Of Pirates and Institutions

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Abstract:

The Punishment of Pirates by Matthew Norton takes the equal parts fascinating and slippery phenomenon of pirates as a means through which to glean how institutions shape the social world. Operating on both the level of historical narrative of the specific period of the long seventeenth century, and the level of sociological analysis of the discursive and interpretive underpinnings of legal systems in general, the book offers a wealth of historical and sociological insight. In addition, it is written in language both accessible and precise, making it a pleasure to read.

Von Piraten und Institutionen

German Abstract:

In The *Punishment of Pirates* betrachtet Matthew Norton das ebenso faszinierende wie heikle Phänomen der Piraten, um herauszufinden, wie Institutionen die soziale Welt formen. Das Buch fungiert sowohl als historische Erzählung über den spezifischen Zeitraum des langen 17. Jahrhunderts als auch als soziologische Analyse der diskursiven und interpretativen Grundlage von Rechtssystemen im Allgemeinen und bietet somit eine Fülle historischer und soziologischer Einblicke. Darüber hinaus bereitet die zugänglich und dennoch sehr präzise Sprache viel Vergnügen bei der Lektüre.

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Norton, Matthew. The Punishment of Pirates. Interpretation and Institutional Order in the Early Modern British Empire. Chicago/London: Chicago University Press, 2023. 236 pages, 29.99 USD. ISBN: 978-0-226-82310-2.

Despite the general public's very clear image of what a pirate is and looks like — think Captain Jack Sparrow from Disney's *Pirates of the Caribbean* — there seems to be something rather protean about this figure. It is not only unclear who or what a pirate is, what an act of piracy is, what makes an act piratical; it is also that the figure of the pirate has been deployed in rather different ways by a truly diverse set of thinkers: Cicero wrote about them in Ancient times, Augustin mentions them, early modern political thinkers such as Jean Bodin and Hugo Grotius talk about them, and closer to our times we find them in texts by the right-wing German jurist Carl Schmitt and at the end of Michel Foucault's famous essay "Of Other Spaces" (*Diacritics* 16.1, 1986). In the same vein, Matthew Norton's *The Punishment of Pirates: Interpretation and Institutional Order in the Early Modern British Empire* looks at the figure of the pirate both for its own sake and "as a case that can shed its specific light on the more general social scientific question of how groups create, maintain, and enforce social orders" (p. 5).

Indeed, this is a book whose seven chapters plus an introduction and conclusion can be read on two levels: on one, Norton reconstructs the fascinating narrative arc of the rise and fall of piracy in the early modern period with the lucidity of a historian; on another level, however, he is clear about his interest lying in the broader and perhaps thornier subject of "the power of institutions to remake the social world" (p. 5). The second level recommends the book to a broad swath of humanities and social science students, quite apart from the immediate topic of pirates.

The story of piracy Norton tells here is how England (and later Britain) came to define and classify what a pirate is. The creation of this figure can be roughly summarized through the relation towards three 'piratical' figures (who are not therefore necessarily pirates): Francis

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Drake, John Deane, and William Fly. The first is famous for being the first Englishman to circumnavigate the globe at a time when the world's seas were still dominated by Spain and Portugal. On his voyage round the world, Drake seized and sacked several Spanish ships, bringing an enormous amount of wealth back to London where he was knighted and retroactively authorized to plunder by Queen Elizabeth. John Deane made his fortune by attacking ships in the Caribbean (including English ones), but avoided the label of pirate, and therefore trial and execution because even as late as the 1670s, colonial governments did not have the authority to determine who is a pirate and try them. In fact, it would not be until 1700, and the passage of "An Act for the More Effectual Suppression of Piracy" that a complex legal structure would be in place both in the metropole and the colonies to allow for the British Empire to bring full effective force of the law to bear on pirates and piracy, as we see from the capture and hanging of our third figure, William Fly.

Still on the level of historical account, Norton explains the socio-economic background to the radically different treatment of these three men: in the late sixteenth and early seventeenth centuries, England was a peripheral European country, and its policy was to encourage privateering and attack of Spanish ships and ports in a blatant attempt to enrich itself. By the second half of the seventeenth century, there was a conflict in interest between the English metropole, which relied increasingly on legitimate commerce, and its colonies, still relying on privateers and pirates to transfer goods and specie from the Spanish Empire to them — hence the case of John Deane. By the turn of the eighteenth century, however, pirates had become naught but a pest for trade, requiring both London and colonial elites to coordinate their efforts to suppress piracy for the sake of the whole Empire — leading to the kind of gruesome end William Fly met.

This basic narrative arc brought to life, Norton is at pains to point out that the process of suppression of piracy, although it ultimately appeared as swift and harsh, and essentially eradicated piracy by the first quarter of the eighteenth century, was complicated and really took a long time. This "was not a simple matter of state capacity to project naval force. It required a significant transformation of the legal constitution of the late seventeenth-century English colonial state and of the distribution and nature of authority within it" (p. 83). A prominent word in the subtitle of the book is 'interpretation,' and indeed Norton goes to great lengths to show how much semiotic and discursive effort had to go into delineating, defining, classifying

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the concept of pirate — which is why Drake was not regarded as a pirate, Deane was really a pirate but could not be tried as one, while Fly definitely and legally was a pirate. The subtitle of the conclusion, thus, is "Pirates, Adverbs, and Institutions," driving home the point that what connects piracy to the state is a specific discursive legal form. Adverbs, argues Norton, played a crucial role, as without them, a legal indictment is mere description: "'Kidd took the *Quedagh Merchant*' is a statement. 'Kidd *piratically and feloniously* took the *Quedagh Merchant*' is an accusation. The difference is that the latter purports to interpret Kidd's actions in light of a system of signs that attribute criminal meaning and consequent punitive action through chains of propagation to the taking for which Kidd stands accused" (emphasis added, p. 178). His argument regarding adverbs and how they impacted the life of the pirate William Kidd brings Norton full circle to a point he makes in chapter one, "Institutions as Cultural Systems," that "interpretive infrastructures play an outsize role in shaping all institutional orders" (p. 28).

What the new legal and interpretive structure allowed was a more efficient application of force, that is to say, the use of execution of pirates as punishment. Curiously, however, for such a meticulously constructed argument — and it must be added, with a command of language that verges on poetic, making it a pleasure to read – Norton never thematizes potential changes in meaning of the concept of punishment. He tells us that prior to the 1700 "Act for the More Effectual Suppression of Piracy" legal obstacles were not the only reason state agents were reticent to execute pirates, often granting them clemency or commuting their sentences. One of the aspects of the legal structure that came to be applied is the definition of pirates no longer as mere criminals. Norton quotes the prosecutor at Samuel Bellamy's trial who says that "the laws of all nations that have settled into regular governments, define & declare a pirate to be *an enemy of mankind*" (emphasis in the original, p. 141–2). Is it not the case that by excluding them from the entire human race, the killing of pirates is no longer punishment and is now (at least attempt at) extermination? Another aspect that Norton's account shies away from is whether the relation of piracy and the early modern British Empire is generalizable. Might there not be a link that in one way or another binds piracy to empire more generally? Could it not be the case that just as for piracy to exist empire must define it (fixing or stabilizing its protean nature), it is also necessary that for empire to exist, something like piracy must at all times threaten it?

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Undoubtedly a mark of an excellent book is that, in addition to a wealth of insights across several disciplines, it throws up questions for further study, research, and consideration — in this respect, the above questions should be read only as compliments (and complements) to Matthew Norton's exceptional endeavor in *The Punishment of Pirates*.