake, *Connected Worlds: History in Transnational Perspective*, (Canberra: ANU E Press, 2006), 210-212.
[1302] Ibid.
[1303] Ibid.
[1304] *Sacramento daily record-union*, (Sacramento [Calif.]), 13 Feb. 1890, *Chronicling America: Historic American Newspapers*, Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn82014381/1890-02-13/ed-1/seq-1/.
[1305] Ibid.
[1306] Ibid.
[1307] Ibid.

The January 13th, 1891 issue of *the Hawaiian Gazette* clearly demonstrated just how effective new maritime predator tactics could be, even against armed and armored steamships, much to the alarm of English speaking journalists.[1308] Recounting in shortened form a report from the *Hong Kong Daily Press* on December 18th the previous year, *the Hawaiian gazette* tells the tale of the British steamer *Namoa* which left Hong Kong on December 17th carrying a general cargo, five European passengers, and two hundred and fifty Chinese passengers, of which fifty to sixty of them turned out to be "a well-organized band of pirates."[1309] Most of the other Chinese passengers were returning to their home towns and villages after years of working in California or the Straits Settlements, collectively carrying with them a considerable sum in the form of the savings they had accumulated with their overseas labor; this provided the maritime marauders with both a target, and a way to board on mass without arousing suspicion.[1310] Neither passengers nor crew had any expectation of trouble, and the retelling notes the dramatic irony of an incident where a passenger commented on the weapons stored on the companionway to the captain, and the captain replied with a smile that they were relics of the past – that the ship used to need to defend itself from attack, but those days were passed. This irony is further highlighted by the narration bluntly stating that he would be dying within the hour of uttering those words, fatally shot by a threat he believed to no longer existed.[1311]

Five hours into the trip and forty to fifty miles from Hong Kong, the European passengers gathered with the captain and other officers to have lunch, some of which noticed Chinese passengers gathering in small groups, each with a cigar, but it was only after the incident and

[1308] *The Hawaiian gazette,* (Honolulu [Oahu, Hawaii]), 13 Jan. 1891, *Chronicling America: Historic American Newspapers*, Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn83025121/1891-01-13/ed-1/seq-2/.
[1309] Ibid.
[1310] Ibid.
[1311] Ibid.

some reflection that they realized that the cigar most likely served as a badge of recognition for the hijackers.[1312] The attack is portrayed as occurring with utter ruthlessness and efficiency, devoid of any romanticized daring highlighted in earlier incidents. The attackers split into four groups, each armed with revolvers, swiftly and simultaneously targeting the officer and engineer's saloon in the fore part of the ship, bridge, engineering room, and aft saloon.[1313] They also proved to be terrifyingly quick to violence; an older gentlemen taking his lunch on the deck because he was feeling unwell was shot in the head four times, while at the same time the quartermaster in the bridge was killed and his body thrown into the sea. They even slew the captain after promising he would not be hurt if he cooperated with the robbery, and opened fire on passengers in the saloon with guns and stinkpots, though in this case the passengers were able to retreat to their cabins and none were hit.[1314] Four more people would be shot by the maritime raiders "in mere wantonness" though again none died of their injuries.[1315] The only ones spared attack were the engineers who were instead forced to keep the ship running and the crewmen forced to rummage through the luggage of the passengers for valuables.[1316] Ironically, it was one of the engineers who managed to give the maritime predators their only casualty by retrieving his gun and using it to kill one of the hijackers.[1317]

It is also notable how mysteriously the attackers are portrayed; while maritime predators such as Shap-ng-tsai, Ching Shih, and Koxinga were well known figures, not a single one of the maritime predators is identified, nor is any information known about their base of operations, or how they came about their information. The only thing that is clear is that they were part of a

[1312] Ibid.
[1313] Ibid.
[1314] Ibid.
[1315] Ibid.
[1316] Ibid.
[1317] Ibid.

larger network, as after night fell they returned to the spot off Pinghoi where the attack initially began, put out the lights, and signaled with a whistle, which was responded to by a light from the shore and the arrival of four junks from out of the gloom.[1318] They then let go the anchor, smashed the bowlights, disabled the windlass, stove all the boats, put out the fires, and made the crew transfer the cargo over to the junks, and by 8 o'clock the junks and the maritime predators they had born vanished into the night, taking with them over $50,000 worth of goods.[1319] The article ends by describing the return trip to Hong Kong, during which the lack of working lights resulted in the steamer accidentally running over a junk, which everyone onboard "devoutly hoped it was one of the pirates."[1320]

As the nineteenth century came to a close and the last imperial dynasty of China neared its final decade, the subject of maritime predation in the region was increasingly tied with the question of China's future in the family of nations, as is clearly illustrated by a pair of issues from *The Pacific Commercial Advertiser* of Honolulu around that time period. In their July 11th 1899 issue, the *Advertiser* published an article entitled "the Breakup of China," based on and citing a book of the same name written by Lord Charles Beresford and published by Harper & Brothers.[1321] The article confidently declares it to be the most important book ever written on the then current situation with the Qing, since "it is the work of a man who understands the situation, and used no diplomacy in his interviews with the Chinese."[1322] It claims that Lord Beresford had advised the Chinese government on how best to centralize its bureaucracy and

[1318] Ibid.
[1319] Ibid.
[1320] Ibid.
[1321] *The Pacific commercial advertiser,* (Honolulu, Hawaiian Islands), 11 July 1899, *Chronicling America: Historic American Newspapers,* Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn85047084/1899-07-11/ed-1/seq-4/.
[1322] Ibid.

military as well as engage in economic reform to achieve its potential as a world power, arguing that it was worth the risk of China being able to challenge Great Britain as a naval power because it would halt Russia's ambition's in the region, and preserve trade.[1323] Since the Qing government was unwilling or unable to follow the advice, however, Beresford argued that it was now necessary to make China a "Grand Protectorate" of Great Britain, the United States, and Germany in order to accomplish those goals, and enforce China's existing laws and treaties. Of the numerous problems that Beresford cites in order to make the case that the Qing were no longer capable of managing their own affairs, one of the most important was the continued, and indeed even increasing, threat of maritime predation to international trade, as brought to his attention by the Chinese merchant community of Hong Kong.[1324] He states that these acts of maritime predation and the lackluster response of local officials "prove conclusively that the administration of the laws is utterly demoralized, and that only a thorough and radical reform is necessary."[1325] He goes on to bluntly state that "Foreign nations will insist on trading with China, but they will also insist that if their trade cannot be protected through illegal taxation and piracy, there must be intervention."[1326]

This was not a novel sentiment. As far back as the 1600s, political philosophers such as Hugo Grotius had argued that there was an absolute right to the freedom of maritime trade and travel which could be enforced through violence, though he was advocating for certain kinds of limited maritime predation rather than for its eradication, and did not favor Europeans over others; in fact he had researched non-European law as well when formulating what he saw as a

[1323] Ibid.
[1324] Ibid.
[1325] Ibid.
[1326] Ibid.

natural law, above any state.[1327] Still, the centrality of free trade in the world order imagined by imperial states only grew throughout the nineteenth century, as has been attested to by many historians. For example, Martti Koskenniemi argued that the European positivists of the late nineteenth and early twentieth centuries "saw themselves as arguing against the egoistic policies of States and in favor of integration, free trade, and the international regulation of many aspects of domestic society, including human rights."[1328] He also notes that many in the British Empire in particular saw it as an empire of free trade first and foremost, with the governing of colonies being an unfortunate side effect of empire, as can be seen in the 1833 quote of Thomas Macaulay that "To trade with civilized men is infinitely more profitable than to govern savages."[1329]

Li Chen highlights the importance of free trade ideology to the history of imperialism in *Chinese Law in Imperial Eyes*, particularly how British opium traders played up free trade as a justification for their otherwise despised profession, and carefully cultivated a public image of the cruelty, inefficiency, and arbitrariness of Qing law to put more political pressure on the Qing to bend to their interests.[1330] Similarly, he notes that Georg Hegel's *Philosophy of History* supported the idea that China was not a sovereign nation with the same rights as any others, but a decaying relic outside of modern history, with Hegel predicting in the 1820s that its "necessary fate" was to suffer the same domination as India, helping to cement the idea of empire as a civilizing mission to spread the gospels of free trade, law, and liberty.[1331] Others hoping to remove the Qing from the protection of the law of nations, at least where trade rights and regulations were concerned, cited the eighteenth century Swiss jurist Emer de Vattel, who stated

[1327] Liu, "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations," 173-175.
[1328] Koskenniemi, *The Gentle Civilizer of Nations*, 3.
[1329] Ibid 111-112.
[1330] Chen, *Chinese Law in Imperial Eyes*, 24-25, 65, 78.
[1331] Ibid 119.

that both individuals and nations were "obliged to trade together for the common benefit of the human race, because mankind stands in need of each other's assistance," turning trade into an obligation instead of a right, and a requirement for enjoying other rights under the laws of nations.[1332]

Shortly afterwards, the January 13th 1900 issue of *The Pacific Commercial Advertiser* again comments on the issues of maritime predation and the hypothetical partition of China, noting that the issue had spread inland with "piracy on Chinese rivers" continuing to threaten efforts to expand trade in China.[1333] Even more infuriating than the attacks themselves, according to the newspaper, is the lack of any serious response or effort on the part of the central government to do anything about them.[1334] The article concludes with a statement that the government's lack of response to threats against trade "supplies one of the strong incentives for partition as China, where she is left to herself, officially, seems to be growing weaker and less responsible."[1335]

The term "pirate" carried with it a strong negative connotation; far beyond simple crime, it singled one out as an enemy of all humanity, actively engaged in war on the very concepts of law and justice. This made pirates and piracy into strong metaphors and similes to demonstrate one's disapproval of and opposition to certain behaviors; this was as true in the halls of government as it was on the pages of the press. Notably, there were the efforts of the British government to officially brand the slave trade as a form of piracy and treat it as such on the high seas. While the British government's efforts focused on getting its allies to sign and enforce

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[1332] Ibid 208.
[1333] *The Pacific commercial advertiser* (Honolulu, Hawaiian Islands), 13 Jan. 1900, *Chronicling America: Historic American Newspapers,* Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn85047084/1900-01-13/ed-1/seq-4/.
[1334] Ibid.
[1335] Ibid.

treaties to that effect, newspapers brought the debate into the public sphere, particularly in the pre-Civil War United States where the growing conflict over slavery itself extended to the slave trade, despite an official ban on the trade by the US government.[1336] The *Edgefield Advertiser* of South Carolina presented the side opposed to such a definition in its December 8th, 1858 issue.[1337] It quotes at length the arguments of Senator Mazyck who argued in the senate that treating slave traders as pirates was unconstitutional; while he acknowledged that the United State constitution specifically gave the federal government the right to regulate commerce, punish piracy, and prevent the importation of slaves into the United States, these were all separate issues, and none of them gave the government the right to "create piracy" by defining piracy as anything other than "robbery at sea."[1338] Mazyck was particularly incensed at the idea of interfering in foreign affairs on that ground, commenting on the ongoing *Amistad* case wherein it was being argued whether Spanish slave owners had been trading in slaves from Africa and thus were criminals and the slaves to be set free, or transporting Caribbean born slaves within that region, which was allowed.[1339] Mazyck went on to argue that by such standards any kind of trade could be declared piracy and thus subject to arbitrary arrest and execution, as he saw slave trading as legitimate and harmless as any other kind of trade.[1340]

The National Era of Washington D.C., in contrast, provided the opposing view in its July 8th, 1858 publication, quoting a speech given by Joshua R. Giddings of Ohio to the Committee of the Whole House on the State of the Union, entitled "American Piracy."[1341] Giddings made it

[1336] Benton, *Rage for Order*, 123-125.
[1337] *Edgefield Advertiser*, (Edgefield, S.C.), 08 Dec. 1858, *Chronicling America: Historic American Newspapers*, Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn84026897/1858-12-08/ed-1/seq-1/.
[1338] Ibid.
[1339] Ibid.
[1340] Ibid.
[1341] *The national era,* (Washington [D.C.]), 08 July 1858. *Chronicling America: Historic American Newspapers,* Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn84026752/1858-07-08/ed-1/seq-4/.

clear that the "American pirates" he referred to were slave traders, and that the slave trade was self-evidently a form of piracy; if it was only legally defined so recently, it was because "as Christianity extended, and its principles were better understood, this traffic in human flesh was seen to be a revolting crime, and most Christian nations pronounced it piracy, and treated those who pursued it as "outlaws," worthy of death."[1342] The article repeatedly emphasized how universally despised pirates were, how all nations stood to benefit from ending it, especially seafaring folk of all professions, and how thusly all merchants, ship-owners and sailors are morally, legally, and by self-interest obligated to cooperate fully with anti-piracy measures.[1343] Particular mockery is aimed at Southern politicians who want to take an aggressive approach to Britain over its inspecting of American ships to see if they are participating in the slave trade, even threatening war over the issue, pointing out that most Americans would never support a war against an allied power to preserve an already unpopular institution.[1344]

It is also worth noting that although the argument presented in the article overall leans more towards the moralistic than the legalistic, it still notes that by both American law and existing treaties with Great Britain, particularly the Treaty of Washington 1842, the international slave trade was banned and the US was obligated to help enforce that ban, with the interstate slave trade explained as an oversight, and that the Southern argument rested on linguistic quibbling, treating Britain's "right of visitation" as somehow different than the accepted "right of search."[1345] Notably, this article also makes note of the *Amistad* incident, and expresses outrage that the position of the Spanish slave traders was so much as entertained in court, as well as how the Africans were arrested and put on trial for engaging in their right to self-defense in the face

[1342] Ibid.
[1343] Ibid.
[1344] Ibid.
[1345] Ibid.

of unlawful imprisonment and piracy.[1346] Furthermore, the article contains statements of support for rebellious slaves in similar incidents on the slave ships *Enterprise* and *Creole*.[1347]

In its 26th of December, 1893 issue, the Honolulu newspaper *Hawaii Progress Holomua* condemned the coup against the Hawaiian monarchy by declaring it to be an act of piracy, and all such acts of filibustering, which in this context refers to the acts of small groups of unofficial adventurers to overthrow foreign governments to further their own interests, to similarly be acts of piracy.[1348] It also aimed to discourage American support for the coup by stating that it would be a terrible blow to the country's international standing to support a regime change so clearly lacking in legal standing, stating "The United States cannot afford to become the defender of piracy either on sea or land."[1349] That piracy was the go to metaphor used to condemn this act of monumental importance speaks volumes to how much pirates were reviled at the time, even if Hawaii's subsequent annexation would demonstrate it was not enough to sway the debate over the coup and annexation in Hawaii's favor. It was a metaphor that would make its way into official documents as well; in the 1922 Treaty of Washington, it was stated that any submarine crew that violated the treaty's regulations concerning submarine warfare would be treated as pirates, which was echoed and strengthened by the 1937 Treaty of Nyon.[1350] While neither treaty had much of a practical effect on submarine tactics, the strength of the condemnation implied by the metaphor sparked a fierce intellectual debate, mainly between international legal theorists who wished to stick strictly to the traditional definition of "pirates" only as private

[1346] Ibid.
[1347] Ibid.
[1348] *Hawaii holomua = Progress*. (Honolulu), 26 Dec. 1893, *Chronicling America: Historic American Newspapers*, Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn82016410/1893-12-26/ed-1/seq-2/.
[1349] Ibid.
[1350] Policante, "The Return of the Pirate: Post-colonial Trajectories in the History of International Law," n. pag.

individuals motivated solely by plunder, and cosmopolitan innovators who hoped such a precedent would "affirm the superiority of international law over national legislation."[1351]

As powerful as the piracy metaphor was, however, it did have limits. This can be seen in the November 27th, 1892 issue of the *Los Angeles Herald*, which responded to attempts to label a smuggling ship, the yacht *Halcyon* with a mixed American, Chinese, and Japanese crew, as a pirate vessel by the San Francisco press with a sarcastic lament of how far the standards of piracy had fallen, now that it was merely smuggling, even if it still made one rich.[1352] Interestingly, the article also contained a brief overview of the history of maritime predation from the times of Classical Greece to the wars of Latin American independence, noting that it was prevalent and maritime predators so powerful that European states had to work together to remove maritime predation from their waters, and even then privateering undermined their efforts.[1353]

Pirate Narratives in Entertainment

Newspapers were not the only means by which the tales of maritime predation in the South China Seas and the people who engaged in it became known to an international public. Many narratives about them, their victims, and their enemies were sold as books to the public in the late nineteenth and early twentieth centuries, gripping the public imagination with thrilling tales of high seas clashes and dramatic stories of the rise to power of infamous maritime predators as well as their inevitable falls at the hands of the world's navies. One genre particularly popular in this era was the captivity narrative, where those who had been taken prisoner by maritime predators would recount their experiences via their writings, aiming to at

[1351] Ibid.
[1352] *Los Angeles herald,* (Los Angeles [Calif.]), 27 Nov. 1892. Chronicling America: Historic American Newspapers, Lib. of Congress http://chroniclingamerica.loc.gov/lccn/sn84025968/1892-11-27/ed-1/seq-11/.
[1353] Ibid

once be both dramatic and informative. This was especially true in the Mediterranean where mutual maritime raiding, slave taking, and ransom paying between Muslim North African and Christian Europe had produced a rich if often propagandic and formulaic literary tradition that not only entertained but provided many Europeans with their primary source of knowledge on Middle Eastern culture, often more nuanced and complex than drama or travel literature.[1354] Captivity narratives were also a part of British and American storytelling traditions about allegedly dangerous colonial and imperial frontiers, with shared tropes of violent & bloodthirsty "natives," and contributed to the desire to impose colonial laws because they reinforced assumptions that non-European laws were "primitive" and cruel.[1355] There has been less analysis on Pacific maritime predator captivity narratives as a genre, but they remain important firsthand accounts of maritime predation in the South China Sea. In fact, it is certain works of this genre, such as *Mr. Glasspoole and the Chinese Pirates*, that have served as the foundation for much of the English speaking academia's knowledge of maritime predation in the South China Sea, at least for the latter waves of oceangoing violence.[1356] The tales of their rescues were common as well, as sailors, marines, and captains of many different navies published their experiences in the form of memoirs and autobiographies, often with maritime predators as the villains they overcame with their daring doo and pluck. The histories and biographies of infamous maritime predators were also popular during this period, and while many works in this genre instead focused on well-known personalities who operated in the Caribbean Sea, with Captain Charles Johnson's *General History of the Pyrates* as an example of the genre and a foundational work in

[1354] Daniel J. Vitkus, ed., *Piracy, Slavery and Redemption: Barbary Captivity Narratives from Early Modern England*, (New York: Columbia University Press, 2001), 5, 22.
[1355] Paul Baepler, "The Barbary captivity narrative in American culture," *Early American Literature* 39, no. 2 (2004): 228-229, 239.
[1356] Richard Glasspoole, *Mr. Glasspoole and the Chinese Pirates*, (London: The Golden Cockerel Press, 1935).

the study of maritime predators, some branched out into maritime predation in the Pacific as well. Such was the public hunger for information on these topics that Yüan Yung-Lun's *History of the Pirates who infested the South China Sea from 1807-1810* was translated into English and mass printed for public consumption only a few years after its original Chinese language release.[1357]

Mr. Glasspoole and the Chinese Pirates describes events that occurred around 1809, when the Honorable Company sailor Richard Glasspoole was captured by maritime raiders that were part of the Red Flag Fleet, with the account being published as its own work in 1935, yet existed in various forms before then, and was included in Neuman's 1831 translation of *History of the Pirates who infested the South China Sea from 1807-1810*, with Neuman noting it was popular yet difficult to locate even then.[1358] While overall a short work, *Mr. Glasspoole and the Chinese Pirates* goes into extensive detail about the means and methods of the maritime predators as they plied their trade along China's coast and inland, sailing up rivers to set up protection rackets for villages near water.[1359] Like many captivity narratives, a great deal of emotional emphasis is put on the terror of the situation and how horrifying the captors were, with Glasspoole having no hesitation in referring to them as "savages."[1360] In particular, in battles with Qing military forces and raids on towns that refused to pay tribute, they were incredibly bloodthirsty; as they were paid ten dollars for every head they brought in, they eagerly sought those of both soldiers and civilians, taking few prisoners.[1361] Yet they also came off as more cunning and professional than he was initially expecting, approaching raiding targets and

[1357]Yüan Yung-Lun, *History of the Pirates who Infested the South China Sea from 1807-1810*, (London: the Oriental Translation Fund, 1831). Translated by Charles Friedrich Neumann.
[1358] Ibid 97.
[1359] Ibid 110.
[1360] Ibid
[1361] Ibid 118-119

ransoming hostages in a businesslike manner. A good example of this attitude was what Glasspoole described as "landrone passes," which allowed a fisherman to be sent in by Glasspoole's captain to negotiate for his and the other prisoner's release; it was evident to Glasspoole that the fisherman was well acquainted with the predator chief, and did the negotiations while smoking opium and playing cards.[1362] Glasspoole also comments on their strict rules in a number of areas, particularly those banning the poor treatment of women, with some speculation that it had to do with their leader's past as a prostitute before her rise to power.[1363] It is also notable that the maritime predators were apparently afraid of the possibility that the English and Qing might join forces against them, and thus the local maritime predator admiral was dismayed to find that some of their forces had captured Englishmen.[1364] The forces that had captured them had assumed they were lying about being English at first, only believing the story when one of their own who had been to England and spoke some English vouched for them, at which point the treatment of the prisoners had rapidly improved.[1365] However, this did not mean that the maritime predators were easily intimidated, and they kept Glasspoole and the other prisoners with them for some time afterwards, even forcing the prisoners to fight with the predators on raids, taking advantage of their skills with firearms, using a combination of threats and offers of payment, which could go towards their ransom.[1366]

Fanny Loviot recounts her encounter with maritime predators in *A Lady's Captivity Among the Pirates*, translated from French to English by Amelia Edwards and published in 1858, describing events that took place in 1852.[1367] Loviot was well aware that she was writing in an

[1362] Ibid 105.
[1363] Glasspoole, *Mr. Glasspoole and the Chinese Pirates*, 11-12.
[1364] Yüan, *History of the Pirates who Infested the South China Sea from 1807-1810*, 106.
[1365] Ibid 103.
[1366] Ibid 112, 117.
[1367] Loviot & Edwards, *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, I-iii.

established genre, and despite the headline grabbing nature of her story, she hesitated to write about it on account of the fact that she lacked the knowledge to provide information concerning the larger context surrounding the events in question, particularly the "geology and geography" skills to identify where she was, but was convinced by friends that there was an audience for her "simple and true" telling of a tale full of danger, courage, and the miraculous.[1368] Before describing her encounter with maritime predators, however, Loviot takes the time to tell of her decision to leave France, her years spent living in California, and the business trip she took that resulted in her stay in China, specifically a trip to Batavia on Java which she canceled when her traveling companion and business partner Madame Nelson died on route.[1369] She described each major location she visited and its inhabitants in some detail; the most relevant to the topic at hand being her descriptions of Hong Kong and Canton, where she noted the inherent tension of the great wealth generated by international trade being gathered in the hands of a few wealthy merchant families, often of foreign origin, with fortifications aimed more at keeping the wider populace in line than repelling outside attack.[1370] Despite her early concerns about her lack of geographical and geological knowledge, Loviot explains to the readers the various terrain features that made the waters around these areas so difficult to navigate for those not used to them, particularly the large number of submerged rocks that dot the area, which were especially deadly and hard to detect when combined with the region's fierce seasonal storms.[1371]

Furthermore, her visit to Canton was in the midst of "the insurrection of 1854," presumably the Miao Rebellion of 1854-1857 (also known as the Qiao Rebellion), and while the part of the city she visited was tranquil, the sound of cannon fire and fighting could be heard not

[1368] Ibid v.
[1369] Ibid 42, 46.
[1370] Ibid 48-49, 52-53.
[1371] Ibid 47.

far away.[1372] While she did not witness any fighting herself, Loviot did observe a Chinese army on its way to the fight and was singularly unimpressed, which was in line with the general contemptuous attitudes towards Qing military power that many Europeans had at this time. She described them as "the most ludicrous affair imaginable," nothing more than "absurd warriors," with fanciful titles such as "War-tigers" and "Mountain-splitters," and who were well-equipped with lanterns, fans, and umbrellas, but only had lances and matchlocks as weapons.[1373] In short, they reminded Loviot more of the Chinese burlesques she had seen in San Francisco than what she considered to be a military, which perhaps makes it unsurprising that when she was captured by maritime predators, she felt little hope of rescue and none of liberation at Qing hands.[1374]

Whatever doubts she had about the fighting abilities of the Qing Imperial Army, she had none towards the maritime predators who captured her, who were consistently portrayed as brutally effective and viciously cunning in the plying of their trade. This particularly stands out in the description of their initial attack on the *Caldera*, which she states is an example of their usual tactic of relying on overwhelming speed, surprise, and, above all, fear to capture targets without resistance. They struck at night, and opened the engagement by hurling flaming projectiles upon the deck, valuing the intimidation factor of such an attack despite the risk of burning down the ship and cargo they intended to loot, after which they secured the target with grappling hooks from three junks carrying thirty to forty men each.[1375] Loviot's narration makes the maritime predators appear almost inhuman, stating that they "seemed like demons, born of the tempest, and bent on completing our destruction," and "Seen by the red firelight, they looked unspeakably hideous" while "dancing an infernal dance upon the deck, uttering cries that

[1372] Ibid 51, 54.
[1373] Ibid 53.
[1374] Ibid 54.
[1375] Ibid 62-63.

sounded like nothing human."[1376] The intimidation had the desired effect, while Captain Rooney wanted to take a pistol, the ship's only armament, and fight back against the attack, he was convinced not to on account that he could never win and any casualties would only make the maritime predators more likely to be violent to the passengers and crew.[1377]

Once Loviot and the other prisoners were secure, the narration plays down the demonic imagery, but overall comes off as no less terrifying from Loviot's position of relative helplessness. What was particularly frightening to Loviot was how mercurial and unpredictable the maritime predators could be, seemingly jolly and warm one minute, then angry and suspicious the next, and full of cruel humor and mockery after that; partially this has to do with the language barrier, but even her Chinese close friend and interpreter, Than-Sing, admitted that the maritime predators were rather known for acting on sudden whims and violent emotions, and thus even a valuable hostage might be killed, and said this in spite of the fact that he was usually optimistic and reassuring to the other prisoners.[1378] Furthermore, even without the threat of direct violence, the captive situation provided other dangers; for example, when a second maritime predator fleet arrived and disputed the prize, she feared being killed in the crossfire, which then turned to fear of being left adrift without supplies when the second crew showed more interest in the ship's food stores than its passengers and crew, and throughout her captivity there were many instances where her and her companion's basic needs were ignored whenever their captors attention was diverted elsewhere, despite otherwise not being directly harmed since they were valuable hostages.[1379] The worst of these incidents was when Loviot and Than-Sing were left locked in a cramped and dark space for over a day without food or water because their

[1376] Loviot & Edwards, *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, 63.
[1377] Ibid 65.
[1378] Ibid 102.
[1379] Ibid 69, 77, 79, 81-82, 123.

captors forgot about them in their excitement over attacking a merchant junk and dividing the loot amongst the crew.[1380] Even when rescue finally arrived Loviot was ironically almost killed by her trigger happy rescuers who mistook her for an enemy at a distance.[1381]

Despite the fear and anger towards the maritime predators that Loviot captured in her narration, there were a few moments where they are portrayed more sympathetically, with Loviot herself noting her surprise at how she could soften towards her captors, if for a fleeting moment. Early on, one captor stood out in particular for he "seemed actuated by sentiments of compassion," who sympathized with their plight, told them stories about his family, pointed out his family on another junk, and brought them food when they complained of hunger.[1382] They also seemed to have some feelings of patriotism despite their opposition to the government, as Than-Sing lied that Rooney was Spanish instead of English, lest their anger towards England over recent wars with the Qing move them to kill him despite the ransom he was worth.[1383] Later on, near the end of her captivity, the maritime predators suddenly started treating Loviot and Than-Sing with more kindness and a longer leash, allowing them to walk the decks more often and for longer periods, as well as eat with the crew, and even witness the pirate's religious ceremonies, and in her enjoyment of these small luxuries after being confined and terrified for weeks, she admits she "learnt to look upon these lawless men with feelings that were almost friendly" and forgetting the work she saw them do often had to do with goods taken from other innocent victims.[1384] The religiosity of the maritime predators was particularly surprising to her, having trouble reconciling their displays of spirituality and piety with the violence they inflected

[1380] Ibid 107.
[1381] Ibid 121.
[1382] Ibid 82.
[1383] Ibid 68.
[1384] Ibid 108, 110.

for material gain.[1385] One particularly memorable incident for her was the grand feast the maritime raiders threw after one of their boats returned from an oyster-dredging expedition, in which she was given as large a share as anyone else and was asked more than once how she liked her meal; though the good mood was soured when the meal was interrupted to chase a merchant junk that had wandered into the area, and would have been more spoiled if they had caught it.[1386]

Still, these moments of camaraderie between captive and captor were few and brief, and when Captain Rooney returned on October 18th, 1854, having managed to trick and escape the maritime predators while ransom negotiations were ongoing, Loviot considered it a blessed day, and recorded the follow up attacks by British marines against villages that the maritime predators had used as bases with a mostly triumphant tone.[1387] A detail that stood out in the description of the expedition that rescued here is that in addition to the British marines, two prisoners, and an interpreter actively being sent on the mission, the steamer *Saint Mary Wood*, lent by the Peninsular and Oriental Steam Packet Company, also carried "several gentlemen who went for curiosity and excitement." The only sour note was Loviot expressing some surprise and discomfort at the bloodthirsty boasting among the marines of how much they hated the "pagan pirates" and how many they killed, with one even disturbing his fellow marines by boasting of having shot an unarmed woman, and he dismissed their chiding by saying she was only "some pirate's mother."[1388] They were also forced to retreat when they realized the main marine predator fortress and fleet were too powerful to attack, but they still returned to Hong Kong

[1385] Loviot & Edwards, *A Lady's Captivity among Chinese Pirates in the Chinese Seas*, 103.
[1386] Ibid 110-114.
[1387] Ibid 115, 128.
[1388] Ibid 130-131.

flying many trophies and being greeted as heroes, with Loviot and Than-Sing mostly happy to be able to return to their civilian lives, after a heartfelt farewell to each other.[1389]

Investigation as Entertainment

Aleko Lilius' book *I Sailed with Chinese Pirates* shares much in common with captivity narratives, going in depth with a first person account of the author's personal experience with maritime predators, accounts that emphasize the terror of being around such people, and drips with sensationalized exoticism even in its preface.[1390] Lilius also includes a forward in which he describes how difficult it was writing about his experiences because of how traumatic it was, only doing so because a friend, one Carl N. Taylor a Professor of English at University of the Philippines and "a journalist by avocation", thought he had a story worth sharing, similar to Loviot's own foreword about how and why she wrote her account.[1391] However, there is a key difference between this story and a traditional captivity narrative: Lilius was not a simple traveler who was set upon by maritime predators and forced into their company, but someone who actively sought out maritime predators and went through great effort, cost, and risk to enter into their circles.[1392] While he was, at times, threatened by them, it was usually when his own pushing for sensitive information and ignoring of his host's ground rules annoyed them or made them think he might be a police spy, particularly his attempts to photograph everything despite being warned against it.[1393]

Aleko Lilius was a journalist and one that, even by his own account, was quite a sensationalist more interested in "making copy" with an interesting story than making sure he

[1389] Ibid 131-133.
[1390] Lilius, *I Sailed with Chinese Pirates*, 7.
[1391] Ibid 13.
[1392] Ibid 25-26, 34-35, 99, 137-138.
[1393] Ibid 44, 50, 160, 164, 174, 181, 188-190, 209.

has all the facts right or presented fairly; combined with how little of what he mentions has been verified by any other primary sources, it is no surprise the historical accuracy of his account has been deeply questioned.[1394] *I Sailed with Chinese Pirates* is full of photographs taken by Lilius on his journeys, though Lilius often doesn't have access to his camera during the most sensational events leaving their ability to support his overall narrative in doubt.[1395] Still, the historical accuracy of the events themselves are less important than what this account told contemporary audiences in the 1930s about China and its maritime predators, as well as about China in general, for much of the book is about Lilius walking around port cities in China trying to find pirates in the first place, describing places he visited, people he met, and food, drink, and games with which he tried to pass the time.[1396] In particular, it is interesting how often Lilius on the one hand portrays the continued existence of maritime predation as the result of Chinese governmental incompetence and the English being overly permissive and restrained so as to not violate borders, yet tends to treat the actual law enforcement he meets with contempt but develops mutually respectful, if distrustful, relationships with multiple maritime predators, going so far as to openly refuse to give the police any information he obtained in the course of his research, despite that cutting off any official support and protection he might have received.[1397] He also mentions that his experiences have him convinced that the predator intelligence networks and raiding operations are too sophisticated to be entirely independent of each other and that someone else is pulling the strings, yet never makes it clear who he thought these unseen masters were or what evidence specifically pointed to their existence.[1398] He supports this claim

[1394] Ibid 15,243.
[1395] Ibid 9-11.
[1396] Ibid 16-17, 19-22.
[1397] Ibid 55, 66, 68-69.
[1398] Ibid 15, 64.

by pointing to the clearly amateur hijackers who rarely steal anything and whose activities are far more likely to result in death, either of themselves or passengers and crew.[1399] The book is divided into sections based around his various attempts to get into contact with maritime predators, whether those attempts were successful or not.

I Sailed with Chinese Pirates opens with some descriptions of the basic facts of maritime predation in Chinese waters around that time, such as accounts of typical steamer hijacking raids and details about famous hijackings such as the SS *Sunning* that was hijacked in 1926 or the SS *Hop Sang* in 1927, including statistics of a rising number of maritime predator attacks in the ten years leading up to the publishing of his book, averaging around three ships flying the British flag being attacked every year.[1400] After that, Lilius describes his experiences walking around the city of Hong Kong and talking with a variety of individuals, from simple shopkeepers to government officials, seeking someone who can get him into contact with maritime predators or take him to Bias Bay which is the heart of maritime predator activity in this period, while indulging in a number of local vices such as visiting the Sun Tai gambling house, where half naked people would bet on much much *cash* would remain in a pile after a man was done picking them up with chopsticks, four at a time.[1401] A common motif of the work was to contrast some of the luxury available in the places he mentioned with any number of disgusting, at least to contemporary Europeans, sights and sounds nearby, setting up a feeling of pervasive decadence and decline. For instance, when going to meet a contact at a restaurant in West Point, he notes that West Point is one of the most Chinese parts of Hong Kong and is full of "…"sing-song" houses, opium dens, low class brothels, and the occasional luxurious restaurant decorated

[1399] Lilius, *I Sailed with Chinese Pirates*, 17-18.
[1400] Ibid 18-19.
[1401] Ibid 28.

with gilt dragons, silk paintings, and costly embroidered draperies," while also taking time to note how delicious the food was.[1402]

After many false starts and much mutual investigation between Lilius and some potential predator contacts who want to make sure he isn't an undercover investigator, Lilius finally gets in contact with the first predator he will get to sail with; the "Queen of the Macao Pirates" and "Number One Master" he refers to as Lai Choi San.[1403] Her group of maritime predators focused on protection rackets, though unlike many running such operations she offers protection from more than just herself: her group referred to themselves as "inspectors" and commonly went out as the hired muscle of Macau's massive fishing fleets, protecting them from rival bands similar to her own, and she was referred to as a female Robin Hood by an anonymous American commentator.[1404] In fact, much of the violence Lilius witnesses is directed at rival inspectors, and most of the maritime raiding that occurred were groups of inspectors raiding or intimidating the fishing fleets under the protection of their rivals in an attempt to force them into hiring the group that attacked them instead, keeping the fighting small scale but consistent as each tried to portray themselves as the best security investment with a side business of ransoming captured rivals; though it is worth noting her men claimed she didn't go on regular patrols personally but frequently went on retaliation missions, where she managed to earn a reputation for cruelty.[1405] Additionally, violence wasn't inevitable, as can be seen during a voyage when they ran down a fishing junk, though to Lilius' disappointment there was no battle, just a calm and professional payment of money to the predators to be let go.[1406] He notes her crew are quiet, professional, and

[1402] Ibid 34.
[1403] Ibid 37-38.
[1404] Ibid 39.
[1405] Ibid 40, 48.
[1406] Ibid 45.

well-armed with rifles, pistols, and cannons both medieval looking and modern, though they lacked machine guns like he had heard some West River predator groups had managed to steal from army units.[1407] Like other observers, he takes note of maritime predator religiosity, describing a small shrine to "the Goddess A-Ma, the patroness of all seafaring people," with a picture of the goddess next to a plaque with the name of Lai Choi San's father, along with an onboard Daoist priest for protective rituals.[1408] He also took note of the presence of the women on the voyage besides Lai Choi San and how they ate separately from the men, and that the men all ate together regardless of their rank on the ship, even the captain ate with the common crew, dining on the same food.[1409] Despite her initial suspicions, Lilius manages to get Lai Choi San to open up about her personal life and family history: she inherited the predator operation from her father, who had been a poor worker before he earned the favor of a maritime predator leader and succeeded him, and she expected her youngest son to inherit the predator operation after her once he had finished his education in Shanghai, thanks to a relative there, though her eldest son was set to marry the daughter of the richest man of a nearby town, and she hoped he would make his living as a rice merchant in America.[1410] She was also quite rich, with a mansion in Macau where she sometimes lived, though she preferred her home in a small town along the West River; when asked why she continued her violent career instead of retiring to enjoy her wealth in comfort, she only answered with a shrug, leaving Lilius to conclude that her family had "the buccaneering trade in their blood."[1411] Thus, he presents an image that is not entirely unsympathetic, particularly when she describes her second son as a "true love child" from her

[1407] Lilius, *I Sailed with Chinese Pirates*, 41-42.
[1408] Ibid 40, 42.
[1409] Ibid 48.
[1410] Ibid 53, 56-57.
[1411] Ibid 54-55.

second marriage and he tries to talk to her about love, though she shuts down that conversation.[1412] Yet he ultimately suggests that the urge to engage in maritime predation is irrational, innate, and inevitable unless stamped out with force by the power of government.[1413]

While traveling with her, Lilius visits Bias Bay, specifically a village he calls Fan Lo Kang, where he is treated with hostility and suspicion, which Lilius attributes to being mistaken as British since the British had recently raided the area.[1414] Although the maritime predator bodyguards Lilius was provided with prevent them from acting too directly on that dislike, they did prevent him from learning much more about the complex network of predator informants and go-betweens that operated out of the area.[1415] He does get to see and describe a home that was specially designated as a location to hold hostages, though none were there at the time and he only hears about its function second hand.[1416] In fact, he notes that the village looks very much like any other small village in China, with little to hint at any sort of connection to maritime predation, beyond the number of burned buildings around.[1417] Additionally, despite the village's maritime predator connections, or perhaps because of them, the villagers do not get along well with Lai Choi San's crew, almost leading to violence when Lilius and his bodyguards left; the villagers began pelting them with trash and the bodyguards pulled guns in response, but violence was barely averted by Lilius' hasty retreat.[1418] In fact, the captain of the ship carrying Lilius had an uncle in the village yet refused to set foot in the village; he said afterwards that he and his uncle didn't get along and his uncle would have shot him if he saw him, though he refuses to

[1412] Ibid 55.
[1413] Ibid 57.
[1414] Ibid 58-59.
[1415] Ibid 58-59, 60, 62.
[1416] Ibid 58.
[1417] Ibid 59.
[1418] Ibid 62.

elaborate further to Lilius.[1419] Moreover, despite repeating elsewhere that he views the continued existence of maritime predators on Chinese timidity and European refusal to attack without Chinese permission, when Lilius reflects on the British attack on Fan Lo Kang in 1927, he claims that it "only succeeded in demonstrating the futility of such reprisals;" the raid destroyed around a hundred homes and over forty junks, yet another predator raid occurred with two months, and many more followed by the end of that year.[1420]

After returning to Hong Kong, Lilius attempts to follow up with some of his established contacts for more information, but finds his efforts frustrated when it turns out he is being monitored by the government, and an agent publicly warns him to drop the investigation.[1421] This loud and vitriolic argument Lilius has with the police officer in question is enough to convince one of his contacts, referred to in the text simply as the earless one, of his sincerity and nets Lilius a tip to talk to a known "squealer" in Victoria prison, yet his progress quickly stalls on that front.[1422] This results in Lilius deciding to try his luck in Macau; his descriptions of the city are dripping in his brand of sensationalist exoticism, regardless of whether he is describing something positively or negatively. He opens with "To step ashore in Macao was to me like turning the page of one of Stevenson's adventure tales," before continuing to comment that the city is "strange" for its mixture of Portuguese and Chinese elements.[1423] Lilius compares Macau to "half-caste Latin ladies" in that "She is angelic, beautiful and good when she is good, but she is thoroughly bad when she is bad."[1424] After thoroughly elaborating on this metaphor for a while, he concluded that you choose Macau's good and bad "moods" for yourself by what you

[1419] Lilius, *I Sailed with Chinese Pirates*, 58, 63.
[1420] Ibid 59.
[1421] Ibid 69.
[1422] Ibid 69-70.
[1423] Ibid 75.
[1424] Ibid.

seek to experience, he goes on to describe the city's history, particularly its fall in importance after the rise of Hong Kong as a trading center and subsequent shift to a fishing economy, and gets into its gambling industry, negatively comparing it to Monte Carlo emphasizing the dirtiness of the area and people.[1425] He is particular interested in fan-tan gambling and the lottery system, going into extensive detail about how the lottery works and his own experience in it for multiple pages, emphasizing its universality among the populace, rich or poor.[1426] He goes out of his way to express disbelief in the Macau's government's claims that it is not involved in the gambling syndicates, stating that the city government would likely exile him if he tried to confirm the amount they profited from it, and similarly refuses to believe that they are not involved in the opium trade claiming it provides much of the city's income.[1427] Lilius also finds it interesting that despite Macau being surrounded by predators both maritime and terrestrial, no attempts are made to rob the wealthy gambling houses despite the Qing government being too distracted by civil war to do anything to stop it; he suspects the gambling syndicate has some arrangement with the predators, though he also admits it might just be because those people were among the gambling houses' best customers.[1428]

While in Macau, Lilius arranges a meeting with a common sailor who, after recovering some Spanish or Portuguese gold, reinvested it to become one of the richest men in the city.[1429] The man was named Nim Tai Yeoung in the text, with the gold he found having been buried by a crew that floundered along the river, and contained coins ranging from 1685 to 1905.[1430] Nim Tai Yeoung believed there were more coins to be found, as he had heard that a Dutch and a

[1425] Ibid 76.
[1426] Ibid 77-79.
[1427] Ibid 80-81.
[1428] Ibid 87.
[1429] Ibid 91.
[1430] Ibid 92.

