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# **Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869**

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## **Abstract**

This article explores how piracy was defined and eventually reduced in the South China seas between 1842-1869. In the early 1840s a large increase in maritime raiding led British agents to complain about the unwillingness of Qing officials to suppress disorder and drove the Hong Kong administration to propose its own solutions. British metropolitan officials nonetheless rejected many of these measures, arguing that they ran counter to established international maritime laws that made the Qing responsible for policing Chinese waters. Attempts were made to write this responsibility into the treaty which followed the *Arrow* War in 1860, but it was changes in the Qing state in the 1850s and 1860s which led Qing officials to treat small scale maritime raiding as seriously as that of large rebel pirate fleets. The new Imperial Maritime Customs Service created an incentive to prevent smuggling and piracy which could deter trade and hence decrease customs revenue. The case suggests, firstly, that the large reduction in maritime raiding rested on Sino-British compromise and, secondly, that Britain used international maritime laws as much to control the expansive ambitions of Hong Kong as to encourage changes in Qing practices.

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Piracy, International Law, Sino-British Relations, Empire, China

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'The boats here resemble the fishes of the sea...the large are always ready to prey upon the small, and the small upon the smaller when temptation offers...'.<sup>1</sup> Such, according to Thomas Cochrane, Commander-in-Chief of the Royal Navy's China station, was the Hobbesian state of nature which passed for maritime order in the China seas in the 1840s. Pirates are creations of international legal ordering. Samuel Coleridge once quipped that 'no man is a pirate unless his contemporaries agree to call him so'.<sup>3</sup> Because pirates operate on the high seas, which are not subject to the jurisdiction of a single state, defining and suppressing piracy requires at a minimum communication and an agreed set of protocols between states. This article will ask how such a set of protocols came to be established in the China seas between 1842 and 1869 and what this can tell us about the development of international law more broadly in China. This initially appears to be a case of the spread of legal norms from Europe through positivist international law-making as British officials wrote requirements for the Qing state to deal with piracy, as defined by Britain, into the treaty which concluded the Second Opium, or *Arrow*, War. In reality, however, the agreement to suppress piracy was haphazardly forged and rested far more on the transformative changes in the Qing state in these years. The reordering of the China seas also involved defining the role of Britain's new colony, Hong Kong, making the question of piracy as much one of imperial as of international order.

1842 marked a turning point in Sino-foreign relations. The Treaty of Nanjing which concluded the Opium War ended the Canton system which restricted trade to one port on the China coast.<sup>4</sup> Not only were four additional ports - Shanghai, Ningbo, Xiamen and Fuzhou - opened to foreign trade but the island of Hong Kong was ceded to Britain. This created a British state interest in managing piracy on the China coast to protect British colonial waters. The opening of four additional ports did not, however, lead to a five-fold increase in foreign trade with China but instead led to the wider geographic dispersal of existing trade. This created jobs in the new ports but resulted in wide-scale unemployment among boatmen in Canton. Faced with these conditions, many dispossessed sailors took up raids on local shipping and were quickly defined as pirates by British observers. The

apparent failure of Qing officials to share this view or to act against them provoked British ire and led to debates about how to deal with the piracy problem in seas where sovereignty was divided between the Qing state and the colony of Hong Kong. This study concludes in 1869 when a Qing-foreign framework was enacted, which would lead to a dramatic reduction in piracy, as it facilitated a structured collaborative approach.

Many studies of nineteenth-century British piracy suppression campaigns have emphasised the extent to which putting down piracy acted as cover for expanding British political influence. British manoeuvres against piracy in the Persian Gulf from 1807-1820 have been seen as a political struggle against Wahhabi rule in Ras al-Khaimah.<sup>5</sup> The fact that the Trucial States, now the United Arab Emirates, were made a British protectorate in 1820, immediately after the final skirmish against Qasimi 'pirates' suggests this was a conflict with a land-based regime. Similarly, it has been pointed out that British influence in the Malay Archipelago increased dramatically after 1820 largely due to operations undertaken in the name of piracy suppression.<sup>6</sup> Finally, even his contemporaries noted that Charles Brooke's deployment of the Royal Navy in operations against 'pirates', after becoming governor of Labuan in Borneo in 1846, was politically motivated. The only difference between the Dyak boats that Brooke launched operations against and those of the Sarawak tribes under his protection was their political allegiance.<sup>7</sup> The only extant detailed study of Anglo-Qing negotiations to suppress piracy in the mid-nineteenth century, however, suggests that the Royal Navy did not want to be a global maritime police force, and in the Chinese case could not afford to be one.<sup>8</sup> Maritime crime was not then an excuse for British imperial aggrandisement in this case but was rather a problem which needed a multi-state solution to bring a legal order to the seas. This began by defining 'piracy' and determining which jurisdiction was responsible for dealing with it.

Throughout this article, the term maritime raiding will be used instead of piracy to distinguish between the act of private robbery at sea and the legal category 'pirate' which, as we will see, was

not so easily defined. Understanding how maritime raiding, identified as piracy, was resolved on the China coast has implications for our understanding of the development of international maritime law.<sup>9</sup> Janice Thomson has suggested that piracy was eliminated globally once the nation state system expanded from Europe to the Extra-European world in the nineteenth century. The logic of territorial sovereignty which came with this system led states to make a series of authority claims – such as eliminating non-state violence within their territories and that by their citizens outside of these territories. Pirates fell within this net as perpetrators of non-state violence at sea.<sup>10</sup> Of course, piracy was never truly eliminated in the same way that no state has eliminated other forms of robbery within its territory. After 1869, however, maritime raiding in the China seas was dramatically reduced and certainly no large-scale pirate fleets of the kind seen in the 1840s emerged before the fall of the Qing in 1911. This process was more closely linked to the contingencies of changing state interests than to an emerging world system organised by the logic of territorial sovereignty. The Qing state had its own priorities when dealing with piracy and these only altered when the state's institutions, and crucially its tax base, changed following its tumultuous mid-century conflicts. It was only in the Republican period, when piracy re-emerged, that concerns about China's status within the world-system of equal sovereign states motivated suppression efforts.

The legal reordering of the China seas did not just involve the Qing and the British metropolitan states. The nascent colony of Hong Kong disrupted sovereign boundaries in Chinese waters. Its government's attempts to deal with a perceived piracy problem, predominantly under its second governor, John Francis Davis, provoked alarm in London.<sup>11</sup> A colony, or indeed a mercantile company, which took on too much power could put a strain on the British treasury or embroil the empire in unwanted conflicts. It would not be the first time. Thus, as Lauren Benton and Lisa Ford have recently observed of debates about international law in the early nineteenth century, attempts to order China's oceans were as much intra-imperial disputes as they were attempts to define

principles of inter-state relations.<sup>12</sup> This study thus has broader implications for our understanding of the role of international law in China. Recent studies have explored the processes by which China's legal system was orientalist and rendered incommensurable with European traditions, resulting in the Qing's exclusion from the 'civilised' state system to which international law applied.<sup>13</sup> Attempts to define piracy suggest that some international legal principles were applied in China, albeit in a fragmented and uneven fashion. Indeed, with the number of actors involved in ordering China's oceans, the Qing, the British, the Hong Kong administration, and the vessels of other foreign trading nations, they had to be. As has been recently observed of nineteenth-century Japan, the legal positivist 'standard of civilization' which emerged in this period and which was applied to China co-existed with an older vision of the natural sovereign equality of all states drawn from scholars such as Grotius and Vattel.<sup>14</sup> The latter led to the British government's insistence that its naval vessels and those of its colony did not violate Chinese territorial waters.

