

“The Earth was a Sea of Blood” - The Concept of Piracy in the Malay Archipelago

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The earth was a sea of blood.
- Sejarah Melayu (Malay Annals)

The maritime laws of Malacca which were first recorded in the seventeenth century states the following:

Suppose a man is angling at the bows of a ship, and his line drifts aft. A person at the stern grasps the line as a joke. The angler thinks it is a catch and draws in the line. The hook catches onto the hand or body of the person at the stern, who thus is forced to follow the line to the angler in the bows. Whoever is ‘caught’ in this way becomes the angler’s property, even if it were the captain’s wife or concubine.ⁱ

Focusing on discourse on piracy, this paper examines Malay laws of the sea that oddly do not mention the term ‘piracy’ at all. It is indeed intriguing that a legal code with such a high level of specificity, as demonstrated by the anecdote above, would neglect to discuss the consequences of the common act of plunder on the high seas. This is all the more baffling for as we can see above, even a phenomenon classified as a joke or an accident is regulated. Why was it then that the act of piracy was not touched upon in such a comprehensive legal code?

Up till the nineteenth century, the Malay term for ‘pirate’ was ‘perompak’ which simply means ‘robber’, as evident in the ‘Undang-undang Melaka’ (and its derivatives) a legal corpus used throughout the Malay Archipelago.ⁱⁱ Thus the maritime plunderer was simply referred to as ‘perompak di laut’ or robber at sea. In current usage, the Malay term for pirate

is 'lanun.' The word 'lanun' however refers specifically to a group of violent powerful pirates from the Sulu islands, located east of Borneo in present-day Philippines. This strongly suggests that the other so-called pirates named in English East India Company and the Dutch East India Company records were not necessarily regarded as such by Malay polities.

Piracy is defined by the *Oxford English Dictionary* as the “the action of committing robbery, kidnap, or violence at sea or from the sea without lawful authority, esp. by one vessel against another” was a label imposed on acts of warfare and commerce in the Malay Archipelago. European colonial insinuations have impinged upon the vocabulary based on local conceptions of commerce and politics to render impossible a world that was thriving before. As a result, conceptual clarity remained elusive throughout the colonial period.

Thus far, scholars have studied the development of law regarding piracy from the European perspective through the legal politics of empire, specifically by examining the legal thought of Hugo Grotius, which developed in the early seventeenth century.ⁱⁱⁱ Malay politics is usually inexplicably reduced to a footnote in these otherwise very useful studies of early commercial forays of the Dutch East India Company the VOC.^{iv}

Towards the end of the eighteenth century, the British felt frustrated by obstructions to free trade while the Dutch were fast losing their trade monopoly in the region to British, Malay, Chinese and Arab traders. Although violent acts of war had been rampant in the seas of Malay Archipelago before the eighteenth century, it was only from the eighteenth century onwards that European narrators began to distinguish “pirates” from “honest traders”, while in the sixteenth and seventeenth centuries they had not made the same distinction.^v Furthermore, acts of violent robbery at sea were not recorded in detail by local populations. Even if they were, they would be classified as acts of war and not piratical acts. But the British and the Dutch tended to classify these acts as clear criminal transgressions that

qualified them as piracy. The Dutch journal, *Tijdschrift van het Bataviaasch Genootschap*, for example closely tracks the number of piratical acts in the East Indies.^{vi}

According to Carl Schmitt, the label of ‘pirate’, as opposed to the ‘partisan’, is predicated upon the unpolitical nature of his bad deed that aims at private theft and profit. Schmitt stresses that the pirate is only possessed of ‘animus furandi’ or felonious intent.^{vii} The term ‘piracy’ therefore tends to hinges upon the unpolitical nature of the act of plunder not sanctioned by any form of sovereignty.

Thus the concept of political sovereignty in the Malay Archipelago would have to be examined more closely. However, it is extremely difficult to represent or translate the ideas and beliefs of one linguistic community into those of another. Moral philosopher Alasdair Macintyre argues that the outcome of each attempt at rendering those beliefs sufficiently intelligible to be evaluated by a member of the other community involves characterizing those beliefs in such a way that they are bound to be rejected.^{viii} Macintyre further adds that each community will represent the beliefs of the other within its own discourse in abstraction from the relevant tradition and so in a way that ensures misunderstanding.^{ix} Postcolonial theory has attempted to approximate a more accurate lexicon by rescuing it from structures of Western domination, or more specifically, in the words of Gayatri Spivak by “reversing, displacing and seizing the apparatus of value-coding.”^x

Unfortunately, there is a lack of Malay sources in written form. Stories are often passed down through the generations by word of mouth and are rarely recorded on paper. A window into the Malay political conceptions is provided by historical literature that consists of a smattering of printed legal codes as well as prose romances that reflect upon an underlying cultural unity throughout the Malay Archipelago.