Portuguese ship fought at an island near Chicken Neck Strait, where both were attacked by local maritime predators who found no treasure, because both captains had buried theirs; he had only been able to find a small amount of this treasure, but it was enough to make a start and avoid the salvage being claimed by the government.[1431] At the time, he had fallen in love with a girl, but was too poor for the tastes of her father, so when his lover told him about a treasure her father had planned to dig up, he went after it, recruiting a crew of tough men and acquiring a junk, while specifically avoiding an explanation of how he did so, to find it first.[1432] His lover eloped with him and joined the crew, but his new father-in-law pursued the young newlyweds, though they managed to avoid him and acquire the treasure.[1433] Afterwards the young couple "became freebooters" and worked as "protectors" similar to Lai Choi San for five years before retiring.[1434] However, Nim Tai Yeoung still wanted the rest of the treasure and invited Lilius to accompany him on his next journey, sometime in the future.[1435]

The next major section follows Lilius' attempts to infiltrate Victoria Jail in Hong Kong to interview maritime predators that might be in there, arrested for other crimes since "piracy" resulted in a swift death sentence instead of jail time.[1436] Lilius' attempts failed when he became incredibly ill just as he was starting to make some progress and spent the rest of his sentence in the recovery ward.[1437] This is notable for a few reasons; the first is the incredible lengths Lilius was willing to go to in order to find the information he is looking for as well as the peculiar lines he refused to cross; for instance, after being barred from officially interviewing prisoners

[1431] Lilius, *I Sailed with Chinese Pirates*, 93.
[1432] Ibid 94.
[1433] Ibid 94-95.
[1434] Ibid 95.
[1435] Ibid 96.
[1436] Ibid 70, 98.
[1437] Ibid 110-111, 114, 120-121.

because he refused to agree to Colonial Secretary's Office's terms to share any useful information he got from said interviews, Lilius decided to deliberately commit a crime and be thrown in jail so as to interview prisoners on the inside.[1438] This takes multiple attempts, on account of the leniency shown European criminals of respectable background in Hong Kong, and ultimately he needs the help of former soldier Gordon McClintock to get arrested; McClintock did so because he wanted to expose what was happening in there.[1439] The second noteworthy thing is Lilius description of the utter, soul-crushing misery and disgusting conditions of colonial prison; food was scarce and barely edible, medical instruments were only washed at irregular intervals, living areas were overcrowded, the condemned were executed early in the morning while other prisoners tried to sleep, and the prison staff were at best apathetic about the welfare of the prisoners.[1440] He noted that European prisoners were treated better than Chinese ones, by both white and Indian guards, but these conditions were still terrible.[1441] In fact, the guards who knew the author was a journalist were worried that they might get into trouble for being too nice to him if he revealed that in the press, so he kept any of the guards that did him favors anonymous in his account.[1442] Finally, according to Lilius, one of his pirate contacts was able to smuggle messages and advice to him via guards despite how risky such a thing was for everyone involved, convincing Lilius once more of the reach, power, and sophistication of Hong Kong's maritime predator network.[1443]

The final major section involves Lilius traveling to Canton in order to arrange a second voyage to Bias Bay, then getting involved with multiple predatory factions along the West River.

[1438] Ibid 70-71, 99.
[1439] Ibid 72, 99
[1440] Ibid 97-98, 117, 119.
[1441] Ibid 103.
[1442] Ibid 120.
[1443] Ibid 108.

After recovering from the prison experience and setting up a second voyage with Lai Choi San, Lilius decides to indefinitely delay his meet up with her in favor of chasing rumors of predator activity in the river system around Canton.[1444] In particular, after hearing that Russian-speaking maritime predator was in need of a bodyguard, Lilius concocts a false identity as deserter from the Russian White Army desperately needing work, similar to ones he had met working as steamer guards on the trip from Macau to Canton, and used some of the contacts he had built up to this point to get an interview.[1445] Despite some suspicion on the part of his potential employer, Lilius is hired and is brought, along the manservant he hired, simply referred to as Weng, upriver to a village the text calls Fu San, after a test run as a bodyguard on one of the city's "flower boats," floating brothels visited by junkmen, sampan hands, predator chiefs, American and British bluejackets, and "the occasional foolish tourist," which he describes as a place where anything could and often did happen.[1446] Lilius' employer in turn works for one Wong Kiu whose group comes off in Lilius telling as even more ruthless and intimidating than Pirate Queen's followers were, and more like traditional maritime predators: rather than escorting fishermen or hijacking steamers, these riverine predators avoided steamers and instead ambushed junks, sampans, tugboats, and especially houseboats that did not purchase safe conduct passages, either with their own vessels or from the river's edge after blocking the way forward with some kind of obstacle.[1447] Unlike the Guangdong Confederation, they did not always honor their passes.[1448] Similar to other maritime predators in this time period, rich passengers were taken for ransom, since they could earn between 50-50,000 thousand dollars per

[1444] Lilius, *I Sailed with Chinese Pirates*, 133, 137, 142.
[1445] Ibid 141-142, 146-147.
[1446] Ibid 149-150, 153.
[1447] Ibid 154, 172.
[1448] Ibid 172.

head depending on the circumstances.[1449] Predators sought out rich passengers by examining body languages and mannerisms, or by using their intelligence networks to pick out targets ahead of time.[1450] Sometimes the predators just snatched them off a city street without waiting for them to get on a boat.[1451] Hostages could also be sold to other predator groups for various reason, such favor trading or one group having a better chance at a high payout.[1452]

When they meet Wong Kiu in Fu San, he tries to portray himself as a benevolent leader of his organization and beneficiary to the town with one of the predators with Lilius comparing Wong Kiu to Robin Hood, in particular praising how he lived up to "give to the poor" part rather than just robbing the rich, supporting at least one struggling family who "love him like a god" for it.[1453] Lilius also noted the connections they had to their communities, supporting those unable to work and maintaining local infrastructure and community institutions.[1454] Yet Wong Kiu does not come off as a benevolent leader in the text, he was depicted as temperamental and violent, executing the man who recruited Lilius for unclear reasons, and Wong Kiu lived in a large and well decorated mansion that reeked of opium while most of the town looked like any other poor village in the region, and its people acting as if they were always under surveillance.[1455] Wong Kiu only increased his hostility and suspicion towards Lilius and Weng as time went on, though he was happy to show off the fleet of war canoes he was constructing, some armed with machine guns stolen from the army.[1456] The whole time Lilius vividly describes the sights and smells of the village, most truly putrid and disgusting, particularly at the hotel where Lilius is staying until

[1449] Ibid 154, 179.
[1450] Ibid 154-155, 179.
[1451] Ibid 179-235.
[1452] Ibid 235.
[1453] Ibid 157-158,
[1454] Ibid 166-167, 171-172.
[1455] Ibid 162-163, 166, 170.
[1456] Ibid 171-172

he finally snaps at his host for the conditions, and immediately regrets it as he begins to fear for his life.[1457] He is soon approached by a girl, unnamed in the text, who claims to have been sold into a life of misery in the village, mostly entertaining important hostages and guests, and will help Lilius and Weng escape on the condition they bring her along; eventually they attempt to steal a sampan with several armed women, and while the attempt fails they turn out to work for a rival maritime predator who agrees to transport the three escapees back to Macau.[1458]

The other maritime predators Lilius would encounter on his voyage back down the river were Ko Leong Tai "the Dogman" and Wong To Ping who operated in similar manners, also extracting protection money from villages and even businesses in the cities of Canton, Macau, and Hong Kong; these similarities did little to reduce their mutual dislike and distrust for one another.[1459] Ko Leong Tai was the first encountered, being as he was the rival who first agreed to transport the trio to Macau; he claimed to have the resources to dislodge the Portuguese from Macau, but his followers were one of the smaller crews encountered.[1460] Additionally, he needed to have the concept of a camera explained to him by the author and some of the crew who had been to Macau, when the camera spills from Lilius bag and causes a stir, which Lilius attributes to his belief that "The Chinese are, perhaps, the most curious people on earth."[1461] Interestingly, the Dogman had originally been a rich merchant held hostage by riverine predators himself, his brother instead paid them a fee to keep him alive but imprisoned for fourteen years before being released with the fall of the Qing and rise of the Republic; after being released Ko Leong Tai took up the trade himself so that he could enact vengeance on his brother, and was called the

[1457] Lilius, *I Sailed with Chinese Pirates*, 173-174.
[1458] Ibid 175, 179, 183.
[1459] Ibid 186-187, 192-193, 207-208, 221.
[1460] Ibid 186.
[1461] Ibid 188-191.

Dogman because he developed a distinctive hunch and way of walking after fourteen years in cramped conditions.[1462] During this part of the journey, Lilius claims the girl as "his woman" to the crew for her safety, and all three are given guns, with the girl dropping hers out of unfamiliarity.[1463] Down river, they have a confrontation with a larger junk belonging to Wong To Ping that starts out tense but then became relaxed and even friendly after an exchange of money.[1464] After this, they pass by a fishing fleet and Lilius went into great detail describing the many "unreal" sounds that he heard while passing by the fishers, as well as wonderous descriptions of bats hunting mosquitoes in the air; in contrast, he described in equal detail the revolting sights and smells that came from the worsening infection in one of Weng's toes, which had been injured earlier in an accident.[1465]

The group then has a surprise encounter with Nim Tai Yeoung on another treasure hunting expedition, and the trio transfers over to travel on his vessel instead.[1466] Nim Tai Yeoung had trouble believing the tale of their escape from Wong Kiu; despite the situation leading to his flight, Lilius felt compelled to defend Wong Kiu to Nim Tai Yeoung, only for things to turn awkward and tense when he discovered that Wong Kiu was responsible for the deaths of Nim Tai Yeong's sons.[1467] Despite this, and some problems communicating with the crew due to the use of different southern dialects, Lilius felt safe with this crew and the voyage continued pleasantly beyond Weng's worsening toe. Lilius reflected that he heard in Macau from a missionary who had encountered and been protected by Wong Kiu that Wong Kiu was one of the fiercest maritime predators, whose protection had been given entirely as a display of power, and

[1462] Ibid 135-136, 186.
[1463] Ibid 187.
[1464] Ibid 192-193.
[1465] Ibid 194-195.
[1466] Ibid 195-196.
[1467] Ibid 196-197.

then wonders what Wong To Ping must be like in comparison given how the other maritime predators seem afraid of him.[1468] He would soon find out, as the ship they were traveling on was ambushed and chased by two large armed vessels belonging to Wong To Ping; Lilius manages to salvage the situation by bluffing about his importance to Wong Kiu's organization and arranging a meeting with Wong To Ping.[1469] Nim Tai Yeoung is grateful to Lilius for saving his ship from being plundered, and agrees to take the girl to Macau while Lilius and Weng travel to the meeting, despite her strenuous objections and desire to stay with the group; neither the author nor audience finds out what happens to her after this point.[1470]

In their initial meeting Wong To Ping is as intimidating as the other predators Lilius has encountered, less temperamental than Wong Kiu but more intelligent; Lilius bluffs about being commander of a huge force of mercenary Russians, and it is implied that Wong To Ping sees through it, but plays along anyway for his own reasons and arranges to host the pair for a while before taking them to Macau.[1471] That he had a heavily armed and guarded ship entirely for keeping his numerous hostages certainly adds to his intimidating presence, as did the fact he kept yet more prisoners in an old fort he used as a naval base, though his followers insist all the prisoners were taken in "honest warfare" with rival gangs.[1472] In fact, Wong To Ping had figured out that Lilius was a reporter, and wanted Lilius to take pictures of him, his fleet, and several of Wong Kiu's men that he had taken prisoner and send the pictures to Wong Kiu for intimidation purposes.[1473]

[1468] Lilius, *I Sailed with Chinese Pirates*, 157, 170-171, 198.
[1469] Ibid 199-201.
[1470] Ibid 202.
[1471] Ibid 203-204, 206.
[1472] Ibid 207-208, 211, 221.
[1473] Ibid 219-220.

Yet Lilius' description of him also touches upon the social banditry archetype, both benevolent to the community and larger than life. In terms of being larger than life, Lilius had heard of an infamous heist arranged by Wong To Ping "several years ago" in which he and his men had hijacked a ferry in the middle of Hong Kong harbor; while he robbed the passengers before dropping them off on a nearby island, his real objective was simply to obtain the ferry as a trophy, which he abandoned when it was pointed out to him that it would need a great deal of coal and oil to run.[1474] In terms of benevolence, Lilius similarly heard rumors that he had helped pay for a village girl's education in America, with her later moving to Nanjing and marrying a general.[1475] He also provided a doctor for Weng's toe, though Lilius takes the opportunity to insult Chinese medicine as primitive and superstitious with disgusting ingredients in his narration; while he admits it provide Weng some temporary pain relief, he credit's Weng's recover to convincing him to go with the western method of lancing the infected area with a heated blade, which is again described in great sensory detail.[1476] Wong To Ping is shown to be the leader of a secret society, the Hall of Righteous Heroes, a group of around 142 men who use the proceeds of their activities to meet the physical and spiritual needs of the village referred to by the text as Lai Chi San.[1477] Lilius himself ends up joining the Hall of Righteous Heroes, mostly because they wanted Weng to join and he refused unless Lilius also joined, and while most of his narration focuses on the exoticized details of the ritual initiation ceremony, Lilius does make note of how it helps unite the village together, and even ends up feeling something of kinship with the group despite his brief time in its ranks.[1478]

[1474] Ibid 206-207.
[1475] Ibid 210, 223.
[1476] Ibid 214, 216, 218.
[1477] Ibid 225, 233-234.
[1478] Ibid 229-230, 233, 236.

His first, and ultimately only, mission for the group is the delivery of thousands of dollars to allies in Macau; along the way the ship they are on is ambushed by four canoes from a different group of predators, whose allegiance goes unidentified.[1479] While reinforcements from Wong To Ping eventually drive the attackers off, it is not before Weng is fatally injured in the battle.[1480] While Lilius had merely been annoyed by setbacks in his journey before, even his own near death from illness in Victoria prison, Weng's death truly shook him, reflecting that he regretted dragging Weng along on a "foolish misadventure."[1481] Nevertheless the money is delivered, Lilius is given an engraved ring as payment, and the book ends on Lilius noting that he has kept the ring engraved with Lilius name translated into characters that read "Beneficent Scholar," and states that while Wong To Ping is "doubtless a murderer, kidnapper, seducer, opium addict, blackmailer, and you may be bound for hell" he is also "a grateful cuss and a gentleman!"[1482]

Overall, Lilius accounts of the maritime predators he has claimed to have encountered is mixed, swinging between revulsion to the point of hoping the British fleet destroys whole villages to root them out, and feelings of sympathy and even friendship with individuals or small groups of predators. Similarly, his portrayal of British and other European and American authorities in the region can shift between heaping praise upon them, particularly the American Consular Staff at Hong Kong, or scorning them as corrupt and authoritarian, particularly during the prison misadventure, depending on how helpful or hindering he found them at the time; the Chinese Republican government, however, he consistently looks down upon, at most

[1479] Lilius, *I Sailed with Chinese Pirates*, 234.
[1480] Ibid 240-242.
[1481] Ibid 243.
[1482] Ibid 245.

acknowledging that the ongoing civil war made it impossible for them to prioritize dealing with maritime predation.[1483]

Roots of Late Imperial Chinese Pirate Literature

It was not just western authors who were interested in writing about maritime predation, particularly the life stories of some of the most powerful and successful maritime predators. Maritime predators were a particularly common topic in Chinese vernacular literature since at least the late Ming Dynasty, and only increased in popularity during the early Qing period, where the public and personal narratives found in vernacular work both contrasted with yet depended on the imperial narratives of high literature and official histories.[1484] Many of these stories had their roots in the classic novel, the *Water Margin*, also known as *Outlaws of the Marsh*; while the protagonists of the story are often described as bandits in modern translations, they largely operated on or by sources of water, especially the Liangshan Marsh, and made heavy use of boats in their operations, with most of their heroic exploits taking place on the water.[1485] Similarly, the protagonists of the Water Margin and their allies are heavily tied to water thematically, with the word *jianghu* 江湖, literally meaning "rivers and lakes," used to described the criminal underworld that operates independently from and in opposition to the land based empire, for this realm of outlaws was every bit as fluid and flexible as their namesake.[1486] Notably, while the water embodied the subversive energy of the outlaws, the riverways of the middle kingdom also carried "empire, loyalism, and cultural belonging," as after the forces of corruption were defeated many of the heroes came to serve the Song Dynasty, restoring and

[1483] Ibid 14-15, 66-67, 71-72, 80-81.
[1484] Yuanfei Wang, *Writing Pirates: Vernacular Fiction and Oceans in Late Ming China*, (Ann Arbor: University of Michigan Press, 2021).
[1485] Ibid 7, 26.
[1486] Ibid 22.

preserving the Confucian social order rather than truly challenging or changing it, by traveling along a network of rivers to help fight against the Kihtan Liao kingdom in the north, never going out to sea.[1487]

While the Water Margin is often described in terms of representing basic human truths, Yuanfei Wang historicizes the novel by placing it in the context of the maritime trade networks that connected China to the East China Seas and Indian Ocean in the sixteenth century; the rivers and lakes linked "the ever-evolving markets at local, regional, and national levels" and formed an "abstract and contractual network which bound together the 'exchangers' of products and money."[1488] The heroics of the outlaws were associated with both the physical rivers and lakes they operated on and the system of markets and brotherhood that constituted the metaphorical rivers and lakes; for instance, Guo Sheng, Lu Feng, and the Tong brothers were traders, smugglers, and sailors as well as robbers, providing goods highly sought after in Ming era East and Southeast Asia such as mercury, salt, and herbal medicine.[1489] Guo Sheng in particular was driven to banditry by the sinking of the junk he used to trade mercury on the Yellow River.[1490] Their prowess is also connected to their mastery of the water, both on and off ships; for instance Zhang Shun is known as the "the White Streak in the Wave (langli baitiao 浪裡白條)" and is praised repeatedly by the text as a "adroit swimmer, courageous sailor, and capable smuggler" who can "swim forty to fifty li on the surface of the water" and "stay underwater for seven days and seven nights."[1491] Similar rhetoric was used around the same time to describe the abilities of

[1487] Ibid 26, 29-30, 54.
[1488] Ibid 22.
[1489] Ibid.
[1490] Ibid.
[1491] Ibid 24.

Japanese maritime predators and Southeast Asian Kunlun slaves, implicitly connecting the heroes of the Water Margin with a wider world of maritime trade and violence.[1492]

It is worth noting that often Chinese vernacular fiction and unofficial histories regularly conflated maritime predators with smugglers, maritime merchants, emigrants, outlaws, different ethnicities of "sea peoples," overseas adventurers and spies, and pretty much anyone who traveled the seas and lived outside or on the fringes of the accepted Confucian order.[1493] Even whole non-Chinese cultures were described as pirates if they defied the domination of Chinese culture in the South China Sea.[1494] Perhaps most significantly, this conception of "pirates" included "disenfranchised scholars and officials," who were forced out of an increasingly competitive civil service system, often because "their honest remonstrations offended authorities."[1495] Such people made up the majority of vernacular fiction writers, compilers, and publishers, and thus their stories tended to reflect their dissatisfaction with society and the state.[1496] As such, while imperial narratives described "pirates" as deceivers, profiteers, traitors, and barbarians, the public discourses captured in these novels, plays, short stories, and unofficial histories were more open to portraying "pirates" as "sincere, romantic, loyal, and noble."[1497]

The sequel to the water margin, literally entitled *The Sequel to the Water Margin*,[1498] was even more explicit about its maritime predator subject; in this story the ending of the *Water Margin* is rewritten so that the heroes rather than dedicating themselves to serving the Song government instead long for the sea and lament the Song's prohibition of maritime trade, and

[1492] Wang, *Writing Pirates*, 24, 76-77.
[1493] Ibid 9.
[1494] Ibid.
[1495] Ibid.
[1496] Ibid.
[1497] Ibid 10.
[1498] Written in 1644 by Chen Chen, who is unconnected to *The Water Margin*'s pseudonymous author Shi Nai'an, who wrote the original at some unknown point before 1524.

several of them form a band of maritime predators under the leadership of Li Jun to move overseas after the pirate Hu Cheng is unjustly captured and his exotic Southeast Asian goods confiscated by "petty-minded" officials.[1499] Later, they end up taking over Siam and turning it into "a kingdom of military defense and maritime commerce, a shelter for refugees and outlaws, and a utopia of freedom," contrasting against the fallen and corrupted state that they had left behind, with Li Jun himself lamenting that his countrymen were "all evil, crooked, and jealous" and believing that the more honest and straightforward Siamese would be easily educated and civilized by the introduction of Confucian norms.[1500] The fictional version of Siam in the sequel is depicted as a place very similar to China both in terms of customs and geography, beyond a few barbaric customs the Siamese are easily persuaded to give up in favor of Chinese ones.[1501] Afterwords, the maritime predator turned ruling class protagonists have to defend Siam from an invasion by Hideyoshi in a clear invocation of the Imjin War (the Japanese invasion of Korea led by Hideyoshi 1592–1598), with Hideyoshi's character notably having several elements that reflected Chinese stereotypes of Siam at the time, such as riding a white elephant and wearing a jeweled crown.[1502] This work was written during the Ming-Qing transition, and Yuanfei Wang argues that it, like other works of maritime predator fiction which became popular around that time, reflect the feelings of many who lived through the transition and felt that the Qing state was illegitimate and brought a great shame, uncertainty, and suffering to the land; thus many Confucian literati felt that the best way to live up to their ideals was not to serve the state, but to

[1499] Ibid 31-32.
[1500] Ibid 36-37, 54-55.
[1501] Ibid 37, 41.
[1502] Ibid 41.

become independent scholars and monks who lived and wrote in opposition to the Qing, even if it meant going overseas to Southeast Asia or serving Zheng Chenggong on Taiwan to do so.[1503]

Yuanfei Wang also highlights how this work and others like it contain evidence that Han Chinese had a racialized view of the world during this period, in contrast to most modern scholarship which holds that Europeans introduced racialized world views to China during the late Qing era.[1504] Specifically, for many living through the transition, the legitimacy of the imperial state was defined by the authenticity inherent in "the sacred authority of the Han Chinese emperors, the cultural superiority of Han Chinese language and civilization, and the prestige of the Han Chinese bloodline."[1505] This is reflected in the sea fiction of the time in the form of "cultural fantasies of military conquest, imperial dominance, and colonialism."[1506] Of particular interest is how it echoes European imperialism despite the fact that neither the late Ming nor Qing dynasties officially supported overseas imperialism of this type, though at times the activities of Chinese diaspora could produce similar results.[1507] For instance, the "pirate kings" who established fiefdoms in Southeast Asia were praised in Chinese sources for spreading Confucian culture to those peoples; examples include Zheng Zhao in Siam, Pan Hewu in the Philippines, and an anonymous king of the country of Shunta in Java.[1508] The sequel to the Water Margin demonstrates a complex and ambivalent attitude towards race and ethnicity; it depicts Siam as a place where Siamese, Chinese, and Japanese worked together for both national defense and mutual prosperity, yet descriptions of marriages and sartorial customs focus a great deal on

[1503] Wang, *Writing Pirates*, 30-31.
[1504] Ibid 11.
[1505] Ibid.
[1506] Ibid 157.
[1507] Ibid 11-12.
[1508] Ibid 12.

ideals of "hybridity" and "pure blood" with a "shared racial consciousness" of blood ties and kinship connecting overseas and mainland Han Chinese.[1509]

At other points, the story treats dress as the primary marker of ethnicity, with Chinese who wore Siamese clothing, even under duress, treated as dangerous and exotic, especially one Chinese woman whose character fills the archetype of a "Siamese seductress" in Chinese literature despite her origins, on account of her adoption of Siamese dress and culture.[1510] Notably, marrying local noblewomen was a key part of the protagonists plans to dominate the land, yet often it turned out that the woman was of Chinese descent so that the protagonist could maintain a pure bloodline and avoid fears of miscegenation (at least for the main protagonists, as lower ranking followers married locals with the text praising the convenience of such arrangements); at the same time the local ruler Li Jun and his close allies, all also of Chinese descent and culture, arrange marriages among their descendants to maintain their bloodlines and cultural cohesion.[1511] The idea of a Siamese man marrying a Chinese woman was presented as distressing, a sign of being assimilated into the local culture rather than converting it, and of being conquered instead of conquering.[1512] Yuanfei Wang notes that this is similar to European attitudes and writings that also conflated colonial and sexual conquests.[1513]

These figures saw a resurgence of importance and interest in the early twentieth century when the translations of European maritime adventure stories, such as *Robinson Crusoe* in 1906, influenced Chinese vernacular fiction and unofficial histories to utilize some of the same tropes portraying sea adventurers and colonizers as a source of national pride; notably Liang Qichao

[1509] Ibid 42.
[1510] Ibid 42-43.
[1511] Ibid 44-45.
[1512] Ibid 43.
[1513] Ibid.

both helped translate these European sea adventure stories and wrote extensively on the pirate kings as adventuring and colonizing heroes around that time.[1514] It is also notable that his works describe such men with the term *haidao* rather than *wokou* despite them mostly operating in the *wokou* period, establishing such figures as firmly Chinese and downplaying the influence of the Japanese in their fleets, reflecting the anti-Japanese sentiment of his time, and at one point Liang Qichao goes out of his way to state that Zheng Zhao accomplished much more in Siam than the Japanese emigrant Yamada Nagamasa, who also lived there at the time.[1515] Yan Congjian's unofficial history describes an ethnic hierarchy for the nation of Java which incorporated both physical and culture traits: Chinese inhabitants who converted to Islam, for instance, are treated as a distinct group that is strange but still worthy of some respect, as are the Arab and Persian merchant communities living in Java, while the native Javanese are undoubtedly placed at the bottom of the described hierarchy for reasons of both appearance and custom, with Yan Congjian drawing attention to their dark skin and revealing clothing, and describing them as "ape-headed, barefooted, wearing nothing but a loincloth" (**男子猱頭裸身，赤腳，**腰圍單布手巾).[1516] To him, the Javanese were not to be communicated with directly and honestly, but rather manipulated into following the Ming's views and purposes, though this is still better than how he advocates dealing with "traitors" and "pirates," who should be annihilated without discussion according to his writings.[1517] To another author, He Qiaoyuan, piracy, culture, and the sea are inherently interlinked; according to him, the Javanese were deceitful, poor, and addicted to both

[1514] Wang, *Writing Pirates*, 13-14.
[1515] Ibid 13.
[1516] Ibid 64-65.
[1517] Ibid 63, 65.

drugs and maritime predation because they were a maritime culture, which could not in his view measure up to the moral standards of a land-based culture.[1518]

In addition to works of pure fiction, the Ming-Qing transition also saw many works of popular history about maritime predation; in contrast to more official and scholarly history, these works tended to present a wider range of positions and opinions that could differ from Confucian orthodoxy to a surprising degree, if still usually influenced by Confucian thought.[1519] Some described the era of the wokou and focused heavily on themes of identity, particularly how the cooperation of Chinese and Japanese maritime predators blurred boundaries in ways that were at once both frightening and fascinating to the Ming readership.[1520] The wokou maritime raiding also led to a rise in cultural studies of Japan as Ming scholars realized it would be to their advantage to try to understand their enemies, particularly after the ignorance of Japanese language and customs resulted in a battle which destroyed large parts of Ningbo, with studies covering topics that included "military geographical treatises, bilingual glossaries, and translations of *waka* poetry."[1521] While Ming scholar-officials overall regarded their own culture superior to the Japanese, there was some admiration for certain parts of it, such as the "efficiency" of the Japanese language in Ming eyes.[1522] There were also histories that described "Chinese pirate kings" in Vietnam and Jiangnan in ways which paralleled the narrative of *The Sequel to the Water Margin* in romanticizing maritime predation and colonization as means of preserving an authentic and righteous Han Chinese culture in the face of the conquest of the Ming by foreign Manchus.[1523]

[1518] Ibid 67.
[1519] Ibid 109-110.
[1520] Ibid 110-111.
[1521] Ibid 87, 91, 104-105.
[1522] Ibid 90.
[1523] Ibid 8, 30-31, 40, 187.

In particular, much attention was focused on Wang Zhi and Xu Hai, who were considered heroic yet debauched.[1524] Wang Zhi was a maritime merchant who became a predator leader and sea lord after moving his base to Japan and making important alliances there, while also supervising the maritime shipping networks that connected the Ming, Japan, and Southeast Asia.[1525] Xu Hai was his ally, as well as a Buddhist monk turned maritime predator; both men became the subject of many unofficial historical works, often focused on the "public and authoritative sphere of the state, family clans, and local communities."[1526] Some of these narratives focused on the emotional experience and trauma of the raids as much as historical fact, as well as how deceitful and shortsighted the raiders were.[1527] This was then used to justify government tactics of "luring" them with false promises of pardon to arrest and execute them, since they held the belief that pirates could not be trusted to uphold any bargains they made.[1528] Others, such as Yan Congjian, focused more on the maritime predators as agents of trade and commerce, and thus were sympathetic to their frustrations with being cut off from legal trade opportunities. Yet this did not extend to portraying them as being in the right, and in fact presented trade as a corrupting agent in line with the Confucian moral order.[1529] Still, Yan Congjian notably favored diplomacy and using the "Five Baits" of "food, music, wealth, garments, and favor" to entice surrender as methods of dealing with maritime predation, whereas many contemporary writers and scholars emphasized enforcement and punishment.[1530] Xu Xueju's account takes this a bit further, and he portrays Hu Zongxian as feeling guilty for having

[1524] Wang, *Writing Pirates*, 139.
[1525] Ibid.
[1526] Ibid 139-140.
[1527] Ibid 147-148.
[1528] Ibid 149-150.
[1529] Ibid 151-152.
[1530] Ibid 154-155.

deceived Wang Zhi to his death, despite only doing so on the emperor's express orders.[1531] He further portrays the act as a mistake that backfires rather than being a true solution for the maritime predator problem, as his accounts mention that Wang Zhi's followers pillaged even more afterwards as revenge and refused to trust the Ming in further negotiations.[1532] Meanwhile Zhang Nai, a former director of studies in the Directorate of Education, drew upon his experience there managing official histories to write his unofficial one.[1533] He shifted focus away from criticizing or praising the actions of officials and towards the experiences of common people during the wokou raids; not just their fear and terror, but their determination, courage, and morality.[1534] This included common people who became or supported maritime predators as well as those loyal to the state, with Wang Zhi himself presented as "chivalric, intelligent, and trustworthy," and in this unofficial history becomes a renegade for the benefit of the Japanese traders and pirates he had previously befriended.[1535]

The concept of "pirate kings" also appeared in late Ming vernacular literature as well, with "the valiant and dissolute Chinese pirate kings Wang Zhi and Xu Hai" appearing in Zhou Qingyuan's *Second Collection of the West Lake*, Lu Renlong's *Model Words to Shape the World*, and Qingxin Cairen's[1536] *The Romance of Jin, Yun, and Qiao*.[1537] In fact, Xu Hai even became the subject of romantic stories, describing a relationship between him and a woman named Wang Cuiqiao.[1538] In many ways it is a transgressive relationship, with both of them speaking in vulgar language and frequenting brothels, and in other ways a tragic one, as it is Wang Cuiqiao in most

[1531] Ibid 161-162.
[1532] Ibid.
[1533] Ibid 162.
[1534] Ibid 162-163.
[1535] Ibid 163-164.
[1536] Likely a pseudonym.
[1537] Ibid 109.
[1538] Ibid 168.

stories who convinces Xu Hai to surrender, which then results in his death as well as her own as she takes her own life in guilt over what she had done.[1539] These actions are in line with the culture of romance prominent in the late Ming period and demonstrated the "female virtues" of the period, namely patriotic loyalism, female chastity, and romantic love.[1540] This contradiction between the military world of deception and betrayal and the romantic ideals of loyalty and sincerity between lovers, as well as the conflict between the raw passion of romance and the demands of social obligation and moral duty, are resolved through the courtesan's suicide, which is then interpreted by various authors through their own understandings of "authenticity."[1541]

This culture of love and passion would increase during the Ming-Qing transition to almost cult-like status, heavily influenced by Tang Xianzu's legendary work *The Peony Pavilion*, with a strong theme of brilliant and beautiful women tragically dying young as their hearts are torn between passion and duty, while pirate stories at around the same time had similar themes of individualist desires conflicting with obligations of duty to often tragic results while revealing the shortcomings of both.[1542] Some authors, such as Zhou Qingyuan in his short story collection *Second Collection from the West Lake*, portrayed maritime predators as both "righteous outlaws and dissolute gangsters… yearning for freedom and social justice and reveling in their lawless debauchery."[1543] In this story, Wang Zhi is not only the center of a tragic romance and a victim of treachery, but also is used by the author as a mouthpiece for the concerns of the people, lambasting the corruption and apathy of officials who ignore the people's suffering.[1544] Yet the author's portrayal of the maritime predators is ambivalent at best; while they speak some noble

[1539] Wang, *Writing Pirates*, 168-169.
[1540] Ibid 169.
[1541] Ibid 169-170, 175.
[1542] Ibid 187-188, 194.
[1543] Ibid 171-172.
[1544] Ibid 172-173, 178.

words, their actions are to improve their own lives at the expense of the weak and the text consistently describes them as "debauched, simple-minded, and easily deceived and provoked."[1545] Furthermore, the text is more sympathetic to the Ming commander in charge of putting them down, Hu Zongxian, who brings peace to the people through actions that, while distasteful, were necessary, only to fall prey to petty court politics.[1546] Interestingly, one of these stories of romance, tragedy, and treachery, Qingxin Cairen's *The Romance of Jin, Yun, and Qiao*, would be adapted by Nguyen Du into a Vietnamese work, *The Tale of Kieu*, which portrayed the maritime predators as less conflicted and more assured in their rebellions than most Chinese retellings.[1547] It was overall more sympathetic to the desire for the freedom to pursue worldly happiness and success, and the Vietnamese audience especially connected with the main characters' feelings of having been wronged by their government.[1548]

Wokou were less popular as protagonists in late Ming literature, but there is Feng Menglong's short story "Old Eight Yang's Strange Encounter in the Country of Yue" from his short story collection *Stories of New and Old*, which tells the tale of Old Eight Yang (Yang Balao 楊八老), a merchant captured by the wokou and forced to join in their crimes, slowly becoming more like them, even adopting elements of Japanese culture.[1549] This story illustrates the fluidity of identity, both in terms of culture between Japanese and Chinese, and between the statuses of merchants, captives, slaves, pirates, traders, and migrants in the fluid and rapidly evolving maritime world, while also catering to the audiences fear of and curiosity towards maritime predators, Japanese people, and Japanese culture stirred up by the raiding of the

[1545] Ibid 174.
[1546] Ibid 174, 176
[1547] Ibid 195-196.
[1548] Ibid.
[1549] Ibid 109, 126.

wokou.[1550] Notably, to be a pirate and to be Japanese was one and the same in the story, despite a majority of the wokou maritime raiders being of Ming origin in real life. The story highlights Japanese swimming ability and has them carry conch shells to associate the Japanese with the sea, in opposition to land based Ming, while the Chinese protagonist not only starts to speak Japanese but also looks increasingly Japanese as the story goes on.[1551] Despite this, however, the story sympathizes with him as someone authentically Chinese that is forced to become Japanese, and at the end of the story he is granted clemency and allowed to return to a Chinese identity and life.[1552]