I will begin by explaining the contexts in which British and Qing understandings of maritime activity defined as piracy developed. These distinct origins led to incommensurate ideas about what piracy was and how it should be dealt with in the early 1840s. Secondly, I will explore how tensions between the British government and the Hong Kong administration restricted piracy suppression efforts. Thirdly, the case of the Anglo-Qing collaboration against the pirate fleet of Shap Ng-tsai illustrates both the problems facing the British in managing oceanic order in the China seas and the factors which drove Qing officials to act against maritime raiders. Finally, the article explores the changes which led to a shared definition of piracy as well as an agreed method of enforcement by 1869. The institutions which arose during the Taiping Civil War (1850-1864), most importantly the foreign-run Imperial Maritime Customs Service, provided a template for Sino-foreign collaboration. The organisation also provided structural incentives for Qing officials to adopt a conception of piracy closer to that held by the British. The revenue the court received from trade through the service led

officials to define as piratical any private maritime raiding which might dampen trade and hence customs revenue.

### **Understandings of Piracy**

Qing and British agents did not collaborate to suppress piracy in the early 1840s in part because they did not agree on what piracy was and how it should be dealt with. The British attitude should be understood in the context of evolving European conceptions of oceanic order and the role of the 'pirate' within it. European contests over the seas heightened when Spain and Portugal attempted, by the authority of a papal bull issued in 1493, to bisect the oceans into their own spheres of influence. Unhappy with Spanish and Portuguese claims to a monopoly on trade in the East and West Indies, the Dutch East India Company hired the jurist Hugo Grotius to argue for its right to trade.<sup>17</sup> The result, Grotius's highly influential *Mare Liberum* or Freedom of the Seas, divided the seas into territorial waters, a narrow stretch over which the coastal state had jurisdiction, and the high seas. There existed no jurisdiction in the latter except that of a nation over a ship carrying its flag. This had the effect of limiting a state's jurisdiction over seas near its coast but also strengthened sovereignty over ships so that they became 'islands of territoriality' on the high seas.<sup>18</sup> Alongside this oceanic ordering, piracy was being more sharply defined and prohibited. Piracy was initially deployed as a tactic by British and Dutch shipping to break into the lucrative Atlantic trade, but by the late seventeenth century it became clear that freelance pirates were hard to control and often went on to raid the shipping of the states which had initially sponsored them. Private maritime raiding was thus increasingly proscribed by European inter-state treaties.<sup>19</sup> By the nineteenth century the pirate was regarded as 'the enemy of all' and Europeans had an expectation that private attacks on commercial shipping within a state's territorial waters would be dealt with by that state.



Conceptions of piracy in China had their own distinct trajectory resulting in Qing officials ignoring British requests for support in dealing with maritime raiding in the China seas. The closest Chinese equivalent terms, sea-robber (洋盜 yangdao or 海盜 haidao) or sea-rebel (海匪 haifei), have been used to describe a wide range of phenomena in Chinese history, not all of which would be associated with the English term 'pirate'.<sup>20</sup> Chinese merchants who collaborated with Japanese raiders to violate the prohibitions on maritime trade (海禁 haijin) first issued by the Ming dynasty's founder, the Hongwu emperor (reigned 1368-1398) were seen as sea robbers.<sup>21</sup> Similarly, Zheng Chenggong, who led the final Ming resistance to the Qing conquest of China from his base on Taiwan, was regarded as a pirate.<sup>22</sup> Likewise maritime raiders in the pay of the Vietnamese Tây Sơn dynasty who attacked Chinese shipping at the turn of the nineteenth century were also pirates.<sup>23</sup> Chinese haidao were thus at least as much political as commercial actors.

Terms related to piracy in fact broadly described two distinct phenomena. The first was small-scale maritime raiding linked to the human geography of the China coast. On China's southern frontier, sedentary agricultural communities faded into those of maritime nomads.<sup>24</sup> Parts of the littoral population were marginalised from mainland society, especially the Dan (蛋), a boat-dwelling community who were only granted the right to live on shore by the Yongzheng emperor in 1729.<sup>25</sup> This new tolerance did not stop agriculturalists dismissively referring to them as 'water dwellers' (Shuishang ren, 水上人), and circulating popular myths about their webbed feet and ability to breath under water.<sup>26</sup> One contemporary gazetteer noted that piracy peaked in Guangdong and Fujian between April and July, when food prices were also at their highest.<sup>27</sup> Dislocated from society and faced with a subsistence existence, it is unsurprising that fishermen took up arms rather than nets when fish were scarce. The second category of maritime attacks identified as piracy was that of large-scale organised bands whose chiefs were perceived to have rebellious intent.<sup>28</sup> Qing officials explicitly distinguished between the two categories, arguing with their British counterparts that only the latter required a serious remedy.<sup>29</sup>

The decentralised structure of the Qing navy also created disincentives for a coordinated Qing response, let alone collaboration with the British. The governor general, provincial governor and provincial commander-in-chief of a jurisdiction such as Guangdong, the province adjacent to Hong Kong, all commanded separate naval forces. This was a deliberate strategy to prevent too much military power being held by too few officials.<sup>30</sup> In practice this structure divided responsibility for patrolling the seas into several overlapping territorial areas. This led to confusion and often a failure to patrol some stretches of the coast at all. As Robert Hart, the Inspector General of the Qing Imperials Maritime Customs Service from 1863, cynically observed of the similarly divided responsibility of Qing land forces during the Taiping war, this system actively encouraged officials not to pursue rebels beyond their jurisdictional boundaries. If an official managed to restore order in his jurisdiction this reflected well on him, but if he did so when a colleague in a neighbouring jurisdiction could not, even if the disorderly elements had simply crossed a jurisdictional boundary rather than been defeated outright, it reflected even better.<sup>31</sup> The Daoguang emperor recognised this, complaining throughout the 1840s that his naval forces failed to act as 'one body' (一体 *yi ti*) to suppress raids on shipping.<sup>32</sup> The priorities of local officials could thus be quite distinct from those of the court in distant Beijing.

Both small and large scale maritime raiding were in fact prohibited by Qing law and so the differing responses to them should be understood from an institutional rather than a legal standpoint. Qing law regarded a pirate as someone who conducted raids in rivers or on the ocean and piracy was regarded as a crime in that it involved a variety of offences such as murder, kidnap and extortion.<sup>33</sup> Qing officials could get away with not enforcing these regulations, despite imperial complaints, because piracy suppression remained only one among a number of competing priorities. Piracy was therefor often ignored until it was of such a degree that the emperor himself insisted that it should be dealt with. Qing emperors ordered officials to suppress piracy but were also liable to restrict the funds available to achieve this when faced with more pressing concerns on land, as was the case when the Jiaqing emperor (1796-1820) was faced with the White Lotus rebellion.<sup>34</sup> While

according to the letter of Qing law piracy ought to be suppressed, pragmatically it was one responsibility among many. Indeed, in the 1840s Davis himself noted that the Guangdong authorities were too distracted by uprisings and banditry on land to turn their attention to the sea.<sup>35</sup>

### **The Jurisdiction of Hong Kong**

The second factor preventing Sino-foreign collaboration against maritime raiding was the division of sovereignty in Chinese waters created by the cession of Hong Kong to Britain in 1842. This led to legal disputes between the colony's officials and local Qing representatives, but also to disagreements between the colony and the metropolitan government. Hong Kong's numerous bays and inlets hidden by outlying islands meant that it had served as a convenient base for maritime raiders since at least since the Yuan dynasty (1271-1368).<sup>40</sup> This was made worse by the spike in piracy driven by the post-Opium War downturn in trade at Canton. The island's second governor, John Francis Davis, complained that while poorly equipped Chinese maritime raiders did not threaten heavily armed British boats, they deterred small, vulnerable, Chinese vessels from visiting Hong Kong and thus hampered trade.<sup>41</sup> Hong Kong's initiatives to deal with this problem caused as many disputes between the island's administration and the metropolitan government as they did with Qing officials.