The political configuration of the Malay Archipelago understandably deeply perturbed the newly-arrived Europeans who initially came to trade with the spice islands during the seventeenth and eighteenth centuries. To a great extent, the geographical environment determines how politics is played. Land in the Malay Archipelago could only support small groups of people living in relative isolation because of dense rainforests and the sea. Not surprisingly, war between various polities was also mainly conducted at sea.^{xi} The sea was such a big part of Malay life that the Malay word for homeland is ‘tanahair’ which literally means ‘earth water.’ In addition, the Malay ruler was often attached to the body of water and not to land per se. In fact the full title of the Sultan of Riau, an island in present-day Indonesia, is Yang Di-Pertuan Selat which literally translated into ‘ruler of the Straits.’^{xii}

Unfamiliar with Malay conceptions of war and politics, the Dutch and the British traders could not comprehend the origin of many conflicts in the Malay world, and felt that they were symptomatic of a people who would accept no authority.^{xiii} Warfare was linked to slavery and often texts refer to both piracy and slavery at the same time.^{xiv} For the captors, it was more lucrative to capture slaves than loot, as the former were in fact easier to dispose of.^{xv} More often than not, wars in the Malay Archipelago involved the kidnapping of whole populations from various islands in order to subject them to a particular Malay ruler who would hold them as slaves. The concept of slavery is a complicated one in the Malay world. It is part of a specific, traditional way of life, embedded in a pattern of dependence and servitude on the part of the widely scattered groups of ‘Rakyat’ (subjects) vis-à-vis Malay princes and headmen.^{xvi} The more subjects he had, the more powerful the ruler was. Malay rulers were not tied to pieces of landed property or to any particular territory. Neither were they feudal lords. A Malay ruler can flee a battle scene with his subjects and set up rule

somewhere else. As long as he had subjects, he was still considered a legitimate ruler. Malay rulers therefore possessed a heightened mobility, for their status was not bound to land or material wealth, as they were directly linked only to the population over whom they wielded power. More importantly, the wars were not wars of obliteration. Thus they could be seen as forms of interaction that seek to establish relations and not destroy them.^{xvii}

Most of the kings' subjects were sea people or sea nomads known as the 'Orang Laut.' They were defined as "men who lived on the sea."^{xviii} The Orang Laut lived their lives entirely afloat.^{xix} Descriptions of the orang lauts strangely convey an image of 'land' on water. Their boats called 'sampan' sometimes even obscured the view of the body of water.^{xx} According to one source, the Orang Lauts in Singapore sometimes took to living in plank and atap houses built on piles over the water.^{xxi} One thing is certain: they were capable of forming large fleets especially in the Straits of Malacca that lie between the island of Sumatra and the Malay Peninsula. During the 1820s, a contemporary British observer recorded that the Malay piratical prahus were from six to eight tons burden and from sixty and seventy feet long. They carried one or two small guns with four swivels or 'rantakas' on each side, and a crew of twenty to thirty men. When they attacked ships, they put up a strong bulwark of thick planks.^{xxii} In 1825, it was reported that thirty piratical ships engaged in battle in the Straits of Malacca with a British boat and an East India Company schooner in a perfectly systematic manner.^{xxiii} They were therefore perfectly able to overwhelm their adversaries out at sea.

Although the Archipelago had been intrinsically linked to the wider, global economy for several centuries, the period between 1780 and 1824 marked the phase of colonial transition from open trading to outright European colonial domination. The last quarter of the eighteenth century witnessed an increase in European trade with India and China, which

necessitated more frequent travel through the Malay Archipelago.^{xxiv} It saw the eclipse of the Dutch Vereenigde Oost-Indische Compagnie (VOC), which floundered especially after the Fourth Anglo-Dutch War (1780-1784). In 1795, the flailing Dutch trading outpost in Malacca was handed over to the British, and the Dutch government was forced to seize control of the Dutch East Indies in 1800.^{xxv} In contrast, trade conducted by the chartered trading company English East India Company (EIC) greatly expanded in Southeast Asia, culminating in the establishment of the British Straits Settlement on the island of Penang, later renamed Prince of Wales Island, offered by the Sultan of Kedah to Francis Light, a private country trader in August 1786.^{xxvi}