Java was a particularly important topic of study for late Ming authors who, after seeing the tributary order upended by wokou raiders, wished to understand how foreign relations could be conducted in uncertain times, as Java's distant location yet steady contact with the Ming through trade and Zheng He's voyages had produced a number of diplomatic incidents which were considered quite unusual under the tributary system.[1553] Yuanfei Wang looks at how the unofficial histories, Yan Congjian's *Shuyu Zhouzi Lu* (*Records of Surrounding Strange Realms*, 1574), He Qiaoyuan's *Wang Xiangji* (*Records of Emperors' Tributes* ca. 1597–1620), Luo *Yuejiong's Xianbin Lu* (*Records of All Guests*, ca. 1591), and Luo Maodeng's vernacular novel *Sanbao Taijian Xiyang Ji* (*Eunuch Sanbao's Voyages on the Western Ocean*, ca. 1598), discuss three incidents: two of them included the killing of Ming envoys yet the Ming emperor was willing to forgive these transgressions in return for relatively minor acts of restitution, and the third was Zheng He's defeat of a pirate king in the region.[1554] These incidents were represented

[1550] Wang, *Writing Pirates*, 109-110.
[1551] Ibid 111-112, 115.
[1552] Ibid 127-128.
[1553] Ibid 57-58.
[1554] Ibid 58.

by different authors in various ways that reflected their personal anxieties and beliefs shaped by the historical contexts each lived in.[1555] Yan Congjian's view of the tributary order sees it and its call for obedience to the emperor and whatever rules he may set on maritime trade as the divider between "Chinese transplants (with hometowns in China) and non-Chinese peoples;" for instance, he praises Liang Daoming, a Guangdong merchant who ruled Sanfoqi,[1556] for submitting to the Yongle Emperor in 1405, while lamenting Wang Zhi's insubordination in the face of the trade ban; as far as Yan Congjian was concerned, disobeying the emperor made Wang Shi not only a pirate, but made him Japanese instead of Chinese.[1557] What Yan Congjian, He Qiaoyuan, and Luo Yuejiong all had in common, according to Yuanfei Wang, was that they interpreted Sino-Javanese history, particularly the words of rulers, to express and attempt to deal with their anxieties over the late Ming's sociocultural positioning in a dynamic and multipolar maritime world.[1558] These three authors, while differing on other topics and the details of implementing Confucian ideals, also shared an appreciation for the value of knowledge about antiquity and "the other," while simultaneously believing that maritime commerce, immigrants, and Javanese people were unethical.[1559]

Meanwhile, Luo Maodeng's vernacular historical fiction novel, *Eunuch Sanbao's Voyages on the Western Ocean,* deals with these themes of Chinese supremacy and anxiety in a more direct manner, describing a fictional version of Zheng He's voyages in which he is met with violence at every place he lands, except for Mecca, and is always victorious, demonstrating the superiority of Chinese culture through his actions and turning the locals into vassals, yet is

[1555] Ibid 58-59.
[1556] A Southeast Asian trading polity mentioned in several Chinese texts, not positively identified with any specific modern location or culture.
[1557] Ibid 63-64.
[1558] Ibid 71.
[1559] Ibid.

unable to complete his stated mission of finding a missing imperial seal.[1560] Yuanfei Wang argues that in some ways, this novel is more representative of the realities of Ming foreign relations than the unofficial histories who stick to cliches of "cherishing men from afar," stating that "while the three unofficial narratives' homogeneous historiographical act accentuates the ideal of Confucian culturalism, Voyages shows a more realistic late Ming society by fusing imperialistic ideology with ideologies of religion, commerce, and vernacularity."[1561] Overall, both the vernacular novel and the unofficial histories demonstrate a contention between two distinct yet connected ideologies; one of Confucian benevolence "cherishing men from afar," the other, nationalistic justifications for violence for revenge, particularly over the Javanese assassinations of visiting Ming officials, and for the sake of imperial self-interest.[1562] In this combination of ideals, the presentation of Chinese maritime predators operating in Southeast Asia became similarly mixed, representing at once a threat to the Confucian order and agents of its spread, with their success in predatory endeavors reflecting the superiority of the culture they came from while providing a romantic and authentic alternative to it, paralleling equally conflicted discussions of maritime predators in European literature at around the same time.[1563]

Maritime Predators in Qing Poetry

Maritime predators and the struggle against them were not uncommon topics for poets during the nineteenth century; Zhang Weiping's *Guo Chao Shi Ren Zheng Lue* (國朝詩人徵略 A Collection of Poets in the Qing Dynasty), for instance, contains several references to maritime predators and their effects upon the populace. In one instance, it is said that "many Han people

[1560] Wang, *Writing Pirates*, 71-72.
[1561] Ibid 72, 74-75.
[1562] Ibid 82-83.
[1563] Ibid 202.

feared pirates and banned travel in the Nanyang (Southern Seas)" 許多漢人懼怕海盜, 禁止南海往來.[1564] In another part of the work, there is a celebration of the friendship between the Fujian and Zhejiang navies after their joint campaigns in 1808 and 1809 against the famous merchant and maritime predator Cai Qian, campaigns full of both hardships and glories for each fleet.[1565] The collection also highlights that, beyond the direct threat posed by maritime predator attacks, there was the danger of being falsely accused of being one, whether out of a genuine mistake or the settling of a grudge, and this theme appears throughout the collection.[1566] Liu Zenglu's *Mengyuan Gong Du Wenji* (Collection of Dream Garden Official Works) solemnly makes note of maritime predators dominating and lording over the seas once again, despite the best efforts of their opponents.[1567] Huang Yujie was the editor of the poetry compilation *Yue Dong San Zi Shi Chao* (Poems of the Three Poets of East Guangdong), which similarly describes how the fear of maritime predation had hurt the people's ability to make a living by the sea, especially as the military was too cowardly to fight and the maritime predators fought each other, but people took the risks because they had no alternative.[1568] Shortly afterwards, the author goes into vivid detail about average life along the coast, the vast movement of vital goods up and down the littoral, and how maritime predation factored into both.[1569] One poem is entitled "On Ransoming Kidnapped People," 贖人行, and describes the fear of people taken hostage by maritime predators, "On the sea, hundreds of pirates wait to prey upon travelers from east and west, north and south; When

[1564] Zhang Weiping 張維屏, *Guo Chao Shi Ren Zheng Lue: [60 Juan : Er Bian 64 Juan]* 國朝詩人徵略 : [60卷 : 二編64卷], [China: s.n., 1830], volume 6-10, sequence 551.
[1565] Ibid volume 6-10, sequence 746
[1566] Ibid volumes 1-5, sequences 447, 811, and 842.
[1567] Liu Zenglu 劉 曾騄, *Meng Yuan Gong Du Wen Ji: [18 Juan]* 夢園公牘文集: [18卷], [S.l.: s.n.], 1871, volumes 15-21, sequence 914.
[1568] Huang Yujie 黃玉階, et al., *Yue Dong San Zi Shi Chao: 14 Juan*, 粵東三子詩鈔:14卷Guangzhou: [s.n.], Daoguang 22 [1842], sequence 346.
[1569] Ibid sequence 347.

they locate their quarry, the sky roars with the thunderous booms of cannons; Many passengers cry out with fear as their ship takes flight; They all turn ashen pale, their hearts and courage broken in disarray.” 海上盜船動盈百東西南北候. 過客相逢瞰火聲. 轟天萬眾齊呼飛過船. 人人土色心膽裂短刀交.

贖人行
海上盜船動盈百東西南北候過客相逢瞰火聲
轟天萬眾齊呼飛過船人人土色心膽裂短刀交

Passage from *Yue Dong San Zi Shi Chao.*

Translations and Popular Historical Narratives

Some of these Qing authors found English language audiences and went on to become cornerstones of European and American knowledge about Qing maritime predation. For instance Yüan Yung-Lun was a veteran of the campaign against the Guangdong Confederation of maritime predators, and he decided to recount his and other people's experiences and knowledge of the struggle as well as explain the larger historical context in his book *History of the Pirates who infested the South China Sea from 1807-1810*, which was intended to be a supplement to Lan E's *Tsing Yih Ke* (*History of the Pacification of the Robbers*).[1570] Such was his dedication to accuracy that he had his work reviewed by multiple other scholars who had also lived through the events in question, and had them write prefaces for his book in which they vouched for its truthfulness and completeness.[1571] It is worth noting that the original version of the book was published in 1930, and was translated into English for mass printing a year later, demonstrating how great a success the book was and how hungry global audiences were for stories and information about maritime predators of the South China Sea. The original printing used a variety of characters either local to Canton or heavily abbreviated, making it less accessible to many Chinese audiences than one that stuck to standard characters, and also made translation considerably more difficult, as the translator Friedrich Neumann himself readily complains; yet Neumann did think it worthier of translation than the more official Qing scholarly histories, which he felt were too obsessed with literary form and ideological orthodoxy than conveying accurate information.[1572]

[1570] Yüan, *History of the Pirates who Infested the South China Sea from 1807-1810*, Xl-xli.
[1571] Ibid xil, xlv.
[1572] Ibid xx-xxi.

Translation is not a passive process where the translator finds the best fitting word or phrase, but an active one where the translator, to quote Lydia Liu, "creates tropes of equivalence" and decides which ideas in each language are closest to each other, thus shaping how the intended audience imagines the speakers of the translated language.[1573] Additionally, in what is known as "translingual practice," as words are translated into other languages they are also adopted and appropriated, and their eventual legitimization takes place within an intellectual arena influenced by political and ideological struggles that result in the translated term acquiring new meaning; in essence creating a new hybrid term rather than there being a perfect equivalence between languages.[1574] For example, when translators such as Hugh Lindsay equated the term *yi*, a general term for outsider or foreigner, with "barbarian," it did much to support the stereotype of the Chinese as an arrogant and xenophobic culture, worthy of being considered barbarians themselves.[1575] Furthermore, there is also the example of Ku Hung-ming, a diasporic subject of the Qing who was educated in Europe and swore allegiance to the Qing and Empress Dowager Cixi later in his life; he acted as both translator and publicist defending the Qing nationalist position during its conflicts with Britain and other foreign powers in the early 1900s, and thus the way he translated from Chinese into English differed in various ways from European translators, or that of diasporic Chinese who were more critical of the Qing regime, such as Sun Yat-sen, a major figure in the foundation of the Republic of China.[1576] In particular, Ku and his allies worked hard to equate Cixi and the Qing crown with Victoria and the British crown as equal sovereigns with exchangeable and reciprocal sovereign rights, which

[1573] Chen, *Chinese Law in Imperial Eyes*, 87.
[1574] Carrai, *Sovereignty in China*, 47.
[1575] Chen, *Chinese Law in Imperial Eyes*, 75, 209.
[1576] Liu, "The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations," 151, 160-161.

was the most commonly understood basis for international law during the early twentieth century.[1577]

With these facts in mind, it is important to consider Neumann himself and how his beliefs and biases would have influenced the audience of the translated version of Yüan's text. He made his opinions quite clear, both in his detailed preface to the main text, and in various footnotes scattered throughout the text. Neumann expressed obvious and open support for the maritime predators, at least to the extent that he finds them more relatable and their history more dynamic than what he saw as the circular rise and falls of imperial dynastic governments.[1578] Overall he viewed both maritime and terrestrial predators as a natural counterbalance to the despotism of the central government, acting in accordance with universal feelings of human freedom and resistance to tyranny, albeit without an ideological understanding of those feelings and thus unable to go from random violence to true revolution.[1579] Neumann also addresses the slippery and subjective nature of the term "pirate," noting that European merchants had a strong tradition of denouncing competitors as pirates while raiding local commerce themselves, that if the founder of the Ming Dynasty had failed he would only be known as a bandit, and, conversely, if Zheng Chenggong had successfully overthrown the Qing "the official historiographers of the "*Middle empire*" would have called him the *far-famed, illustrious elder father* of the new dynasty" rather than a pirate.[1580] He goes on to state that the Qing know, but are too embarrassed to admit, that there was and is a great deal of support for those it labels robbers and pirates, which made military victory impossible and forced the Qing to resort to bribing maritime predator leaders into surrendering, whereas the original text treats such a policy as wise and

[1577] Ibid 167-168.
[1578] Yüan. *History of the Pirates who Infested the South China Sea from 1807-1810,* vii.
[1579] Ibid vi.
[1580] Ibid v, viii.

benevolent.[1581] He also pokes fun at what he takes to be bias throughout the original text, such as noting that many of the hypothetical conversations between maritime predator leaders do not sound like maritime predators talking to each other, since they do things like refer to themselves as "sea monsters" and use rhetorical language more like that of scholars than sailors.[1582]

This raises the question of what was Neumann's agenda in making these statements and presenting this information the way he did; one possibility is that he wished to make his readers think critically about the narrative of the main text, and about historical narratives as told from the point of view of rulers and leaders in general, though if so he fails to encourage similar critical thinking about his own statements. Another possibility is that he wished to make the book more exciting for its presumed European and American audiences, as he states in his introduction that the "sameness" of official histories in glorifying their governments made it difficult for him to find a Chinese text on the subject of interest to "general readers," and as such perhaps he felt some counterpoints to Yüan's narrative would be more engaging for his reader base.[1583] One thing that is certain is that Neumann has a strong "classical liberal" perspective that combines an emphasis on economic freedom and rule of law opposed to "despotism," as can be seen in his comments about pirates as unwitting agents of freedom and resistance to tyranny, and the strong distrust of groups and organizations he presumed to be arbitrary, hierarchical, and hidebound; in addition to his expressed dislike of China's dynastic imperial governments and powerful European merchant conglomerates, particularly the Portuguese. He also takes the time to denounce the Catholic Church as despotic, going so far as to state that the reason Jesuits spoke so highly of China in their early reports was because they had a similar vision for total societal

[1581] Ibid xviii, 72-73.
[1582] Ibid 68.
[1583] Ibid vii.

control in Europe.[1584] His attitudes seem to coincide with the increasing faith in "middle power" in Europe described by Benton in *Rage for Order*, that is a belief in the ability of a supposedly modern and rational bureaucracy and judiciary system to act as a mediator between people and their rulers which protects against arbitrary abuses of power, with Neumann stating that "The extremes of both democracy and despotism acknowledge no intermediary power or rank" while comparing Catholics and Confucians, implicitly stating that both see "The sovereign as the vice-regent of heaven…the only view of right and wrong, and commands both what shall be done in this world and thought of concerning the next."[1585] Benton notes that this viewpoint "confounds our best historians" who try to view it as a stepping stone to either liberalism or neo-authoritarianism when she sees it as a distinctly imperial viewpoint that is separate from either while incorporating elements from both, as it sought to preserve and strengthen "strong executive power tempered by impartial justice."[1586] Middle power differs from the public sphere and third realm because those terms refer a space between the wider public and the government as a whole, whereas middle power is about different layers of the government itself, with an emphasis on how mid-ranked officials like colonial governors and viceroys stabilize the political order and prevent corruption and abuse from both lower and higher levels of government.[1587]

History of the Pirates who infested the South China Sea from 1807-1810 starts its narrative with the 1793 coup by the Tay Son brothers in Vietnam, which would result in the maritime predators of the China Sea to gain a secure base to train, gain experience, organize, and improve their equipment by fighting for the Tay Son regime.[1588] It continues until the surrender

[1584] Ibid x-xiii.
[1585] Ibid x
[1586] Benton, *Rage for Order*, 11-12, 39.
[1587] Ibid 9-10, 95, 183-184.
[1588] Yüan, *History of the Pirates who Infested the South China Sea from 1807-1810*, 1-4.

of some of the last major maritime predator leaders around 1810, particularly Ching Shih, as well as the ones known by their nicknames Scourge of the Eastern Ocean and Frog's Meal, with a brief denouement on the gradual hunting down of the remaining predator squadrons afterwards, and finally ending on the triumphant statement that "From that period until now, ships pass in tranquility. All is quiet on the rivers, the four seas are tranquil, and people live in peace and plenty."[1589] That said, the bulk of the narration concerns the final stages of the maritime predator alliance's history, after the tide had slowly but surely started to turn against them, a downfall presaged when a well prepared merchant vessel, the *Teaou fa*, managed to repel a maritime predator attack in 1808, which had not happened before.[1590] The earlier seven years of maritime predator military victories and unopposed plundering is covered much more briefly, with an eye on the general characteristics of the confederation rather than individual events, noting that it was well organized and professional, with distinct colored flag squadrons controlling different areas, strict internal rules and regulations that covered everything from fair division of loot to conduct in battle, and that the fleet employed bureaucrats, such as the *Ink and Writing Masters* who managed their storehouses.[1591]

Throughout the rest of the book, there are many descriptions of individual battles, carefully noting the numbers involved in each engagement, the commanders of all forces, and where or when the battles took place. Yet overall the book does not depict the downfall of the maritime predator alliance as a simple matter of military might or courage.[1592] Rather, it is the combination of the military pressure, efforts to cut off the predators from their supplies and support structures, and the generous offers of amnesty or even high government office to

[1589] Ibid 96.
[1590] Ibid 22-23.
[1591] Ibid 7-10, 13-15.
[1592] Ibid 38-39, 60.

maritime predators that surrendered which exasperated existing internal tensions and caused the once powerful organization to crumble from within, beginning with Guo Podai and his black flag squadron.[1593] Particular attention is paid towards the surrender of Ching Shih and her partner Chueng Po Tsai, as their red flag squadron was larger than the others combined, so its surrender on January 13th, 1810 is treated as the effective end of organized maritime predator resistance, and the reasoning its leaders took to reach that decision is described in some detail.[1594]

It is not just European audiences that consumed translations of Han language works on the subject; there were Han Chinese translations of European accounts as well. An example of this is *太平天國外紀* (*Taipingtianguo wai ji*), which was translated by Meng Xiancheng from Augustus F. Lindsey's account of his time as a foreign officer in the service of the Taiping, *Ti-Ping Tien-Kwoh: The History of the Ti-Ping Revolution (Volume I)*.[1595] Meng Xiancheng was an educator trained in both Western and Chinese schools who later went on to become the first president of the East China Normal University in Shanghai; it is worth noting that while Yüan's *History of the Pirates* was translated fairly quickly, Lindley's *History of the Ti-Ping* was translated in 1915, decades after its original English publication in 1866.[1596] During that time, the Qing Dynasty which the Taiping had fought against had been overthrown and replaced with a Republic, creating intellectual space for a revaluation of the Taiping and their legacy; while the devastation of the Taiping War remained, the Taiping influenced later Chinese revolutionary movements in both ideology and tactics to different extents, with surviving Taiping members even joining these later movements.[1597] As to why Meng Xiancheng choose this work for

[1593] Ibid 64-65.
[1594] Ibid 78, 86-87, 90.
[1595] Augustus F. Lindley, *太平天國外紀 Tai ping tian guo wai ji: Lingli yuan zhu*, translated by Meng Xiancheng, (Shanghai: Shang wu yin shu guan, Minguo 4 [1915]), vol.1, 1-2.
[1596] Ibid.
[1597] Jian Youwen, *The Taiping Revolutionary Movement*, (New Haven: Yale University Press, 1973), 9.

translation is difficult to say with certainty, for he leaves no forward or translator's notes, beyond a brief mention that the original was in English, had vivid descriptions and many images much like a picture book, and he even leaves out Lindley's own pre-text commentary in favor of focusing entirely on Lindley's main narrative.[1598] Still, Meng Xiangcheng must have felt that Lindley's account would shed enough insight into the history of the Taiping, or at least entertain with all its vivid descriptions of the conflict, as to be worth the effort of translating.

In the original language version, Lindley comes off as almost defiantly proud of his service to the Taiping despite the regime's poor reputation in most English speaking states; for instance, he dedicates the book to the Taiping commander Li Xiucheng under whom he severed, included a copy of his Taiping military commission papers as well as a translation of those papers, and used the name he was given in the war, 呤唎 Lingli, in the author section, along with a list of his military titles, including commander of the Taiping "Loyal and Faithful Auxiliary Legion."[1599] He directly criticizes British policy towards the region, stating that he desired to "protest against the evil foreign policy which England, during the last few years, has pursued towards weak Powers, especially in Asia."[1600] He follows this up with a quote from A. G. Stapleton's "Intervention and Non-intervention" which argued, among other things, that British foreign policy was a source of "indignation and horror" among all civilized "and half-civilized" peoples, which disregarded international law and committed countless wrongs and much violence to any state too weak to resist them.[1601] One thing that particularly outraged him was how Britain proclaimed neutrality early in the conflict while simultaneously doing much to

[1598] Lindley, *Tai ping tian guo wai ji*, x, 1-2.
[1599] Augustus F. Lindley, *Ti-Ping Tien-Kwoh: The History of the Ti-Ping Revolution (Volume I)*, (London: Day & Son Limited, 1866), i, iii, v-vi.
[1600] Ibid viii.
[1601] Ibid.

aid the Qing, including taking and fortifying towns against the Taiping in order to protect their trade, despite Taiping assurances that the trade would not be harmed, or aiding Qing forces in putting down local uprisings.[1602] He also emphasizes the Taiping's Christian foundation, while downplaying the ways they deviated from most other forms of Christianity, seeing it as an abandonment of "idolatry" in favor of reason and morality.[1603] Additionally, Lindley describes the Taiping as patriots, resisting foreign occupation in the form of Manchu Qing domination and European Imperialism, commenting that he observed no mercenaries in the Taiping army or any who had motives other than patriotic or religious, which he felt was superior not only to the Qing armies with their hired braves, but even the professional armies of Europe who were still prone to looting and plundering for their own profit, something he denied that the Taipings did.[1604] Indeed, Lindley's only real complaint of the Taiping is that he found their constant politeness and good cheer excessive and a bit annoying.[1605] Despite this, Lindley still feels that "civilizing and Christianizing the largest country in the world" is a worthwhile enterprise, as is opening it to trade; it is just that he felft a Taiping victory, or any of the other native rebel groups fighting the Qing when the book was published, had the best chance to accomplish those goals, and imperial hypocrisy only hurt those efforts.[1606]

As varied as the ways that Lindley tries to get the reader to sympathize with the Taiping cause, the book is filled with a variety of other topics, from Lindley's personal journeys and experiences before joining the conflict to the workings of the Taiping economy, divided into fifteen chapters, some covering chronological periods while others were organized according to

[1602] Ibid 174-175, 394-395.
[1603] Ibid vii, 399.
[1604] Ibid vii, 248, 250-251.
[1605] Ibid 363-364.
[1606] Ibid xii.

the themes of the topics covered. For an example of the latter, the second chapter of the book is dedicated to the life and character of the Taiping founder Hong Xiuquan, starting with his genealogy and ending with his declaration of the Taiping as a new dynasty.[1607] Beyond his own life and that of important Taiping figures, Lindley also describes in great detail his wife Marie, who was the daughter of a Portuguese consul before meeting Lindley in Macau, and who also joined the Taiping army as a markswoman.[1608]

Lindley further supports his accounts by including a wide range of official documents, newspaper excerpts, and relevant images, including both wooden engravings and chromolithographs, the latter of which were multicolored images using a combination of different chemicals and stone or metal plates. One of the official documents Lindley includes is a copy of an official dispatch between British forces under Commander Bingham to the Taiping authorities in Nanjing to highlight their "open arrogance and unsound reasoning," and contrasted that with the "righteous tenor and sound argument" of the Taiping reply, which was also included.[1609] Lindley also uses sections from newspapers to demonstrate that he is not alone in his criticisms of the Qing and British foreign policies, such as when he cited a letter to the editor of the *Shanghai Times* claiming that the use of British ships to move Qing troops and supplies put foreigners in the region at risk just to prop up a corrupt and incompetent government.[1610] The wooden engravings that Lindley included were often used to help visualize fine details of dress or behavior that Lindley described, such as the difference between Qing and Taiping hairstyles, or the headdress of a high ranking Taiping official.[1611] For an examples of a chromolithograph,

[1607] Lindley, *Ti-Ping Tien-Kwoh: The History of the Ti-Ping Revolution*, 32-33, 53-54.
[1608] Ibid 25-26.
[1609] Ibid 417-418, 422-423.
[1610] Ibid 340-341.
[1611] Ibid 73, 80.

Lindley included one entitled "Escape from the Lorcha," depicting a lorcha attacking some small merchant ships near the shore while a horrified crowd watches on, in the midst of his description of being chased by that same ship, driving home to the readers how close an escape that had been and how dangerous the waters could be.[1612] Not all of his chromolithographs were so thrilling; he also used them to depict scenes from everyday life, such as the inside of a Taiping church to demonstrate the details that made that church experience unique while creating an atmosphere of worship and community that would be familiar to the European Christian audience of the book.[1613]

One aspect that really comes through the translation is the fiery and unambiguous language of Lindley when he discusses his beliefs. For instance, when discussing the issue of Taiping sailors being extradited between the Qing and the British to be punished as pirates despite the Taiping being recognized as open combatants in conflict, the British policy on the matter is described as "despicable" (Bēiliè 卑劣).[1614] The issue of maritime predators and their possible association with the Taiping was an important one to Lindley, in part because he was himself an officer in the Taiping navy and would presumably not want to be considered a pirate in any fashion, but also because he saw it as a point of hypocrisy on the part of the Qing and British. After one encounter with riverine raiders in which nearby European gunboats did not help, Lindley commented that the gunboats would have done more good fighting such raiders rather than the Taiping, and stated that the surviving predators from the encounter would go on to fight alongside those same gunboats later.[1615] Outside of such emotional political commentary, however, Lindley usually keeps a cool, dry tone as he explains every relevant facet to his current

[1612] Ibid 203.
[1613] Ibid 360.
[1614] Lindley, *Tai ping tian guo wai ji*, vol. 3, 99-100.
[1615] Lindley, *Ti-Ping Tien-Kwoh: The History of the Ti-Ping Revolution*, 135, 167-168.

topic of discussion; this too is maintained by Meng Xiangcheng's translation, as can be seen in Lindley's comparison of the Taiping's relations with Russia and Britain, noting everything from the two power's historic rivalry in the region to issues of trade and the movement of goods through Taiping territory, namely how despite claiming to act in the interest of free trade Britain shut down any borders it had with the Taiping, while Russians were open to exchange with the new state.[1616]

Overall, the translation is faithful to the spirit of Lindley's work and his defense of the Taiping cause and his service in it, particularly his challenges to ideas about maritime predation and free trade which had been used to demonize the Taiping. What both versions of the work demonstrate is that this was a period with increasingly rigid definitions of what constitutes a legitimate soldier versus a mercenary or pirate, legitimate state or illegitimate, or of just and unjust causes for war, with those definitions often in the favor of the interests of a few great empires, yet there was still room for narratives that disagreed with the general consensus. They also demonstrate that European rules against privateering and the lack of an East Asian equivalent to privateering did not prevent the Taiping or other factions in the region from recruiting semi-autonomous European raiders into their service when it benefited them to do so.

Images of Violence and Humanitarian Intervention

It was not just print media that shaped people's mental images of the South China Sea and the maritime predators therein, actual images played a large role in that as well. By the mid-nineteenth century, visual depictions of Chinese society had become a popular source of ethnographical information about the region, working with both popular and scholarly writings to shape how people throughout the world imagined and felt about Qing law and justice.[1617]

[1616] Lindley, *Tai ping tian guo wai ji*, vol. 3, 102-103.
[1617] Chen, *Chinese Law in Imperial Eyes*, 162.

Crime and punishment were defining themes in this field, with certain populations developing a rather morbid fascination in collecting images of criminals suffering their punishments at the hands of the state, helping to form what Li Chen referred to as "sentimental regimes," in which sentimentality and sympathy "became an innovative technology of empire and subject formation as it helped redefine cultural boundaries and hierarchy" and paved the way for intervention in internal politics in the name of humanitarianism.[1618]

In fact, there was an entire trade in Qing port cities around selling watercolor artistic depictions of especially gory interrogations, corporal punishments, and executions to European tourists and collectors, who were in turn often unaware of the fact that the depicted executions were either rarely implemented or otherwise manufactured entirely for interested foreign buyers, and assumed that the images had been intended for Chinese consumption, even showing the images to young children as educational tools, thus reinforcing foreign stereotypes of China having an arbitrary and cruel justice system.[1619] Twenty-two of the watercolors were collected into the book *Punishments of China* in 1801 and printed with English and French textual descriptions beneath each morbid image, which was popular enough to be reprinted in 1804, 1808, 1822, and 1830, with copies of its various editions readily available in the modern day; notably, it was one of the only sources available in English on Chinese law at the time.[1620] It is worth noting that the sympathy audiences felt towards the subjects of Qing judicial violence rarely lead to genuine empathy or a lasting sense of connection as fellow humans, and in fact helped reinforce a sense of separation and superiority, with the viewer seeing themselves as more modern and moral than either punisher or punished in the image, which ironically could then be

[1618] Ibid 23.
[1619] Ibid 164, 183.
[1620] Ibid 164-165

used to rationalize colonial violence and brutality.[1621] In the process of imagining or lamenting another's pain, the subject sometime assumes moral or even legal right to intervene on their behalf, while maintaining or even strengthening national, social, or cultural boundaries between observer and sufferer, whereas a more genuine sympathy would erode those barriers. [1622]

Paintings depicting battles against the maritime predators of the South China Sea were commonly made by both Qing and foreign artists, nor was it uncommon to depict images of maritime predators as figures of terror, inflicting atrocities upon the weak and vulnerable. In fact, maritime predators had been popular as the topic for paintings, particularly triumphant ones of government victories, going back for centuries throughout the various great waves of maritime predation in the region. This can be seen in the Ming era scroll painting depicting the defeat of Japanese maritime predators by Ming ships and sailors, entitled "Ming Qiu Shizhou Taiwan Zoukai Tu" ("Victory in Taiwan") and painted by Qiu Ying, pseudonym Shizhou, who lived between 1494 and 1552 CE.[1623] What is particularly noteworthy in this image is the contrast between the government forces and their maritime predator foes, with the former appearing powerful with their larger ships and bright banners, while the latter look wretched, with small boats and ragged clothes of muted colors; reinforcing a sense of sharp difference in power between the combatants, and thus the inevitability of the government vanquishing those who challenge it and threaten its loyal subjects.[1624] Also noteworthy is that civilians are depicted in the inland portion of the painting, yet don't seem to notice the naval battle in any way, making it hard to determine their purpose in the painting.[1625] The demand for images of the maritime

[1621] Ibid 23-24.
[1622] Ibid 161.
[1623] Qiu Ying, "Ming Qiu Shizhou Taiwan Zoukai Tu" ("Victory in Taiwan"), 1494 – 1552.
[1624] Ibid.
[1625] Ibid.

predators of the South China Sea only increased as sensationalized news articles and popular literature drew international attention to the topic. Shap-ng-tsai and this followers were a particularly common source of artistic inspiration, with artists drawing their portraits, recreating their flags, and depicting their battles; the most famous of these was a painting of the Battle of Bias Bay created by Nam-Sing, commissioned by Dugald McEwan, and centered on a single British steam ship sailing proudly while surrounded by the burning junks of its foes.[1626] Edward Cree's painting of the subsequent Battle of Tonkin River against Shap-ng-tsai's remaining forces uses a more detailed and lifelike art style, but had a similar subject matter of centering on a small number of powerful looking British ships engaging with impunity a large number of predator junks.[1627]

Photographs were an invention of the nineteenth century that quickly took the world by storm, providing the audience with a look at distant lands and people so detailed and natural that it could almost feel like being there oneself. Naturally, the photographers were not unbiased observers, as the very act of choosing what to photograph and what to omit from the visual record reflected the priorities of the photographer and what message they wanted to send to their viewers. Notably, western photographers in Qing territory often took pictures of those suffering from opium addiction, particularly groups of men sprawled out on an opium couch, reinforcing notions of opium as a degenerating substance and its users less than human, whereas previously smoking opium used to be considered something of an elegant pastime.[1628] Li Chen lists photographers alongside artists, reporters, narrators, and commentators as shaping the Orientalist

[1626] Nam-Sing, "Destruction of Chuiapoo's pirate fleet, 30 September 1849," Unknown date 19th century. <https://collections.rmg.co.uk/collections/objects/12124.html>.
[1627] Edward H. Cree, "Attack on, and destruction of, part of the pirate squadron of Shap Ng-tsai, in the Gulf of Tonkin on 21 October 1849 by the *Columbine*, *Fury*, *Phlegethon*, and two boats of *Hastings*," 1849. https://collections.rmg.co.uk/collections/objects/148166.html.
[1628] Brook and Wakabayashi, "Introduction: Opium's History in China,"8.

discourse that was a guiding, though not totalizing, influence on how Chinese law and culture was understood by their audiences, despite how widely individual representations may have varied.[1629] In particular, similar to paintings, there were many photographs of Chinese punishments, radically decontextualized images that removed any hint of physical environment or social space, "showing nothing but Chinese torturers and the tortured."[1630] Photography combined with the telegraph and the rise of newspapers to show such images with increasing frequency in many English language newspapers, whether they were based in Europe, America, India, Singapore, or even China itself.[1631] That said, this also made many question the imperial mission when foreign officials and soldiers were increasingly the de facto instigators or supervisors of the condemned Chinese executions in the 1900s, or when they made themselves part of the spectacle of cruelty "by leisurely taking photographs of dismembered native bodies while exposing themselves to other photographers or viewers," causing viewers and commentators to worry that the imperial war, and its "civilizing mission" in general, in fact had a de-civilizing effect on its agents.[1632]

Maritime predators and the naval men who hunted and punished them quickly became an exciting topic for photography; while capturing actual predatory raids or anti-predator battles would have been beyond the abilities of early photographic techniques and technologies, anything else related to the topic were quickly captured in photographs. For instance, "Pirates beheaded in Kowloon City, 17 April 1891" depicts exactly what the title says, having a triumphant framing as smiling executioners in nice suits stand facing the camera over the

[1629] Chen, *Chinese Law in Imperial Eyes*, 163.
[1630] Ibid 167.
[1631] Ibid 174.
[1632] Ibid 198.

headless bodies of several convicted maritime predators.[1633] While there is little blood or gore considering the circumstances, the clear separation between the rows of heads and the bodies to which they formerly belonged drives home the clear message of the power of the state to punish those who would threaten its interests at sea. In fact, this image is considered iconic enough to be prominently displayed in the "Law and Order: Crime and Crime Fighting" section of Hong Kong's official government website as of the time of this writing.[1634]

Similarly, among the many images of daily life in the southern Chinese coastal cities of Shanghai and Canton, Edward Bangs Drew's untitled album contained multiple photos of prisoners in pillories, demonstrating that such a sight was of some importance to himself and of interest to his intended audience.[1635] It is worth noting that Drew was a member of the Imperial Maritime Customs Service, and thus had spent much of his career in China directly dealing with the profit made from maritime trade, and the threat maritime predators posed to it.[1636] Maritime predation and military responses to it also provided plenty of opportunity to snap pictures of navy men sharply dressed in nice uniforms, as well as show off the latest and fanciest in the military technologies, particularly steam vessels that increasingly made the lives of maritime predators in the Pacific all the more difficult. In particular, the Hong Kong marine police were fond of documenting their members, equipment, and actions against maritime predators and contraband traders, to assure the people of Hong Kong of the maritime police's commitment to its duties.[1637] This public reassurance was most necessary because the early Hong Kong police,

[1633] "Pirates beheaded in Kowloon City, 17 April 1891," Reference No.: 06-01-006, https://www.grs.gov.hk/ws/english/resource/Law_and_order/crime_and_crime_fighting/Law_and_Order_1.html.
[1634] Ibid.
[1635] Edward Bangs Drew, "Untitled album - Photographs of Shanghai and Canton (Guangzhou), 1876," https://www.virtualshanghai.net/Texts/E-Library?ID=1656.
[1636] Ibid.
[1637] Ward, *Sui* Geng, 46-47.

especially the maritime division, were given an unsavory reputation as corrupt, ineffective thugs by their opponents in the press, as can be seen in the July 12th, 1871 issue of the *Hong Kong Daily Press*, where the lyrics to a popular drinking song mocking the local police was published.[1638]

Conclusion

These are just a small sampling of the vast volume of work printed on the topic during the late nineteenth and early twentieth centuries, yet in them some patterns emerge that can tell a great deal about how authors and artists of every stripe, constantly building off each other's works, described maritime predation in the South China Sea and how accountable the Qing dynasty was for failing to completely prevent it. While individual opinions could vary quite a bit, there was an overall trend of English speaking writers moving from a position at the start of the nineteenth century that maritime predation along the Qing coast could only be dealt with by outside forces with Qing government permission and only if their own ships were directly attacked, to a harder position at the end of that century and the beginning of the next that bluntly stated that the Qing's inability to eliminate predators and protect foreign trade disqualified it as a functioning state.

Similarly, much of the early English reporting and other narratives are of dashing pseudo-military adventures triumphing over maritime predators, often with unspoken or explicitly stated hopes that maritime predation as whole would soon be vanquished from this region and the world. However, as maritime predation not only survived but adapted to counter traditional government tactics, frustration grew, and the narratives audiences were being told and shown were shorter, terser, and less full of hope and contained more fear and anger. Consistent

[1638] Bard, *Voices from the Past*, 36-37.

throughout much of this discourse shaping media, both within the Qing mainland and overseas, was contempt for the Qing government, particularly its ability and willingness to deal with violent threats in the maritime arena, slowly pushing the regime towards the twin threats of colonization and revolution. When maritime predators ever received any praise or sympathy, it was often to make the Qing look worse by comparison, especially in terms of bravery. European audiences seemed particularly skeptical of the Qing use of the tactic of inducing pirates to surrender with offers of pardon and government work, even though European governments had employed similar tactics throughout the Golden Age of Piracy, as can be seen in English King James II's general pardon for surrendered maritime predators in 1687, or the similar one offered by King George I of England in 1717 as part of his "Proclamation for Suppressing of Pirates."[1639] That said, the effect of these decrees was notably limited, as was shown by Marcus Rediker in "The Seaman as Pirate: Plunder and Social Banditry at Sea," likely increasing the distaste and distrust for pardoning as an anti-predation tactic.[1640]

In any case, the changing attitudes towards the legitimacy of non-state maritime violence was embodied by the Paris Agreement and similar treaties, adding legal weight to existing cultural and political beliefs. These treaties were not specifically mentioned in mainstream media except in the most vague and general terms, and indeed there was often something of a disconnect between general populations, politicians, and legal scholars. This is demonstrated by the controversy surrounding the Opium Wars, which were fought even though there was widespread opposition from legal scholars, many politicians, and initially the populace. Eventually, an intense propaganda campaign tried to turn the public's attention away from the legality and morality of opium smuggling to emotionally charged yet vague ideas of national

[1639] Rediker, "The Seaman as Pirate: Plunder and Social Banditry at Sea," 149, 154.
[1640] Ibid.

honor, and was largely successful; though even then the disparaging nickname of Opium War is how the conflict is known today.[1641] Yet there remains a clear link between the legal standards the treaties enforced, and the larger societal attitudes held by their audiences about the topics they covered, namely the connected English-language circulation around the world in journalistic and popular discussion of the idea that maritime predation required state intervention and that the Qing were found lacking in that respect.