Disagreements between British officials and the local Qing administration exacerbated the problem of maritime raiding. Qing officials had assumed that the island would follow the template set by Portuguese Macao, whereby they would retain sovereignty over Chinese subjects in the territory. The British rigorously resisted such moves and the Crown's law officers insisted that the Chinese of Hong Kong were British subjects.<sup>42</sup> In practice a new legal jurisdiction less than a mile from the Chinese mainland provided a convenient escape route for criminals intent on avoiding punishment at the hands of the Qing state. It did not help that the British had very little knowledge of their new

Chinese subjects. One former maritime raider, Loo Aqoi, provisioned British forces during the opium war and was rewarded with a large tract of land on the island. The editor of the *Friend of China* later speculated that men such as Loo using Hong Kong as a base kept more respectable traders away.<sup>43</sup> A British naval captain noted that the second in command of Shap Ng-tsai's pirate fleet, Chui Apoo, had also previously been living in Hong Kong and working as a barber 'with a view to gaining good information and eventually cutting throats in a more congenial manner'.<sup>44</sup>

This ignorance left British administrators reliant on problematic intermediaries such as Daniel Caldwell, who served as Registrar General and Protector of Chinese Inhabitants in the 1850s. Caldwell relied on and probably colluded with a series of problematic informants. In 1847, a group of Chinese convicted of raids on the ships of two British opium firms in Chinmo Bay had to be pardoned when it was revealed that Caldwell's informant, Too-Apo, used the threat of malicious prosecutions to blackmail members of the Chinese community.<sup>45</sup> Similarly, in 1857 another of Caldwell's informants, Wong Ma-chow, who had reported widely on the piracy of his competitors, was found to have been selling goods obtained in pirate raids in his Hong Kong shop. Closer inspection of his books revealed that he was not only a trafficker of stolen goods but had also financed the raid in the first place. After a two-year enquiry, the colonial government determined that Caldwell's dubious connections rendered him unfit for public service. Yet such was the need for intermediaries to work with the Chinese community that Caldwell was back working for the Hong Kong secret police by 1866.

This led the Hong Kong administration to propose its own suppression measures as piracy escalated in the mid-1840s. Davis proposed the creation of an auxiliary force of Chinese-manned cruisers, captained by British officers.<sup>54</sup> The expenses of the force would be met by the merchants themselves with a contribution from the Hong Kong government. This solution was appealing not only because of the agreement by Chinese merchants to offset some of the cost but also because

local knowledge was needed to help British captains identify pirates. Commander Loring of the *Scout*, for example, was rebuked for seizing a ship packed with Chinese 'pirates' who turned out only to be travelling to visit their families for the new year festivities.<sup>55</sup> The colonial government approved the measure after particularly enthusiastic support from the Admiralty, relieved that Royal Navy ships would no longer be exclusively responsible for piracy suppression.<sup>56</sup>

Given all of these limitations on Sino-British collaboration against maritime raiding, it is noteworthy that the Hong Kong colonial government, the key driver of suppression efforts, was often stopped in its tracks by the British metropolitan government disputing its jurisdiction. The government used law to rein in a potentially wayward colony, and one in which it was difficult to see much profit. On receiving a report on the colonial cruiser plan, one cabinet member commented that 'this seems a dangerous power to confer on a colonial authority'.<sup>57</sup> To their relief the plan collapsed when the promised Chinese investment failed to emerge.<sup>58</sup> The government in London ordered the governor of Hong Kong to treat the scheme as an experiment and for it to be discontinued once initial funding lapsed. Far from being concerned with piracy, officials were worried about providing distant colonial administrations over which they had little control with the means to make war without consulting London. After the war the government was also uncertain about whether Hong Kong was worth any investment. In 1844 the colonial treasurer, Robert Montgomery Martin, declared that attempts to sustain or promote Hong Kong's development were 'a waste of the treasuries and energies of England'.<sup>59</sup> The colony's problems were not confined to piracy. The island was also an extremely unsanitary environment: a quarter of the British garrison in Hong Kong died of Malaria in 1843 alone and a leading British trader admitted that had his firm not invested so heavily in Hong Kong they would have already abandoned the island.<sup>61</sup> It was not until the Taiping rebellion drove a mass emigration from the Chinese mainland that the colony's population began to grow exponentially, rescuing it from economic malaise.<sup>63</sup>

A similar reluctance to invest in Hong Kong and to restrict the colony's powers is illustrated by the fate of Davis's next scheme, the Ordinance for the Suppression of Piracy of 1847. The ordinance declared the presence of fire pots on board ships as evidence of piracy, banned the carrying of other weapons without a license and permitted the searching of foreign ships.<sup>64</sup> The colonial office immediately referred the ordinance to the law officers of the crown who deemed it unlawful. The ruling proclaimed that the right to board foreign ships or to define what constituted piracy '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'.<sup>65</sup> By 1848, British naval officers had been instructed that no major operations were to take place against pirates without the consent of local officials.<sup>66</sup> The legal basis for this decision was that the government of Hong Kong was defined by an act of parliament and that nowhere in that act was it given the power to determine what constituted piracy. The principle at stake for the government in London was that 'a colonial legislature can make laws binding only within the limits of the colony excepting so far as parliament may have explicitly enlarged the range of its authority.'<sup>67</sup> Pirates were international actors, and it was for the government, and then only in collaboration with other governments, to define piracy and the appropriate action against it.

The response of Hong Kong merchants to such judgements suggests a deep-seated resentment at state interference in the trade of the colony. The island's third governor, George Bonham questioned the legality of another scheme, in which private foreign vessels were employed convoying Chinese ships to and from Hong Kong. His antipathy towards convoying was caused by the work it created for him, not least when convoy ships, having been paid, themselves turned pirate to double the rewards for their mission.<sup>68</sup> The merchant friendly *Overland Friend of China*, however, was apoplectic.<sup>69</sup> An editorial declared that 'murderers [were] allowed to desolate the shores of China because the British plenipotentiary had doubts about whether it was lawful for Englishmen to prevent them'.<sup>70</sup> This scheme was approved by Lord Palmerston, because as a private arrangement,

while it created problems for Chinese officials dealing with compensation claims when agreements broke down, it did not raise questions about the extent of Britain's sovereignty or that of the Hong Kong state.<sup>71</sup> Attempts at legal ordering in the China seas were thus as much attempts to resolve conflicts between colonial boosters and the metropolitan government as they were to force that maritime order on the reluctant Qing. In this climate, it was only when both Qing and British agents had mutual incentives that joint action against piracy could emerge. Such was the case with the fleet of Shap Ng-tsai which both attacked British shipping and proved threatening to the emperor himself.

### **The Sinking of Shap Ng-tsai**

After the Hong Kong state's experiments aimed at ending maritime raiding in the China seas were thrown out by the metropolitan government's law officers, naval captains were instructed that no major operations against suspected pirates were to take place without Qing cooperation.<sup>72</sup> Despite these orders, by the end of 1849 a Royal Navy captain had wiped out the entire fleet of the Chinese maritime raider Shap Ng-tsai with the assistance of junior Qing officials but without the consent, or indeed knowledge, of the central Qing government. This case is worthy of attention for three reasons. Firstly, it illustrates the types of maritime activity that Qing and British government officials saw as in their interest to suppress in the 1840s. It was not until the structure of the Qing state changed after 1860 that a mutually agreed Sino-British definition of piracy could be reached based on shared interest in its suppression. Secondly, the case highlights the costs incurred to the Royal Navy in acting alone to deal with pirates and contributed to a revision of British anti-piracy laws. Not only did the British state not want to confer on a colonial government the power to suppress pirates, but it was also loath to meet the costs through admiralty funds. Finally, the case is significant because it was directly responsible for piracy suppression clauses being written into the Treaty of Tianjin which concluded the Second Opium or *Arrow* War (1856-60). Attempts to make

international law by treaty, however, would prove futile. Instead, the reconfiguration of the Qing state created a shared interest in enforcing a British conception of piracy which ultimately reduced maritime raiding in the China seas.