The history of piracy is often focused on the challenge posed by mariners to maritime order and piracy that turns ships into vectors not of law but of lawlessness.^{xxvii} But since the wars were frequently fought at sea, and polities were often concentrated on the coasts, Malay legal codes pertained to the sea as well. The Malays possessed a maritime legal code derived from the “Undang-Undang Melaka” or Laws of Malacca which I referred to at the start of my paper.^{xxviii} The Undang-Undang Melaka lists extensive regulations with regards to the sea. Evidently, Malay political authority was vested in the king on land and in the captain of the ship out at sea. The sea captain of a ship possessed legal authority over his crew, just like the king over his subjects.

Historian Lauren Benton writes that the legal authority of ship captains was one variety of a wider array of subordinate and semi-autonomous legal authorities.^{xxix} Indeed, according to the Laws of Malacca, the captain of the ship could declare wars, attack another ship or another polity on land, capture slaves and raid other ships just like a king.

In March 1809, an East India employee named Thomas Stamford Raffles rightly observed that on board the ship:

“The power of life and death vested in the Nakhodah, or captain of a vessel, may be considered as purely Malay, or at any rate to have had its origins in the Eastern Islands: the Arabs, from whom alone they could have borrowed a foreign sea-code, not possessing, as far as I have been able to ascertain, any treatise, whatever on maritime law, or in any instance admitting the authority of the Nakhodah to inflict capital punishments.”^{xxx}

The legal code differentiated between land and sea.

Know this word so that all of God’s servants will be protected and have peace from all work in this country and in voyage, do not commit wrong in this world and in the hereafter, so as to be safe from all quarrels in the sea and on land.^{xxxi}

Therefore law at sea pertains only the sea while the law of the land applies only to land. The two spheres are unambiguously separate. This is made clear in the following statement.

Because this law at sea, at sea it ends and law in the land, also in the land it ends, the law at sea is not brought to land.^{xxxii}

But the law of the sea mimics the law of the land very closely as if they were perfect mirrors of each other without significant difference in constitution. The captain of the shipping vessel is king of the ship while traveling at sea. He is regarded as the perfect equivalent of the king on land.

There is one named head of the Believers, therefore that is the captain at sea. Because it is granted by Sultan Mahmud Shah to all captains this law (so that he enforces this law/punishes in his junk. If he does not follow the law, he commits a wrong to the common people; and therefore everyone will be embarrassed for the sake of the owner of the junk, because the captain is the substitute for the king at sea.: because he has been granted the position of the head of Believers, that custom in country of Malacca, therefore he can become king at sea; if he is a child even (or even slave, he is king at that time.^{xxxiii}

In fact, the court of a Malay ruler closely resembles that of a government structure on board a ship out at sea.

The captain is like a king on board his junk. The steersman is like the Prime Minister. The crewman in charge of casting anchor and monitoring soundings (‘jurubatu’) is the Temenggong (chief of police) The petty officers in charge of the starboard and port are the courtiers. They work together with the petty officer. All petty officers, boatswains, and supercargoes are under the captain’s command. The sailors are under the command of the petty chief.^{xxxiv}

European sources: Daniel Heller-Roazen points out that the spaces proper to medieval cities and principalities generally possessed border zones, not borderlines. Border zones, he hastens to add, allows enclaves as well as exclaves, in which authority could therefore always be disputed.^{xxxv} Indeed, the political line of territorial demarcation limited to the dry zones emerged much later, and was in place by the early nineteenth century.

The sea was therefore suffused with legal and political authority, which was applied systematically on board ships. Yet, in European sources, the very same acts of war in Malay narratives were transformed into piratical acts. War is conducted between states by regular armies of states, who did not treat one another as criminals. Europeans henceforth tried to discover the reasons for the frequency of these transgressions at sea. EIC employee Thomas Stamford Raffles wrote to his superior Lord Minto in June 1811.

“The old Malay romances, and the fragments of their traditional history, constantly refer to piratical cruises. In addition to the cases which I have already enumerated, it may be proper to add, that the state of the Eastern population, and the intolerant spirit of the religion of Islam have eminently tended to increase the practice. The Arab Sheikhs and Seyyads, whatever doctrines they failed to inculcate, did not neglect the propagation of one, the merit of plundering and massacring the infidels; an abominable tenet, which has tended more than all the rest of the Alcoran (sic) to the propagation of this robber-religion...^{»xxxvi}

Piracy was therefore linked to the concept of sovereignty, but also religion. Europeans invoked the maxim that Muslims considered every act of violence committed against a non-Muslim a legal act of war,^{xxxvii} although there was very little discrimination in the attacks that occurred out at sea.