[1641] Chen, *Chinese Law in Imperial Eyes*, 201, 215.

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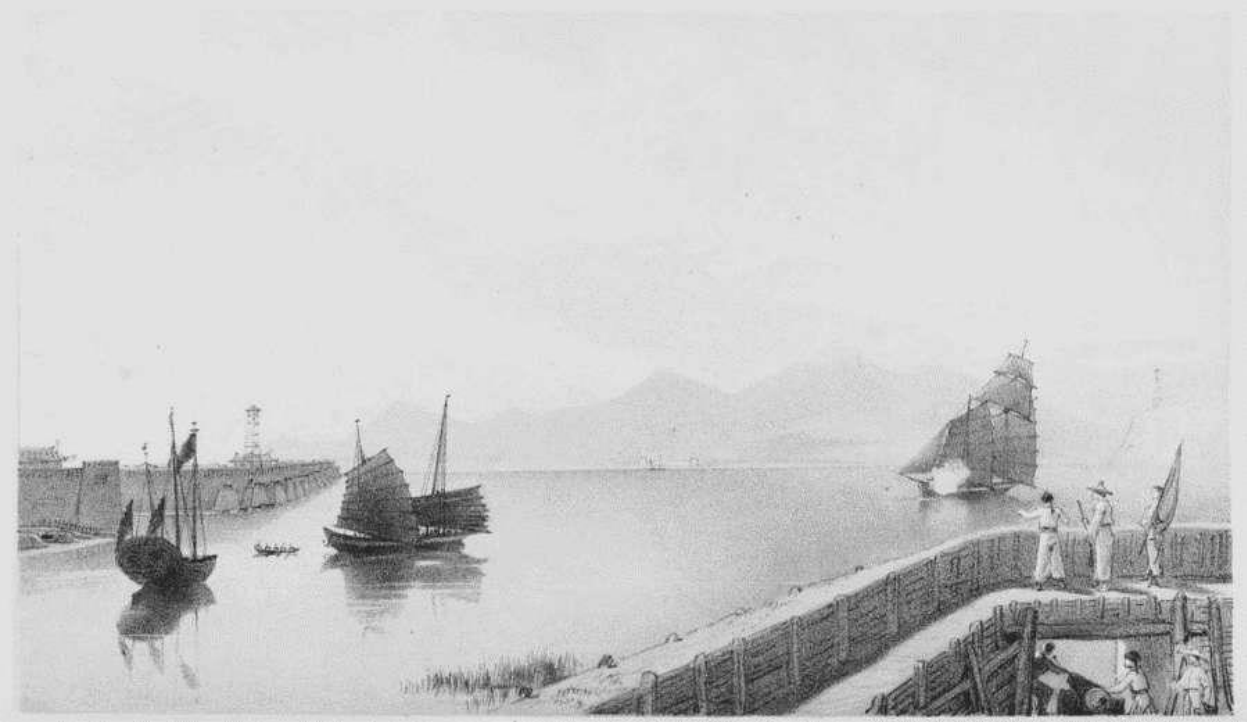

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London, Published March 15th, 1866, by Day & Son, Limited Lithogrs Gate Str, Lincoln's Inn Fields. Day & Son, Limited Lith.

A TI-PING CHURCH.

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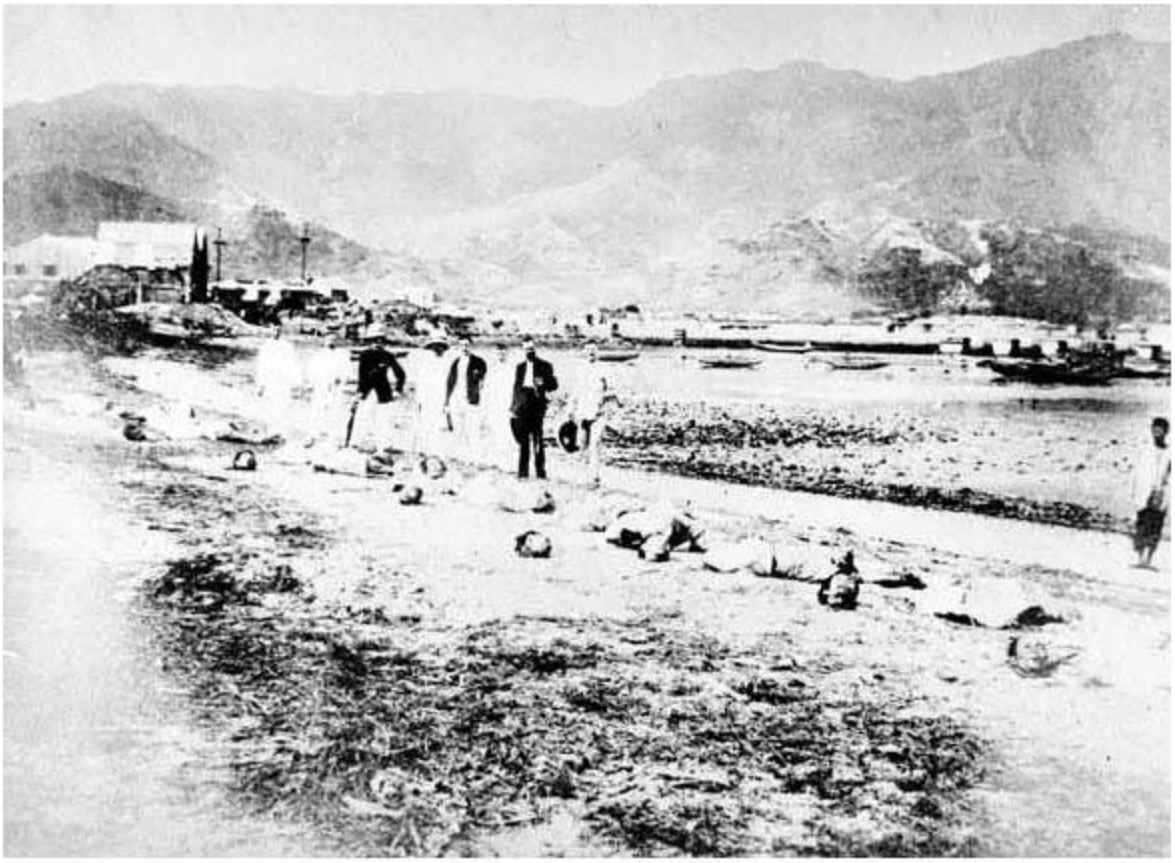

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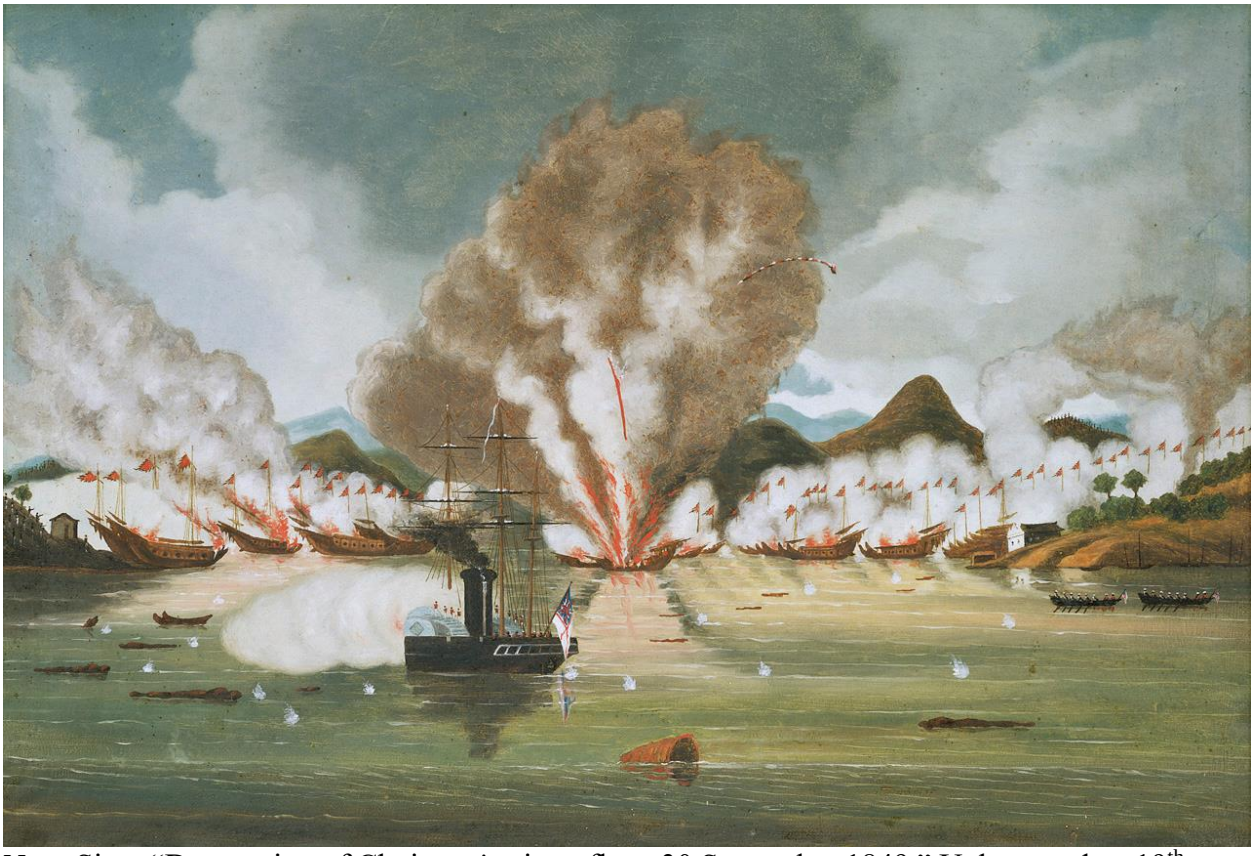
Edward H. Cree, "Attack on, and destruction of, part of the pirate squadron of Shap Ng-tsai, in the Gulf of Tonkin on 21 October 1849 by the *Columbine*, *Fury*, *Phlegethon*, and two boats of *Hastings*," 1849. https://collections.rmg.co.uk/collections/objects/148166.html.

Qiu Ying, “Ming Qiu Shizhou Taiwan Zoukai Tu” (“Victory in Taiwan”), 1494 – 1552.



Nam-Sing, “Destruction of Chuiapoo's pirate fleet, 30 September 1849,” Unknown date 19th century. <https://collections.rmg.co.uk/collections/objects/12124.html>.

Edward Bangs Drew, “Untitled album - Photographs of Shanghai and Canton (Guangzhou), 1876,” https://www.virtualshanghai.net/Texts/E-Library?ID=1656.

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Chapter 5: Implementing Law in Practice

Whatever laws politicians may write into being, and whatever pressures those laws were written under from either other states or the opinion of their own citizens, it was in the courtroom that an observer can most clearly see what law looks like in practice. In turn, the proclamations of the court had little power without the cooperation of law enforcers, bureaucrats, and other state employees. The extent of the influence of changing international standards in regard to the definition of maritime crimes and how they should best be punished is all the more revealing when one looks more closely at the ground level, the individual trials of suspected maritime predators, which laws bureaucrats took into account and which they ignored when possible, and who was in charge of enforcing which parts of the law in what places. In turn, how various people, whether government officials or common citizens, reacted to court rulings, legal decrees, and other facets of the implementation of law can be quite revealing about the relationship between citizens and states for Chinese governments and foreign empires alike, as well as the relationship between different levels and sections of those governments.

This chapter is arranged chronologically, starting with a general discussion of relevant topics that occurred before 1840, such as the trials of earlier waves of maritime predators by the Qing and some early developments in the implementation of international law. After this opening section, each segment of the chapter covers a ten-year period, focusing on various developments occurring along the Southern Chinese Coast, though events elsewhere will be brought up as relevant for that decade. The section ends with the beginning of the 1950s, as that decade would see the last few reported incidents of maritime predations for most of the rest of the century. Additionally, while the world was divided over which Chinese Republic was the legitimate one worthy of support, it was agreed that there was a sovereign republic in China worthy of full

recognition by, membership in, and rights of the newest incarnation of an international world order, ending many of the issues discussed by this paper and replacing them with new ones.

By examining how the overall situation and its tactics of legal implementation evolved over the years allows this chapter to draw attention to some important patterns of historical development here. One is the degree that maritime predators were treated as military threats or issues of law enforcement over time, which could vary heavily depending on issues such as the size and power of predator fleets, the cohesion and international standing of Chinese governments, and changing ideological views of the nature of maritime predation and the government's responsibility to both the predators and their victims. For instance, early on maritime predators were mainly treated as military issues, yet ideals of Confucian benevolence still called for acknowledging the circumstances that led to maritime predation and showing some leniency on account of that. By the late Qing and early Republic eras, however, maritime predators were no longer a military threat, but a political and economic one that result in more foreign intervention, and they increasingly treated as a group of inherent criminals to be crushed utterly where possible.

Another relevant pattern is the gradual creeping of imperialism into the region and the undermining of Qing, and later Republican Chinese, legitimacy in the eyes of the Empires with holdings along its coast. Military campaigns, court cases, negotiations both official and under the table, economic developments, and more highlight how European and American powers started from a position that might have seen the Qing as a junior partner, but one worthy of some respect, consideration, and rights, to a target to be pushed around on both large and small scales despites its efforts to remake itself into a Western style nation-state in the community of nations. Maritime predation was a common excuse for such actions, even as the Western empire

contributed to its persistence in many ways, including undermining the local government, generating poverty and resentment that made people into maritime predator recruits, and providing ample rich targets for predator actions.

Which is not to say that the Qing or Republican Chinese are helpless in these endeavors, and passively reacting to foreign demands with meek compliance or futile resistance. Another pattern clearly evident in the chapter is how the Qing were increasingly able to understand and utilize the fundamentals of European style international law as a political and legal weapon they could utilize to defend their rights and interests, and strike back against imperialist intrusions. Sometimes these victories came over issues of sovereignty and jurisdiction, while at other times they came in the form of the utilization of maritime and business laws to create maritime trading enterprises to compete with foreign companies and protect the region's economy, or simply the ability to force Western powers to clamp down on the abuses of their own citizens in the region despite the legal obstacles placed by earlier treaties, to give a few examples.

Finally, by following reports and cases arising over incidents of maritime predation, it is possible to examine the effectiveness of certain legal and military tactics against maritime predation. While large scale violence is effective at scattering the large, directly organized maritime raider bands, neither Qing nor European force can totally suppress maritime predation given its ability to hide amongst the population. This is especially true after the turn to hijacking tactics that meant there were few targets for conventional naval action. Instead, what proved more effective were tactics of limiting access to weapons, tracking the ownership of vessels, and providing legal alternatives to predation, though effectively implementing such legal tactics required a great deal of governmental cohesion and focus, which could prove difficult for both

the Qing and Chinese Republic, given the sheer number of internal and external conflicts they faced.

Before 1840

It is important to first consider the working of Qing laws at the turn of the nineteenth century, in order to compare them with later events as foreign political pressure increased, as well as to see if the prosecution of maritime crimes differed at all from land-based ones in Qing practice. Thomas B. Stephens argued that the Qing system wasn't even a legal system at all as modern westerners might understand it, a jurisprudence system, but rather more of a disciplinary system like one might see in a military organization, on account of what he saw as a focus on enforcing hierarchies over resolving disputes between citizens, a lack of rules covering property, a top down command structure which required high level oversight for any but the most trivial matters (for instance, the Emperor had to personally approve of all death penalty convictions), and a lack of a detailed code for resolving disputes between citizens, or at best a legal system that was more focused on preserving group harmony and preventing squabbling than helping an individual receive justice for their grievances.[1642] Li Chen argues against these notions, stating that the Qing legal system was robust and more than capable of handling all aspects of a modern legal system, such as engaging in diplomacy, mediating disputes, and enforcing contracts.[1643] Instead, he sees the common perception of Qing as discipline focused, arbitrary, and unconcerned with the idea of rights was the result of specific historical circumstances, including both deliberate smear campaigns, such as the one by opium smugglers to garner sympathy and protection, and the unintended misreporting of certain events, particularly sensationalized

[1642] Thomas B. Stephens, *Order and Discipline in China: The Shanghai Mixed Court*, (Seattle: University of Washington Press, 1992),6-7, 17-18, 33-34.
[1643] Chen, *Chinese Law in Imperial Eyes*, 7-8, 99, 197-198.

accounts of trials.[1644] Pär Kristoffer Cassel's conclusions support those of Li Chen, noting that the complex legal situation of the South China Sea owed as much to Qing traditions of legal pluralism, where different laws applied in different places or to different people which European empires used at the time as well, as to the legal imperialism of the great powers.[1645] Teemu Ruskola makes a similar observation on how Qing legal and economic systems could not only handle the needs of the markets at a time, but were in some ways closer to modern business law than European contract laws were at the time.[1646]

In addition to the letter of the law, it is equally important to be aware of many informal standards and precedents when it came to applying the law, such as how the harshest penalties of the Qing code were almost always reduced as a display of mercy and benevolence, as well as a recognition of any applicable extenuating circumstances. Stephens interprets this as further evidence that Qing law was not really law, stating that under a jurisprudence system, punishments could only be given if a specific law authorized a specific punishment for a specific crime, whereas disciplinary systems gave officials and judges more leeway in determining what is a crime and the appropriate punishment on the spot.[1647] While he does acknowledge that the Qing Code does have official limitations on what officials can do and has legal protection for citizens, Stephens still believes that it was still more flexible and arbitrary than a jurisprudence legal system, particularly in that the catch all crime "doing what ought not to be done" was designed to deliberately allow magistrates to deal out appropriate punishments in situations that the legal system did not anticipate, thus theoretically allowing anyone to be punished for any

[1644] Ibid 183-184, 198.
[1645] Cassel, *Grounds of Judgment*, 8, 12.
[1646] Teemu Ruskola, *Legal Orientalism*, (Cambridge, MA: Harvard University Press, 2013), 119.
[1647] Stephens, *Order and Discipline in China*, 21-22.

reason.[1648] Stephens also comments that he is not arguing the existence of the kind of "oriental despotism" or "rule of terror" as described by Karl A. Wittfogel, but rather more of a state of mind built around hierarchical relationships with reciprocal obligations, and that even that was more an abstract ideal or model than the day to day reality for most people.[1649] Li Chen, however, deftly counters such a position on due multiple factors. For one, European law can be similarly arbitrary, and in fact English law deliberately left much of the interpretation and application of the law to the individual justices specifically to avoid becoming overly codified and inflexible, which is how many in England saw the Qing, as well as continental European states such as France.[1650]

The Qing and proceeding dynasties' emphasis on confessions means that in surviving archives there are many accounts of the activity of maritime criminals with some degree of input from the condemned themselves in terms of their actions and motives, though the fact that the Qing were willing to use torture to extract confessions, and that the Qing tried to make the confessions fit into a formulaic structure (probably helped by the convicted usually being illiterate and thus relying on documents written up by members of the court) means that these sources should not be taken at face value, and instead analyzed carefully within their historical context. Additionally, while maritime raider trials did occur, there was a tendency for the more documented large-scale instances of maritime predation to be treated as military and political problems, and thus more attention has been paid either to documentation of anti-maritime raider campaigns or negotiations for mass surrender or defection of maritime raider groups than the trial and punishment of an individual or small groups of maritime predators. For instance, when

[1648] Ibid 22.
[1649] Ibid 17, 37.
[1650] Chen, *Chinese Law in Imperial Eyes*, 114-115, 118-119, 146.

Zheng Yi Sao and her red flag armada surrendered to the Qing Dynasty, it was done so via a negotiated and choregraphed ceremony, following a long campaign of the tried-and-true tactic of "extermination and appeasement' (*jiaofu*) – a combination of military campaigns and liberal promises of amnesty and reward to surrendering pirates.[1651]

In terms of international relations and issues of sovereignty, for much of its history the Qing have seen territorial jurisdictions as more tools of convenience at best and often fluid, with authority being carried more in the person and their relative relationships wherever they may be found.[1652] For example, in the seventeenth century the wars between the Lê Dynasty of what is now Vietnam, whose legal system was also heavily influenced by the same Confucian philosophical and ethical underpinning as the Qing Dynasty, and the Lao kings of modern day Laos, who had much less but still some Confucian influence, was ended with a treaty that did not divide the disputed Mekong Valley into different regions, but rather gave the Lê rulership over people whose houses have floors on the ground and the Lao kings authority over people whose houses are built on stilts.[1653] This system of personal ties, allegiances, and authority operated as the basis for inter and intrastate politics alike and could be found throughout most of Eurasia for much of recorded history, with Jonathan Skaff noting that this common understanding of the relationship between the personal and political allowed for diplomatic interactions despite vast cultural difference, in particular between nomadic societies in Central Asia and the empires they encountered on either side of the super continent, such as the Byzantines or the Tang.[1654] In European international relations, the Peace of Westphalia is often seen as the turning point from personal allegiance to territorial sovereignty because of that treaty's provisions on states

[1651] Antony, *Pirates in the Age of Sail*, 133.
[1652] Stephens, *Order and Discipline in China*, 32-33.
[1653] Ibid 33.
[1654] Skaff, *Sui-Tang China and its Turko-Mongol Neighbors*, 288.

respecting each other's territorial integrity, though more recent work has shown that European states and empires continued to engage in diplomacy and warfare on the basis of blood ties and personal oaths of loyalty for centuries afterwards, especially in terms of rulers in some countries claiming ownership of land and titles in other states through inheritance.[1655]

Additionally, while the Qing Code added many innovations of its own, it still was strongly influenced by the legal codes of previous dynasties, with the Tang Code, in particular, having long been considered to have set the standards of legal codes and systems in and around the South China Sea.[1656] In particular, it famously inspired many elements of the Taika Reforms in Japan under the supervision of Prince Shōtoku in 645, as well as many of the laws and institutions of the Silla dynasty in Korea which had a lasting legacy in that peninsula of its own.[1657] However, the Tang never had to deal with maritime predation on a scale anywhere near the level of what the Ming and Qing dynasties would later encounter during the golden age of maritime predation in their waters, stretching from 1520 to 1810 and fueled by the growth of large scale maritime commerce in the same period which left many impoverished even as it enriched others.[1658] Thus maritime law became a more pressing concern to these later dynasties.

Records of maritime predation in the region go as far back as the Zhou Dynasty in the fourth century BCE, though it wasn't until the wokou, centuries later, that the threat of organized large scale maritime predation would make itself known along the coasts of the South China Sea.[1659] 1223 saw the earliest recorded instance of the use of the term wokou, used to describe

[1655] Teschke, *The Myth of 1684*, 3, 110.
[1656] Limin Wang, "The Tang Code and the Early Social Development of the Tang Dynasty," *US-China Law Review* 2, no. 7 (July 2005), 22.
[1657] Geoffrey MacCormack and Wang Feng-Xin, "THE T'ANG CODE: EARLY CHINESE LAW," *Irish Jurist (1966-)* 18, no. 1 (1983): 132; Kim Hyŏn-Gu, "A Study of Korea-Japan Relations in Ancient Times: Centering on the Taika Reforms and Formation of Cooperation Among Shilla, Japan, and Tang China," *Korea journal,* 29, no. 10 (1989) 21-22.
[1658] Antony, *Pirates in the Age of Sail*, 32, 40.
[1659] Blue, "PIRACY ON THE CHINA COAST," 69–70.

maritime predators of Japanese origin plying their trade along the coast of Korea, though wokou was afterword used to describe an increasing diverse group of maritime raiders that included not only Chinese and Koreans, but Southeast Asians, Europeans, and even Africans.[1660] In the 1570s, one such raider by the name of Sato Shinen was captured by the Ming dynasty, and supposedly wrote an extensive report on what he had seen and experienced as a maritime predator; interestingly, it focused less on his personal actions, motives, and pleas for mercy than simply reporting on the organization and the sheer scale of the maritime predator band.[1661] He traced the origins of his comrades in maritime predation to Japan's Eisho and Taiei Eras (1504-1527), where a band of warriors off the coast of Iyo accumulated great wealth by raiding into foreign lands, including both the Ming coast and into Southeast Asia as far as the Philippines, Borneo, and Bali.[1662] According to Sato Shinen, as their success grew, so did the number and diversity of their recruits, going from the warriors of a poor, local lord, Murakami Zusho, lord of Noshima, to include ronin (masterless samurai), fishermen, and criminals from the Kyushu-Shikoku area, and even citizens from the Ming lands they raided had joined by the hundreds during the period when Sato was writing.[1663]

The maritime predators also became increasingly sophisticated as opposition from the Ming government increased; in particular, the maritime predators began to procure and learn how to use guns in battle after the Ming used gunpowder weapons against them to great effect.[1664] Throughout his account, Sato Shinen gives estimates for the number of maritime predators and how they organized, for instance noting that at the time of his capture the groups

[1660] Antony, *Pirates in the Age of Sail*, 34.
[1661] Ibid 108.
[1662] Ibid.
[1663] Ibid 108-109.
[1664] Ibid 109.

that he knew of could field 137 vessels of various sizes, with 1,352 men of which around 200-300 were Chinese in origin, suggesting that this time the Ming government was more interested in an intelligence report than a legal confession.[1665] They seemed particularly interested in the confirmation of Ming subjects taking up arms with the pirates, since a report from Zhao Wenhua in *The Veritable Records of the Jiajing Emperor of the Ming Dynasty* (*Ming Jiajing shilu*) dated July 28, 1549 blamed the increase in maritime predation on the treachery of the Ming's coastal trading community, and went in depth about how illegal overseas trading could spiral into supporting maritime predation, and the *Gazetteer of Zhangzhou Prefecture* (*Zhangzhou fuzhi*) described the case of one Hong Dizhen, who went from an illicit overseas trader to an ally and leader of the wokou in revenge for the government arresting some of his relatives in a failed attempt to capture him. [1666]

By the 1720s, the Qing government put into place many new laws with the aim of protecting private property and encouraging commerce, including harsh new laws against maritime predation, which caused an increasing number of merchants to switch from covertly supporting or engaging in maritime predation to aligning their interests with the state instead.[1667] This was around the same time that centralized states in Europe were also reforming their legal systems to protect private property in general and maritime trade in particular.[1668] For the Qing, it was especially apparent in a string of anti-piracy laws passed between 1789 and 1813 which emphasize maritime predators more as robbers, kidnappers, extortionists, and murders, instead of traitors and rebels as they had often previously been described.[1669] In 1782, many members of He

[1665] Ibid.
[1666] Antony, *Pirates in the Age of Sail*, 109, 111; Kwan-wai So, *Japanese Piracy in Ming China in the 16th Century*, (East Lansing: Michigan State University Press, 1975): 24-25, 34-35.
[1667] Antony, *Pirates in the Age of Sail*, 39.
[1668] Antony, "Piracy, Empire, and Sovereignty in Late Imperial China," 187.
[1669] Ibid 188.

Xing's gang of maritime raiders were arrested and gave detailed depositions to the courts of their actions as raiders and their motives, which were also corroborated by depositions given by those who had been the victims of their maritime predation.[1670] For instance, a maritime raider known as Wang Yade described the incident in which he helped rob the merchant Tong Shengru and his hired captain Weng Panda near a place called Lizhu (Flowing Water) and was later captured by them in Zhangshan harbor.[1671] For the most part, the three stories are the same, confirming each other's details about when and where certain events happened, and the types and values of the items stolen.[1672] That said, there were also differences in the accounts – for instance, Weng Panda had more detail about the attack itself, such as the detail that the maritime predators used knives to threaten the crew rather than just taking the goods and fleeing, as well as how Weng had noticed distinctive markings on the ship despite the darkness which were used to identify them later.[1673] In contrast, Tong Shengru had more detail about their efforts to chase and track the maritime predators, which included some of the other locations they looked for their attackers before finding them in Zhangshan harbor.[1674] Naturally, Wang Yade's perspective added much information that the victims were unaware of, such as how the maritime predators spotted their ship and why they decided to make this group into their prey; they heard rumors of Tong Shengru's success during their own failed attempts to find legitimate work, and followed them out of the harbor they were both docked at to ambush them at sea, not expecting to be followed in turn by their victims and turned into the authorities.[1675] Despite the different

[1670] Antony, *Pirates in the Age of Sail*, 114.
[1671] Ibid 115-116.
[1672] Ibid.
[1673] Ibid.
[1674] Ibid.
[1675] Ibid 117-118.

perspectives of the account, all use the same basic format, including opening with the statement "I, your humble servant, [name]…"[1676]

All three accounts also added bibliographic details; in the case of Wang Yade, he described himself as a 21 year old from Hepu county who made his living as a sailor.[1677] According to his account, in 1782 the price of rice had been very high, so he was forced to go to Giang Binh to look for work; once there he met Li Xing, who took him to meet He Xing, who was looking to hire sailors for his boat and willing to pay 150 *cash* each month in wages, hiring seven crew members in total.[1678] According to Yade, He Xing and his crew were not originally set on maritime predation, but as their attempts to find legitimate work failed and their supplies of food ran low, He Xing overheard of the success of Tong Shengru's own trading expedition, and convinced the crew to rob him for their work.[1679] Even then, Wang Yade claimed to have expressed nervousness at the idea, that he hid during the raid itself rather than participate, and initially refused a share when they went to Vietnamese waters to divide the loot, only to be badgered and threatened into cooperating to ensure he would not be willing to report the incident to the authorities.[1680] It is difficult to determine how truthful the account of Yade's reluctance to join the maritime predator band really was – while maritime predators were well known to kidnap and conscript some of their victims, it was also not uncommon for maritime predators to claim this was the case to lessen the punishment they would receive regardless of the truth of the matter.[1681]

[1676] Ibid 114, 116.
[1677] Ibid 117
[1678] Ibid.
[1679] Ibid.
[1680] Ibid.
[1681] Murray, *Pirates of the South China Coast*, 172.

This remained true into the nineteenth century as well; for example, when some of the ringleaders of the infamous Guangdong Confederation of maritime predators as well as many of their followers petitioned the government to surrender, it was unknown who exactly wrote the petition, as while it could have been Zhang Bao or Guo Podai, it has been pointed out that the author could in fact have been Governor-General Bai Ling, who wrote it on behalf of the pirates to justify his pacification policy.[1682] Regardless of the authorship, it sticks to many of the established conventions concerning such documents of surrender, in particular mentioning how many were driven to maritime predation by the recent famine with subsequent food shortages and high prices; also mentioned are those pulled into the profession by friends, being forced into it after being captured by maritime predators, or fleeing punishment for some other crime, but the largest emphasis remained on the desperation brought on by famine.[1683] Similarly, the document emphasized the narrative of the maritime predators' loneliness and separation from their families, though many of the predators were in fact surrendering with their families, a fear of divine punishment from gods such as He Bo, a popular sea deity and god of the yellow river, and that many in the group had tried to leave earlier but either had been rejected by their fellow villagers and were not sure what officials would do if they surrendered as a large group.[1684] This was followed by a great deal of flattery concerning the government's benevolence and mercy in allowing them to surrender, despite the surrender having been carefully negotiated over a long period of time, especially on the part of Bai Ling.[1685]

It is also worth noting that many European states before 1850 also treated maritime predation as a political and military issue first, and as an individual crime to be tried second, with

[1682] Antony, *Pirates in the Age of Sail*, 131.
[1683] Ibid 132.
[1684] Ibid 132-133.
[1685] Ibid 133.

a common use of similar combinations of naval campaigns combined with offers of mass pardons for surrendering nonstate predators to quiet unruly areas. This was at least in part due to legal issues of jurisdiction over maritime predation and ambiguities in the definition of "piracy" as opposed to other, more legitimate forms of maritime violence. For an example, it is useful to turn to one of the first recorded encounters between the royal navy and alleged pirates in Qing waters: late in the night of February 11th, 1800, a sampan approached the HMS *Providence* and failed to respond to hails, raising suspicion that it was trying to sever the ship's anchor, which led to a watchmen firing his musket at the boat, injuring a crewman named Jiang Yayou, with another crewmen, Liu Yashi, falling overboard while resisting arrest, never to be seen again.[1686] Captain John Dilkes and the crew of the *Providence* were brought to Canton before a tribunal, and while the captain invoked the idea of universal competence in jurisdiction over pirates, it was more as a case for self-defense, arguing that all civilizations had similar enough laws about maritime predation that it should be clear to any jurisdiction that crew of the sampan was clearly at fault, though he never directly accused them of piracy.[1687] For their part, the Qing officials acknowledged that the British had "mistook a boat for a pirate," and Governor-General Jiqing absolved the *Providence*, though added that in the future all Europeans were forbidden at firing at approaching boats, even if they were suspicious, and instead simply apprehend the crew for Qing officials to question.[1688]

Local officials were willing to relax that restriction as early as two years later when Canton merchants requested that the British keep armed ships in the area as protection, followed in 1804 with a request of Qing officials to the Portuguese for help against maritime predators,

[1686] Kwan, "Barbarian Ships Sail Freely Throughout the Seas," 84-85.
[1687] Ibid 85.
[1688] Ibid.

who responded by purchasing the British ship Nancy and sending it alongside Qing ships the next year, capturing and turning over twenty-nine maritime predators, ten of whom were executed.[1689] Moreover, some coastal Qing officials were willing to work around or ignore the directives of the central court in securing foreign aid against maritime predation; on the 10th of September, the magistrate of Xiangshan district directly contacted the HMS *Dedeigneuse* to request its assistance, even granting it special permission to sail up the Canton River despite an official ban on foreign warships in Qing waters.[1690] As late as 1830s, with the British Royal Navy's naval campaigns against maritime predation in full swing, British officials and courts, for instance, could be reluctant to prosecute foreign maritime raiders who had not been caught directly in the act, releasing over sixty Iranun raiders held in Manilla when Captain Blake visited it in 1838, despite evidence against them.[1691] Additionally, one Rear Admiral Owen officially stated in 1830 that maritime predators should only be brought in for trial if captured in the acts of "atrocious magnitude," yet also encouraged the use of violence on those merely suspected of such activities, with instructions to focus on the destruction of the maritime predator vessels while leaving open avenues for the maritime predators themselves to escape.[1692]

1840-1850

It was in the first half of the 1800s, especially the 1840s, that Europeans began to make efforts to extend their legal regime into the territorial waters of the South China Sea, especially Great Britain. In particular, the First Opium War (1839-1842) was a turning point where the European powers switched from negotiating for minor legal privileges in bilateral treaties to demanding them in unequal treaties backed by the threat of force; not just from the Qing but

[1689] Ibid 85-86.
[1690] Ibid 86.
[1691] Benton and Ford, *Rage for Order*, 134.
[1692] Ibid 139.

other states in the region as well.[1693] Even as early as 1841 officials and officers such as Lai Enjue referred to Hong Kong as being in the "outer sea" thus symbolically recognizing it as beyond their direct control; one provincial admiral of Guangdong even described Victoria Harbor as the "the barbarian seas of Black Water (*Heishui* 黑水) facing Hong Kong," though the exact extent of Hong Kong's territory was constantly and fiercely debated.[1694] For instance, when Pottinger wanted to create a new set of fortifications on the other side of Victoria Harbor, at a place called Chaguoling, Cheng Yucai refused, arguing that only the island of Hong Kong itself was ceded to the British in the Treaty of Nanjing, not any of the surrounding area, including nearby islands; he was, however, willing to concede that Hong Kong had administration of "islets, harbors, and promontories" that were contiguous with Hong Kong.[1695] The island of Changzhou, then called Cheung Chau, proved particularly troublesome for the British, for it lay just outside of their jurisdiction and thus was an easily reached haven for maritime predators fleeing after a raid. One example of this happened on the 17th of June, 1844 when 150 maritime predators attacked a warehouse in Victoria, on the northern side of Hong Kong, and fled the Hong Kong marine police Changzhou.[1696] Governor John Davis requested that the island be subject to a "rigid search" and cleared by the Qing government of "those public enemies" while also offering to send a squadron to support such operations; Commissioner Qiying declined on account of the island not being contiguous with Hong Kong, and thus fully under Qing jurisdiction, so he sent Lai Enjue to deal with the issue without British aide.[1697] This was of limited effect, if any effect at all, for two months later two predator ships from

[1693] Chen, *Chinese Law in Imperial Eyes*, 24, 39, 65, 111.
[1694] Kwan, "Barbarian Ships Sail Freely Throughout the Seas," 90.
[1695] Ibid 90-91.
[1696] Ibid 91.
[1697] Ibid.

Changzhou struck a vessel transporting Colonel Farquharson and Captain D'Aguilar from Hong Kong to Macao; Davis complained that it was "the third attack which we have suffered in less than three months" and again requested Qiying deal with the predators, and as Qiying feared the situation threated the peace between the Qing and British, he ordered that officials from Xin'an, Panyu, and Dongguan to coordinate with Lai Enjue to arrest the predators responsible.[1698] In 1848, the Qing government was still hoped that they could deal with predation themselves, as can be seen in a letter sent to Bonham assuring him that foreigners in and around Canton had enough protection as is, especially from maritime predators, and that British forces entering Canton against the wishes of the Cantonese would merely pose a needless disruption to friendly trade relations.[1699] When these efforts too seemed to have limited effect, Qing officials began to more readily accept foreign aide around 1850.[1700]

Beyond such dramatic measures, there were smaller and subtler extensions of European laws and authorities into the region. For instance, in 1847 the British government sent out an ordnance granting their consuls in port cities near the recently acquired territory of Hong Kong many of the rights and powers of Hong Kong's own courts "of Judicature," if not all of them.[1701] While the consuls could collect evidence and interview witnesses, they could not independently determine the validity of an individual case, outside of minor crimes, misdemeanors, and civil disputes over sums less than five hundred dollars.[1702] Instead, the information they collected had to be sent on to Hong Kong to be evaluated and the actual trial held there.[1703]

[1698] Ibid.
[1699] Hsü Kuang-chin to Bonham. Cantonese are unanimous in opposition to foreigners entering their city and it is not worth forcing issue at risk of disrupting trade. FO 682/1981/109. December 29, 1848.
[1700] Kwan, "Barbarian Ships Sail Freely Throughout the Seas," 91.
[1701] British Ordnance, relative to Her Majesty's Consular Officers in China. Hong Kong, March 11, 1847. In Lewis Hertslet, Sir Edward Hertslet, Editors. Hertslet's Commercial Treaties… Compiled From Authentic Documents. London, 1840. 111-115.
[1702] Ibid 111.
[1703] Ibid.