The operation against Shap was not a small affair, not least because unlike petty maritime raiders, he attacked British shipping. John Hay, the British naval commander responsible for the destruction of Shap's fleet, chased him to Bias Bay (大亚湾 *Dayawan*), an inlet on the Chinese coast to the east of Hong Kong, in 1846.<sup>73</sup> Hay was prevented, by his orders, from pursuing him any further. By 1847, the British consul at Xiamen, further up the coast, complained that there was 'A floating population of criminals and murderers, between [Xiamen] and the river Min'.<sup>74</sup> By 1849 the local Qing circuit intendants at Fuzhou and Xiamen were cooperating with British naval officers to suppress this band. The navy had even arranged an inter-change of signals with Qing war junks to notify each other of the presence of pirates.<sup>75</sup> Faced with this coordinated response, Chui Apoo, Shap's second in command, moved his fleet down to Bias Bay to join the main squadron.<sup>76</sup> It was pursued from there by British naval vessels as a result of accusations of Shap's fleet's involvement in the murder of British citizens and the theft of British ships in early 1849. Between 28 September and 3 October Chui's fleet of 23 ships, consisting of 1,800 men, was completely destroyed.<sup>77</sup> While most of the pirates were killed or driven off, Chui himself was eventually captured in Chinese territory and was extradited and tried, as a resident of the colony, in the Hong Kong court.<sup>78</sup> He was sentenced to transportation for life but committed suicide in prison.<sup>79</sup> Shap's fleet was pursued past Hainan Island to Haiphong on the Vietnamese coast where, between 20 and 22 October 1849, 58 vessels were destroyed while only six, including that of Shap, escaped.<sup>80</sup> In the assault Hay calculated that about 1,700 men were killed with a further 1,450 either killed, or captured and left in the custody of Vietnamese officials, as they escaped on shore.<sup>81</sup>



Qing officials collaborated with the British because of a growing sense at the imperial court that maritime raiding in the China seas had escalated to threatening levels. The Daoguang emperor periodically commented on piracy across the 1840s, but the frequency and length of edicts on the topic increased dramatically in 1848. His principal concern was that large bands of 'sea robbers' would interfere with the annual departure of the grain junks from Guangdong along the coast to Beijing.<sup>82</sup> The grain transport system was vital to the capital's food security meaning it was both exceptionally well defended and that attacks on it were akin to rebellion. This transport system was already under strain, with reserves in the capital's granaries falling from an average of 6-10 million *shi* (石) during the Qianlong reign (1735-96) to under 3 million in the Daoguang period.<sup>83</sup> The Grand Canal was built and maintained specifically with the aim of facilitating the safe transport of grain, but failures in the system in the mid-1820s led to grain being transported along the sea coast.<sup>84</sup> Officials planning the new system pointed out that the uninhabited islands off the north and east coasts of Shandong might prove a haven for pirates and undermine the scheme.<sup>85</sup> The emperor's edicts in the late 1840s referencing Guangdong suggest that he felt the system was just as threatened by instability on the South China coast. The emperor also warned his officials that 'sea robbers' that were audacious enough to threaten the grain transport junks, the embodiment of imperial authority at sea, relied on land-based networks which might later prove equally threatening.<sup>86</sup>

The emperor's growing concern manifested itself in increasingly detailed instructions to his subordinates and in threats to those who did not follow them, giving local officials strong incentives to suppress large-scale piracy. In May 1848, aware of the difficulties created by the fragmented Qing navy, he ordered officials in Jiangsu to inspect each other's naval forces to ensure they existed in reality and not just on paper. He also dictated precise changes to the pattern of piracy patrols so that specific fleets were responsible for policing both the inner and outer seas adjacent to the province throughout the year.<sup>87</sup> In addition, he repeatedly chastised his officials, reminding them of their responsibility to keep the peace. When informed that merchants had been coordinating to

fund their own anti-piracy suppression units he pointedly remarked that 'governors and governor-generals are personally chosen by me, they receive the state's grace and favour. [They] ought to contemplate the suppression of violence, the reassuring of the people and the pacification of the ocean frontier'.<sup>88</sup> It was the job of his officials and not of merchants to organise the suppression of piracy.

This pressure was felt by the Qing bureaucracy in Guangdong where Shap's fleet was operating in mid-1849 and explains the willingness of local Qing officials to collaborate with the British operation against him. Xu Guangjin, governor-general of Guangdong and Guangxi, informed the emperor in the summer of 1848 that he was ordering his officials along the coast to continue operations against pirates.<sup>89</sup> Bonham, however, complained that Xu had made no attempt to stop Shap's fleet.<sup>90</sup> Even if Xu himself appears to have been uncooperative, the pressure placed on him by the emperor, which he in turn placed on his subordinates, gave them an incentive to cooperate with the British.<sup>91</sup> Those who failed to suppress piracy risked being removed from their post, as was the fate of two officials in Dinghai prefecture, Zhejiang province.<sup>92</sup> Pragmatic lower-level officials were used to adopting a repertoire of responses to crises which, even when unorthodox, were overlooked by their superiors if they proved effective for the task in hand. British naval officials established cooperation with the local authorities in Fujian causing Shap to move his fleet to the seas near Hainan Island. There Hay secured the cooperation of He, the leading official on the island, who volunteered men to act as guides to known piratical haunts.<sup>93</sup> Local officials collaborated with British ships when Shap's fleet crossed their jurisdiction because Shap, as leader of a large band of pirates, represented a threat to the established order in ways that the petty piracy of the earlier 1840s had not.

This form of collaboration was not seen as sustainable by officials in London or China. While Commander Hay cashed in on his experiences by publishing his account of the episode, London was less enthusiastic. The bounties due to sailors involved, in the form of head money, amounted to

£42,425, meaning the cost of the expedition far outweighed any benefit or indeed the risks involved.<sup>94</sup> An expedition in which more than 3,000 pirates were killed or captured without the loss of one British life was clearly a one-sided affair and as such was termed a 'military execution' rather than a naval battle by the Earl of Ellenborough.<sup>95</sup> The cost appalled London, and added fuel to the emerging scandal of the expensive Royal Navy support for James Brooke's piracy operations in Borneo. As a result, the 1825 legislation mandating prize bounties was repealed and replaced by less generous reimbursement at the admiralty's discretion the following year. Shap himself was later co-opted into Qing officialdom in order to help the bureaucracy identify and capture other pirates.<sup>96</sup> The perception that the Qing response to piracy was inadequate led to Qing accountability for dealing with maritime raiding being added to a list of demands from British stakeholders in China when talks of treaty renewal began. Creating international law through treaty would, however, prove to be insufficient. It was only after the Taiping war, when piracy peaked again, that the problem was finally dealt with on a more permanent basis.

### **Redefining the Pirate**

The problem of maritime raiding on the China coast did not end with the sinking of Shap's fleet in the Gulf of Tonkin. The outbreak of the Taiping civil war in Guangxi province two years later added to the disorder and poverty of the already diminished southern provinces and drove sections of the population to maritime crime. By 1854, Thomas Wade, a British interpreter, reported that the Chinese were using foreign steamers to return to the mainland for the new year celebrations as the waters surrounding Hong Kong had again become impassable for Chinese ships.<sup>97</sup> The outbreak of the war made it obvious to British officials that putting pressure on the Qing to step up piracy suppression was futile. By March 1853, when the Taiping captured Nanjing, it was clear to them that the dynasty was facing the most serious threat to its survival since its foundation and that piracy suppression was the least of its worries. When another war broke out between Britain and China in

1856, however, the resulting peace treaty mandated cooperation in the suppression of piracy. Ultimately, treaties could only go so far. The final resolution of the piracy problem relied on the strengthening of the sovereignty of both the Qing and Hong Kong colonial states and on reaching a shared definition of the 'pirate' as a maritime actor. The solution also had to be international in character, encompassing all of the states whose vessels plied the China seas.