Consequently, such perceived acts of “piracy” which were simply acts of war in actual fact from the Malay perspective, and were therefore not considered immoral in any way by the Malay. This baffled some British observers. British colonialist John Anderson writes in 1844:

“(I)t would be absurd to treat with reprobation a practice with which no dishonourable idea is associated in the mind of the natives. The system of piracy in the Archipelago is just what the system of private wars was in Europe in the middle ages; an evil arising not so much from moral laxity as from political disorganization.”^{xxxviii}

Thus, Anderson approximated a more accurate depiction of political realities that did not portray the Malays as a particularly violent race. Instead he hinted that rulers in the Archipelago truly believed in the legitimacy of their actions. Nonetheless, he still subscribed to the view that there was very little political authority involved in maritime violence. By the early of the nineteenth century, the British and the Dutch thought it prudent to step in and establish some political authority. In 1824, the Anglo-Dutch Treaty was signed in London that divided the Malay Archipelago into two spheres of influence between the two European powers.

How was this possible world eradicated so swiftly despite possessing legitimate political sovereignty? In the words of English jurist of the eighteenth-century, William Blackwell, commercial society has need for a speedy decision of right, to facilitate exchange and alienation.^{xxxix} Law was, in this case, anachronistic. By rendering sea-based politics as

inferior and possibly even illegitimate, colonialists could then move in and conquer this space often presented as a political blank state with no recognized political authority. Civilizations do not essentially clash, as Lydia Liu points out in her seminal book. Empires do.^{xi} The world of legitimate political sovereignty was hollowed out of political authority by the imposition of the category of “piracy” that allowed the Dutch and the British to enter and impose order over perceived chaos.

ⁱ “Appendix, The Maritime laws of Malacca,” Prepared by Sir Richard Winstedt and Joscelin de Jong, eds. *Journal of the Malayan Branch of the Royal Asiatic Society* 29, 3 (1956), 59.

ⁱⁱ “Undang-Undang Melaka”, compiled by Liaw Yock Fang (The Hague: M. Nijhoff 1976).

ⁱⁱⁱ Peter Borschberg, “The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics, and the Origins of the Dutch-Johor Alliance (c. 1602–1616),” *Journal of Southeast Asian Studies* 33 (2002): 31–62; and, especially, Martine Julia van Ittersum, *Profit and Principle: Hugo Grotius, Natural Rights Theories and the Rise of Dutch Power in the East Indies (1595–1615)* (Leiden: Brill, 2006).

^{iv} Timothy P. Barnard, *Multiple Centres of Authority: Society and Environment in Siak and Eastern Sumatra, 1674-1827* (Leiden: KITLV Press, 2003), 38.

^v Bernard H.M. Vlekke, *Nusantara: A History of the East Indian Archipelago* (Cambridge: Harvard University Press, 1943), 198.

^{vi} *Ibid.*, 200.

^{vii} Carl Schmitt, “The Theory of the Partisan: A Commentary/Remark on the Concept of the Political”, translated by A.C. Goodson (Berlin: Duncker and Humblot, 1963), 10.

^{viii} Alasdair MacIntyre, “Relativism, Power and Philosophy”, in *After Philosophy: End or Transformation*, Kenneth Baynes, James Bohman and Thomas McCarthy, eds, (Cambridge: MIT Press, 1987), 392.

^{ix} *Ibid.*, 390.

^x Gayatri C. Spivak, “Poststructuralism, Marginality, Postcoloniality and Value,” in *Literary Theory Today*, ed. P. Collier and H. Ryan (Cambridge: Cambridge University Press, 1990), 228.

^{xi} *Malay Annals (Sejarah Melayu)*, translated by John Leyden (London: Hurst, Rees Orme and Brown, 1821), 351-353. Bernard H.M. Vlekke, *Nusantara: A History of the East Indian Archipelago* (Cambridge: Harvard University Press, 1943), 199.

^{xii} Carl A. Trocki, *Prince of Pirates: The Temenggongs and the Development of Johor and Singapore* (Singapore: Singapore University Press, 1979), 57.