Regardless of these restrictions, this and similar legislation made British law increasingly available in Qing territory; not just the seceded territory of Hong Kong, but wherever British Consuls operated. Meanwhile, the 1847 Treaty of Canton between the Qing Dynasty and the United Kingdom of Sweden-Norway established that while the Qing did not bare any responsibility if Swedish or Norwegian merchant vessels in Qing waters were attacked by any other foreign powers, they did have a responsibility to investigate if those merchant vessels were attacked by unaligned maritime predators and do their best to return any stolen goods, though they would not have to pay an indemnity if the culprits and lost goods could not be found, out of a recognition of the large size and population of Qing territory.[1704] This extension of British legal power had critics even within Britain itself, one fiery and extensive argument against the Opium Wars by an anonymous British minister directly compared British actions to piracy in its title, arguing that since the war was waged on immoral grounds, sinking Qing war junks and taking Qing ships as prizes was just murder and robbery at sea.[1705] He makes note of the fact that it is only a militarily weaker state like the Qing that the British try to force into the opium trade, with no attempts made to force opium into the ports of states of France and Russia, who could blockade the English in turn if they tried.[1706] He even goes so far as to suggest that Britain deserves to suffer the same kind of sufferings as they are inflicting upon the Qing's subjects, and that divine justice will bring that about if they persist.[1707]

[1704] William Fredrick Mayers, *Treaties between the empire of China and foreign powers, together with regulations for the conduct of foreign trade, etc*. (Shanghai: North China Herald, limited, 1st edition 1877, expanded edition 1897), 134.

[1705] *A Voice for China: Which Must Be Heard, Demonstrating That the War with China Arises out of Our British National Opium Smuggling, and Protesting against Such War or Reprisals, as Bringing upon This Nation the Guilt and Punishment of Robbery, Piracy, and Murder! ;To My Countrymen, the Government and My Church*, Pamphlets, Nisbet, 1840, https://jstor.org/stable/60101277, 12, 14, 29-30.

[1706] Ibid 14-15.

[1707] Ibid 34.

The 1840s were also one of the last gasps of large scale, organized maritime predation in the South China Sea, with two particularly infamous maritime predator leaders standing out as being of particular importance; Shap-ng-tsai and Chui Apoo. Shap-ng-tsai commanded the largest maritime predator fleet since the Guangdong Confederation and was enough of a threat that the Qing and British joined forces to deal with him; Chi Apoo was his second in command, formerly a barber and maritime predator spy in Hong Kong.[1708] Chui Apoo was defeated at the Battle of Bias Bay in September of 1849 and many of his crew and officers were captured, though he himself escaped, while Shap-ng-tsai would continue his activities into the earlier 1850s.[1709] A key figure in the hunt for them was a female Qing merchant identified in English language sources as Aku; she was described as daring, brilliant, and utterly lacking in scruples, often doing business at the Cumsingmoon anchorage, a place just outside the boundary of Hong Kong, and which fell under neither British, Portuguese, or Qing law.[1710] She was one of the main suppliers of Shap-ng-tsai's fleet by her own admission, and had been nearby when Chui Apoo had allegedly murdered two British officers on February of 1849.[1711] On September of 23rd of that year, Aku went to Hong Kong to testify and gave key evidence which corroborated that of her fellow witnesses and illicit merchants, Captain George Lungley of the *Lady Hayes* and Captain Charles Jamieson of the *Bombay* (Aku's own ship goes unnamed, though is she noted to spend a lot of time aboard the United States ship *Ruparell*, commanded by her lover Captain Endacott), which gave the officials in Hong Kong belief that they had a strong case and thus were free to pursue the maritime predators.[1712] All of them were surprisingly open about their

[1708] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 475, 478, 482.
[1709] Ibid 480-481.
[1710] Hay, *The Suppression of Piracy In the China Sea 1849*, 13.
[1711] Ibid 13-14.
[1712] Ibid.

business dealings with maritime predators, and for the most part the officials were more interested in the information they could provide on the murder case and the movements of the maritime predator fleets.[1713] Earlier in July she had been found with several armed predator junks and claimed she had only been negotiating for the release of some of her goods that they had detained; the pursuing British crew suspected otherwise but were unable to act on that suspicion because she had not been directly witnessed overtly attacking a British vessel; in fact, after giving testimony at a trial for some of the capture maritime predators on October 4th she received two of the captured junks from the maritime predator fleet, having provided evidence that they were hers to begin with.[1714] While most recountings of the campaign against Shap-ng-tsai and Chui Apoo focus on the naval elements as a military campaign, in Aku and her fellow witnesses we can see more of an investigative element, where the British forces out of Hong Kong were concerned with gathering the evidence to convict the maritime predators after the battle as well as defeating them on the open waters.

Hong Kong remained a place strongly concerned with the threat of maritime violence and how to suppress it throughout this period. Despite the tensions that arose from Hong Kong's origins as a prize from the First Opium War, Hong Kong became a site of cooperation between British and Qing officials on the issue of maritime predation, as in this period Hong Kong officials sent prisoners over to the Qing for trial. In fact, they did this before the Qing were even ready for such a thing, almost immediately sending their prisoners to the lieutenant-colonel of the *Dapeng* battalion, Lai Enjue, stationed in Kowloon across Victoria harbor from Hong Kong.[1715] The Qing government considered the trial of pirates to be an issue for civil authorities

[1713] Ibid 14.
[1714] Ibid 20-22, 26-27.
[1715] Kwan, "Barbarian Ships Sail Freely about the Seas," 87.

instead of military ones like Lai Enjue, and so Xu Wenshen was quickly dispatched to be the new Deputy Magistrate of Kowloon, establishing a new branch of the bureaucracy, keeping peace with the foreigners, controlling the Chinese population of Hong Kong, investigate crimes they are accused of, and coordinate with both Colonel Lai and British authorities in Hong Kong against maritime predation.[1716] This fear over maritime predators and other local criminals using Hong Kong as a hideaway led to Hong Kong's legislature to pass an ordinance which created a "Registry of the Inhabitants of the Isle of Hongkong and its Dependencies" on the 21st of August, 1844, which generated outrage when, despite obviously being aimed at the Chinese residents of Hong Kong was broad enough in its language to effect Europeans as well, forcing them to register and pay the associated registration fees when many of those Europeans felt that "A white face should certainly be a sufficient passport in any British Colony."[1717] European outrage and opposition to the act on account of not being excluded was matched by Chinese outrage at the intent of the law, clearly stated in a public meeting between city leaders and members of the colony's "better classes," to discriminate, resulting in protests and strikes of both public and private employees.[1718] Such was the scale of the strikes and their economic effects that the government suspended the ordinance on October 31st, though a notice about the suspension was not posted until November 2nd.[1719]

While battles were fought in the streets and press over legislative attempts to curb maritime predation, courts continued to prosecute cases of maritime predation, which could attract public attention to rival the most sweeping of laws and public demonstrations. One man, recorded as Chun Teen Soong, for instance, gained notoriety for participating in the maritime

[1716] Ibid 87-88.
[1717] Norton-Kyshe, *The history of the laws and courts of Hongkong*, 66.
[1718] Ibid 67.
[1719] Ibid 67-68.

predator attack on the opium schooner ironically named *Privateer*, which saw the captain and part of the crew dead, and was described by reports as one of the of the most daring and successful maritime predator attacks "for a long time past."[1720] His trial and conviction at the first session of the Court of the Admiralty held in Hong Kong on the 14th of January, 1847 did not seem to draw much attention or commentary, but his attitude afterword made a stir.[1721] Chun Teen Song was reported to be "perfectly cool and indifferent" while being led to his place of execution, which was in turn implicitly attributed to his embrace of Christianity and the ministrations of Reverend W. Gillespie, and he purportedly acknowledged not only his guilt but how he deserved to suffer, not only for this latest act of maritime predation, but a total of nine other acts of maritime predation that resulted in deaths on the attacked vessels.[1722] He was also said to have provided information that he allegedly hoped would lead to the arrest of his remaining accomplices.[1723] In March of 1840, in Xi County a band of less than ten men under the command of Mo Qihan used a boat to travel around and commit a spree of armed robberies, which attacking a grain boat and a shipment of silver; while some of the band, such as Meng Yaba, did not directly threaten the victims, their obedience of Mo Qihan and taking a share of the loot made them complicit in the eye of the law.[1724] In another instance, one maritime predator was left behind by his fellows when they fled a fire they had started in the midst of their robbery of the Luo family and he was burnt to death; it was decided that his death should be added to the charges against his fellow maritime predators when they were captured, with the leader of their

[1720] Ibid 64, 97.
[1721] Ibid 97.
[1722] Ibid.
[1723] Ibid.
[1724] Zhu Qingqi, *Xing an hui lan quan bian*, *v. 21, 1840*, (Unknown Publisher, 1844), 115.

band being particularly eligible for the death penalty for this act and the death of the some of the family members in the robbery.[1725]

In between such cases of public interest, the arrests, trials, and executions of suspected maritime predators continued without much attention being paid to the individual maritime predators so much as the idea of the threat they represented. On the Friday morning of February 4th, 1848, four of the twelve individuals recently convicted of piracy by a Vice-Admiralty Session were hung in "the usual place in the presence of a large number of Chinese," while the rest had their sentences commuted to transportation; a later description of the event did not record the names of any of the individuals involved, but did include criticism of the decision to spare any of the convicted.[1726] "Mercy is commendable," the commentary states "but in the present instance it was said to not be very politic" as it was instead believed that "piracy would never be put down until some fearful examples were made."[1727] There was some description of the lives of some of the hanged, such as how one had been a comprador in Canton for three years, while another had been a licensed pilot in Hong Kong, demonstrating the growing concerns that those engaging in maritime predation were "not the mere dregs of society," but rather people with information, resources, and influence.[1728]

Despite this harsh and fearful stance, the same commentary said it was a "matter of regret" that the convictions had been based on the "unsupported testimony of the approver Too Apo." [1729] Too Apo was himself described as an "infamous pirate" before he became an informer for the Hong Kong police, both maritime and terrestrial, though this aid would create

[1725] Ibid 100-102.
[1726] Norton-Kyshe. *The history of the laws and courts of Hongkong,* 175.
[1727] Ibid.
[1728] Ibid.
[1729] Ibid.

problems for the Hong Kong government when it was revealed that he had used his status as a trusted informant as cover to commit other crimes, including extorting others with the threat of getting them convicted of piracy charges if they did not pay him.[1730] After the affair came to light and Too Apo was convicted in April of 1848, Hong Kong's governor Bonham decided to pardon individuals convicted on the basis of his testimony, beginning with three men sentenced to transportation received a free pardon on July 21st that year, having delayed their sentence in order to look into the case when he arrived in the city a week earlier, and pardoned another on August 17th who had also been convicted solely on the discredited testimony.[1731]

The 29th of July that year saw another charge of piracy that attracted a great deal of media attention before being thrown out of court on due to a lack of evidence; notably in this instance the accused maritime predators were Captain Cole and the crew of the schooner *Spec*.[1732] Specifically, the case was dismissed as "no true bill" since the case had been dependent on the "alleged confession of Captain Cole and the statement of Chinese witness who had disappeared, and for whose apprehension Government has offered a reward of $200."[1733] Why the confession was considered alleged and invalid was not recorded, nor were the details of how and why the *Spec*'s captain and crew came to be arrested by the Royal Navy in the first place. In 1849, one Leaong Lao Tong was acquitted, reportedly to his own great surprise, when it was discovered that the ownership of the cargo he had been accused of stealing had its ownership wrongfully attributed in the initial charging, and this was ruled fatal to the case, with the prosecution declining to file another case.[1734] Evidently such cases were not uncommon, with one estimate

[1730] Ibid 206, 2014.
[1731] Ibid 206.
[1732] Ibid.
[1733] Ibid 206-207.
[1734] Ibid 262.

stating that three-fourths of the cases put before the Chief Magistrate break down because of flaws in how the prosecution constructed their cases.[1735]

1850-1860

The Declaration of Paris of 1856 represented a major shift in the evolution of the relationship between states and nonstate violence, especially in a maritime context. While the Qing dynasty was not a signatory of the Declaration, many of the other empires active in the region were, and with its outright ban on all forms of non-state maritime predation, questions arose as how to enforce that ban from both a naval and legal standpoint. That the declaration itself was somewhat brief and vague only further increased the ambiguity of interpretation that the states of the time operated in, whether they were signatories of the Declaration or not.

This was a time when British became much more active in their efforts to suppress non-state maritime predation. The year of 1850 saw the Piracy Act empower the Royal Navy and British courts to engage with suspected maritime predators as they saw fit, as well as granting similar powers to the Honorable East India Company, specifically allowing the pursuit and capture of maritime predators anywhere afloat or ashore as they may be, regardless of whether they were actively engaged in any acts of maritime predation when captured.[1736] While the Piracy Act of 1850 did included regulations requiring oversight from both prize courts and the higher levels of the Admiralty, as well as instructions on how to interact with other states when it came to returning stolen goods and splitting the rewards from joint captures, they still financially incentivized engaging suspected maritime predators whenever the opportunity arose.[1737] Moreover, before 1856 there were legal questions about the right of the British navy and courts

[1735] Ibid 263.
[1736] The Piracy Act 1850 (13 & 14 Vict c 26)
[1737] Ibid.

to act with such wide jurisdiction, but after 1856 maritime predator suppression was increasingly used as a justification to enter the territorial waters of other states and aggressively attack individuals, groups, or communities engaged in maritime raiding.[1738] In particular, whereas before it could be difficult to determine if a maritime predator could be legally considered a privateer depending on the circumstance, the Declaration of Paris and its delegitimating of privateering limited legitimate maritime violence to official state navies with a few exceptions, greatly simplifying matters and making it easier for imperial navies to pursue nonstate predators with abandon and put political pressure on other states to deal with maritime predation themselves.[1739]

Furthermore, the economic interests of the signatories of the Declaration of Paris, as well as other powerful states such as the United States of America, also increased during this period, intensifying the desire to more aggressively deal with suspected perpetuators of maritime predation themselves. In China as well, despite fears of western imperialism, there some strong desires to eliminate the threat of maritime predation to lucrative maritime commerce as well, as can be seen in a 1956 letter from the government of Fuzhou praising British plans to suppress maritime predation in the South China Sea, while simultaneously objecting to missionaries building churches in Fuzhou on the grounds that the people of the city disapproved of it.[1740] Interestingly, this letter defends the importance of the people's disapproval with the phrase *Vox Populi, Vox Dei* (The voice of the people is the voice of God/the gods), a European proverb commonly associated with the British Whig party, demonstrating the growing Qing knowledge

[1738] Benton and Ford, *Rage for Order*, 90, 118-119, 133, 162.
[1739] Ibid.
[1740] Wang I-te to Bowring. Is pleased to read that Royal Navy is about to suppress piracy in South China Sea. As citizens of Foochow object to missionaries building churches in city, vox populi vox Dei. FO 682/1989/2. February 3, 1856.

and use of European political rhetoric.[1741] Near the end of the decade, the Treaty of Peace, Friendship, Commerce, and Navigation between Her Majesty the Queen of Great Britain and Ireland and the Emperor of China included Article LIII which firmly established the obligation of both parties to suppress maritime predation if threatened either local or foreign commerce.[1742]

Such cooperation preceded any formal treaty obligations to do so; in March 1950 an unidentified official met with the senior British naval officer in China, Captain J. W. Morgan, to request assistance dealing with maritime predators around Jia'ao (Kat O, the Crooked Island), an island off the northeast coast of Xin'an which was difficult for Qing war junks to approach quickly due to the constant winds in the area.[1743] Local military commanders felt that a steamship might be able to capture the maritime predators before they escaped, and offered to pay the cost of the coal used as incentive.[1744] Morgan dispatched Commander Lockyer of HMS *Medea* to pick up a Qing official and go after the maritime predators, killing 150 of them and capturing twenty more, which were delivered to the Kowloon authorities on March 6, 1950, barring two prisoners that died enroute.[1745] The Governor-General of Guangdong and Guangxi, Xu Guangjin, approved of the expedition and commented to Bonham that "your honorable country's good intentions and amicability are sufficiently evident" while offering gifts to the crew of the *Medea*.[1746] This cooperation against maritime predation grew to include other states as well; when the maritime predator known as "Awong" established a new base of operations on the island of Gaolan, also just outside of Hong Kong's reach, and some of his followers attacked the *Caldera*, a Chilean ship with an English captain, Rear-Admiral James Stirling, commander-in-

[1741] Ibid.
[1742] Mayers, *Treaties between the empire of China and foreign powers*, 19.
[1743] Kwan, "Barbarian Ships Sail Freely about the Seas," 92.
[1744] Ibid.
[1745] Ibid.
[1746] Ibid.

chief of the East Indies and China Station, requested intelligence and cooperation from the Qing before counter attacking, and was accompanied by the Dapeng colonel, Zhang Yutang.[1747] Zhang Yutan traveled aboard the HMS *Barracouta* which was part of a taskforce that included HMS *Encounter*, HMS *Styx*, the American charter steamer *Queen*, and the Portuguese lorcha *Amasona* sent by the governor of Macao; together, in November 1854 this international force destroyed fifty-one predator junks, captured ten maritime predators, razed three villages they deemed "piratical, and destroyed several shore batteries, to the approval of Governor-General Ye Mingchen who commented it was "sufficient evidence of sincere intentions against a common enemy."[1748] Still, thanks to maritime predators such as Chui Apo, the predator threat continued to grow, and Qing officials began giving permission to foreign warships to deal with maritime predators on land as well as at sea.[1749]

British authorities in Hong Kong proved to be willing and eager to ignore the increasing evidence of maritime predator lorchas captained by a varied collection of Europeans and Americans operating from their waters, insisting that all such lorchas must be of Portuguese origins and thus Macao's problem to deal with, even when witnesses specifically reported seeing English pirates, or when ships in Hong Kong sold stolen goods and purchased armaments and supplies on the same trip.[1750] This changed after an incident in early August of 1851, when a naval officer aboard the armed Portuguese ship *Adamastor* was murdered while the *Adamastor* had been engaged in an investigation of these complaints.[1751] Specifically, Lieutenant José Antonio Pereira Miranda had been investigating a suspected maritime predator lorcha that flew

[1747] Ibid.
[1748] Ibid 92-93.
[1749] Ibid 93.
[1750] Norton-Kyshe. *The history of the laws and courts of Hongkong*. 316.
[1751] Ibid.

the British flag and was commanded by William Fenton, who claimed to be outfitted for and employed in the business of convoying local trade vessels (that is providing privately hired armed escort for groups of merchant ships traveling together) when Miranda discovered that this was not the case and, after a false surrender on the part of Fenton and his crew, was ambushed and stabbed through the heart by said crew while overseeing their voyage to Shanghai for further investigation.[1752] Fenton escaped the Portuguese and continue to raid Qing trading junks along the coast, until some of his erstwhile victims managed to overpower him and deliver him to Hong Kong on December 8th 1851 to stand trial.[1753] He was tried at a special Sessions of the Criminal Court on Monday, January 5th, 1852; there he was found not guilty on a charge of "accessory to murder," though three of the four Chinese defendants charged with piracy at the same session were found guilty.[1754] While the initial verdict had been unanimous on the part of the jury, the outcome of the trial sparked controversy, raising special ire among the Portuguese, who had sent officers from the *Adamastor* to identify Fenton.[1755] Under pressure, the Hong Kong authorities decided to try Fenton under different charges, specifically "consorting with pirates" based on the facts of the case and some of Fenton's admissions elsewhere, was found guilty and sentence to three years hard labor.[1756] Afterwards, many of Fenton's comments and confessions connected him with numerous infamous acts of maritime predation that had been heard about long beforehand.[1757]

American maritime predator Eli Boggs was one of the most infamous of the British, French, American, and other foreign renegades that operated out of Hong Kong from the 1840s

[1752] Ibid 317.
[1753] Ibid.
[1754] Ibid.
[1755] Ibid.
[1756] Ibid 317-318.
[1757] Ibid 318.

to the 1860s, with a bounty of $1,000 placed on his head.[1758] Ironically, the captain who captured him and claimed the bounty, Bully Hayes, was similarly infamous, making his debut in the South China Sea before it got too hot for him and fleeing to Australasian waters.[1759] This in turn demonstrated the legal ambiguity such predators thrived in, taking advantage of Hong Kong's ship registry system at the time which easily allowed shipowners to claim the protection of any flag, and further confused naval forces already struggling to tell maritime predators from legitimate convoys as well as those traders and fishermen armed for self-defense[1760]

Despite being captured and put on trial, Boggs had one last laugh out of the situation; at his trial in July 1857, Boggs revealed information that implicated Daniel Caldwell, Registrar General and Protector of Chinese Inhabitants, was in league with maritime predators, in particular working with his assistant Ma-chow Wong to extort Hong Kong's non-European population by threatening to frame them for acts of piracy if they did not pay a protection fee, even utilizing his influence over the royal navy to wipe out groups of people who refused to pay under the guise of piracy suppression, while giving actual maritime predators shelter and supplies so long as he could take a cut of the action.[1761] In fact, Boggs claimed to be a victim of vicious blackmail himself; while Boggs would still be sent back to the United States in 1857 and hung in 1861, his accusations had enough corroborating evidence to be devastatingly effective against Caldwell, Ma-chow Wang, and their other allies in the Hong Kong government and maritime predator community.[1762] A particularly important piece of supporting evidence was the independent investigations of a merchant survivor of a particularly vicious maritime predator

[1758] Blue, "Piracy on the Coast of China," 73.
[1759] Ibid.
[1760] Ibid.
[1761] Munn, "Colonialism 'in a Chinese atmosphere'," 12.
[1762] Ibid 20-21.

attack off Lintin Island tracking down the stolen goods for one of Ma-chow Wong's shops before being offered to have his goods returned to him for a $100 fee.[1763] A month later, Ma-chow Wong was arrested, with his account book revealing that he had fitted out maritime predator expeditions as well, including the Lintin Island attack, and a flurry of official investigations and public scandals surrounding Caldwell, formerly one of the most powerful and respected officials in the colony, revealing an extensive web of corruption.[1764] While this scandal cost Caldwell his position and reputation, he avoided jailtime and remained an invaluable middleman between the colony's European and Chinese residents, as was often the case for such middlemen in imperial enterprises the world over.[1765]

Despite his defeat in 1849, Chui Apoo would escape until March 1851, when he was betrayed by his former followers.[1766] He had his trial at the Admiralty Court in Hong Kong, where he was found guilty of manslaughter rather than murder have confessing to the act, and sentenced to exile to Tasmania for the rest of his life, but he hung himself in his cell in 1851 before his sentence could be carried out.[1767] The very fact he was placed on trial by the British in the first place and sentenced to be exiled to a British possession was a demonstration of the swift encroachment of Western, particularly British, legal systems into the South China Seas, and how anti-maritime predator campaigns could be useful methods of transmission for those legal systems. That said, this encroachment did not go unnoticed or uncontested; initially Governor-General Xu Guangjin refused to hand over Chui Apo to British authorities, citing that he was a Qing citizen, the legal precedent of the British handing over maritime predators to the Qing to

[1763] Ibid 21.
[1764] Ibid, 12-13, 21.
[1765] Ibid.
[1766] Bard, *Voices from the Past*, 28.
[1767] Ibid.

prosecute, and that Qing ground forces had driven Chui Apo and his followers into the British fleet; though he did promise British officials that "I resolutely refuse to treat [Chui Apo] with levity" and "he would certainly be dealt with and punished severely."[1768] Still, ultimately Xu Guangjin was convinced or intimidated into surrendering Chui Apo, acceding that "Such is this atrocity that it must be punished regardless of boundaries" and "Hong Kong residents and those living there temporarily are all under British jurisdiction and administration. China has not the slightest right to interfere or claim simultaneous jurisdiction."[1769] Relinquishing his claim of jurisdiction over a maritime predator like this reinforced British claims of sovereignty in Hong Kong and set a precedent of the Qing accepting the doctrine of universal competence over "piracy" in the European international legal order, even if he did not directly reference that concept or international law in general.[1770]

It would also lead to the Qing being more aggressive in its own pursuit of maritime predators into the waters of other states; for instance, while normally the Qing respected Vietnamese maritime space and did not pursue maritime predators past the Bailongwei Peninsula which traditionally marked the Sino-Vietnamese border without the direct assistance of Vietnamese officials, when the HMS *Fury* crossed this border while carrying the Qing official Huang Kaiguang and gave captured members of Shap-ng-tsai's gang over to him, the Royal Navy effectively "took the place of Vietnamese officials and extended Qing jurisdiction into foreign waters."[1771] In 1851, the Qiongzhou regional commander Huang Qingyuan, the Lei-Qiong regional circuit intendant Jiang Guolin, and Qiongzhou prefect Lin Hongnian coordinated with local gentry to raise a force to attack maritime predators in "the barbarian seas of

[1768] Kwan, "Barbarian Ships Sail Freely about the Seas," 93-94.
[1769] Ibid 94-95.
[1770] Ibid 95.
[1771] Ibid 96.

Goutoushan" off the coast of Tonkin, demonstrating a more intense and coordinated response against such a threat, with both civilian and military officials from multiple jurisdictions.[1772]

Shap-ng-tsai would continue his maritime predator career throughout the decade, before finally ending it via a surrender to the Qing government in 1859.[1773] His surrender caused nearly as much international outcry and concern as his previous predatory ventures, on account of his recruitment into the service of the Qing navy; many feared that he would continue his practices with a banner of legitimacy, though there appears to be no record of him doing so, or much of any information on his activities after the end of his independent maritime predator career.[1774] Meanwhile, Qing officials such as Xu Guangjin increasingly blamed the British's anti-maritime predation operations for driving those predators from the outer seas to the inner ones where they caused more damage.[1775] Despite this, assistance from the British when dealing with predators was still considered useful, and Murakami Ei cited the precedent of Qing using maritime predators against maritime predators to justify the idea of turning the dangerous "outer barbarians" against other threats lurking in the outer waters.[1776] As British officials were usually willing to hand over prisoners to the Qing, it could be said that the British fleet served to extend Qing jurisdiction and serve as "vectors of Qing law beyond the scope of Qing naval action;" so Qing cooperation with British anti-predator operations, particularly Qing officers and officials acting as observers and guides on British vessels, were not merely acquiescing to imperial

[1772] Ibid 99.
[1773] Chappell, "Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842–1869," 482.
[1774] Ibid 482-483.
[1775] Kwan, "Barbarian Ships Sail Freely about the Seas," 97.
[1776] Ibid 98.

demands but represented a "co-opting of Royal Navy forces to uphold Qing order in the China seas as well as a means of engaging with the ascendant international law."[1777]

1860-1870

One of the major changes that occurred to the handling of maritime law in the South China Sea was the creation of the Shanghai Mixed Court (会審公廨 *Hui shen gong xie* "joint hearing public house" or "tribunal") in 1864. The Mixed Court had its roots in earlier times, when countless refugees fled the Taiping conflict into the international settlement where they had previously been forbidden, and ad hoc legal measures were needed to deal with the situation.[1778] Notably, even its formal creation was not a matter of any treaty or other international agreement, but was instead requested by the Circuit Intendent of Shanghai, and originated as an informal extension of the Shanghai magistracy with limited powers.[1779] However, its powers grew very quickly; at five months it was allowed to hear civil and commercial claims as well as criminal ones, a first set of often ignored regulations was created in 1869, the staff increased to deal with the growing workload, and the powers of the assigned magistrate were expanded to be on the same level as any magistrate within the Qing territory, if still technically subordinate to the Shanghai magistrate.[1780] Given that its jurisdiction was over a settlement populated primarily by traders in the midst of one of the largest and most important trading ports in the world, it is no surprise that the rulings of the Mixed Court became a subject of attention for the international community, both in daily news reports and in scholarly interest in how the Mixed Court delt with the incredibly complex legal situation of the International

[1777] Ibid 99.
[1778] Stephens, *Order and Discipline in China*, 106.
[1779] Ibid 44.
[1780] Ibid 44-45.

Settlement in Shanghai.[1781] While much of the Mixed Court's goals, and later scholarly discussion of the Mixed Court, focused on the Great Powers at its heart, other European and Colonial states played a role as well, adding to the overall legal complexity of the situation.[1782]

Smaller European powers and their legal influence were not limited solely to Shanghai and its Mixed Court; in fact, the Qing hoped to use these lesser powers to counterbalance the influence of the established empires, particularly Great Britain.[1783] To give an example, in 1863 at Tianjin, the Qing Dynasty signed a treaty with the Netherlands which granted, among other things, the right of Netherlands' subjects to resolve disputes among themselves via the Netherlands' consul without the Qing government getting involved, there would be cooperation between the states to decide the law in disputes between Qing and Netherlands' subjects, the right of both states to judge offenders of their subjects against the others in their courts by their laws, and to extradite any criminal subjects of the other hiding in their own territory.[1784] In regards to maritime predation, it was similar to the Qing's earlier treaty with Sweden-Norway in that it stated that if a Netherlands' ship fell victim to maritime predation in Qing waters the Qing government was obligated to make all efforts to find the culprits and recover the stolen cargo, but also states that they should not be held accountable the recovery, though in this instance nothing is written of any obligation on the part of the Netherlands to support or engage in anti-maritime predation efforts of its own.[1785]

On a more scholarly level, Prince Gong helped sponsor the Chinese translation of European language works on international law in order to help everyone from officials to small

[1781] Cassel, *Grounds for Judgment*, 6, 8-9, 67.
[1782] Ibid 3-4, 172-173.
[1783] Hsü, *China's Entrance into the Family of Nations*, 122, 140.
[1784] Mayers, *Treaties between the Empire of China and Foreign Powers*, 150-152.
[1785] Ibid 152.

scale traders better understand the rapidly changing legal world they found themselves dealing with.[1786] One such work was Wheaton's *Elements of International Law*, a leading English work on the subject originally published in 1836, was translated in 1864, and commented on issues such as maritime predators being free for any state to punish, the importance of making restitution to the targets of maritime predator attacks regardless of where the attack happened, the freedoms of the high seas and commerce, and the principles of diplomacy between sovereign states.[1787] It is worth noting that many of the ideas discussed in the work, such as international law and sovereignty, had been translated into Chinese before, Lin Zexu having discussed both since 1839, but the translation used in the 1864 version of Wheaton's work would prove more influential to the Qing's wider grappling with those ideas going forward, particularly as the early translations were less systematic in what terminology they attached to each idea; such as alternatively translating sovereignty as *quanli* 權例, and *daoli* 道理.[1788] Overall, Qing officials and scholars were more interested in it as a tool for achieving their diplomatic aims than as a foundational work of philosophy or theory, and to this end *Elements of International Law* proved its worth when it was successfully used to defend the Qing's maritime sovereignty in the von Rehfues incident in 1864 where Prince Gong and the Zhongli Yamen, while not directly citing or quoting the work, reviewed and copied some of its arguments and language in order to force the Prussian Ambassador Guido von Rehfues to return Dutch merchant ships he had captured in Qing territorial waters as well as compensate the Dutch for the captures; the glowing review of

[1786] Hsü, *China's Entrance into the Family of Nations*, 123.
[1787] Henry Wheaton, *Wheaton's International Law*, Translated by William Alexander Parsons Martin assisted by a commission appointed by Prince Gong, (Beijing: The Imperial government., 1864), 16-17, 335, 338.
[1788] Carrai, *Sovereignty in China*, 48-49.

the work's usefulness in a memorial after the incident resulted in it being mass printed and distributed among Qing officials who were likely to negotiate with foreign powers.[1789]

While the quality of the translation was widely praised at the time in both Europe and the Qing government for its accuracy and usefulness, there are, as with most translations, some key differences that reflected the viewpoints of those involved.[1790] The head translator for the project, W.A.P. Martin, was an American Presbyterian missionary, and his religious zeal colored how he interpreted Wheaton's text; in particular whereas Wheaton saw international law as primarily positivist, arising from human interactions and consensus, Martin interpreted it more in line with natural law, originating in the divine, and universal rather than arising from particular circumstances, and thus upholding in his mind the universality of Christianity and its morals.[1791] This can be seen in the very title chosen for the Chinese translation of Wheaton's work *Wanguo Gongfa* (**萬國公法** "*Public Law for Ten Thousand Nations"*) – *wangou* literally meaning ten thousand nations and harkening to the period before the Qin unification when there were many equal Han states, *gong* implies an abstract greater good, and that *fa* (rules and regulation) comes from a general agreement; in short, compared to the Confucian concept of *tianxia* ("all under heaven")[1792] *wangou gongfa* implies a world order with a natural division between equal states.[1793] There is also what Martin and his team omitted in their translation, including Wheaton's first chapter where he discusses his positivistic view, and several case studies that

[1789] Weijian, "The Prussia-Denmark ship incident at Dagu," 84-85, 90.
[1790] Zhiguang Yin, "Heavenly Principles? The Translation of International Law in 19th-century China and the Constitution of Universality," In *The European Journal of International Law* Vol. 27 no. 4. 2017, Oxford University Law, 1005-6, 1019.
[1791] Ibid 1007, 1010.
[1792] Literally the physical world, also the idea that the current ruling dynasty in the Middle Kingdom/China was divinely ordained as the ruler of the entire world, all other rulers were in theory his subordinates who derived legitimacy from his approval.
[1793] Ibid 117.

back up that view.[1794] Another tactic used by Martin to highlight the supposedly universal nature of international law was by analogizing it with the rules governing relations between different states during the Zhou period (1046-256 BCE) and Confucius' concept of *chunqiu gongfa* (春秋公法 "public law in the Spring and Autumn period"), which emphasized the moral rationale behind the rule of law; the term he used to describe natural law was *xingfa* (性法) which translates literally to "law of human nature."[1795]

However, Qing officials such as Prince Gong, Xu Jiyu, the governor of Fujian in 1848, and Feng Guifen, a major figure in the self-strengthening movement, would in turn interpret Martin's translation in a way closer to Wheaton's viewpoint than Martin's, namely as a positivistic interpretation of European international law as something that arose to rationally resolve disputes between warring states.[1796] This was more compatible with the Confucian moral and legal framework, which saw itself as universal and as a reflection of human rationality and benevolence; furthermore, many simply saw it as a useful tool for getting what they wanted when negotiating with Euro-American states.[1797] Additionally, one of the main ways the Qing interpreted international law in this period was as "a supranational restraint over states' ambitions and egotistic aspirations," fitting with their main use of it as a shield against the grasping ambitions of European empires.[1798] In fact, in a forward for the book written by Zhang Sigui, who would later become the ambassador to Japan, he referred to it by the title *Wanguo*

[1794] Ibid 114-115.
[1795] Ibid 1007.
[1796] Ibid 1017
[1797] Ibid 1017-1018.
[1798] Carrai, *Sovereignty in China*, 62.

Lüli, with *lü* and *li* referring to legal codes and precedents, in subtle contrast to how *fa* refers to a universal guiding principle.[1799]

As the Qing Dynasty approached its end and more of its academics lost faith in Confucian universalism, an increasing number of them began to view international law as universal, or at least similar enough to be applicable to their own homeland especially in those periods where rule was divided, although most saw it arising from realpolitik instead of embracing Martin's idealistic vision, and understood how colonial it often was in practice; for instance the reformist and diplomat Xue Fucheng concluded that the Qing's focus on cultural over military development left it too vulnerable to risk being excluded from international law, comparing it to the cutthroat diplomatic norms of the Spring and Autumn Period in that they were ruthless and arguably unjust, but still useful as a means to make and keep the peace in face of competing interests.[1800] Even today, some scholars attempt to trace the origins of modern international law to China's ancient Warring States Era, though others see this as another form of orientalism by trying to fit Chinese intellectual development into categories that came from a system quite different from it and initially forced upon it, while ignoring how modern Chinese political thought within the international legal system can still be influenced by ancient categories and concepts, and thus see it as equivalent to trying to find the roots of the *tianxia* tribute system in a European intellectual discipline.[1801]

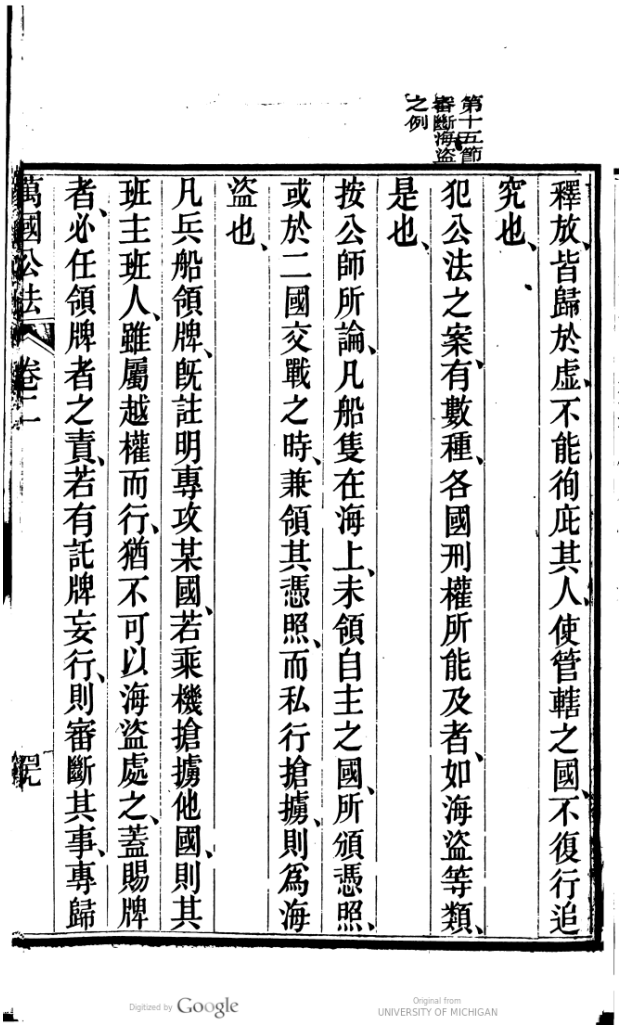
When discussing maritime predation, it is notable that Wheaton's already noticeable distaste for privateers is enhanced by how Martin simply translates them as 海盜 (*Hǎidào*), same

[1799] Yin, "Heavenly Principles?" 1018.
[1800] Ibid 1020.
[1801] Carrai, "Historiographies of International Law from a Chinese Perspective", 11, 26.

as any "pirate" without state sponsorship.[1802] While it is true that there probably wasn't a one to one translation for privateer in Chinese at the time, it is still notable that no attempt was made to invent a term to describe the concept, as had been done for many other difficult to translate concepts throughout the text, often repurposing classical characters into new compounds, such as translating the concept of sovereignty as *zizhu zhiquan* (自主之權), or "the power to make one's own decisions."[1803] In one passage, Wheaton laments the longstanding legitimacy of sponsoring maritime predators outside of the official military:

"The practice of cruising with private armed vessels commissioned by the State has been hitherto sanctioned, by the laws of every maritime nation, as a legitimate means of destroying the commerce of the enemy. This practice has been justly arraigned as liable to gross abuses, as tending to encourage a spirit of lawless depredation, and as being in glaring contradiction to the more mitigated modes of warfare practiced on land. Powerful efforts have been made by humane and enlightened individuals to suppress it, as inconsistent with the liberal spirit of the age."[1804]

[1802] Henry Wheaton, and W. A. P Martin, *萬國公法 Wanguo Gongfa*, 台北: 中國國際法學會 Daibei: Zhongguo guo ji fa xue hui, 1998, original printing 崇實館, Beijing, Tongzhi 3 [1864], 254-255.
[1803] Scott Relyea, "Indigenizing International Law in Early Twentieth-Century China: Territorial Sovereignty in the Sino-Tibetan Borderland," *Late Imperial China* 38, no. 2 (2017): 8-9, 15.
[1804] Henry Wheaton, *Elements of International Law, Volume 1*, (Boston: Little, Brown, and Company, 1863), 628.