British officials were initially reticent to push treaty change, aware that with the Taiping war still underway, the dynasty had more pressing concerns. The issue was forced when Qing officials seized the *Arrow*, a Chinese lorcha, on suspicion of smuggling, while it was allegedly flying a British flag.<sup>98</sup> The *Arrow* had joined a convoy of British ships, formed in January of that year, to protect Chinese shipping sailing from Hong Kong to Canton from pirates. As such it was permitted to fly British colours, though by the time of its seizure its registration had lapsed.<sup>99</sup> As George Bonham had predicted in the 1840s, even the legal convoy system carried with it the risks of causing controversies in Anglo-Qing relations. The war continued on and off for four years but the role of the piracy crisis in triggering it ensured that the issue was covered by the Treaty of Tianjin, agreed in 1858, but finally ratified by the Convention of Beijing in 1860. The treaty contained four clauses relating to piracy. Clauses 18 and 19 mandated the Chinese authorities to make every effort to capture pirates and restore stolen property to British subjects and British merchant vessels respectively. Clause 52 gave British ships of war permission to visit any Chinese port when in pursuit of pirates and ordered Qing officials at those ports to cooperate with them by providing repairs and provisions. Finally, clause 53 stated that in view of the injury piracy caused to foreign and Chinese commerce, the two governments would agree to discuss measures for its suppression.<sup>100</sup>

Mandating the suppression of piracy by treaty was, however, very different from enforcing actual collaboration and a reform of Qing practices. In 1864 the Commander of the Royal Navy's China station was still stressing to his subordinates the need to draw 'a proper distinction between those

acts of violence properly termed piracy, and those robberies on or near the coasts of China, which should be controlled by the Chinese police and not by her majesty's ships'.<sup>101</sup> The distinction was not one between piracy and non-piracy but an attempt to restrict the actions of British captains to the types of piracy they could be responsible for under international law. By 1866, six years after the Treaty of Tianjin was ratified, the British minister in China, Rutherford Alcock, was still being urged to impress upon the Qing government the need to enforce its anti-piracy clauses.<sup>102</sup> Yet by 1869 a Chinese steam fleet had been constructed and the Chinese authorities in Guangdong were collaborating with the Hong Kong government to put down all forms of maritime raiding.

Steamships were an effective weapon in the suppression of piracy for two reasons. Firstly, they did not have to rely on wind and so could catch up with small pirate boats even when the air was still.<sup>103</sup> Secondly, unlike deep-draught pre-steam vessels, they could chase pirates into shallow waters leaving them with no refuge from pursuit.<sup>104</sup>

The transformation in the Qing response to piracy and the purchase of the new steamships should be understood in the context of changes in the structure of the imperial state in the intervening years. The most significant change in the Qing state in terms of its classification of piracy came not from the brutal fourteen-year Taiping civil war (1850-64), the bloodiest in recorded history, but from the response at Shanghai to the far smaller Small Sword Uprising (1853-55). When the rebels, a collection of dislocated Fujianese and Cantonese boatmen driven to rebellion by unemployment, captured the city, they destroyed the Qing customs house.<sup>105</sup> This placed the foreign community in Shanghai in a difficult position because if merchants failed to pay import taxes they would be in breach of the very treaties that guaranteed their presence in China. As a result, an agreement was reached to establish a foreign-run customs house with the duties collected to be held in trust until the Qing recaptured the city.<sup>106</sup> The system was maintained throughout the Taiping war and was expanded to other ports during the negotiation of the Tianjin treaty. At this point the customs was also officially made a distinct department within the Qing bureaucracy while still being foreign-run.<sup>107</sup> The new service radically altered the Qing tax base. In 1849, the Qing administration secured

just 23% of its total revenue from levies on commerce and trade, in comparison to 77% of its income from agricultural and land taxes. By 1885, 51% of income came from duties on commerce, compared to 40% from traditional land taxes.<sup>108</sup> This strengthened the link between trade and Qing revenue and encouraged a revision of what constituted piracy.

The newly established customs service was concerned with maritime raiding because of its potential to enable smuggling and its dampening effect on trade, and hence customs revenue. This was a view shared by foreign customs staff and by Chinese officials not linked to the service. The first foreign inspector general, Horatio Nelson Lay, attempted to establish a steam flotilla for the customs but his plan ended in ignominy in November 1863 when the Qing government refused to allow him sole command of the fleet.<sup>109</sup> Ministers in the Zongli Yamen, the office established to handle foreign affairs in 1861, complained that this incident had brought disgrace on them.<sup>110</sup> Nevertheless, officials continued to express the need to deal with piracy. As the fate of Lay's flotilla was being negotiated even its critics, such as Zuo Zongquan, then overseeing military operations against the Taiping, insisted on the need for steam ships to patrol against pirates because of the harm they caused to merchant shipping.<sup>112</sup> Robert Hart, who replaced Lay as inspector general, also listed an anti-piracy flotilla as one of his chief priorities for the new service.<sup>113</sup> Between 1842 and the mid-1860s Qing conceptions of piracy and responses to it had shifted in line with those of Britain. This was not just because a British subject headed the new customs service, but because independently-minded officials such as Zuo saw this as a priority.

The changing response to piracy was also partly a result of the broader restructuring of the Qing state in the 1860s. The establishment of the Zongli Yamen itself broadened the central government's information networks.<sup>114</sup> In the 1840s the government relied on local officials for information about the demands foreign representatives were making of the government. The numerous complaints about piracy made to the Qing imperial commissioners Qiying and Xu Guangjin

by British officials do not ever appear to have been passed on to the throne. Certainly, they do not appear in the collected documents on the management of foreign affairs, compiled from the 1850s but including documents from 1820 onwards, which were designed to act as a reference work on historical diplomatic difficulties.<sup>115</sup> The Zongli Yamen, however, created a central government institution at which foreign diplomats, now resident in Beijing as one of the terms of the Tianjin treaty, could directly lodge complaints. As a result, complaints about piracy, however small, were much harder to conceal from the emperor.

The reduction in maritime predations on Chinese shipping did not just rest on a shared Anglo-Qing definition of piracy and the Qing adoption of a maritime police force. As Rutherford Alcock, the British minister in China from 1866, noted, Hong Kong itself remained a 'foul nest of piracys [sic]' and he felt that dealing with this should be Britain's priority before pressing the Qing or 'we do not come clean handed into court'.<sup>116</sup> In 1864 Admiral Kuper, then Commander of the China Station, had made a similar complaint. He cited the case of the British brig *Louisa*, which he suggested had been plundered and burnt by ships which had been fitted out for piracy in Hong Kong and which had probably followed her out of the harbour.<sup>117</sup> In response to such cases the governor of Hong Kong, Richard Macdonnell, passed a new anti-piracy ordinance in 1866 which established a high court to try piracy cases and made the fitting out of piratical vessels in the colony a serious offence with high-level punishments.<sup>118</sup> A subsequent ordinance issued in August of the same year required all sea-going Chinese craft to report their arrival and departure. This not only gave the colonial state knowledge of the types of vessels visiting its harbours but also deterred pirate vessels from coming to Hong Kong to buy their arms as they had done previously.<sup>119</sup> All of these reforms were carefully limited to what was in the purview of the colonial state and as such, unlike previous efforts, were not overturned by the crown's law officers. The Qing governor general at Canton, impressed by the effects of the registration scheme in Hong Kong, published his own regulations mandating the registering of all junks visiting the Chinese coast in April 1869.<sup>120</sup>

In addition to registration measures, the Hong Kong administration made efforts to bolster the policing of the seas within its jurisdiction. In 1845, a water police force was established under the guidance of a former London Metropolitan Police captain superintendent, Charles May.<sup>121</sup> The force was initially limited to two row boats, each staffed by an officer and five constables, which patrolled the harbour during the hours of curfew from 9pm to 6am. This merely had the effect of encouraging maritime raids in the early evening, under cover of darkness but before the patrols began.<sup>122</sup> Eventually 24 hour patrols were introduced and in the 1870s the force's rowboats were replaced by steam launches which were faster and therefore more likely to catch escaping pirates.<sup>123</sup> At the turn of the twentieth century, the colony's government supplemented these measures with an ordinance requiring private steam launches to carry private guards to prevent piracy by covertly armed passengers.<sup>124</sup>