^{xiii} Barnard, *Society and Environment in Siak and Eastern Sumatra, 1674-1827*, 52.

^{xiv} J.R. Logan, “The Piracy and Slave Trade in the Indian Archipelago” *Journal of the Indian Archipelago and Eastern Asia*, 3 (1849), p. 583.

^{xv} Owen Rutter, *The Pirate Wind: Tales of the Sea-Robbers of Malaya* (Singapore: Oxford University Press, 1930), p. 49.

- ^{xvi} Joseph N. F.M. À Campo, “Discourse without Discussion: Representations of Piracy in Colonial Indonesia 1816-1825” *Journal of Southeast Asian Studies* 34,2 (June 2003), p. 202.
- ^{xvii} Georg Simmels argues that conflict can continue to contain something positive. Positive and negative aspects of conflict can be separated conceptually but not empirically. Georg Simmels, cited in Michael Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1994), 9-10.
- ^{xviii} C.A. Gibson-Hill, “The Orang Laut of the Singapore River and the Sampan Panjang”, *Journal of the Malayan Branch of the Royal Asiatic Society*, 25,1 (1952), 163.
- ^{xix} Ibid., 166.
- ^{xx} Ibid.
- ^{xxi} Ibid., 167.
- ^{xxii} According to another British observer, the prahu was actually 20 to 30 tons and 20 feet shorter. Charles B. Buckley, *An Anecdotal History of Old Times in Singapore* (Singapore: Fraser and Neave Limited, 1902), x, 208.
- ^{xxiii} Ibid., 277.
- ^{xxiv} Dianne Lewis, “The Growth of the Country Trade to the Straits of Malacca, 1760-1777”, *Journal of the Malayan Branch of the Royal Asiatic Society*, 43, 2 (1970), 117.
- ^{xxv} During the Napoleonic Wars, the British momentarily took control of Batavia and other Dutch colonies in the Dutch East Indies from 1811 to 1815. Thereafter, it was returned to the Dutch.
- ^{xxvi} The VOC has been in Malay waters since the early seventeenth century, but the EIC only made its first foray in the last quarter of the eighteenth century.
- ^{xxvii} Lauren Benton, “Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism”, *Comparative Studies in Society and History*, October Vol. 47, 4 (2005), 704.
- ^{xxviii} There are many Malay legal digests. Most seem to have been derived from the Undang-Undang Melaka. Liaw Yock Fang, *Undang-Undang Melaka*, (The Hague: Martinus Nijhoff, 1976).
- ^{xxix} Lauren Benton, “Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism”, *Comparative Studies in Society and History*, October Vol. 47, 4 (2005), 704.
- ^{xxx} *Services of Sir Thomas Stamford Raffles* (London: James Duncan, 1835), 41; *An Anecdotal History of Old Times in Singapore*, 49.
- ^{xxxi} “Section II, The Maritime laws of Malacca,” Prepared by Sir Richard Winstedt and Joscelin de Jong, eds. *Journal of the Malayan Branch of the Royal Asiatic Society* 29, 3 (1956), 28.
- ^{xxxii} Ibid., 30.
- ^{xxxiii} Ibid. It is interesting to note that a version of the “Laws of the Sea” states that even if a captain is a slave, he is king on board the ship. It is however unlikely that a slave would ever rise to be a captain of the ship en voyage. It was probably an example that it is supremely to show that obedience to the captain of the ship who functions as king on board the ship.
- ^{xxxiv} “Section IV, no. 1, The Maritime laws of Malacca,” p. 40.
- ^{xxxv} Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009), 165.
- ^{xxxvi} Thomas Stamford Raffles to Lord Minto (10th June 1811), *Memoir of the Life and Public Services of Sir Thomas Stamford Raffles* (London: James Duncan, 1835), 94.
- ^{xxxvii} Vlekke, *Nusantara*, 199.

^{xxxviii} John Anderson's letter to the "Indian News", 10th October 1844 cited in Nicholas Tarling, *Piracy and Politics in the Malay World: A Study of British Imperialism in the Nineteenth Century South-East Asia* (Melbourne: F. W. Cheshire, 1963), 10.

^{xxxix} William Blackwell, cited in Kathleen Davis, *Periodization and Sovereignty: How Ideas of Feudalism and Secularization Govern the Politics of Time* (Philadelphia: University of Pennsylvania Press, 2008), 65.

^{xl} Lydia Liu, *The Clash of Empires: The Invention of China in Modern World Making* (Cambridge: Harvard University Press, 2004).