Page from Martin's translation of Wheaton's *Elements of International Law*, Via Haathi Trust and the University of Michigan[1805]

When translating the section about privateers, Martin wrote "Such persons must not be protected. Each country must act to the best of their abilities against them. Those who consort or deal with pirates are of the same kind as pirates. Governments and ordinary sailors alike depend on the sea, but when war occurs, selfish countries threaten this by giving license to pirates to

[1805] Henry Wheaton and W.A.P. Martin, *Wheaton's International Law: Translated into Chinese by W.A.P. Martin of the American Presbyterian Mission; assisted by a commission appointed by Prince Kung*, (Beijing: The Imperial Government, 1864), 309.
https://babel.hathitrust.org/cgi/pt?id=mdp.35112102550631&seq=311&q1=%E6%B5%B7%E7%9B%9C

allow them to loot and plunder. When countries fight, pirates seize the opportunity to plunder with the support of one side's warships. However, the standards are changing; every country is required to punish pirates, and thus who fail to uphold this duty risk their country's sovereignty." In comparison to Wheaton's quote, this passage is less of an open condemnation of privateering as a moral wrong, but also makes it clear that when states shelter pirates, including privateers that overstep the terms of their letters of marque, whether the states do so deliberately or through inaction, they are in violation of international law, just as much as the maritime predators they protect.

While these translated works and others like it were widely influential in both the Qing's academic and bureaucratic circles, locally created legal treatises continued to be written as well. In 1865 the local government in the Sichuan province published a collection of over twenty volumes of political philosophy entitled *The Book of Pastoral Order* (牧令書 Mù lìng shū), which commented everything from farming to military preparedness; in regards to maritime predation and other crimes, it firmly emphasizes that while it is necessary to provide military protection against such depredations, people become maritime predators when they have little other choice, and thus the best way to eliminate maritime predation was to make sure that communities enjoyed prosperity and gave opportunities to everyone.[1806]

The reform movement also realized that the sovereignty of the Qing state could not be defended by writings alone and needed a strong economic foundation. In particular, the translation of Wheaton's work brought with it the idea that the "right to profit" (*liquan*) was an important aspect of sovereignty, and to reformist officials such as Li Hongzhang, state-sponsored enterprises were the best way to reclaim these rights from foreign powers that had taken control

[1806] Xu Dong, *Mu Ling Shu: 23 Juan [fu Bao Jia Shu 4 Juan],* (Chengdu, Tongzhi 4 [1865]), 624, 672, 687, 698, 720.

of increasingly larger sections of the Qing economy.[1807] A particular worrying threat was how European and American firms had effectively monopolized the profits of steamship trading along the Qing's major rivers and coastal waters.[1808] In addition to the operation of the steamships themselves, European and American firms also dominated many related industries such as ship repair and construction, operation of warehouses, wharves, and piers, and the finance and insurance of such shipping.[1809] It is worth noting that while firms such as Russell and Company were owned by Europeans and Americans, they drew much of their investment capital from the sale of stock to Chinese merchants, with Chinese investors owning up to 40 percent of these stocks up until the 1880s, and relied on "the linguistic ability, business acumen, and personal networks of Chinese office managers and cross-cultural brokers known as compradores (*maiban*)," which provided a pool of experience labor for Chinese endeavors in the future.[1810] Still, Li and his cohorts planned on waging economic warfare, seeing every bit of profit the companies of one country made as profit taken from other countries, similar to the creation of royal charter companies in Europe.[1811] Furthermore, the reformists were worried about the transportation of strategically valuable materials such as oil, timber, copper cash, iron, and grain, lest in any future conflict with European countries or the United States these companies cripple the Qing war effort by refusing to move such goods; while existing regulations already forbid foreign companies from trading in all of those but grain, Qing shipping was largely dependent on a shrinking number of sail ships, and Chen Lanbin, an official in Southeast China, realized that

[1807] Stephen R. Halsey, "Sovereignty, Self-Strengthening, and Steamships in Late Imperial," *Journal of Asian History* 48, no. 1 (2014): 82-83.
[1808] Ibid 81.
[1809] Ibid 85-86.
[1810] Ibid 86.
[1811] Ibid 84.

rice is even more important, lest the Qing simply be starved into surrender.[1812] Fortunately for the Qing, by 1864 fierce competition between American and British steamship lines saw both sides reduce their rates in attempts to underbid each other, creating an opportunity for state backed local firms to compete with them.[1813] In 1870, Qing officials succeeded in founding the China Merchants Steam Navigation Company (*Zhongguo Lunchuan Zhaoshangju*), and within five years "it had forced the most powerful Western competitor to sell its business and operated the largest fleet within the boundaries of the Qing Empire."[1814]

Not long after the Declaration of Paris, the actions of the Confederate States of America and its privateers during the American Civil War raised many questions about the legal status and liability of maritime predators in the service of states who were not signatories of the Declaration of Paris a decade earlier. In particular, the February 12th 1863 attack of the CSS *Florida* on the *Jacob Bell*, an American trade ship returning from doing business in the South China Sea and laden with a cargo of tea, which saw the *Jacob Bell* captured and burnt was referred to as piracy by the New York Times, and resulted in a claim being filed against Great Britain on account of the *Florida* was built in Britain by a British firm, and took on coals and other supplies in a British port before launching this and other attacks.[1815] Shortly afterwards, on April 25 1863 the *Dictator* was captured and burned on its way to Hong Kong by the CSS *Georgia*, formerly a British vessel named the *Japan*, with the *Georgia* capturing another prize two days later on April 27, 1863, specifically the *Constitution* on its way to Shanghai laden with

[1812] Ibid 88.
[1813] Ibid 86.
[1814] Ibid 81.
[1815] *The New York Times*, March 3, 1863, Page 1, THE PIRATE FLORIDA AGAIN; Capture and Burning of the Ship Jacob Bell, from China. Sixteen Hundred Chests of Tea on Board. Her Passengers and Crew Landed at St. Thomas.; United States Department of State, *Correspondence Concerning Claims Against Great Britain, Transmitted to the Senate of the United States In Answer to the Resolution of December 4 And 10, 1867, And of May 27, 1868*, (Washington D. C.: Government printing office., 1869), 440-441.

food and coal, leading to more claims against the British government for their perceived complicity in this maritime predation.[1816]

Within Britain itself, there was a great deal of debate over exactly how much aide could be given to or withheld from Confederate maritime raiders without violating their neutrality; for instance, while the CSS *Alabama* was built for the CSA at Liverpool, the government seized iron rams in construction for the vessel and others of its kind, since such weapons would likely be used for an attempt to break the Union blockade of the South, which might in turns lead to the United States making harsh demands of Great Britain in recompense.[1817] Additionally, the British government put some of its own citizens on trial for serving on Confederate raiders or for recruiting others to serve as being in violation of the Foreign Enlistment Act; at least some claimed in turn that they had been recruiting for peaceful work on ships with British owners, such as Robert Highatt of Jones and Company in 1864, whose lawyer Mr. Deighton stated in court to have been recruiting for a trading expedition to Singapore and the Qing coast aboard the *Japan*, and the truth of the raider's identity as the *Georgia* and its mission to raid Union commerce was only made clear once the vessels had left port.[1818] British courts were skeptical, at best, that the recruits could have failed to noticed that the vessel they had enlisted on was a warship instead of a trading vessel, or that the defendant could have been so ignorant of a scheme he and his business partner John Jones had invested so heavily in.[1819] In fact, the presiding judge, after setting the bail at £500, commented that Highatt "would have no difficulty finding the bail, as he had, no doubt, the whole of the Confederate States at his back."[1820]

[1816] Ibid 444.
[1817] Ibid 536-537, 563, 565-566, 603.
[1818] Ibid 556-557.
[1819] Ibid.
[1820] Ibid 558.

Just as the actions of these maritime predators caused a great deal of controversy in terms of international maritime law, so did some of the actions taken against them; for instance, the *Florida* was captured on October 7, 1864 by the USS *Wachusett* commanded by Captain William Collins in the Brazilian port of Bahia, which the Empire of Brazil took to be a violation of its rights as a sovereign state and neutral power.[1821] Captain Collins was subsequently court-martialed and found guilty of violating Brazil's territorial rights, but the verdict was put aside by the Secretary of the Navy Gideon Welles, and Collins received fame and an eventual promotion for leading the daring capture of the Confederate raider.[1822] While the exact outcome of these incidents was highly variable depending on a number of factors and often inconclusive, including economic interests, political maneuvering, and relative military power, overall this period was an important turning point in the transition what Janice Thomson describes as a "free market of international violence" to a command economy of violence where only official state militaries would have license to engage in a number of coercive behaviors, including maritime predation, and what constituted an official state military was increasingly redefined to narrower criteria.[1823]

In Hong Kong, legislative action was taken to strip maritime predators of their support networks in the colony. Specifically, in 1868, an ordinance was passed that anyone who had knowingly aided a maritime predator, whether by procuring goods or providing advice and counsel, was subject after conviction to a sentence of five to fifteen years of penal servitude or transportation, or a prison term of up to two years, with or without hard labor.[1824] Should a death occur as a result of the maritime predation, than the minimum sentence increases to fourteen

[1821] William Gerald Downey, "Claims for Reparations and Damages Resulting from Violation of Neutral Rights," *Law and Contemporary Problems* 16, no. 3 (1951): 491.
[1822] Ibid.
[1823] Thomson, *Mercenaries, Pirates, and Sovereigns*, 144-145.
[1824] A. J. Leach, *The ordinances of the Legislative Council of the colony of Hongkong: from the year 1844 to the end of 1890*, (Hong Kong: Noronha & co. govt. printers, 1891-1892), 382.

years for transportation penal servitude, though prison sentences remained the same, as did the maximum sentence of transportation and penal servitude.[1825] Separate sentences were made for the crime of arming maritime predators, hiding them from the authorities (without a legal excuse, which is up to the defendant to prove and of which no examples or definitions are provided in the ordinance), and for being seen on a maritime predator vessel without being able to prove to the court's satisfaction that you were not complicity in their predatory activities.[1826] Juvenile offenders, specifically those under the age of sixteen, would be sent to reform school instead.[1827] Furthermore, to ensure that such activities were carried out swiftly and with minimum inconvenience for those charged with such crimes, a court was created to specifically deal with such cases and other charges related to maritime predation, entitled the "The High Court of Hongkong for the Suppression of Piracy."[1828] Of particular note is that the High Court was free to try such cases without the "intervention" of a jury, acting more as a summary tribunal.[1829]

1870-1880

In the 1870s, the Qing Dynasty was able to put down several rebellions which had troubled their rule for decades, such as the "Miao Rebellion" (1854-1873, perhaps more accurately called the Guizhou Disorders due to the rebels being of diverse origin rather than overwhelmingly Miao) and Dungan Revolt (1862-1877), which in turn allowed the Qing to focus on strengthening their ability to resist future internal and external threats through a campaign of

[1825] Ibid 383.
[1826] Ibid 383-384.
[1827] Ibid 384.
[1828] Ibid 384-385.
[1829] Ibid 385.

reform known as the Self-Strengthening Movement, despite the devasting cost of these victories.[1830]

Part of the overall aim of the Self-Strengthening Movement was the modernization of the Qing Navy with new warships, such as the *Yangwu* built at the Fuzhou Arsenal in 1872, and with it, Qing control of their own coasts could be more firmly established.[1831] In fact, the initial proposals for the fleet in 1871 were even more ambitious, with Ding Richang submitting a "Six-Item Naval Proposal" that consisted of the "purchase of big gunboats, construction of naval fortresses at key points along the coast, training of the army, selection of able and incorruptible officials on the coast, coordination among the squadrons, and establishment of dockyards and munitions factories."[1832] Many others making similar proposals that same year, and Li Hongzhang further proposed the "purchase of foreign ships and guns, the training of officers and sailors, the recruitment of new talent by a new "foreign affairs" examination, the opening of mines, the manufacture of munitions, and an increase in customs duties on opium imports to help pay for naval expenses."[1833] However, ultimately naval funds would be cut to help pay for a land based campaign to suppress rebellion in Xinjiang.[1834] Despite this financial setback, by 1875 the Qing had built two modern fleets for its navy with top of the line, high quality training, and a Western style of management; they were the Northern Sea Fleet (*beiyang haijun*) and the Southern Sea Fleet (*nanyang haijun*)[1835] Western observers were impressed with the speed of the development; as early as 1872 it was noted that the Qing fleet was vasty better than it had

[1830] Robert D. Jenks, *Insurgency and Social Disorder in Guizhou: The "Miao" Rebellion, 1854-1873*, (Honolulu: University of Hawaii Press, 1994), 3-4, 164; Michael Underdown,"The Dungan Uprising and Mongolia," *Archív Orientální* 58, (1990): 238, 242.
[1831] Richard N. J. Wright, *The Chinese Steam Navy, 1862-1945*, (London: Chatham, 2000), 37.
[1832] Hsü, "The Great Policy Debate in China, 1874," 214.
[1833] Ibid 214, 216.
[1834] Ibid 222-223.
[1835] Gang, *Maritime Sector, Institutions, and Sea Power of Premodern China*, 194.

been in the 1860s; while some of these new ships were purchased from foreign powers, others were domestic, and there were predictions that soon Chinese produced ships would soon match the quality of Europe's best shipbuilders.[1836] Similarly, when Japan invaded southern Taiwan with three thousand marines in 1873, the Qing were able to send a fleet with seven thousand marines to defend the island for eight months until the Japanese retreated.[1837]

Public engagement was important as part of the movement as well, and newspapers served an important role in creating a line of communication between high level government officials and the populace at large.[1838] On the 23rd of May, 1876 the newspaper *Shenbao*[1839] (申報) reported on the shake down in the management of several counties on account of ongoing coastal and riverine predation, including Hangzhou County in Zhejiang, Jiangyin County in Jiangsu, and Renhua County in Guangdong.[1840] The incoming magistrates also put in formal requests to improve the level of training and equipment they would need to complete their tasks, especially in terms of their ability to investigate the causes and operations of maritime predation.[1841] Despite these efforts, this would be a period with several major incidents of maritime predation which were used to justify further political and legal expansion of European empires into Qing territories and maritime space.

One notable event in terms of maritime and international law was the so-called "blockade of Hong Kong" which involved a dispute over the Qing's installation of nine tax collection

[1836] Ibid 195.
[1837] Ibid 196-197.
[1838] Rudolf Wagner, "The Free Flow of Communication Between High and Low: The *Shenbao* as Platform for Yangwu Discussions on Political Reform, 1872-1895," *T'oung Pao* (2018): 116-117, 125-126.
[1839] Known in English as "Shanghai News" though it was not a literal translation, as Shenbao is short for Shenjiang Xinbao, which is in turn a shortform version of Chunshen Jiang, the old name for the Huangpu River, though it could also be read more literally as "declare/declaration." Endymion Wilkinson, *Chinese History: A Manual, Revised and Enlarged* (Harvard University Asia Center, 2000), 967.
[1840] *Shen bao v.16*, (Shanghai Shi: Shen Pao She, 1876), 10053.
[1841] Ibid.

offices with patrolling customs cruisers around Hong Kong to gather revenue from ships docking in Hong Kong, especially the opium trade.[1842] While the blockade lasted from 1867 to 1886, and arguably had roots going back to the Treaty of Tianjin in 1858 where the Qing were forced to legalize opium only to immediately lose out on opium tax revenue as traders used legal loopholes and outright smuggling to avoid import duties and tariffs,[1843] it was during the 1870s that the controversy was at its height, on account of the decline of the opium trade in the 1880s in the face of competition with cheaper, if lower quality, locally grown opium.[1844] Interestingly, the dispute was mostly between the Hong Kong merchant community, both Qing and foreign, and the Qing government, with most in the British government, including local Hong Kong officials, were of the opinion that the Qing were well within their rights to collect import duties (or at least that the colonial authorities did not care enough about the issue to push the Qing about it), despite arguments put forth by the merchant community that such "encroachments" were "contrary to international law," and that the deployment of gunboats and steam launches in and out of the harbor to aide in this endeavor was in violation of local laws.[1845]

More specifically, one Mr. H. Lowcock echoed the sentiments of many of his fellow Hong Kong businessmen as he put forth at a town hall meeting on September 14th, 1874 that "the whole was an interference, in direct contravention; of the letter from Her Majesty in 1841, opening the port to trade, to Sir Henry Pottinger's proclamation of the following year, and to the proclamation by the Chinese Government in 1869."[1846] Another specific point of contention was

[1842] G. B. Endacott, *A History of Hong Kong*, (London: Oxford University Press, 1973) 189-194, 213-214.
[1843] Specifically, the treaty specified that foreign ships could bring opium to treaty ports where they would pay an import fee, but only Qing vessels could bring the opium into the interior. Since Hong Kong was not technically a treaty port, but did have both European and local vessels dock there, junk traders would often pick up opium at Hong Kong without dealing with the customs fee and could pocket the difference in profit. Ibid.
[1844] Brook and Wakabayashi, "Introduction: Opium's History in China," 11-12.
[1845] *The Blockade of the Port & Harbour of Hongkong*, (London: Kent and Co., 1874), 5-6, 66-67.
[1846] Ibid 6.

that deployment of Qing gunboats and steam launches just outside the harbor which was initially justified as a measure to protect against maritime predation with nothing said about them being deployed to collect customs fees; there was also a sentiment that it was a mistake for the Governor to have recognized the vessels as ships of war, which gave them the ability to enter and exit the harbor as if they were actually deployed there, allowing them to follow other ships leaving the harbor and make sure they paid their fees, arguing that proper ships of war should not be deployed for such duties.[1847] The petitioners from the merchant community also made note that there were Europeans, in particular British subjects, serving on board the *Peng Chou Hai*, the main gunboat in charge of the customs collection, and so put forth in their petition that "your Memorialists are also of the opinion that British subjects serving on board these vessels, which are to all intents and purposes ships-of-war, are acting in contravention of, and are punishable under the Foreign Enlistment Act."[1848] Later on in the document, a list is provided of the vessels involved in the blockade and their officers, all of which seemingly have European names, though no further information in regards to their identity and origins are given.[1849] They even raised the argument that the person in charge of the operation was not a legitimate official of the Qing government, but a mere tax farmer who had vastly overreached his legal authorities.[1850]

Though such legal arguments were secondary to the concern that the customs cruisers were scaring off potential trade partners and hurting overall profits, it is clear in their internal discussions that the majority of them felt the law was on their side and were baffled by the British government's seeming apathy and inaction in regards to the matter.[1851] That said, the

[1847] Ibid 10.
[1848] Ibid 39.
[1849] Ibid 64-65.
[1850] Ibid 38.
[1851] Ibid 6-7

records of the meeting also showed that the merchant community was far from united on this front, with many members such as J. Whittal of Messrs. Jardine Matheson & Co. arguing that legitimate business was actually on the rise, the Qing were well within their rights on the matter, only dishonest merchants and smugglers complained of the situation, and it would be to everyone's mutual benefit to work with the Qing government on this front.[1852] Regardless of the legal arguments put forth in this petition and similar ones throughout the "blockade," and despite the influence that the Hong Kong merchant community had demonstrated in the build up to both opium wars, there was little official reaction, with the whole affair ending quietly with the signing of the Additional Article to the Agreement between Britain and China at Chefoo (1876) in 1885 which fixed the custom rate to a mutually agreed upon amount, followed in 1887 with the establishment of an Imports and Exports Office under the Hong Kong Harbor Master to control the flow of opium.[1853]

There was also a feeling that the British government's alleged passivity regarding the customs offices around Hong Kong was encouraging maritime predators, such as the attack on the *Spark* earlier in 1874 which had been the first attack on the Canton river in some time or the attack on the *Chung-sune* just outside of the entrance to the harbor in June of that year, with the latter case especially disturbing as the maritime predators had pretended to be a government inspection craft to get close enough to board, as well as Qing state retaliation against their own merchants for working with foreign ones and protesting what they saw as unfair trade and taxation policies.[1854] Three of the men involved in the attack on the *Chung-Sune* were caught,

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[1852] Ibid 7-8.

[1853] The Marquis of Salisbury and Marquis Tseng "Additional Article to the Agreement between Britain and China at Chefoo (1876)," 1885, https://history.state.gov/historicaldocuments/frus1887/d150; Christopher Munn, "The Hong Kong Opium Revenue," in Timothy Brook, and Bob Tadashi Wakabayashi, *Opium Regimes: China, Britain, and Japan, 1839-1952*, (Berkeley: University of California Press, 200): 120.

[1854] *The Blockade of the Port & Harbour of Hongkong*, 21-22, 45-46.

identified as Yip A-Fat, Lo A-Fook, and Choi A-Foon, but their trials raised certain legal questions in the minds of both the Hong Kong government and populace; specifically, their lawyer, one Mr Hayllar, argued that since the attack had occurred within a mile of the Qing coastline and outside of Hong Kong's own water, the Hong Kong Supreme Court did not have jurisdiction over the case, since piracy was defined in British law as robbery on the high seas, and this was still within the three miles of coastal waters under Qing municipal law rather than the high seas, as per the precedent of maritime law on the matter.[1855] He noted that if it were a British ship the situation would be different as "a British ship carried the admiralty with it where it went," but since both victim and perpetrator were Qing subjects and the crime had occurred in Qing waters, Hong Kong authorities had no cause to get involved.[1856] Mr. Hayllar further argued that even if the Hong Kong court did have jurisdiction, it is not a case that should have gone to a jury trial, though his reasoning was never elaborated on as the trial hinged entirely on the first point.[1857]

The prosecution, on the other hand, argued that the main definition of piracy was that it was robbery at sea, and so the main facts to be determined were if objects had been taken either by force or threat of force, of which the eyewitness testimony makes clear was the case.[1858] On the matter of jurisdiction, the Attorney-General's argument was that "it was a case of piracy under the law of nations," and as an offense against the law of nations, and therefor one against the common law of England, so the Admiralty would have jurisdiction concurrent with the Qing in that three miles when it came to such matters.[1859] "Although it was not a piratical act by

[1855] Ibid 47-48.
[1856] Ibid 48.
[1857] Ibid 47, 49, 50.
[1858] Ibid 47-48.
[1859] Ibid 48-49.

statute, it was one *per se*."[1860] He goes on to argue that to acquit on grounds of jurisdiction would have disastrous consequences, as peaceful trading junks could be attacked outside of the harbor, only to have their pursues escape to and live in Hong Kong itself under its protection, free from consequences "unless the authorities of China interfered."[1861] The Attorney-General also makes the comment that while "the offence with these men were charged was of lesser occurrence now than it used to be some years ago in these waters," it was still "one of a very grave nature," adding that part of the danger was that maritime predators often could easily escape their punishment, and thus it was fortunate that they had the right men in custody and the eyewitness testimony with which to resolve the case quickly.[1862] Ultimately, however, the Qing government invoked the Rendition Act and, as there was no denying that it was a crime of Qing subjects against other Qing subjects that took place in waters under Qing municipal jurisprudence, the prisoners were handed over without much delay or counter argument, owing to the political expediency of the outcome according to the judge presiding over the case.[1863]

May of 1874 saw another case which raised issues of authority and jurisdiction when a junk that had claimed to have been working under government orders to investigate smugglers in Hong Kong's waters ended up opening fire on a fishing vessel therein under confused circumstances, leading to the ship's officers being arrested under charges of piracy, specifically "shooting with intent to commit piracy and endangering life," as no goods were taken and no actual physical injury done to anyone.[1864] As this did occur in Hong Kong's waters and the fishermen fired upon were Hong Kong residents, it was determined that even if the incident did

[1860] *The Blockade of the Port & Harbour of Hongkong*, 49.
[1861] Ibid.
[1862] Ibid 47.
[1863] Ibid 50.
[1864] Ibid 51, 53.

not come under the Piracy Act, it did come under Section 16, which establishes that firing with intent to do grievous bodily harm would be guilty of a felony.[1865] Instead, the difficulty of this case was the claim that they had been working for the Qing government; while a communication with the Viceroy did confirm that the accused men were Revenue officers under his command, he apparently knew nothing of their investigation into Hong Kong smugglers or the shooting in general, apparently only thinking that they had wandered into Hong Kong waters.[1866] The members of the court quickly agreed that as "national boats" they had a right to enter, but not to search for smugglers or fire upon Hong Kong residents, so if these actions were done without the knowledge, permission, and authority of their superiors, it was piracy, but if they had that authority, then it was "a gross breach of international law."[1867] However, the Attorney-General noted that "although it is a breach of the international law, it is less clear how far it is a breach of the criminal law," and the Chief Justice agreed that if they had acted with government authority it was out of the court's hands as "only one government is responsible to another government for it."[1868] Determining whether or not they had that authority was difficult though, even when the onus was placed on the prisoners to prove that it was the case, which when combined with the Viceroy's apology and promise to discipline the men himself if they were delivered, and that no goods were taken or persons injured, that in the name of political expediency it would be best to release the prisoners to the Viceroy's custody.[1869] However, they still felt the need to officially state in their records of the incident that if anyone had been harmed or goods taken, the trial

[1865] Ibid 52.
[1866] Ibid 53.
[1867] Ibid 54.
[1868] Ibid 55.
[1869] Ibid 54-55.

would have proceeded regardless of the consequences, and if someone had been killed by the weapons fire, the men would have been "convicted and hung."[1870]

Hong Kong was not the only island that resulted in some controversy between the Qing and other states regarding issues of sovereignty and border security. Between 1871 and 1881, the Qing and Meji came into dispute over the Liuqiu Kingdom, a series of islands that long played tribute to the Qing without being absorbed into its administrative apparatus; throughout the controversy and its negotiations Li Hongzhang, a notable statesmen, general, and diplomat of the late Qing government, alternated between treating Liuqiu as a fully independent and sovereign country, a part of the Qing territory, or a "common dependency" of both the Meiji and Qing governments, whichever was most effective at the moment.[1871] Regardless of which argument Li Hongzhang was using, however, the underlying logic of the arguments was firmly concerned with sovereign border security and national interests rather than *tianxia* ideas of benevolent universal overlordship; this was part of a larger pattern of how Li Hongzhang and his political allies mimicked and modified Western ideas and systems to help consolidate Qing frontiers and improve its border defenses, as well as use "international law and the notion of protectorates and suzerainty to assert Qing authority over its tributaries or the independence of those no longer worth keeping."[1872] The issue of Liuqiu ultimately fit into the last category, as Li Hongzhang used international law to ward off a Japanese occupation of the islands and ultimately evoked its independence and sovereignty as a last ditch effort; losing Liuqiu was seen by Li Hongzhang and others in the Qing government as a small price to pay compared to losing Korea or Vietnam, an attitude that demonstrated that some of the Qing's main diplomats valued

[1870] *The Blockade of the Port & Harbour of Hongkong*, 54.
[1871] Carrai, *Sovereignty in China*, 77.
[1872] Ibid.

border security and their country's "sovereign interests" over "preserving the tribute system or the universal claim of the son of heaven."[1873]

Meanwhile, some of the Qing's plans to resist and reverse European domination of Qing maritime and riverine trade, which was increasingly seen as a national "right to profit," bore fruit in the form of the foundation of China Merchants Steam Navigation Company between 1872 and 1873, which managed to displace established European and American competitors with astonishing speed.[1874] It was aided in this by being well supported by investors, both in the government and private, and with a government loan of 200,000 strings of copper cash.[1875] Foreign investment was forbidden so that the company could not be taken over by foreign interests and turned against its original purpose.[1876] Private networks played the role public stock exchanges did in Europe, and by the end of 1873 the majority of its ownership went to treaty port merchants active in shipping and international trade, the company valued at 476,000 *taels* of silver.[1877] It also swiftly developed a reputation for speed and reliability in its deliveries, resulting in it taking up much of the work transporting tribute rice to the Qing's northern provinces.[1878] The company even managed to exceed the most optimistic expectations of its performance: between 1873 and 1878 its growth in terms of ships owned or attached and cargo moved was such that the strongest of Western companies retreated before it.[1879] As early as March 1874, the CMSNCo had reduced freight rates on the Yangzi River by 30 percent, undermining the price fixing agreement that Western companies had set up and sparked a true

[1873] Ibid 77-78.
[1874] Halsey, "Sovereignty, Self-Strengthening, and Steamships in Late Imperial China," 88-89, 94-95.
[1875] Ibid 89-90.
[1876] Ibid.
[1877] Ibid 90, 101.
[1878] Ibid.
[1879] Ibid 92.

competition that saw rates fall even further over the next five years, and by 1877 "the American firm of Russell and Company had decided to sell its transport business (the Shanghai Steam Navigation Company) to avoid further losses."[1880] CMSNCo quickly moved to purchase the American steamship line, both to expand their own operations and to prevent British companies from doing the same; this was seen as not just the Qing's "struggle to "recover the right to profits but in its broader quest for "wealth and power" (*fuqiang*)" which was part of its right as a sovereign state under international law, and a way to reinforce that sovereignty by acquiring the financial and military resources needed for defense.[1881] During the first five years of its existence, it was strategically successful as well as financially, stabilizing the food supply of the metropolitan military garrison and the imperial court by delivering grain with speed, efficiency, and security.[1882]

1880-1890

The Sino-French War between 1884 and 1885, while not an officially declared conflict, further hampered Qing attempts to assert their political independence, with all the legal rights that came with that, and build a naval force capable of projecting Qing laws and control into the South China Sea. In particular, the Battle of Fuzhou on the 23rd of August, 1884 saw the French not only decimate the Fujian fleet and several local shore batteries, but also destroy one of the Qing's most modern shipyards, one which had ironically been built under the direction of the French administrator Prosper Giquel, significantly setting back Qing efforts to restore its naval strength.[1883] Additionally, the Qing's northern fleet outright refused to sail south to attempt to

[1880] Ibid 92-93.
[1881] Ibid 94.
[1882] Ibid 97.
[1883] Bruce A. Elleman, *Modern Chinese Warfare, 1795-1989*. (Florence: Routledge, 2001), 82.

break the French blockade in the South.[1884] Despite these naval setbacks, the Qing army proved more successful and won enough victories to ensure a peace treaty that was at least tolerable to both sides, and the Empress Dowager Cixi increased her control of the military as well as other branches of government.[1885]

One thing that remained constant throughout this turbulent period was the importance of the salt industry and trade to Qing finances, and the threat posed to that industry by maritime predators and their terrestrial counterparts. Liu Kunyi and He Zhaoying's description of Guangdong and Guangxi's salt industry and related laws makes note of several instances of dealing with maritime predators, as well as describing protocols put into place to deal with them. For instance, one section mentions a text book used to help select patrol officers to deal with maritime predators and smugglers along the salt trading routes, as well as the expansion of naval bases and their attendant fleets of patrol bases going back to August of the 11th year of the Xianfeng Emperor's reign (1861) when three ministries of criminal affairs worked with Lao Chongguang, the Viceroy of Liangguang, and other officials to set up the first major base for that purpose.[1886] Another entry noted that as maritime predation was reduced, smuggling increased since the maritime predators no longer preyed on the smugglers, though the region still flourished better with the smugglers than the maritime predators.[1887] Investigating maritime predations when the predators were not caught in the act could be tricky for multiple reasons; for instance, when the authors were discussing a case of a hired merchant escort vessel, they brought up that the vessel having a legitimate reason to carry weapons confused the issue of what those

[1884] Ibid 87-88.
[1885] Lane J. Harris, *The Peking Gazette: A Reader in Nineteenth-Century Chinese History*, (Boston: BRILL, 2018) 238-239.
[1886] Liu Kunyi and He Zhaoying, *Liang Guang yan fa zhi: 55 juan*, *v.16-19*, [n.p.], Guangxu 10 [1884], 23.
[1887] Ibid 37.

weapons were used for, that if the vessel is a legitimate convoy escort than its work is beneficial to the community and should not be delayed long, and finally that the vessel's connection to Great Britain makes it politically inconvenient to hold the vessel long enough to conduct a thorough investigation.[1888] Sometimes even relatively simple issues could cause problems, such as deciding what flag should be flown by a group of ships hired to help recapture some steam launches taken by pirates, especially since the choice would set a precedent for future operations around Nanyang, though the source does not go into detail about what the options were and what the relative benefits and drawbacks were of each flag.[1889]

Many officials were equally as concerned with securing the profit of trade and the movement of strategic goods such as salt and rice not just against predatory activity but the domination of foreign merchants and companies, not only to line their own pockets but as an extension of the Qing's battle for the recognition of its sovereignty and attendant rights. Sheng Xuanhuai, for instance, often described the operations of the China Merchant Company steamship line in terms of international legal norms, stating in 1882 that "Based on international law, all business profits on internal rivers belong exclusively to the country's nationals," noting that the Rhine, Danube, and Mississippi were not open to foreign traders as Qing rivers and coasts were after earlier wars and treaties.[1890] He hopped that strong enough local competition would lead to the voluntary withdrawal of the foreign merchants who had been the most enthusiastic advocates of aggressive imperialist policies, and thus allow for the renegotiation of the unequal treaties.[1891] Li Hongzhang was another who increasingly relied on a view of international law based on the ideas put forth in *Elements of International Law* and similar

[1888] Ibid 140.
[1889] Ibid
[1890] Halsey, "Sovereignty, Self-Strengthening, and Steamships in Late Imperial China," 99.
[1891] Ibid.

guidebooks to "conceptualize strategic problems, weigh policy options, and articulate political goals," with the China Merchant Company in particular serving to "solidify our line of defense" against foreign aggression and "safeguarding our sovereignty." [1892] While there was still a great deal of fluidity over the meaning of "sovereignty," the pattern among Qing statesmen at the time "understood sovereignty as a form of totalizing control rather than the final or ultimate authority of the state," which resulted in them viewing foreign policy as a zero-sum struggle between the Qing state and the other great powers, where every Qing loss was foreign gain and vice versa.[1893] In particular, Li Hongzhang saw the competition between the China Merchant Company and foreign firms through a mercantilist point of view, "applying the phrases "independence" (*zizhu*) and the "right to profits" (*ziyou zhi liquan* or, less frequently, *ziyou zhi quanli*) to China's inland shipping with greater regularity in the early 1880s."[1894]

Zheng Guanying, an assistant manager of the China Merchants Steam Navigation Company, was an especially strong proponent of these ideals, stating that while the damage done by imperialist merchants was less visible than the loss of soldiers and annexations of land it was just as dire and important, and that the Qing should wage "commercial warfare (*shangzhan*)" against the signatories of unequal treaties; his writings drew attention to the connection between wealth and power that he observed, where European funded their militaries with the profits of their merchants and used their military to protect their trade relationships with geopolitical rivals.[1895] This is a similar observation to the one made in Mahan's work on sea power that inspired so much of the imperialism Qing officials were fighting against in this period. To Zheng Guanying, state-sponsored enterprises such as the steamship company were a potent weapon

[1892] Ibid 99-100.
[1893] Ibid 100.
[1894] Ibid.
[1895] Ibid 100-101.

against imperialism because their activities could produce taxes to strengthen the government and "because they threatened the economic foundations of Western strength in China" by undercutting the profit-power feedback.[1896]

In addition to trade, Li Hongzhang also dealt with issues of diplomacy, particularly how Meji Japan was increasingly claiming suzerainty over traditional Qing vassals, if not outright annexing them as occurred with the Kingdom of Liuqiu despite Li Hongzhang's earlier efforts.[1897] Threats to Taiwan and Korea of particular note; while Li Hongzhang did not care about either state on their own merits, stating that Korea was independent and resentful besides had not given good tribute in over a century and describing Taiwan as crime ridden, he was determined to not allow Japan to have either.[1898] He declared Korea to be a fully independent state, which undermined Japanese claims of suzerainty, and supported this by attempting to mobilize western nations; in 1886 he arranged for the signing of treaties between Korea and the United States, England, Germany, Italy, and Russia which either affirmed its autonomy, *zizhu*, or its status as a vassal to the Qing.[1899] Li Hongzhang noted that in practice international law only protected the interests of smaller states in "the case of the Powers with common commercial interests," citing Belgium and Denmark as small states that survived due to their economic alliances when many others in Europe were conquered.[1900] Yet he nevertheless "attempted to bring within international law's framework the hierarchical relation inherited from the tribute system with Korea," arguing that Korea's autonomy was not mutually exclusive with its traditional tributary relationship with the Qing court.[1901] How much actual influence the Qing

[1896] Ibid 101.
[1897] Carrai, *Sovereignty in China*, 77-78.
[1898] Ibid 77, 79-80.
[1899] Ibid 79-80.
[1900] Ibid 80.
[1901] Ibid.

had over Korea at this time was greatly doubted by outside observers, in other areas the Qing were successful in holding on to colonies and tributaries because they were able to successfully translate their claims from a *tianxia* one so as to fit the international legal system introduced by European empires and its notion of Qing sovereignty.[1902]

1890-1900

The First Sino-Japanese War (1894-1895) dashed the hopes of the Qing to be a dominant naval power in the region as Japan stunned the world by winning a decisive victory over the Qing's most modern fleets,[1903] with article three of the peace treaty stating that "China cedes to Japan in perpetuity and full sovereignty [*quan* 權] the following territories:" the island of Taiwan and "all islands appertaining or belonging to the said island," as well as control of the Pescadores, defined as "all islands lying between the 119th and 120th degrees longitude east of Greenwich and the 23rd and 24th degrees of north latitude," and the Liaotung Peninsula.[1904] The Treaty of Shimonoseki which ended the war also included a clause declaring Korea an independent sovereign country, and defined those terms in such a way as to redefine its relationship with the Qing and end any lingering ideas of a tributary relationship.[1905] Notably, part of Japan's justification for controlling Taiwan was to eliminate the maritime predation that operated from or near the island, though they had worked closely with Qing forces to do so.[1906] The Treaty of Commerce and Navigation between Japan and China required Qing officials to use

[1902] Ibid 80-81.
[1903] It is worth noting that the Qing fleets won some impressive victories, including driving off the Japanese flagship and its escort cruisers, with some analysis blaming the Qing defeat more on its ground forces than its fleet. Gang, *Maritime Sector, Institutions, and Sea Power of Premodern China*, 197.
[1904] Sarah C.M. Paine, *The Sino-Japanese War of 1894-1895: perceptions, power, and primacy*, (Cambridge: Cambridge University Press, 2003) 370; Carrai, *Sovereignty in China*, 82.
[1905] Carrai, *Sovereignty in China*, 82.
[1906] Erik Esselstrom, *Crossing Empire's Edge: Foreign Ministry Police and Japanese Expansionism in Northeast Asia*, (University of Hawaii Press, 2008), 44-45

any means necessary to prevent the revenue of ports open to Japan from suffering due to smuggling, as well as to make every effort to punish the guilty and recover stolen goods if a Japanese vessel fell victim to maritime predators; notably, this treaty does not mention any reciprocal obligations from Japan in regard to these points, or any assurances that the Qing were not liable in case the culprits or cargo could not be found.[1907] Additionally, Japanese authorities had sole jurisdiction over their subjects and property, and ultimate authority if a Qing subject brought a civil suit against a Japanese subject, though Qing officials were still in charge of trying and punishing Qing subjects who committed criminal offenses against Japanese subjects or property.[1908] Interestingly, while the treaty was written in Chinese, Japanese, and English, it was the English version that was to be considered authoritative in the case of any divergence in interpretation of any parts of the treaty's text, demonstrating how influential English speaking states were in the realm of international law even when they were not directly involved in any capacity.[1909]

While their victory in the war granted Japan increased legitimacy in the eyes of the imperial powers of the time, the Qing's defeat only further reduced its own international standing and legitimacy, with increasingly large parts of their territory partitioned off in the next few years.[1910] This "scramble for concessions" began with the German government seizing Jiaozhou Bay, in the south of the Shandong region, in 1897, and justifying the act by citing an incident in which two Germans were killed in Qing territory.[1911] Russia was next, and agreed on a twenty-five-year lease in the Liaodong Peninsula based on the excuse of protecting the Qing from

[1907] Mayers. *Treaties between the empire of China and foreign powers*. 185, 188.
[1908] Ibid 189.
[1909] Ibid 190.
[1910] Esselstrom, *Crossing Empire's Edge*, 41.
[1911] Carrai, *Sovereignty in China*, 83.