A shared Anglo-Qing conception of piracy together with the strengthening of controls by the Hong Kong government were not enough to suppress piracy. British officials also sought a prohibition on private merchant vessels carrying weapons which would make pirate ships easier to identify as no non-state vessel would have a legitimate reason to be armed. This measure, however, would require state patrols against pirates on the high seas to defend the now defenceless merchant ships. Officials in the admiralty quickly realised that even if the navy instigated such patrols they would be 'looked upon with certain jealousy and distrust by other maritime powers'.<sup>125</sup> The British could not unilaterally insist on disarmament and searching ships without upsetting other maritime trading powers who might take such searches as an insult to their flag. The ultimate solution to reducing piracy was thus a multi-national one, involving a number of foreign powers as well as the Qing. In early 1866 the Admiralty recommended that one or more British, French, Russian and US vessels be employed in piracy suppression on the high seas to provide protection to now disarmed merchant vessels.<sup>126</sup> The foreign office was concerned that other nations might refuse to support the initiative



on the grounds that British trade represented almost 90% of the total value of trade with China, but the proposal met with no resistance from other powers: by March the United States, France, Holland, Prussia, Russia, Spain, Austria Italy and Denmark had all signed up to the scheme.<sup>127</sup>

The effectiveness of these measures was a result of their ability to overcome the jurisdictional disputes which had beset previous efforts. The 1869 joint patrol by the *An-lan* and the *Sui-tsing*, two Chinese-owned and foreign-captained steam vessels, and the British gunboat *HMS Bouncer* highlights the effectiveness of this policy. As the patrol had Chinese as well as foreign participants it was able not only to capture twenty pirate junks, but also to attack pirate bases on land such that their activity would, in the words of one Hong Kong newspaper 'check piracy in the visited ports for some time'.<sup>128</sup> In the same year a French vessel, the *Algerine*, although not working directly with the new Chinese fleet, took on a Chinese officer in its cruise after pirates. This official was able to command attacks be made against pirates on land that the French captain, on his own, for fear of overstepping jurisdictional authority, may have been reluctant to pursue.<sup>129</sup>

The reduction in maritime raiding was not entirely even. Initially, until the Chinese steam fleet acted against it, Macau replaced Hong Kong as a venue for fitting out ships for piracy.<sup>130</sup> Yet in general piracy was greatly reduced. An 1877 British trade report remarked that Hainan island, thanks to the Chinese steam fleet, now enjoyed comparative freedom from piracy.<sup>131</sup> Similarly, an 1879 trade report from Xiamen argued that the Chinese government no longer had grounds for objecting to the export of iron because the coast was no longer plagued by pirates.<sup>132</sup> The piracies which did take place were often opportunistic. In 1881, the German steamer the *Quinta* was raided by pirates but only after she had been beached on a shoal and rendered defenceless.<sup>133</sup> Of course, some enterprising individuals made use of the new state apparatus as a means of pursuing piracy. In May 1892, a man dressed as a Chinese customs official boarded a boat on the pretence of inspecting it before allowing his colleagues to ransack the vessel and strip it of its possessions.<sup>134</sup> Aside from such resourceful raids, however, after the 1860s contemporaries perceived piracy to be greatly

reduced in Hong Kong and the vicinity of the treaty ports, if not necessarily in inland waters, and it remained so until the Chinese state fragmented after the fall of the Qing.

## Conclusion

Between the 1840s and the 1860s the Qing response to maritime raiding was transformed. In the 1840s, petty piracy was largely ignored by officials who had other concerns, particularly in Guangdong where an economic downturn was leading to increasing unrest on land. The collaboration against Shap Ng-tsai was motivated by pressure from the emperor, causing local officials to temporarily reassess their priorities. Qing responses to maritime raiding changed, and came to mirror those of Britain, only after the Taiping Civil War profoundly reshaped the empire's bureaucracy. While British pressure played a role in driving this change, the Qing state's power to control events in the China sea was stronger by 1869 in the sense that the central court could use its institutions to enforce its will. Similarly, the Hong Kong colonial state was weaker than it might have been had the British metropolitan government not restricted its ambitious piracy suppression initiatives. The period was thus one which saw the remapping of *de facto* and *de jure* power at sea.

The reduction in maritime raiding in the China seas suggests a revision of our understanding of the role of international law in China. Alongside the 'standard of civilization' which gradually excluded China from the norms of international law there remained a naturalist vision of certain sovereign rights pertaining to all states, including the right to inviolable territorial waters. British observers upheld these principles in China either because they believed them to apply or because it suited specific agendas. In the case of piracy, the British government's insistence on Chinese rights in Chinese seas reduced their own expenses and commitments, as well as the potential for trouble being stirred up by a more powerful Hong Kong. This highlights two features of international law. Firstly, not all of the actors applying it automatically assumed that China was exempt from its

principles despite the degree to which Chinese laws had been orientalised by the post-opium war period. Secondly, international law was not seen to be complete, admitting of either exclusion or inclusion. This feature gave those involved in legal arguments at least the opportunity of both excluding a state from legal principles accepted elsewhere and including them when it suited them to do so, rendering international law a more effective tool of empire. In the late nineteenth-century the jurist John Westlake set this principle out explicitly arguing that 'our international society exercises the right of admitting outside states to part of its international law without necessarily admitting them to the whole of it'.<sup>135</sup>

The changing responses to maritime raiding in the China seas also suggest a reworking of our understanding of the reduction in maritime depredation globally. The reduction in private violence at sea was not a product of the spread of a western conception of sovereignty which left no space for the pirate. Scholars have recently suggested that Britain's role in the process of ordering the oceans in the nineteenth century was marked by a lack of broad based principles and instead centred on regional compromises.<sup>136</sup> This was the case in China because of the need to order the waters surrounding Hong Kong without incurring the cost of patrolling the entire China coast or allowing the colony to over-extend its powers. The Qing government and its agents did not adopt wholesale a European conception of sovereignty which was antithetical to maritime raiding. Instead, by the late 1860s the British and other maritime powers found the Qing ready to eliminate maritime raiders for the instrumental reason that they harmed trade and thus the central government's newly revitalised customs revenue.

After 1869, maritime raiding on the China coast remained subdued, compared with the 1840s and 1850s, until the collapse of the Qing dynasty in 1911. The 1920s saw a rise in the number of pirate attacks, including a number of assaults on British shipping.<sup>137</sup> After Chiang Kaishek's nationalist regime took control of Nanjing in 1927 it saw the ability to police its own waters as a cornerstone of

its campaign to win full sovereignty for the new China by ending foreign extraterritorial privileges in the country.<sup>138</sup> In the late-Qing piracy was dealt with when it threatened state interests, such as grain transport ships and tax revenues. By the late 1920s however, piracy suppression was taken seriously because it represented a threat to a new kind of sovereignty which China's leaders regarded as important: that of a nation state over its territory, including foreign citizens residing within it, and over the waters along its coastline. While these efforts were not always successful, as continuing British alarm over piracy cases in the 1930s suggests, they were motivated by a desire for sovereign equality within the nation state system.<sup>139</sup> This desire did not drive the piracy suppression campaigns orchestrated by late Qing officials.

### **Endnotes**

<sup>1</sup> Cochrane to Davis, 25 Jan. 1845, [Kew, United Kingdom National Archives, Public Record Office], C[olonial] O[ffice Records] 129/14.

<sup>3</sup> Samuel Taylor Coleridge, *Table Talk*, (London: Routledge, 1884), p.132, cited in Charles E. Davies, *The Blood-Red Arab Flag: An Investigation into Qasimi Piracy 1797-1820*, (Exeter: University of Exeter Press, 1997), p.67.

<sup>4</sup> For a description of the Canton system see Paul Arthur Van Dyke, *The Canton Trade: Life and Enterprise on the China Coast, 1700-1845*, (Hong Kong: Hong Kong University Press, 2007), pp.1-10.

<sup>5</sup> Davies, *The Blood-Red Arab Flag*, pp.272-3.

<sup>6</sup> Nicholas Tarling, *Piracy and Politics in the Malay World: A Study of British Imperialism in Nineteenth-Century South-East Asia*, ([Melbourne]: F. W. Cheshire Melbourne Canberra Sydney, 1963), pp.19-20.