Germany.[1912] 1898 saw France lease Guangzhou Bay and Great Britain lease Weihaiwei and Hong Kong's New Territories.[1913] In 1899, the United States proposed the Open Door Policy, which preserved the territorial integrity of the Qing state to reassure western powers that their conflicting interests would not shut each other out of valuable markets, yet undermined its sovereignty by preserving imperial spheres of interests and lease agreements.[1914] Notably, while the official wording of the lease agreements emphasized respect for Qing sovereignty and integrity, as can be seen with how the Port Arthur and Talienwan Agreement of 1898 provides that "such lease should not prejudice China's sovereignty over this territory," in practice international legal theory of the time treated sovereignty as incompatible with the alienation of territory via a lease agreement.[1915] Lassa Oppenheim, one of the most influential international lawyers of the early twentieth century, commented that territory was defined as "the space within which the State exercises its supreme authority" and thus "Two or more full-sovereign States in one and the same territory are an impossibility."[1916] Speaking on the Qing leases in particular, Oppenheim argued that it is the lease-holder who holds the sovereign right over the leased territory until such time as the lease expires; Qing statesmen and diplomats fiercely resisted the idea that the lease implied a transfer of sovereign rights or foreign concessions, leading to a discussion in Qing intellectual circles of sovereignty that prioritized the preservation territorial integrity and economic interests.[1917]

In these same circles, there was a growing sense of disillusionment with international law, which the intellectual Wang Tao claimed "exists only on paper," as in his view no treaty

[1912] Ibid.
[1913] Ibid.
[1914] Ibid 84.
[1915] Ibid 84-85.
[1916] Ibid 85.
[1917] Ibid 85-86, 88.

lasts if both sides do not have the economic and military power to enforce their half of it.[1918] This was further reinforced in 1898 when Yan Fu translated T. H. Huxley's Evolution and Ethics (1893), a notable Darwinism work that depicted a ruthless, amoral vision of nature sharply at odds with the Confucian idea of a universe built upon a fundamental, universe morality; "while up to this point the moral tian, *zhengyi de tian* 正義的天 legitimized the cosmic Chinese imperial order, as the twentieth century started, tian become the principle of evolution, *tianyan de tian* 天演的天, which rewarded the strongest or fittest."[1919] This led to a shift away from the view of international law as a reflection of natural law, which was used to harmonize international law with Confucian ideas from 1860-1880, and towards a view of it as an arena where "the strong eat the weak" (*ruorou qiangshi* 弱肉強食) and the only morality was the protection of ""sovereignty," *zhuquan* 主权, "independence," *duli* 獨立, and equality, *pingdeng* 平等. "

The humiliation of the concessions, however, only further strengthened the political drive for legal and military reform in China, with the entire Imperial system and its philosophical and legal underpinnings increasingly called into question.[1920] The newspaper *Xiang Bao* (湘報 Hunan News), founded in Hunan in March 1898 and heavily associated with the reform movement, wrote extensively of how "the principle of patriotism" (爱国之理) and "the law of saving the nation" (救亡之法) would best be served by embracing Western style legal reforms rather than trying to maintain traditional political and legal systems.[1921] Maritime predation was

[1918] Ibid 87.
[1919] Ibid 95.
[1920] Peter Zarrow, *After Empire: The Conceptual Transformation of the Chinese State, 1885-1924* (Redwood City: Stanford University Press, 2012) 276-277.
[1921] *Xiang Bao: Volume 1*, (Beijing: Zhong hua shu ju, 1965), i-iii, 58.

a double threat in the view of some of the newspaper's contributors; not only did it give European, American, and Japanese Empires an excuse to intervene in Qing waters, the damage maritime predation did to the economy by suppressing trade, via fear as much if not more than direct damages, undermined the country's attempts to establish economic self-sufficiency.[1922] Similarly, in 1897 the newspaper *Shiwu Bao* (時務報 Current Affair News) observed that most people living along the coast felt helpless in the face of the maritime predator threat, while Westerners came in and proclaimed that they could deal with the issue easily.[1923] In terms of the government's own records, an entry in the 1891 edition of the *Da qing lǜ li zeng xiu tong zuan jícheng* (大清律例增修統纂集成 The Compilation of the Additions, Revisions, and Amendments of the Great Qing Law Code) made special note of a police force equipped and trained specifically to deal with maritime predators and others who would try to resist arrest at sea.[1924] Foreign observers made note of the changing situation as well. Archibald R. Colquhoun's 1898 book *China in Transformation* listed "piracy" as one of the only crimes that Qing governors could implement the death penalty for without the Emperor's direct approval, the only other listed being sedition, which demonstrated just how seriously the Qing government considered maritime predation as a threat that undermined their power in the society they hoped to build, since imperial oversight of local governments and displays of benevolence by often commuting death sentences were historically a philosophical bedrock of Confucian governance.[1925]

[1922] Ibid 764.
[1923] Qichao Liang and Kangnian Wang, *Shi Wu Bao*, (Shanghai: Shi wu bao guan, 1897), 242.
[1924] *Da Qing lü li zeng xiu tong zuan ji cheng: [40 juan]; Du bu ze li: [2 juan]*, Shangyang: Zhen yi shu ju, Guangxu 17 [1891].
[1925] Archibald Ross Colquhoun, *China In Transformation*, (New York: Harper & Brothers, 1898), 175.

The 1890s proved to be a time for legal reform in other states and empires as well. For instance, in the United States a report was compiled about the number of crimes someone could be put to death for in territories controlled or regulated by the United States, including outside the actual constituent states themselves such as overseas colonies and possessions, in comparison to other countries, with a recommendation for a reduction in the use of the death penalty to a handful of the most serious crimes.[1926] In the report's section on the state department's enquires into what crimes carried the death penalty in other state's legal systems, China seemed to have an especially strong emphasis on maritime violence as a death worthy crime, with "piracy" itself and "murder on the high seas" listed as two of the six crimes with compulsory death penalties, with regular "murder' listed separately than "murder on the high seas," and three of the five conditional death penalty crimes being "robbery on the high seas", "robbery on shore by the crew of a piratical vessel", and "arson of a vessel of war."[1927] In contrast, most other states listed only a crime of "piracy" or both "piracy" and "murder of the high seas," sometimes as conditional death penalties such as the Argentine Republic where "piracy" only had the death penalty if accompanied by other grave crimes, and a few abolished the death penalty entirely, such as Costa Rica.[1928] In any case, "piracy" remained one of the crimes most likely to carry the death penalty, alongside murder and treason, or in some cases other maritime crimes; for instance, the Kingdom of Hawaii did not list "piracy" as a death penalty crime but did list "murder on the high seas," "destroying vessel at sea," and "owner destroying vessel at sea," each listed separately from terrestrial versions of similar crimes.[1929]

[1926] Mr. Vilas, *From the Committee on the Judiciary, submitted the following report: [To accompany H. R. 5836.]: January 30, 1895 - ordered to be printed*, (Washington, D.C.: Government Printing Office, 1895), 1-3.
[1927] Ibid 9-10.
[1928] Ibid 9-11.
[1929] Ibid 10.

By the end of the 1890s, the Qing's seeming inability to control its own population and its loss of prestige from defeats in wars with other states, no longer just European ones but fellow East Asian states such as Japan, convinced many in Europe that the dissolution of China was inevitable, and that actively dividing it was a worthwhile if daunting undertaking, though others disagreed and thought that the preservation of the Qing was imperative for reason of both honor and practicality.[1930] Lord Charles Beresford approached the issue primarily from an economic and commercial perspective when writing a report on the subject on behalf of the Associated Chamber of Commerce, though by his own admission it was impossible to avoid issues of high politics entirely, especially in light of the debate between the relative merits of the "Open Door" and "Sphere of Influence" approaches[1931] which had raged in American and British public spheres for the last year.[1932] Still, despite the naval setbacks and blows to its legitimacy the Qing Dynasty received in the 1890s, they were able to stall attempts by other states to establish more concessions; in 1899 the Italian navy sent six warships to deliver an ultimatum threatening the Qing into creating an Italian concession in Sanmenway Bay of Zhejiang Province, but after Qing naval officials managed to convince the court that they could defeat the Italian fleet, the ultimatum was simply ignored and the Italians returned empty-handed.[1933]

It is clear in this text that despite the Qing's ongoing efforts to deal with maritime predation through both legal and military means, the continued existence of the practice in Qing waters was seen as delegitimizing to the Qing state and a threat to the relations between the Qing

[1930] Lord Charles Beresford, *The Break-up of China: With an Account of Its Present Commerce, Currency, Waterways, Armies, Railways, Politics, And Future Prospects*, (London: Harper, 1899), 1-3.
[1931] The Open-Door policy was to open all of China to traders of every state, whereas the Sphere of Influence approach was to divide China into distinct regions under the economic and legal control of separate powers. The Open-Door approach was favored by the United States and won out for the early part of the Twentieth Century.
[1932] Beresford, *The Break-up of China*, 1.
[1933] Gang, *Maritime Sector, Institutions, and Sea Power of Premodern China*, 197.

and British empires. When Beresford was given a letter by the British merchant community of Guangzhou on the 29th of December 1898, one of their top demands was for the British government to put pressure on the Qing government to protect British merchants and their property operating in the inland river system from maritime predation, which they claim had greatly increased in recent months.[1934] According to Beresford's sources among the local merchants and the British consul records, forty-one instances of maritime predation occurred in that year, an all-time high for the region, and he suspected that many more occurred and were not reported, since he believed most local boatmen would have been too scared of maritime predator retaliation to report such attacks to the proper authorities.[1935]

He was particularly interested in the case of the *Tung Kong*, a steam launch that had been the property of the Kwong-wan Steamboat Company flying the British flag when it was attacked on the 31st of October of that year.[1936] The tactics used were fairly standard by this point; board the vessel disguised as passengers in great numbers, catch the crew off guard with firearms, force the crew to sail to an isolated location where accomplices were waiting in boats to unload the goods and disappear, in this case taking some $3,000 dollars in stolen goods.[1937] What stood out about this particular occurrence was that the maritime predators took several weapons, and that they indicated to the captain that they intended to extort the ship's owners for more money in the future, commenting that they were aware that the company was turning a profit and that they would send a letter that should be obeyed in the future.[1938] In response, the British Consul R. W. Mansfield wrote to H. E. Tan, the Viceroy of the Guangdong province, stating that relations

[1934] Ibid 235, 237.
[1935] Ibid 251.
[1936] Ibid 251-252.
[1937] Ibid 252.
[1938] Ibid.

would be threatened if there was not immediate vigorous action taken to deal with the raiders, and further stated that the magistrates who allowed things to reach this state were unworthy of their positions and should be removed immediately.[1939] Mansfield writes in another letter to his own higher ups that the solution to this surge of riverine predation should be the appointment of a special taskforce solely dedicated to finding and fighting them, and to make it so that "the District Magistrates, who are the responsible persons, should be held pecuniarily responsible for the property robbed in their districts."[1940]

1900-1910

In the last years of the Qing Dynasty, maritime predation, and maritime crime in general, saw something of a resurgence in the face of political and economic instability, though it still never quite reached either the scale or scope of the early part of the 19th century. Most of the maritime predation in this period took the form of maritime hijackings, though attacks on cargo junks by faster predatory vessels was still known to happen on occasion. In fact, hijacking tactics had by the latter half of the decade already become so well established and known that some hijackings were foiled specifically because passengers and crew recognized evidence of their deployment; for instance, when the British steamer *Nan-Ning* was trading between Shanghai and Wuzhou, maritime predators bordered at various ports in small groups while disguised to reinforce their numbers for a final takeover attempt, but the sheer number of boarders raised suspicions anyway with genuine passengers carefully watching their movements, and on August 22 1906 the group was threatened into surrendering, with three ring leaders being arrested and handed over to the British consul at Wuzhou.[1941] Despite the failure of this

[1939] Gang, *Maritime Sector, Institutions, and Sea Power of Premodern China*, 253.
[1940] Ibid 255.
[1941] "Chinese Piracy." *Times*, 24 Aug. 1906, p. 3. The Times Digital Archive, link.gale.com/apps/doc/CS50787096/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=a8899b66.

particular plot, the Times report on the incident ended with the comment that "Traders and shipowners express the opinion that unless piracy is promptly suppressed the cessation of traffic on the West River is inevitable."[1942] Qing merchants lamented the threat of maritime predation as well, as can be seen in an article written for the newspaper *Xiang Bao* in which the author laments that Hunan would be doing better as a trade port if people were not so afraid of the threat of maritime predation taking their cargoes and possibly even their lives, especially while having the gains of such ventures reduced by other factors such as internal tariffs between different parts of the Qing coastline.[1943] The *Graphic*, an illustrated weekly newspaper, lamented that the British overseas trade which had already been harmed by the Second Boer War in 1899 could face an even larger blow in the reduction of the Qing tea trade, as demand for British goods, particularly Bombay cottons, had dropped in the South China Sea, allegedly because the local merchants felt too uncertain about the future to hold big stocks, and did not wish to trade further into the interior on because of the high amount of coastal, riverine, and terrestrial predation.[1944]

This period also saw the Boxer Rebellion (1899-1901) where a group known as the *Yihequan* (義和拳 commonly translated as the Brotherhood of the Righteous and Harmonious Fists) attempted to violently eject foreign influence in the Qing's territory, first fighting against the Qing army then alongside them but after the victory of the Allied Powers over the Qing and rebel forces alike, the Qing's already dwindling legitimacy was only further reduced in both matters of international politics and internal popular support.[1945] One of the major issues that led up to the conflict were the legal privileges awarded to missionaries and their converts, many not

Accessed 17 Mar. 2022.
[1942] Ibid.
[1943] *Xiang Bao: Volume 2*, (Beijing: Zhong hua shu ju, 1965), 687.
[1944] *The Graphic: an Illustrated Weekly Newspaper*, v.1900, (London: Graphic, 1869), 218.
[1945] Joseph Esherick, *Origins of the Boxer Uprising*, (Berkeley: University of California Press, 1987), 311-312.

existing de jure but rather as de facto privileges due to the Qing government's fear of the missionaries' ties to imperial powers being exploited against Qing sovereignty.[1946] Additionally, while much of the discussion of this conflict, both at the time and in scholarly works, has been focused on the so-called "secret societies" or "sworn brotherhood" such as the Big Sword Society, maritime predators also contributed to the cause, or at least took advantage of the opportunity to ply their trade with more support; after the war, this led to some concern among European and American observers about the links between sworn brotherhoods and maritime predators, concerns which had long existed in the minds of Qing officials as well, but which was difficult to prove, much less root out.[1947]

1910-1920

In 1911 the Qing Dynasty fell, and two thousand years of imperial tradition ended with the birth of the new Republic of China under the leadership of Sun Yat Sen. The finality of this fall was so complete that even a few years into the Republic's existence, 1915, when it was still vulnerable saw a popular figure, Yuan Shikai, try to found a new imperial dynasty with himself at the head, but failed utterly in the face of republican sentiment.[1948] Despite this regime change, the new Republic of China had similar ambitions to the Qing Dynasty in regards to asserting its status as a sovereign state equal to any in the new European Imperial world order, a world order which favored powerful navies and the protection of maritime trade and traffic above almost all else.[1949]

[1946] Ibid 159-160.
[1947] Esherick, *Origins of the Boxer Uprising*, 322; Jean DeBernardi, "Epilogue: Ritual Process Reconsidered," in David Ownby and Mary F. Somers Heidhues, "*Secret Societies" Reconsidered: Perspectives on the Social History of Modern South China and Southeast Asia*, (Armonk: M.E. Sharpe, 1993), 204, 221-222.
[1948] Zarrow, *After Empire*, 242.
[1949] Ibid 210.

In 1910, a world away, Portugal also saw a revolution that replaced a long standing monarchy with a republic even as Portugal's holdings in Macao had helped ferment the activities of Chinese revolutionaries such as Sun Yat-sen; this shared experience with China did not result in a change in attitude for the Portuguese in China, who still saw themselves as part of a civilizing mission, which included the suppression of maritime predation as one of its chief objectives.[1950] Coloane was a small island just south of Macao, home mostly to Dan "boat people" who were discriminated against by the rest of Chinese society and often the poorest of the poor; as such it developed a reputation of hosting maritime predators, with authorities both Qing and European unable to distinguish between the predators and the normal fishermen and small scale traders of the island.[1951] Furthermore, since the maritime predators didn't harm the islanders and brought some economic advantages to the impoverished populace, the people there rarely reported maritime predators to the authorities.[1952] Moreover, ownership of the island was disputed between the Qing and Portuguese governments as result of some ambiguity in the original agreement for the Portuguese leasing of Macao regarding dependencies, which hindered the ability of the governments to cooperate when it came to law enforce there and on other, similarly disputed islands such as Taipa, Coloane, Lappa, Montanha, and Dom João.[1953] In July and August of 1910 a maritime predator group calling itself the Society of Perfect Justice kidnapped some Portuguese school children to ransom them back to Macao, and the Portuguese responded by launching a large scale attack which treated all the inhabitants as pirates, indiscriminately destroying boats, homes, and people.[1954]

[1950] Antony, "We Are Not Pirates," 250.
[1951] Ibid 251, 261-262
[1952] Ibid 263.
[1953] Ibid 255
[1954] Ibid 249-250, 253-254.

Afterwards, the Portuguese used the incident as justification for taking the island fully into their control, celebrating the incident as a great victory for civilization and put up a statue on the island to commemorate it.[1955] Chinese sources, such as the newspaper *Shen Bao*, were considerably less positive, portraying the Portuguese as villains who readily slaughtered law-abiding citizens to go after a handful of pirates.[1956] They also drew attention to the Portuguese's own historical reputation of maritime predation and kidnapping, stating as it was in living memory that the Portuguese in Macau regularly kidnapped Chinese children to sell around the world as "domestic servants," along with hundreds of thousands of adult Chinese kidnapped or duped into forced "coolie" labor positions in South America, though it would be more accurate to say the Portuguese authorities turned a blind eye to such activities than directly participated in them, before international pressure finally resulted in Macao banning the practice in 1874.[1957] Furthermore, Portuguese sailors from Macau still frequently joined mixed crews of Chinese, Japanese, Southeast Asian, European, and African maritime predators to pillage the Pearl River Delta.[1958] While the Qing navy failed to defend the island, it had a notable victory over the Portuguese that same year by preventing their forces from Macau from infiltrating the mainland, and also managed to take an armed Japanese cargo ship into custody while confiscating the two thousand rifles and twenty thousand rounds of ammunition in carried.[1959]

Despite, or even because of, such treatment, many in the late Qing and early Republic were eager to participate in international organizations and institutions, and in the process create a more peaceful and just international society that recognized China as an equal state; by 1911

[1955] Ibid 253, 255.
[1956] Ibid 265-266.
[1957] Ibid 266-267, 270-271.
[1958] Ibid 273.
[1959] Gang, *Maritime Sector, Institutions, and Sea Power of Premodern China*, 197

"China was already a signatory to seventeen Hague Conventions and declarations."[1960] Not long after this, the First World War broke out, and while the Republic was initially neutral for a variety of reasons, by the end of 1916 it had sent a labor force to support the allies, and in 1917 it had declared war on Germany and the other Central Powers, hoping to gain some international recognition on the global stage and reclaim German extraterritorial concessions in China; though not all in the nationalist government agreed with this approach, with Sun Yat-sen and President Li Yuanhong of the Republic of China's southern faction opposing participation in the war by China on the grounds China had no stake in the outcome, but lost out to the enthusiasm of the northern faction of the government for war.[1961] Another factor, or at least justification, was the Chinese Ministry of Foreign Affairs' opposition to unrestricted submarine warfare and the threat it posed to free maritime commerce, particularly after a German submarine sank a vessel carrying Chinese laborers to France.[1962] It also didn't help that it was widely suspected that the Ten Day Restoration of the Qing led by General Zhang Xun in 1917 had financial support from Germany.[1963]

The war also created disputes within the Shanghai international settlement and the treaty ports, as the desire for the neutrality of commerce clashed with the nationalistic aims of consuls and private citizens alike. For instance in June 1917, a Turkish citizen employed by the German consulate and suspected to be a German spy was put on trial before Magistrate Wang and British Assessor Grant Jones, where his defending counsel stated that Jones was biased because of the war and should be recused; while Jones denied the claim and proclaimed "I sit here to do justice,

[1960] Carrai, *Sovereignty in China*, 144.
[1961] Frances Woods and Christopher Arnander, *Betrayed Ally: China in the Great War*, (Havertown: Pen & Sword Books Limited, 2021), 113-114.
[1962] Ibid 111-112.
[1963] Ibid 114-115.

and while in this court I accept not dictation from my authorities," in practice the court's foreign assessors usually did as their country's consuls in the international settlement wished.[1964] In large part, the Republic of China's efforts to win international recognition and territorial concessions failed and Japan reaped most of the benefits China had hoped to receive by joining the war, such as control of the German territories in China, and Japan coerced the Chinese government into giving more concessions besides.[1965] That Chinese troops occasionally ended up attacking their allies, such as the Monocacy incident of 1918 where Chinese forces fired upon the gunboat USS *Monocacy* as well as nearby Japanese freighter, did little to build international confidence in the effectiveness of China's Republican government.[1966]

Such setbacks only led to an increase in patriotic feelings in China, however, and a renewed drive to reform and empower the country, culminating in the May Fourth movement in 1919, which saw widespread large-scale protests aimed at reforming the government and acquiring higher international standing in order to end extraterritoriality and recover partitioned territory.[1967] This bore fruit in the 1922 Washington Conference, in which America, Japan, France, Britain, Italy, Belgium, the Netherlands, and Portugal agreed to respect China's sovereignty and administrative autonomy; this in turn kicked off a period that saw the Republic of China successfully negotiate new treaties and review old ones to better fit the principles of equality and reciprocity between sovereign states.[1968]

Amid these grand historical events, maritime commerce continued and with it came all kinds of complex legal disputes in the cultural contact zones of China's port cities and nearby

[1964] Stephens, *Order and Discipline in China*, 95.
[1965] Carrai, *Sovereignty in China*, 120
[1966] Kemp Tolley, *Yangtze Patrol: The U.S. Navy in China*, (Annopolis: Naval Institute Press, 2013), 81-82.
[1967] Carrai, *Sovereignty in China*, 120-121.
[1968] Ibid 121-122.

islands. For the Mixed Court in Shanghai, the fall of the Qing placed them in an awkward position, as by treaty they were only allowed to recognize the Qing government in Beijing even when the Republicans were effectively in control of the region, though they ultimately turned this to their advantage by working with remaining Qing officials to fill vacancies in the court created by the war before the Republican government could appoint their own.[1969] The mixed court also exploited the legal ambiguities of the situation, backed with the threat of a forceful foreign intervention, to push through a number of reforms the consuls of the settlement had long desired.[1970] Though it in turn treaded carefully in matters concerning the Chinese Chamber of Commerce and the Guilds, who had long had de facto authority in resolving trade disputes, which the local courts preferred to avoid.[1971]

In terms of its regular operations, lawsuits remained a contentious issue with H. F. Handley-Derry, the senior British assessor of the Mixed Court, remarking in 1911 how the Mixed Court magistrates would often reject lawsuits with instructions for the claimants to resolve disputes among themselves, quoting one such rejection in which the ruling magistrate insisted that the defendant was a honorable merchant who would not withhold payment for no reason, and the plaintiff should really just talk to him about the issue rather than create disturbances with frivolous lawsuits.[1972] In another instance the magistrate does agree to pass on instructions to the "Canton guild" to settle the matter promptly, but also warns the plaintiff that "you must not be obstinate and prolong the lawsuit so as to bring trouble on yourself."[1973] It should be noted that as part of England's own legal modernization program in the sixteenth and

[1969] Stephens, *Order and Discipline in China*, 49-50.
[1970] Ibid.
[1971] Ibid 51.
[1972] Ibid 34.
[1973] Ibid 35.

seventeenth centuries, the central government encouraged people to bring their disputes to courts rather than resolving them among themselves, especially by duels, or turning to local lords to arbitrate disputes, with the goal of further centralizing power; in contrast, Qing magistrates even late into the regime's existence saw lawsuits as a disruptive annoyance, both on the grounds of Confucian moral philosophy which emphasized harmony as a central tenant, and because magistrates were usually overworked having to personally review every lawsuit in the rather large territory they were in charge of.[1974]

In 1917 Chinese Supreme Court ruled that the Mixed Court was illegitimate, something that both the Mixed Court itself and local Shanghai authorities initially ignored but was taken seriously by states such as America, and would by 1925 be considered grounds for non-cooperation between the international settlement and the government of the rest of Shanghai.[1975] A compilation of litigation cases commented that many business dealings and internal affairs in Shanghai were borderline unmanageable as the new government worked within itself and with other states to determine which laws and treaties still applied and which were going to be nullified or changed.[1976]

The desire to end the threat of maritime predation to international trade did not immediately result in an ability to do so. The threat of maritime hijackers, in particular, remained high along both the coasts and the rivers, as is illustrated by the Taion affair. On the 29th of April, 1914, it was reported that the steamer Taion was attacked by an organized group of hijackers who, after their attempts to seize the vessel's bridge were repulsed, soaked the Taion's decks in kerosene and set the ship ablaze, killing over three hundred passengers and leaving only

[1974] Melissa Macauley, *Social Power and Legal Culture: Litigation Masters in Late Imperial China*, (Standford: Stanford University Press, 1998) 91, 139-140, 326.
[1975] Stephens, *Order and Discipline in China*, 64.
[1976] Yao Zhihe, *Hua Yang Su Song Li an Hui Bian*, (Shanghai: Shang wu yin shu guan, Minguo 4 [1915]), 355.

a handful of officers and crew alive to be rescued by other passing steamers.[1977] Interestingly, according to a report in a collection put out by the National City Bank of New York, the incident did not attract much attention in the international press, with the National Bank citing an unnamed official Chinese government report on trade as its source, and the report makes no mention of the culprits being found or put on trial.[1978] The Daily News of Perth in Western Australia did mention the incident in an article on April 30th, but did not go into detail beyond noting the bravery of a Portuguese watchman named Diaz who fought on until the ship took fire.[1979] Notably, while the article reported the fire and stated the ship was full of corpses, it did not connect the two details, or give exact numbers of the dead.[1980] Given how sensationalized smaller incidents had been, the brevity in which this act is described is intriguing, though it is not clear why this was the case, especially as the assassination of Archduke Franz Ferdinand and all the attention that would receive would not be until June of that year. Another report in the same New York Bank volume also makes note of a well-established and elaborate system of extortion that existed in the North River.[1981] It was so unsafe for native craft that most freight was instead delivered by train, junks only traveled in convoys, which employed a large number of soldiers hired through agents to secure the safe conduct of the convoy through the waters; according to the report, both the soldiers and the agents who hired them were really part of the same riverine predator organizations who threatened the convoys in the first place.[1982] "The piracy" the bank quips, "is at least being modernized."[1983] In contrast, the Canton River is noted to be free of such

[1977] *The Americas, volume 2*. (National City Bank of New York: New York, 1915). 24.
[1978] Ibid.
[1979] "CHINESE PIRATES" *The Daily News (Perth, WA: 1882 - 1955)* 30 April 1914: 7 (THIRD EDITION). Web. 26 Mar 2022 <http://nla.gov.au/nla.news-article79918314>.
[1980] Ibid.
[1981] *The Americas, volume 2*. 24.
[1982] Ibid.
[1983] Ibid.

coercion, at least on a large scale, which the report attributes to regular patrols and the establishment of garrisons at the most dangerous locations.[1984]

Chinese language newspapers also made note of the maritime predation, as well as attempts by the new Republic of China and local governments to counter the threat. On June 13th, 1917, the Taipei based newspaper *Zhonghua Xinbao* (中華新報 *China News*) reported on the successful rescue of passengers on a Japanese line, from hijackers near Suzhou by a coastal anti-smuggling patrol, but also noted that such attacks remained a constant threat, and there were plans to start diverting passenger ships away from Hong Kong to other coastal cities in response.[1985] Earlier, on the ninth of June, it had reported the discomfort of many citizens at the docking of foreign warships at the port of Shanghai for maritime predator suppression forces, but also acknowledged that many citizens felt that the maritime predation problem was big enough that they understood why such measures were seen as necessary.[1986] Another newspaper, the *Chen zhong* (晨鐘 *Morning Bell*), reported on July 22nd, 1918 that the declaration of war on Germany and the other Central Powers had created a confused situation where it was difficult to tell maritime predation from military looting, slowing down trials and inspection processes alike to the frustration of foreign diplomats and businessmen.[1987]

1920-1930

The 1920s began with a great famine in Northern China, which would in turn bring about great economic and political instability for the entire country throughout the decade and

[1984] Ibid.
[1985] *Zhonghua xin bao*, (Taibei Shi: Zhongguo guo min dang zhong yang wei yuan hui dang shi shi liao bian zuan wei yuan hui, Minguo 59 [1970]), 1627.
[1986] Ibid 2574.
[1987] Jin bu dang, *Chen Zhong v.7*, (Beijing: Ren min chu ban she, 1980), 445.

beyond.[1988] Yet despite such issues, the Republic of China "acquired full membership in the League by signing the Treaty of Saint-Germain and was elected by a majority as a nonpermanent member of the Council in 1920;" over the next two decades of League membership, it proved an eager participant, signing many of its conventions, such as the 1922 International Convention for the Suppression of the Traffic in Women and Children, and "deposited thirteen treaties at the League – more than any European country, less only than Canada and Japan."[1989] In 1925 the Chinese Nationalist Party, or Kuomintang, would create the Second Republic of China, though in practice their control of many parts of the country was more theoretical than realized, with warlordism and civil conflict with other parties continuing throughout the Second Republic's existence until its flight from the mainland at the end of the 1940s.[1990] This rise of violence created a notable industry of gunrunners profiting off the conflict, mainly originating from the United States but also from Germany, Belgium, and France, and the Hong Kong marine police put together a specialized task force specifically to deal with gunrunning through their waters.[1991]

Almost immediately, the recognition of the Second Republic of China raised questions of international laws visa vie what rights and obligations it inherited from the First Republic, similar to many other revolutionary governments around the world, as well as any new issues concerning legal obligations that arose from the retroactive extension of state legitimacy to the activities of the government during its revolutionary period.[1992] For instance, in the case of the Republic of China vs Merchants' Fire Assurance Corporation of New York, when the Second Republic was still calling itself the National Government of China, it tried to file a claim from

[1988] Lillian M. Li, "Introduction: Food, Famine, and the Chinese State," *The Journal of Asian studies* 41, no. 4 (1982): 687–688.
[1989] Carrai, *Sovereignty in China*, 146.
[1990] Edward L. Dreyer, *China at War 1901-1949*, (London: Routledge, 2014), 112, 345, 355.
[1991] Ward, *Sui Geng*, 90-91.
[1992] Charles Ghequiere Fenwick, *Cases On International Law*, (Chicago: Callaghan and company, 1935), 93.

the existing insurance policy from the First Republic on one of its telephone stations in the city of Wuchang (now an urban district within the city of Wuhan) which had recently fallen into their hands, but that claim was contested and rejected on the grounds that the National Government, despite controlling 15 of the 18 provinces of China and 3/4ths of its landmass, was merely a revolutionary organization unrecognized by the United States, and thus not a legitimate successor to the previous government's contracts.[1993] However, in 1928 a treaty of commerce between the United States and the new Republic of China had implicitly recognized the latter, so a February 30th 1929 court of appeals reversed the previous judgement and granted the state the insurance payment, despite the treaty not technically having been ratified at the time the judgment was reversed.[1994] Meanwhile, within China itself, the difficulty of resolving legal disputes contributed to feelings of frustration and incidents of violence; for instance, the anarchist periodical publication *Min sheng* (民聲 *Voice of the People*) noted that a longstanding lawsuit, originating even before the establishment of the Republic and long into its rule, over the payment and placement of a large and unpopular construction job led in Shanghai to protests, fights, and even an attempt to destroy the building with explosives by drunken workers.[1995]

In 1927, mounting political pressure, both from Chinese nationalists and the wider international community, brought an end to the Shanghai mixed court. Specifically, the forces of the Jiangsu Provisional Government, not officially recognized but with enough *de facto* power that the consuls of the International Settlement negotiated with them, effectively rendered the mixed court powerless by the simple measure of refusing to cooperate with the court, particularly refusing to enforce their judgements or bring people to the courts for trials or lawsuits.[1996] In the

[1993] Ibid 93, 99-100.
[1994] Ibid 100-101.
[1995] Liu Shifu, *Min Sheng no.1-33 1913-1921*, (Xianggang: Long men shu dian, 1967), 322.
[1996] Stephens, *Order and Discipline in China*, 64.

past, local authorities had usually found it in their interest to cooperate with the mixed court for various reasons, such as how attempts to relitigate rulings outside of the International District rarely accomplished anything, but with international opinion increasingly sympathetic towards Chinese nationalism, as well as local factors such as the 1925 strikes, protests, and boycotts, there was now an opportunity to exploit the Mixed Court's reliance on cooperation with Shanghai police to enforce their rulings outside the settlement itself.[1997] Furthermore, once its ability to enforce outside of the settlement was lost, the mixed court's judgements were functionally ineffectual within the international settlement as well, since a suspect could easily evade pursuit by walking a short distance to the settlement's borders.[1998] In the wake of the Mixed Court's surrender, it was taken over by the Provisional Court of Jiangsu, which was itself absorbed by the Special District Court of Shanghai in 1930, with both entities ultimately deciding to keep the rulings of the Mixed Court intact, in line with their earlier cooperation for mutual convenience.[1999]

However, the court did keep working up until its end and some of the cases it covered were revealing in terms of local interpretations and implementations of principles of maritime and international laws, both recent and ancient. For instance, in Vinogradoff vs China Merchants Steam Navigation Company, the plaintiff was a sailor who fell from a ladder and sustained a permanent injury that prevented him from working again as a sailor; he sued his employers by claiming that they had been negligent and the ladder had been unsafe, whereas the court decided that the plaintiff was entirely at fault for the fall due to his own carelessness, and that his disability likely originated from a venereal disease, but ruled in his favor anyway and

[1997] Ibid 74-75.
[1998] Ibid 62-63.
[1999] Ibid 71.

awarded him heavy damages.[2000] Even the defendants, when bringing the case to the consuls for review, merely disputed the amount awarded as excessive rather than contesting the judgement entirely.[2001] Stephens attributes this outcome to two principles, the first being the Confucian ideal that a defendant's ability to pay is as important as the actual facts of the case, as was demonstrated by a 1925 lawsuit in Tianjin in which a local man sued two German doctors for malpractice in the death of his wife, and the magistrate in charge of the case initially wanted to rule in favor of the plaintiff without hearing witnesses as the defendants were rich enough to afford it and the plaintiff was poor and going through hardship, only being convinced with great difficultly to hear witnesses and clear the doctors of wrongdoing.[2002] The other principle was an ancient European seafaring tradition that ship owners had a responsibility to take care of any sick or injured sailors, regardless of the reason they had become sick or injured, a principle backed up by laws such as Great Britain's Merchant Shipping Acts in 1854 as well as legal rulings such as Justice Brown's ruling in the 1903 Osceola case on the injury of one Patrick Shea while working as a sailor on the *Osceola*.[2003] While such laws did not apply within Chinese territories or waters, they did mean that both Chinese and foreign shipping companies were used to such outcomes and payments, and did not dispute them to a noticeable degree.[2004] Still, the combination of two sets of legal principles strengthens the argument that despite the Mixed Court often being presented as an infusion of Western legal principles into China, the Mixed Court still had strong Qing roots which influenced the foreign assessors in turn.[2005]

[2000] Stephens, *Order and Discipline in China*, 90.
[2001] Ibid.
[2002] Ibid 90, 138.
[2003] Ibid 90-91.
[2004] Ibid 91, 138.
[2005] Ibid 98-99.

Despite this decline of foreign legal influence, maritime predation in the waters claimed by the Republic of China continued to be a topic of international discussion, including the waters of its internal river systems just as much, if not more than, its coastal waters. For instance, in 1924 the British government set up a committee to enquire into the situation, stating that the combined reports they had received from the English Imperial Merchant Service Guild, China Coast Officers' Guild, and Marine Engineers Guild of China were of the highest concern.[2006] Four years later in 1928 this was followed up by a report given in the House of Commons on the matter, in which the Foreign Secretary, Sir Austen Chamberlin, declared that the activities of maritime predators along the South China Coast had decreased considerably in the last six months despite the failure of getting any real international support except for Japan.[2007] Sir Chamberlin also expressed hope that with a Japanese or British ship constantly on patrol near Bias Bay and with a promise from General Li Chai-sum for support in predator suppression that "the Bias Bay area would be cleaned up within three months."[2008] A report by the *Times* in November of 1928 stated that the amount of maritime predation along the Chinese coast was virtually omnipresent and comparable only to its vast scale in the early parts of the 19th Century, which was reflected in orders to British forces in North and South China to detach a force of 60 men to act as permanent guards for British streamers plying between Shanghai and Hong Kong "and all pirate-infested Chinese waters," river vessels already having similar guards.[2009]

[2006] G. Grindler, "PIRACY IN CHINESE WATERS: BRITISH GOVERNMENT COMMITTEE TO INQUIRE INTO WHOLE STATE OF ABUSE," (1924, Jul 12), *The North-China Herald and Supreme Court & Consular Gazette* (1870-1941), Retrieved from http://eres.library.manoa.hawaii.edu/login?url=https://www.proquest.com/historical-newspapers/piracy-chinese-waters/docview/1369961014/se-2?accountid=27140.

[2007] "Report Is Given In Commons About Chinese Piracy," *The China Press (1925-1938)*, Apr 27, 1928, ProQuest, http://eres.library.manoa.hawaii.edu/login?url=https://www.proquest.com/historical-newspapers/report-is-given-commons-about-chinese-piracy/docview/1321540190/se-2?accountid=27140.

[2008] Ibid.

[2009](FROM OUR CORRESPONDENT.). "Piracy In Chinese Waters." *Times*, 22 Nov. 1928, p. 14. The Times Digital Archive, link.gale.com/apps/doc/CS237969270/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=baa274cf. Accessed 17 Mar. 2022.

It also noted that while attacks on foreign vessels gathered more attention, attacks on local Chinese vessels were more common and could be more violent. The article gives an example of this in the case of a junk that came into Wusong covered with blood the previous Sunday; the ship had been carrying a cargo of bean oil from Dalian according to the report, only to be swarmed by over sixty armed maritime predators on fast junks from Chongming Island, opposite Wusong and twenty miles from where Shanghai was at the time, and fifteen of the ship's crew died in a brave but futile attempt to resist the overwhelming maritime predator force.[2010] Hong Kong itself had done a major upgrade to the equipment and practices of its maritime police force after the hijacking of the river steamer SS *Sui An*, which fell despite having a full complement of armed guards, two of which were killed in the scuffle.[2011] Specifically, a convoy system was put in place for coastal steamers (to mixed success as maritime predators invented new tactics to counter it), the size of the Corps of anti-predation steamer guards was increased, and the large Water Police cruising launches had their aging Vickers machine guns replaced with more modern Maxims.[2012] Despite these efforts, the Water Police were humiliated in 1923 when one of the ferries in a convoy set up by the new Hong Kong and Yaumatei Ferry Company (HYF) was captured, with the maritime predators responsible immediately using it to launch several more attacks within Hong Kong harbor and escape, before being arrested off the coast of Macao.[2013]

It did not help that in some cases military officers, theoretically aligned with the Chinese government, were in practice independent warlords, and willing to engage in predation on aquatic commerce for their own ends. For instance, on August 29th in the riverine port city of

[2010] Ibid.
[2011] Ward, *Sui Geng*, 89-90.
[2012] Ibid 90.
[2013] Ibid.

Wanzhou, the forces of General Yang Sen sent his troops to seize the Peninsular and Oriental Company steamers Wantung and Wanhsien and hold their officers and crews as hostage for ransom, specifically 1,000,000 Mexican dollars.[2014] Attempts by both the steamer's owners in the P&O Company and the British consul to negotiate a lower price met with failure, and the General threatened to raise the price by 1 million dollars each day; meanwhile, the hostages were surrounded by soldiers who constantly threatened them with violence, but never actually acted on those threats.[2015] Instead, on September 5th the armed steamer Kiawo and the gunboat Widgeon were sent to secure the ships and rescue the crew, though they were driven back initially, and their artillery fire damaged the city, killed the Wantung's chief engineer, one of the only Englishmen in the crew, and wounded the ship's captain Bates in the neck with shrapnel, though he still managed to swim out to the Kiawo.[2016] They were not able to return until the 23rd by which time the ships had been thoroughly stripped and abandoned, so their hulks were recovered without opposition.[2017]

The *Times* article reporting on the incident portrayed this as a naked act of piracy done for monetary purposes, and were dismissive of Yang Sen's troops' standings as soldiers, leaving out his attempts to use the steamers as troop transports to resist Chiang Kai-shek's Northern Expedition, or how the confusion of that incident led to the sinking of some Yang Sen's sampans with the loss of both lives and considerable economic value, which gave the seizure more of a political edge.[2018] This demonstrates that despite all the treaties and international rules

[2014] FROM OUR OWN CORRESPONDENT. "Chinese Piracy At Wanhsien." *Times*, 30 Nov. 1926, p. 14. The Times Digital Archive, link.gale.com/apps/doc/CS235608958/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=c6e770fe. Accessed 17 Mar. 2022.
[2015] Ibid.
[2016] Ibid.
[2017] Ibid.
[2018] A. D. Blue, "LAND AND RIVER ROUTES TO WEST CHINA (With Especial Reference to the Upper Yangtze)," *Journal of the Hong Kong Branch of the Royal Asiatic Society* 16 (1976): 172–173.

concerning the definition of piracy and of when and how ships could be seized by governments for military ends, the dividing line between piracy and other, more legitimate types of maritime predation could still be unclear and subjective. The newspaper reporting on this case also commented on the continuing debate over extraterritoriality, acknowledging that the system had led to abuses but still argued it did more good than harm in the face of the unreliability of the Chinese government.[2019] The article's author also hoped that a recent report would provide useful ideas on how to reform the practice as well as sway the American president Calvin Coolidge and its general public in favor of the practice, as well as silence critics such as Senator William Borah and the "irresponsible propaganda" of missionaries in China.[2020] The complaint about missionary criticism of extraterritoriality and its abuses is especially ironic given how many of the events that led to the creation of extraterritorial legal systems had been justified in the name of protecting missionaries, and how the Boxer Rebellion had been fueled in large part by reports of missionaries abusing their legal status.[2021]

One particularly illustrative incident was the sinking of the hijacked Chinese owned streamer *Irene* by the British submarine *L4* on patrol in Bias Bay, and subsequent failed attempts by the ship's owners to sue the captain for the sinking. The sinking of the Irene occurred on October 27,th 1927, after the vessel had already been taken over by maritime predators and moved to Bias Bay to be stripped of valuables.[2022] When the darkened vessel, in line with standard hijacker protocol to darken all lights and refuse all communications, failed to respond to the *L4*'s hails, the submarine fired on the ship, striking its engines, at which point it started to

[2019] "Chinese Piracy At Wanhsien." 14.
[2020] Ibid.
[2021] Esherick, *The Origins of the Boxer Uprising*, 84, 159, 269.
[2022]FROM A HONG-KONG CORRESPONDENT. "Staging A Piracy." *Times*, 12 Dec. 1929, p. 13. The Times Digital Archive, link.gale.com/apps/doc/CS218309004/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=ddc88c99. Accessed 17 Mar. 2022.

founder.[2023] It was then that the *L4* discovered the *Irene* had many passengers on board, and moved in to rescue them, taking on 226 passengers and capturing 7 hijackers, who were taken to Hong Kong to be hanged, with no description or even mention of their trial.[2024] The incident was hailed in the *Times* as being the "first real blow to piracy on the China coast," thanks to the captain's "resource and excellent seamanship."[2025]

The owners of the vessel, never identified by the *Times* except by their Chinese nationality, were considerably less pleased, and by 1929 they had put together a lawsuit against the captain of the L4, Lieutenant-Commander F. J. C. Halahan.[2026] Specifically, they sued for unlawful sinking, to the amount of £53,000.[2027] The case had dragging on for several months in the Hong Kong court system, despite the plaintiffs not being allowed to present any of the evidence they had gathered on the incident, as the initial discussions in the chambers focused on whether or not the courts even had a right to make a ruling on the case in the first place.[2028] Ultimately, the case was ruled in favor of the *L4*'s captain without reviewing the ship owner's evidence, on the basis that it was an act of State with the authority of the Crown behind it after the defense team was able to present evidence that Halahan had clear orders to act as he did, and thus its validity could not be questioned in a courtroom.[2029] The captain's defense team also argued that while Act of State applied, they felt it was not the only defense applicable, and that the captain did not act with undue force but rather the minimum amount of force necessary in the situation.[2030] The *Times* gives little attention to the opinions or actions of the Chinese

[2023] Ibid.
[2024] Ibid.
[2025] Ibid
[2026] From our Correspondent. "Sequel To A Chinese Piracy." *Times*, 18 Jan. 1929, p. 11. The Times Digital Archive, link.gale.com/apps/doc/CS186327090/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=50eb51fe.
[2027] Ibid.
[2028] Ibid.
[2029] Ibid.
[2030] Ibid.

government in the whole affair, beyond a dismissive comment that "there was some bother with Chinese authorities and the ship's owners," as well as a more detailed and positive comment that "the Marshal Li Chai-sum, the able and enterprising Kwangtung Director took the mater in hand" by establishing a military outpost with a wireless set and placing a gunboat on patrol in Bias Bay.[2031]

According to the fifth issue of the Decennial Reports on Trade, Navigation, and Industries put out by the Shanghai Office of the Inspectorate General of Customs, China's northern provinces were something of an exception to this trend, at least on their seas and in their rivers; for instance the Andong Province (which no longer exists, its territory having been split in 1954 between the Liaoning and Jilin Provinces) did not have a single case of maritime predation reported in the area between 1922 and 1931, and no terrestrial predation until after the Sino-Japanese War, when attacks on the region's rail lines started to become more common.[2032] The same report praises the Chinese coastguard and their lone gunboat at the Yingkou base for having protected the local fishing industry, and openly stating that Japan's disarming of the vessel in 1931 was a mistake that will leave the fishermen feeling less safe.[2033] The larger concern in terms of maritime crime for both local authorities and the Customs Office in Shanghai was smuggling, with losses estimated at between 500,000 and 1,000,000 *yen* per year.[2034] Similarly, the marine police of the city of Dalian on the Liaodong Peninsula had ceased to put their launches on regular patrols due to a lack of maritime predation by the end of the decade,

[2031] FROM A HONG-KONG CORRESPONDENT. "Staging A Piracy." *Times*, 12 Dec. 1929, p. 13. The Times Digital Archive, link.gale.com/apps/doc/CS218309004/TTDA?u=sjfc_main&sid=bookmark-TTDA&xid=ddc88c99. Accessed 17 Mar. 2022.
[2032] *Decennial Reports on the Trade, Industries, etc., of the Ports Open to Foreign Commerce, and on Conditions and Development of the Treaty Port Provinces; Fifth Issue*, (Shanghai: The Statistical Department of the Inspectorate General of Customs) 279.
[2033] Ibid.
[2034] Ibid.

though they were kept on standby with 44 marine police boxes scattered throughout villages in the region that could summon them if help was needed.[2035] It is also worth noting that the marine police in Dalian were considered an extension of the city's normal police, showing how in the course of the last century or so maritime predation had become less of a military issue and more of a law enforcement issue.[2036] Yantai on the Shandong Peninsula was similarly reported to be free of any maritime predation in its waters, with smuggling as the safe and more profitable alternative.[2037] Tianjin was another city reported to have no serious incidents of maritime predation in its seas and coasts throughout the 1920s and into the early 30s, but did apparently have a problem with riverine predation to the point that sea going junks increasingly refused to enter the river system there as the years progressed.[2038] The Coast Guard in this area were more militarized, wearing semi-naval uniforms and steam launchers armed with machine guns and small cannons, regularly boarding junks and civilian steamers for inspections.[2039] The more centrally located city of Zhenjiang still had to deal with maritime predation issues, in particular the lootings of various Maritime Customs light-stations in 1929 through 1931, as well as extensive maritime smuggling, though these activities were being dealt with via the combined and separate actions of the city's Maritime Customs, Water Police, and Salt Searching Corps.[2040]

1930-1940

The Thirties and Forties were a time defined primarily by war, both internal conflict between various warlords as well as ideological factions, and external war against the encroachment of the Japanese Empire. In the face of such chaos and devastation, the ability of

[2035] Ibid 306.
[2036] Ibid.
[2037] Ibid 343.
[2038] Ibid 413.
[2039] Ibid 413-414.
[2040] Ibid 654.

the state to fulfil many of its normal functions was impaired, and many of its citizens became increasingly desperate for anyway to make a living, so maritime raiding saw a brief resurgence, if still not anywhere near what it had been at its height a century earlier.[2041] While European powers' positions in the South China Sea weakened as they focused their attention and efforts elsewhere, the growing Japanese Empire proved willing to use the threat of nonstate violence to justify both implementing stricter control of its new territories and to expand further into disputed areas, particularly as branches of the empire were known to work on their own initiative with little oversight, and even act directly against each other.[2042] This does not mean that the Chinese government, or perhaps more accurately governments, were completely ignoring the issue; despite the many challenges faced by China throughout the 1930s, active attempts to counter maritime predation remained. For instance, in 1935 a new plan was put into place to allow the southern navy to more effectively patrol and police the waters in their jurisdiction, focused on dispersing their light cruisers to patrol over a wide area rather than concentrating them at the mouth of the Pearl River, with the flagship *Hai Chi* of the Whampoa cruiser squadron being sent to Bias Bay with 200 marines, the *Hai Chow* sent to Shantou, and the *Chao Ho* sent to Haikou.[2043] This plan was eagerly reprinted and applauded in the English language press of Shanghai, with the newspaper article commenting that the cruisers were not needed on the river and were better suited for long distance patrols.[2044] The article also makes mention of

[2041] Ward, *Sui Geng*, 140.
[2042] Esselstrom, *Crossing Empire's Edge*, 129, 131-132.
[2043] "Bias Bay to be Patrolled by Hai Chi: Southern Navy Units to be Scattered for More Effective Pirate Fight." *The China Press (1925-1938),* May 01, 1935. http://eres.library.manoa.hawaii.edu/login?url=https://www.proquest.com/historical-newspapers/bias-bay-be-patrolled-hai-chi/docview/1416696520/se-2?accountid=27140.
[2044] Ibid.

the gunboats *Fu Yu* and *Hai Fu* being sent to deal with smugglers near Macao, with smaller gunboats being sent to patrol near Guangdong.[2045]

Additionally, for all the internal divisions faced by the Chinese Republic in the 1930s, most major factions remained united in doing what they could to reduce the influence of the imperial powers in their territories. A report on foreign investments in China noted that while imperial apologists wished to "decorate his account of China with the colors of his country's flag" Chinese nationalists of every stripe, especially the young and emotional ones, "finds in the black flag of piracy; a more appropriate symbol of the attitude of the foreign powers toward his country."[2046] International support for China's claims of sovereignty was on the rise as well, particularly in regards to its ongoing conflict with the Japanese Empire starting in 1931; for example, *The Daily Californian* published an article reflecting the hopes and beliefs that China would win the war against Japan, citing the Republic of China's military reforms, superior manpower, and unified internal and international support as factors that supported their confidence.[2047]

To help maintain that international support and assert its state legitimacy, following certain aspects of international law remained a key priority for the Republic of China throughout the conflict, especially regarding the rules of warfare and maritime shipping. For instance, on Friday September 17th, the ROC issued a warning to all foreign vessels to stay away from the 122nd meridian along the Chinese coast from 6 am to 6 pm, as it was launching air attacks intended to break the Japanese blockade.[2048] While such a move risked giving the enemy a

[2045] Ibid.
[2046] Charles Frederick Remer, *Foreign Investments In China*, (New York: The Macmillan company, 1933), 4.
[2047] University of California, Berkeley, *The Daily Californian, Friday September 17, 1937*, (Berkeley: Independent Berkeley Student Publishing, 1937), 4.
[2048] Ibid 5.

chance to prepare for the attack, it did also assure international observers that the Republic of China took the safety of their shipping seriously. That said, in the face of the fog of war, such accidents and tragedies still occurred; the same day that the Chinese warning was sent out, a United States federal board of inquiry, including representatives from the Department of Justice, coast guard, and inspectors of hulls and boilers, officially started investigating the bombing of the Dollar Lines ship *President Hoover*, which had been evacuating US nationals from Shanghai, by Chinese war planes in an earlier attempt to break the Japanese blockade, as the bombing had resulted in the death of crewmember Lionel Haskell and the wounding of eight passengers.[2049] The Chinese government took full responsibility and attributed the accident to the bombers mistaking the *President Hoover* for the *Asama Meru*, a similar looking Japanese liner turned troopship believed to be in the same area.[2050] As the *President Hoover* had reportedly had a 30-foot long American flag draped out along its deck, leading to disdainful comments about the inexperience of the bomber's crew and how it reflected poorly on Chinese airmen in general.[2051] Around the same time, there was an attempt to host a conference to convince both Chinese and Japanese forces from using bombers and artillery too close to the international settlement in Shanghai in order to limit the possibility of collateral damage.[2052]

1940-1950

During this period, both internal and external conflicts intensified and continued the disruptions of the 1930s, leaving many with no choice but to engage in predation to survive, the lines between soldiers, guerillas, and bandits quickly became thin.[2053] In particular, many

[2049] Ibid.
[2050] *The China Journal*, Vol. XXVII, No. 3, September 1937.
[2051] Ibid.
[2052] Berkeley, *The Daily Californian,* 5.
[2053] Rana Mitter *Forgotten Ally: China's World War 2, 1937-1945*, (Boston: Mariner Books, 2013), 184-185.

maritime predators turned to smuggling weapons past Japanese blockades, playing the role of patriots while making a substantial profit.[2054] Furthermore, with the attention focused on the war, there was less attention paid to recording trials and crimes, and many of the records that were recorded were destroyed in the fighting, making it difficult to determine the full scope of such activities during these conflicts.[2055] The Battle of Hong Kong in December 1941 saw the Hong Kong marine police force scuttle its own ships and boats, ending one of the last bastions of European law enforcement in the South China Sea.[2056]

The second half of the decade, however, saw the end of both the Second World War and the Civil War, which in turn brought an end to maritime predation in the region of any appreciable scale, frequency, or notoriety.[2057] The newly risen Chinese Communist Party (CCP) was eager to establish themselves as the legitimate government of China and so made controlling its southern coasts one of its first priorities, especially since it was considered a haven for opponents of the regime of all stripes.[2058] Meanwhile, the nationalist party (Kuomintang or KMT) in their remaining territory on Taiwan similarly vied for legitimacy in the eyes of the world, and also wished to both attract trade to support the island's economy and avoid giving the CCP in the mainland any justification for an invasion, which necessitated strictly controlling the island and what surrounding waters they could project their power into; furthermore since any such invasion would be naval in nature, the reconstruction of the Republic of China's navy was a major priority for the exile regime, largely focused on patrol craft at first because their American suppliers were worried about an ill-advised attempt to take the mainland if supplied with larger

[2054] Blue, "Piracy on the China Coast," 85.
[2055] Stephens, *Order and Discipline in China*, xii.
[2056] Ward, *Sui Geng*, 148-149.
[2057] Antony, "Piracy on the South China Coast through Modern Times," 46.
[2058] Frank Dikotter, *The Tragedy of Liberation: A History of the Chinese Revolution 1945-1957*, (London: Bloomsbury Publishing, 2018), 97-98.

vessels.[2059] Neither Chinese government had much in the way of naval power, yet the legal regimes that had been put in place decades earlier and which could now be more easily enforced with the ambiguity of war having passed. This combined with a socioeconomic world order with little room for maritime predation proved to be a more successful solution to the issue of maritime predation than naval power alone ever could be.[2060]

Conclusion

Nowadays the main form of "piracy" sparking legal discussions concerning China is of the digital variety. This does not mean that maritime predation has disappeared entirely, as late as 1998 there was the infamous *Cheung Son* case, in which a ship was hijacked near Hong Kong by men disguised as Chinese officials who proceeded to murder the crew and loot the ship.[2061] Still, overall maritime predation in the modern era rarely attracts the kind of attention or complex legal disputes that it used to, owing both to how small the damages are in comparison to the vast profits of maritime trade, often less than a percentage of total profits was lost to maritime predation throughout the early 2000s, and because of stricter definitions of what constituted "piracy," as in the 1982 United Nations Convention on the Law of the Sea (UNCLOS) which defined maritime predation that occurred within territorial waters was "armed robbery against ships" rather than piracy, which left much of the work to local governments rather than being an international issue.[2062] This was not an easy arrangement to put in place, especially in the South China Seas, which remains one of the busiest routes of international shipping and engagement to this day. Countless court judgements, bureaucratic clarifications, lawsuits, investigations, and

[2059] Chien Chung, "A Review of the ROC's Military Reform: A Case Study of the Taiwanese Navy," in Martin Edmonds and Michael Tsai, *Defending Taiwan: The Future Vision of Taiwan's Defense Policy and Military Strategy*, (London: Routledge, 2002), 115-116.
[2060] Thomson, *Mercenaries, Pirates, and Sovereigns*, 117-118, 148.
[2061] Antony, *Pirates in the Age of Sail*, 58.
[2062] Wombwell, *The Long War Against Piracy*, 126, 130-132.

other forms of practical applications of law were necessary to transform the abstract legal theories and principles of men like Grotius into the system that exists today.

It becomes increasingly evident that it is not a simple and straightforward tale of Western legal standards replacing local ones because of the weakness of the Qing and other native governments, as the relationship was multidirectional, with mutual push and pull. Nor is it a tale of European and American legal practices proving themselves more effective at suppressing maritime predation, as the ebb and flow of maritime predation is seemingly unconnected to the amount of Western style legal reform that was put into place; this is especially evident in the spike of hijackings and other forms of maritime predation in the 1920s, a time when Western style reforms were common and popular. Rather, the evolution of the application of international and national laws alike to the complex maritime arena of the South China Sea was a complex dance of factors, including but not limited to economic drives, international competition, shifts in philosophies of governing and international cooperation, destabilization caused by natural disaster and interstate conflict, and public attitudes concerning all the other factors. These factors coalesced into a pattern where maritime predation as an issue of sovereignty in the eyes of international law and as a concern of local law enforcement, whether the Qing, Republic of China, or foreign enclave in the area, rapidly grew throughout the late nineteenth and early twentieth centuries even as the actual amount of predation occurring and the economic damage it caused largely shrunk, baring a few spikes in times of economic and political instability. Simultaneously, the doctrine of universal jurisdiction over crimes of maritime predation quickly evolved from mostly a piece of legal theory to a standard practice not just on the open oceans, but on the coasts and rivers of China, though never unchallenged by legal claims to sovereign

rights within territorial waters, before retreating again in the face of renewed opposition and changing priorities brought upon by global conflict.

Chapter 6: Conclusion

There does not seem to be a direct connection between the European anti-maritime predation legislation of the 1850s and the increasing pressure on Qing sovereignty by European, American, and Japanese powers from that time forward, at least in that such legislation is rarely if ever directly invoked or cited during the relevant discussion. Yet, it is clear that both the legislation and the political pressure were part of a wider pattern driven by intertwined forces of imperial expansion, state monopolization of violence, and the redefinition of sovereignty that arose from that expansion and monopolization. The influx of global trade and diplomatic agents in the South China Sea of the late nineteenth and early twentieth centuries brought together many different groups with their own historical experiences regarding how to interpret and deal with maritime predators, experiences stretching back deep into the past. Yet also important was their more recent histories with maritime predators; of particular importance was the Qing's taming of the most powerful maritime predator organization in history as much or more through diplomacy and economic concessions than military power. Similarly important was Britain's rise to naval dominance in the wake of the Napoleonic Wars, which was only challenged by maritime predation, state sponsored or not. This led to increasingly hardline stances by the British government, with ever expanding definitions of what constituted "piracy" arising from the legally murky conditions of Southeast Asian predation, with the murkiness arising from how Southeast Asian ideas of seas and open oceans were discarded by outside observers.

In terms of international law, new treaties and agreements increasingly spread the influence of the European derived international legal system into spaces that had been traditionally beyond its reach, while redefining the sovereignty that had formed the foundation of its legal framework from something that was automatically a part of being a state to something

conditionally granted by other states. Yet the Qing and their Republican successors were not as helpless against this onslaught of legal dominion as they are sometimes portrayed, and through the use of diplomacy combined with their own study and understanding of the European international legal system push back against intrusions and asserted its own sovereignty on both land and sea, of which maritime predator suppression through both force and legal reform was a key strategy.

This was also a period where public opinion was increasingly shaped by the influence of an expanding media, while also wielding greater influence on government theory and action through said media. As such, the portrayal of the Qing government as ineffectual, corrupt, or both, and of maritime predation in the region a constant and horrific threat among newspapers, personal accounts of maritime predator activity, and even works of fiction primed English language audiences to see the Qing and their successors as insufficiently sovereign. At the same time, internal Chinese language sources grew increasingly concerned with what the Qing's seeming inability to safeguard its own sovereignty could mean for them, and how the persistence of maritime predation contributed to that threat. This scenario of local governments struggling to protect trade and traders under colonial pressure has been common throughout the rest of the South China Sea, particularly maritime Southeast Asia, as well as inland with the threat of "bandits" replacing "pirates." This can be seen in the British takeover of Malaysian tin mines in the early twentieth century in the name of protecting British lives and property.[2063] Yet, like the Qing's use of international law to secure its borderland regions, some Southeast Asian states were also able to adapt and utilize western laws and concepts in the name of centralization and expansion, notably Thailand combined western and local methods of mapping and boundary

[2063] Barbara Andaya and Leonard Andaya, *A History of Malaysia*, Third Edition, (London: Bloomsbury Publishing, 2017): 189-190, 218-219.

making to secure land claims.[2064] Similarly, the struggles and strategies employed in this fight for sovereignty demonstrates that modernity is not simply a matter of the passage of time, but a carefully constructed idea brought about by specific historical circumstances and might be challenged by future changing circumstances rather than any ideology or system being locked into place simply because it is considered modern. For that matter, modernity itself is something that has hybrid and interactive origins, rather than any kind of singular, pure origin in any particular place, culture, or time.

The evolution of legal practice and enforcement regarding maritime predation in the South China Sea during this period was not a clean and clear process proceeding inexorably down a singular path, but rather a complex set of actions and reactions between numerous parties driven by both competing ideologies and practical considerations. Yet for all these complexities, a clear pattern emerged; the longer maritime predation persisted in the region, even if greatly reduced in scope, the more of a threat it was seen to be, and the more pressure there was on both the Qing and Republican Chinese governments to eliminate it swiftly and completely, with the sovereignty of these governments increasingly questioned and challenged as long as the problematic predation persisted. In short, the monopoly of force became a key part of coastal defense and sovereignty in both Euro-American and Chinese ideas of international law, though there is also pushback against that conceptualization of maritime autonomy. This is relevant today as the increasing importance of undersea resources and maritime shipping routes has renewed fierce debates about the nature of coastal and maritime sovereignty, especially in the waters of the South China Seas, where several areas are disputed between China and multiple Southeast Asian states, including Vietnam, Indonesia, Malaysia, and the Philippines.

[2064] Thongchai Winichakul, *Siam Mapped: A History of the Geo-Body of a Nation*, (Honolulu: University of Hawaii Press, 1994): 62-63, 69-70, 89-90, 143-144.

While the full range of issues behind and resulting from the dispute are varied and complex, including overlap of territorial waters in narrow waterways and ownership of otherwise minor islands which can grant fishing and deep sea mining rights, it is particularly notable that part of the discussion around the issue is whether People's Republic of China can provide better security against maritime predation and terrorism in the disputed regions than any of the Southeast Asian states or their ally the United States of America, and if they could create a *pax sinica* for the region.[2065] This debate over who can provide the best security for trade in the region echoes similar arguments surrounding other naval powers in the region throughout history, such as the British and French in the nineteenth century. Moreover, these legal disputes today are, like the international legal disputes covered in this dissertation, both driven by and drive feelings of national pride. In particular, recently the PRC has sought to challenge the traditional narrative of China as a culture that disdained the sea, placing special emphasis on Zheng He's once obscure series of large-scale maritime expeditions contrasted with the failed naval reforms in the century of humiliation, which has in turn contributed to a desire for the PRC to assert itself as a great naval power.[2066]

Another similarity between modern events and those of the late nineteenth and early twentieth centuries is the connection between maritime security and trade as put forth by Mahan's book *Influence of Sea Power Upon History*; just as the PRC wishes to assert itself as a naval power militarily, so too does it wish to reclaim China's historical centricity to global trade

[2065] Martin Purbrick, "Pirates of the South China seas," *Asian Affairs* 49, no. 1 (2018): 19-20, 22-23; David Rosenberg "The political economy of piracy in the South China Sea," *Naval War College Review* 62, no. 3 (2009): 49-50, 55-56; Harnit Kang; "Maritime Issues in the South China Sea." *New Delhi: Institute of Peace and Conflict Studies* (2009): 2-3, 5-6

[2066] James R. Holmes, ""Soft power" at sea: Zheng He and China's maritime diplomacy," *Southeast Review of Asian Studies* 28 (2006): 95-96, 106-107; Ji Guoxing, "China versus South China sea security," *Security Dialogue* 29, no. 1 (1998): 101-102, 109-110.

through a project known as the "21st Century Maritime Silk Road," which involves the creation of a network of diplomatic and economic partnerships starting in China, moving through Southeast Asia, and spreading to the Middle East for the mutual "safety and stability" of those involved as well as their prosperity.[2067] Protecting this prosperous trade requires the projection of power, which in turn requires bases to operate from, including islands and waterways that other states may already lay claim to, necessitating an argument from China that it should be the senior partner in the region's security matters for the prosperity of all.[2068] In turn, many states along the maritime silk road, such as Malaysia and Indonesia, carefully debate the benefits and risks of cooperating with this plan, and try to gain the most benefits they can from the arrangement while retaining their political autonomy.[2069] Additionally, as maritime predation makes a reappearance in key locations around the world, often intertwined with the equally murky worlds of organized crime and terrorism, it is worth noting that the history of maritime predators in the South China Seas and along the rivers of Southeast Asia and the southern Chinese provinces have shown time and again that enforcement through violence alone has usually proven an inadequate solution to issues of predation and caused problems of its own, and instead economic, social, and political reform is needed to quell such violence.

International law, maritime predation, sovereignty, international trade, globalization, and modernity are all complicated enough issues on their own, and they interacted with each other in complex ways in the South China Seas from the 1850s to the 1950s. It was here that the arrest of

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[2067] Liu Cigui, "Reflections on Maritime Partnership: Building the 21st Century Maritime Silk Road" *China Int'l Stud.* 47 (2014): 5, 7, 8-9; Veerle Nouwens, "China's 21st Century Maritime Silk Road," *Royal United Services Institute* 45 (2019): 9-10, 18-19, 26-27; Baoxia Xie, Xianlong Zhu, and Adam Grydehøj, "Perceiving the Silk Road Archipelago: Archipelagic relations within the ancient and 21 st-Century Maritime Silk Road," *Island Studies Journal* 15, no. 2 (2020): 56-57, 62-63, 67-68.

[2068] Ji, "China Versus South China sea security," 103, 105-106.

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some suspected pirates flying under a British flag by Qing authorities could spark a war whose legacy the Qing and its successors would struggle for years to undo, including a treaty demanding they do more to end piracy. In this time and place, ancient precedent and new ideas alike from locations thousands of miles apart came together to turn a simple hijacking, involving a relative handful of people, few if any deaths, and a small amount of money by the standards of state economies, into a crisis involving several of the most powerful empires of the world locked in heated debate in both diplomacy and the media. This historical context saw men and women who were considered the basest and lowest in the world nonetheless become the catalyst for a reshaping of some of the most basic and important ideas that formed the foundation of global politics, ideas about what rights and what responsibilities made a state legitimate, and what that legitimacy meant when dealing with others, both states and non-state actors.

To gather the evidence needed to support and reach these conclusions, this dissertation utilized and combined a variety of sources, both primary and secondary. To start, a foundation was laid by examining many key works of world history, the history of international law, and maritime history with a focus on maritime predation, with the intention of applying their insights and methodology to a relatively unstudied historical context. After that, a variety of primary sources were gathered and analyzed, particularly newspaper articles, dramatized accounts of maritime predation, paintings, photographs, court records, treaties, and diplomatic correspondences between local officials of different states. All of this was analyzed from a world history perspective, looking at how individual, seemingly isolated events fit into larger patterns and connected to one another, revealing hidden causes and effects that might otherwise be obscured. Moreover, this dissertation helps to bridge the gap between history and social sciences approaches by revealing some of the historical context in which the norms and structures studied

in social science approaches developed, while simultaneously noting how existing social structures and norms influenced how historical events played out. By combining the strength of both approaches it is possible to avoid the ever-present temptation of teleology where social forces seemingly bring about their own existence and every historical event is a mere steppingstone to an inevitable outcome, rather than a unique meeting of circumstances that interacted with each other in complex ways. This gap is further bridged by applying the maritime perspective to both historical and social studies approaches to help demonstrate that social structures are not built solely in self-contained, terrestrial categories of societies, but could be created in ambiguous and fluid spaces. This was true whether those be geographical, legal, or cultural spaces, where people of many different origins met and mixed, and worked together to create their own social spaces which would in turn influence the larger, terrestrially bounded societies around them, and even global societies of nations, exactly as the maritime predators of the South China Sea did in the nineteenth and twentieth centuries.

Given how understudied this topic and period is, there remains much that can be built upon the foundations laid by this dissertation. Further clarity and insight on the issue could be provided by the addition of more sources from other languages, such as that of other imperial powers involved, minority languages of China's southern coast, and those of other East Asian and Southeast Asian populations. In particular, more court records from these languages could provide a great deal of information on how maritime predation and international law were interpreted and applied in different contexts. It became apparent near the end of this dissertation that Southeast Asia played a large role in the activities of maritime predators in the South China Sea and how various states shaped international law to deal with those raiders and each other. Yet this dissertation was written with a focus primarily on China and Britain, so it would be

illuminating to have more of a Southeast Asian perspective from both secondary and primary sources. Similarly, fiction about maritime predators was discussed in a brief and limited manner, and there is a great deal of potential in expanding the examination of how maritime predators were portrayed by various authors to many different audiences. Moreover, while this dissertation implemented pirate's own experiences in their words whenever possible, the amount that was possible was rather limited, so additional sources and insights from the maritime predator perspective would add a great deal to the topic. Any journals, letters, or other private accounts could provide enlightening information on how maritime predators saw themselves fitting into the larger events going on around them.

Any of the above would greatly enhance the contributions this dissertation has made to the fields of world, legal, and maritime history. While the earlier "great waves" of maritime predation in the South China Sea have been well studied, later predators from Shap-ng-tsai's fleet to teams of the hijackers that operated up until the end of the Second World War are less studied, and in particularly rarely benefited from the advances made in the study of world history, such as how the legal and diplomatic aspects of maritime predation intersected with social and political, as their activities were both influenced by and influenced different groups in various far flung places. This dissertation also sheds light on the Qing's contributions to the Eurocentric construction of international law, such as how Qing ideas about inner and outer seas complimented European ideals of coastal waters, so when the Qing pushed back against European attempts to dominate those waters it set a notable precedent on the issue of coastal sovereignty. Nor were the Qing alone in contributing non-European perspectives to the creation and growth of international and maritime law in the South China Sea, whether those non-European actors be as mighty as the Empire of Japan or as small scale as small bands of illicit

traders and petty maritime predators whose simple acts of survival sparked great debates in the halls of power and the public sphere alike. Simultaneously, this dissertation complements more modern, Sinocentric takes on this period of history by demonstrating ways that Euro-American ideas influenced Qing intellectual and legal development. For example, many late Qing and Republic era reforms concerning border control and defense, the defense and support of maritime trade, and the handling of legal disputes with and between foreigners within Qing or Republican territory and waters usually was done with at least one eye towards foreign standards and reactions, to cut off potential challenges to the legitimacy of their actions if nothing else.

Thus, rather than presenting simple conflicts around states vs pirates or Europeans vs Chinese, it is easier to see the multifaceted situation that arose between merchants, maritime predators, local states, and maritime predators, all influencing and being influenced by one another. This complexity is especially visible in the South China Sea, as this dissertation has demonstrated, due to how dynamic it was over time, and how the sheer number of actors involved, altering their allegiances to suit their interests at any particular moment. Sometimes merchants called in governments to protect them from maritime predators, at other times merchants and predators worked hand in hand to undermine government attempts to control trade, whether that control be at the hands of local governments or imperialists from distant lands with their own combination of economic and political motives. Similarly, sometimes local governments and Western empires in the South China Sea combined their efforts to stamp out maritime predation and unapproved trade, yet at other times one government or another would work with maritime predators and illicit traders, either for long term political gains or simple profit motives. And that is without getting into how none of the groups in question were completely united. Different imperialist powers competed with one another while also trying to

profit from one another's gains, such as how many states condemned Britain's actions in the Opium Wars while using those conflicts to gain similar privileges for themselves. The late Qing bureaucracy was pulled in many directions by various factions at court and the competing needs of its many provinces, as is evident in the debates over whether to dedicate resources to the defense of the coastal provinces or the Northwestern frontier. At times, Qing officials along the coast worked with their European counterparts in various concessions to deal with the threat maritime predation posed to trade and regional stability while their central governments clashed over issues of sovereignty and what it meant to be a state in the changing world. At other times, the mere existence of maritime predation in the South China Sea became deeply entwined with those debates on sovereignty. Meanwhile, maritime predators struck both local and foreign targets, yet were also known to express their own patriotic ideals and lament the exploitation of the South China Coast at the hands of foreigners, which in some instances included the Manchu rulers of the Qing state itself. In any case, the interlocking interactions and tensions between many different groups in the region defies simple categorization or explanation.

Additionally, this dissertation's research into newspapers and government communiques has come across untapped yet potentially useful primary sources for the field, as can be seen with the examination of the international reporting the hunt for Shap-ng-tsai. There, the complex array of opinions and images presented in those reports not only reflected then current opinions of maritime predators of the South China Sea and the governments that tried and sometimes failed to stop them, but also presaged some of the ways the issue of maritime predation would be utilized in discussions about political legitimacy as Western presence in the region increased over time. Newspapers provide a unique way of looking at the events involved, usually soon enough after the event in question to get a relatively unfiltered account, presenting an accuracy of

emotions if not always of facts. Furthermore, they provide a non-government perspective that can be difficult to find in older periods, yet remain very consequential, as their ability to shape public perception of events could go on to influence government actions as states reacted to the feelings and demands of their people. The utility of communiques is evident with the documents surrounding the Lorcha No.11 incident, which were fascinating and provided great insight on maritime predator investigation and local scale Qing-British negotiation, yet have seemingly gone unnoticed or unremarked upon by other scholars of East Asian maritime predation beforehand, at least in the secondary sources used for this dissertation. While individual communiques are often short and simple, when taken as a group they help reveal multifaceted patterns of interaction and communication between different groups with their own interests and motives. Newspapers and government communiques have provided a great deal of information on many other topics in history, studies of maritime predation and maritime history in general would benefit greatly from increased usage of these resources.

Wherever the tides of law meet, whirlpools of crime and conflict form. The South China Sea during the late nineteenth and early twentieth centuries was one such place, a maelstrom of conflicting legal theories, worldviews, political interests, and economic concerns. Riding that maelstrom and helping to stir it were maritime predators; numerous individuals largely of humble origins, acting out of their own immediate interests, and individually rarely having much power and reach beyond a handful of villages or city blocks in a region filled with thousands of them. Even today, with a system of international law that seems far more clearly defined and agreed upon than its earlier stages, the disputes surrounding Somalia, Maritime Southeast Asia, and other regions where maritime predation persists see a repeat of many of the same arguments and ideas where major powers push forward in the name of trade and security while weaker

states scramble to preserve their sovereignty. While far from the sole factor or even the decisive factor in the development of any of these historical forces of economics, politics, and law, collectively these maritime predators had a far broader impact than they likely would have imagined on the larger sociopolitical forces around them, like a small pebble setting off large ripples in the water.

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Bonham to Xu. 20 Sep. 1849, enclosed in Bonham to Palmerston. CO129/30. October 23, 1849.

Bowring to Yeh Ming-ch'en. Because of upheavals in China, members of secret societies have swollen ranks of pirates in South China Sea. FO 682/1988/28. November 22, 1855.

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Brigade General of Chieh-shih to Imp. Com. Hsü Kuang-chin re case of piracy reported by Vereador, FO 931/905. March 3, 1852.

Brigade General of Chieh-shih to Imp. Com. Hsü Kuang-chin re case of piracy reported by Vereador. FO 931/906. March 8, 1852.

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