<sup>7</sup> Alex Middleton, 'Rajah Brooke and the Victorians', *The Historical Journal* 53, no. 2 (2010), pp.390-1.

<sup>8</sup> This study explores in detail the diplomatic negotiations to resolve piracy in the 1860s, see Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869*, (London: Kegan Paul, 1940), pp.149-84.

<sup>9</sup> This term is borrowed from Robert Antony Robert J. Antony, 'Introduction: The Shadowy World of the Greater China Seas' in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), p.7.

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<sup>10</sup> Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*, (Princeton: Princeton University Press, 1994), pp.4-5.

<sup>11</sup> For John Francis Davis's tenure in Hong Kong and his perceived mission to reform the Chinese see Will Peyton, 'John Francis Davis as Governor and Diplomat on the China Coast (1844–1848)', *The International History Review* (2017).

<sup>12</sup> Lauren A. Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850*, (Cambridge, Massachusetts: Harvard University Press, 2016), p.4.

<sup>13</sup> For example, see Li Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice, & Transcultural Politics*, (New York: Columbia University Press, 2016); Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China*, (Cambridge: Cambridge University Press, 2010) and Teemu Ruskola, *Legal Orientalism: China, the United States, and Modern Law*, (Cambridge, Mass: Harvard University Press, 2013) and Gerrit W. Gong, *The Standard of "Civilization" in International Society*, (Oxford: Clarendon Press, 1984).

<sup>14</sup> Howland, Douglas, *International Law and Japanese Sovereignty: The Emerging Global Order in the 19<sup>th</sup> Century* (New York: Palgrave Macmillan, 2016), p.8. Martti Koskenniemi has suggested that those at the forefront of international legal scholarship in the late nineteenth century were themselves both positivist and naturalist. See Koskenniemi, Martti, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870-1960* (Cambridge: Cambridge University Press, 2002), p.86.

<sup>17</sup> Elizabeth Mancke, 'Early Modern Expansion and the Politicization of Ocean Space', *Geographical Review* 89, no. 2 (1999), p.230.

<sup>18</sup> Martin N. Murphy, *Small Boats, Weak States, Dirty Money: The Challenge of Piracy* (New York: Columbia University Press, 2009), pp.11-12.

<sup>19</sup> Michael Kempe, 'Even in the Remotest Corners of the World': Globalized Piracy and International Law, 1500–1900', *Journal of Global History* 5, no. 03 (2010), pp.362-3.

<sup>20</sup> Antony, 'The Shadowy World', p.8.

<sup>21</sup> For the first Ming maritime trade prohibitions see 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), p.417. For the so-called 'Japanese piracy' of this period being engineered by

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Chinese traders see Kwan Wai So, *Japanese Piracy in Ming China During the 16th Century*, (East Lansing: Michigan State University Press, 1975), p.2.

<sup>22</sup> 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* 75, no. 1 (2016), p.113.

<sup>23</sup> Dian H. Murray, *Pirates of the South China Coast, 1790-1810*, (Stanford, Calif.: Stanford University Press, 1987), p.35.

<sup>24</sup> Murray, *Pirates of the South China Coast*, p.14.

<sup>25</sup> Hong Kay Lung, 'Britain and the Suppression of Piracy on the Coast of China with Special Reference to the Vicinity of Hong Kong 1842-1870' (MPhil thesis, The University of Hong Kong, 2001), p.23.

<sup>26</sup> Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China*, (Berkeley, Calif.: Institute of East Asian Studies, 2003), pp.9-10 & p.139.

<sup>27</sup> Paola Calanca, 'Piracy and Coastal Security in Southeastern China, 1600-1780' in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), p.91.

<sup>28</sup> The extent to which large piratical bands were really rebellious in intent is open to question. See A.D. Blue, 'Piracy on the China Coast', *Journal of the Royal Asiatic Society Hong Kong Branch* 5, no. 72 (1965), pp.75-6 and Dian Murray, 'Living and Working Conditions in Chinese Pirate Communities, 1750-1850' in *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, ed. David John Starkey, J. A. de Moor, and Eyck van Heslinga (Exeter: University of Exeter Press, 1997), pp.63-4.

<sup>29</sup> Xu to Bonham, 12 Nov. 1849, enclosure 2 in Bonham to Palmerston 27 Nov. 1849, [Kew, United Kingdom National Archives, Public Record Office] F[oreign] O[ffice Records] 228/95.

<sup>30</sup> Murray, *Pirates of the South China Coast*, pp.100-101. See also Bruce A. Elleman, 'The Neglect and Nadir of Chinese Maritime Policy under the Qing' in *China Goes to Sea: Maritime Transformation in Comparative Historical Perspective*, ed. Andrew S. Erickson, Lyle Goldstein, and Carnes Lord (Annapolis, Md.: Naval Institute Press, 2009), p.293.

<sup>31</sup> Hart to Gordon, private, 17 May 1864, [British Library, Bell MSS], Add[itional] MSS 52387.

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- <sup>32</sup> For example, see imperial edicts issued in D[ao]G[uang], m[onth] 7, d[ay] 3 (18 Aug. 1843) in *清实录 (Qing Shilu, the Veritable Records of the Qing)*, (Beijing: Zhonghua Shuju, 1987) (*QSL*), volume 38, juan 394, p.1073 and DG29, M10, D18 (2 Dec. 1849), in *QSL*, vol.39, juan 473, p.947.
- <sup>33</sup> Antony, *Like Froth Floating*, p.106.
- <sup>34</sup> Murray, *Pirates of the South China Coast*, p.42.
- <sup>35</sup> Davis to Palmerston, 23 Dec. 1846, FO228/57.
- <sup>40</sup> John M. Carroll, *A Concise History of Hong Kong*, (Lanham, Md.: Rowman & Littlefield, 2007), p.10.
- <sup>41</sup> Davis to Aberdeen, 4 April 1845, enclosure 1 in Addington to Eagle, 7 Aug. 1845, CO129/14.
- <sup>42</sup> Aberdeen to Pottinger, 6 April 1843 and enclosures, FO228/26.
- <sup>43</sup> John M. Carroll, *Edge of Empires: Chinese Elites and British Colonials in Hong Kong*, (Cambridge, Mass.: Harvard University Press, 2005), pp.22-3 & p.44.
- <sup>44</sup> Sir John Charles Dalrymple Hay, *The Suppression of Piracy in the China Sea, 1849*, (London: Edward Stanford, 1889), p.27.
- <sup>45</sup> For this and the following details on Caldwell and his associates see Christopher Munn, 'Colonialism 'in a Chinese Atmosphere': The Caldwell Affair and the Perils of Collaboration in Early Colonial Hong Kong' in *New Frontiers: Imperialism's New Communities in East Asia, 1842-1953*, ed. Robert A. Bickers and Christian Henriot (Manchester: Manchester University Press, 2000).
- <sup>54</sup> Chinese petition to Davis, received 13 March 1845, enclosed in Addington to Eagle, 7 August 1845, CO129/14.
- <sup>55</sup> Davis to Palmerston, 1 March 1848 and enclosures, FO228/78.
- <sup>56</sup> Admiralty to Hope, 1 Sep. 1845, CO129/14.
- <sup>57</sup> Remarks in the margin in Davis to Gladstone, 5 June 1846, CO129/16.
- <sup>58</sup> Grey to Davis, 17 Oct. 1846, CO129/16.
- <sup>59</sup> Robert Montgomery Martin to William Gladstone, *Memorandum on Hong Kong*, 1844, CO129/15.
- <sup>61</sup> Carroll, *A Concise History of Hong Kong*, p.20.
- <sup>63</sup> Hong Kong's Chinese population grew from 37,356 in 1853 to 54,072 in 1854 and 70,651 in 1855. See Carroll, *Edge of Empires*, pp.48-9.
- <sup>64</sup> Davis to Grey, 19 April 1847, CO129/19.

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- <sup>65</sup> Grey to Davis, 9 Sep. 1847, CO129/19.
- <sup>66</sup> Hamilton to Addington, 27 Oct. 1848, enclosure 4 in Palmerston to Bonham, 18 Nov. 1848, FO228/82.
- <sup>67</sup> Grey to Davis, 9 Sep. 1847, CO129/19.
- <sup>68</sup> See for example John King Fairbank, *Trade and Diplomacy on the China Coast: The Opening of the Treaty Ports*, (Cambridge, [Mass.]: Harvard University Press, 1953), pp.336-7.
- <sup>69</sup> For the *Friend's* pro-merchant editorial line after 1843 see Frank H. H. King and Prescott Clarke, *A Research Guide to China-Coast Newspapers, 1822-1911*, (Cambridge, Mass.: Harvard University Press, 1965), pp.50-51.
- <sup>70</sup> *Overland Friend of China*, 25 July, 1849.
- <sup>71</sup> Palmerston to Bonham, 31 Oct. 1848, FO228/82.
- <sup>72</sup> Hamilton to Addington, 27 Oct. 1848, enclosure 4 in Palmerston to Bonham, 18 Nov. 1848, FO228/82.
- <sup>73</sup> Hay, *Suppression of Piracy*, p.12. Bias Bay had been a known resort for Chinese pirates since at least the late eighteenth century. See Robert J. Antony, 'Piracy and the Shadow Economy in the South China Sea, 1780-1810' in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), p.102. Consul Layton declared that the pirate responsible for the fleet on the Fujian coast was Zhang Shiwu and Hay claimed this was one of Shap Ng-tsai's aliases. See Layton to Bonham, 12 July 1849, enclosed in Bonham to Palmerston 23 July 1849, FO228/93 and Hay, *Suppression of Piracy*, p.27.
- <sup>74</sup> Layton to Davis, 21 Dec. 1847, enclosed in Davis to Palmerston, 31 Dec. 1847, FO226/67.
- <sup>75</sup> Layton to Bonham, 9 June 1849, enclosed in Bonham to Palmerston, 23 July 1849, FO228/93.
- <sup>76</sup> Hay, *Suppression of Piracy*, pp.19-20.
- <sup>77</sup> Ward, Iain, *Sui Geng: The Hong Kong Marine Police 1841-1950* (Hong Kong: Hong Kong University Press, 1991), p.14.
- <sup>78</sup> For the fate of the pirates in Chui's fleet see Hay, *Suppression of Piracy*, p.32.
- <sup>79</sup> Fox, *British Admirals*, p.109.
- <sup>80</sup> Bonham to Palmerston, 26 Sep. 1849, FO228/94.
- <sup>81</sup> Bonham to Palmerston, 23 Oct. 1849, enclosed in Bonham to Grey, 3 Nov. 1849, CO129/30 and Hay, *Suppression of Piracy*, pp.43-44.
- <sup>82</sup> See DG28, M2, D20 (24 March, 1848) in *QSL* vol.39, juan 452, p.707 and DG 28, M7, D15 (13 August, 1848) in *QSL* vol.39, juan 457, pp.768-9.



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<sup>83</sup> Lillian M. Li and Alison Dray-Novey, 'Guarding Beijing's Food Security in the Qing Dynasty: State, Market, and Police', *The Journal of Asian Studies* 58, no. 4 (1999), p.1001.

<sup>84</sup> Jane Kate Leonard, "'Controlling from Afar' Open Communications and the Tao-Kuang Emperor's Control of Grand Canal-Grain Transport Management, 1824–1826', *Modern Asian Studies* 22, no. 4 (1988), pp.672-4.

<sup>85</sup> Jane Kate Leonard, 'The Qing Strategic Highway on the Northeast Coast' in *The Perception of Maritime Space in Traditional Chinese Sources*, ed. Angela Schottenhammer and Roderich Ptak (Wiesbaden: Harrassowitz, 2006), p.36.

<sup>86</sup> DG28, M10, D17 (12 November, 1848) in *QSL* vol.39, juan 460, p.811.

<sup>87</sup> DG28, M4, D26 (28 May, 1848) in *QSL* vol.39, juan 454, pp.734-5.

<sup>88</sup> DG28, M10, D20 (15 November, 1848) in *QSL* vol.39, juan 460, p.813.

<sup>89</sup> DG28, M7, D4 (2 August, 1848) in *QSL* vol.39, juan 457, p.763.

<sup>90</sup> Bonham to Xu, 20 Sep. 1849, enclosed in Bonham to Palmerston 23 Oct. 1849, CO129/30.

<sup>91</sup> Qing governor-generals were the most senior regional civilian officials but were placed half a rank below the most senior military officials, garrison commanders (将军 *jiang jun*). See R. Kent Guy, *Qing Governors and Their Provinces: The Evolution of Territorial Administration in China, 1644-1796*, (Seattle: University of Washington Press, 2013), p.48.

<sup>92</sup> DG27, M2, D4 (20 March, 1847), in *QSL* vol.39, juan 439, p.498.

<sup>93</sup> Hay, *Suppression of Piracy*, p.33 and Hay to Collier, 23 Oct. 1849, enc.1 in Bonham to Palmerston, no.153, 3 Nov. 1849, CO129/30. Hay describes He as 'governor general' of Hainan. Hainan did not have a governor general (总督 *zongdu*) in the Qing period and in his translated response to Hay's correspondence, He is described as 'Acting Commodore on the Yai-chau station, now Acting Commander-in Chief on the Hainan station'. He to Hay, 26 Oct. 1849, enclosure 4 in Bonham to Palmerston 3 Nov. 1849, CO129/30.

<sup>94</sup> Fox, *British Admirals*, p.112.

<sup>95</sup> Hay to Collier, 23 Oct. 1849, enc.1 in Bonham to Palmerston, no.153, 3 Nov. 1849, CO129/30. For the Earl of Ellenborough's speech see Hansard texts, House of Lords Debate, 18 April 1850, vol. 110, cc483-4.

<sup>96</sup> Fox, *British Admirals*, p.109.

<sup>97</sup> Fox, *British Admirals*, p.123.

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<sup>98</sup> Some scholars have argued that the *Arrow* was used as a pretext to start a war by British officials impatient at waiting to secure treaty revisions. See J. Y. Wong, *Deadly Dreams: Opium, Imperialism, and the Arrow War (1856-1860) in China*, (Cambridge: Cambridge University Press, 1998), p.82.

<sup>99</sup> Bruce A. Elleman, 'The Taiping Rebellion, Piracy, and the Arrow War' in *Piracy and Maritime Crime: Historical and Modern Case Studies*, ed. Bruce A. Elleman, Andrew Forbes, and David Rosenberg (Newport, R.I.: Naval War College Press, 2010), pp.53-4.

<sup>100</sup> Elleman, 'The Taiping Rebellion, Piracy, and the Arrow War', p.56.

<sup>101</sup> Kuper to Paget, 10 Feb. 1864, [Kew, United Kingdom National Archives, Public Record Office], Adm[iralty Records] 1/5876.

<sup>102</sup> Clarendon to Alcock, 9 Jan. 1866, FO228/402.

<sup>103</sup> Blue, *Piracy on the China Coast*, p.75.

<sup>104</sup> Lung, 'Britain and the Suppression of Piracy', p.177.

<sup>105</sup> Bryna Goodman, *Native Place, City, and Nation: Regional Networks and Identities in Shanghai, 1853-1937*, (Berkeley, Calif.: University of California Press, 1995), p.63.

<sup>106</sup> For a good narrative of the events leading up to the establishment of the customs service see John King Fairbank, 'The Provisional System at Shanghai 1853-54. Foreign Consular Administration of the Chinese Customs', *Chinese Social and Political Science Review* 18, no. 1 (1934), John King Fairbank, 'The Provisional System at Shanghai 1853-54. Foreign Consular Administration of the Chinese Customs (Concluded)', *Chinese Social and Political Science Review* 19, no. 1 (1935), and John King Fairbank, 'The Creation of the Foreign Inspectorate of Customs at Shanghai (Concluded)', *Chinese Social and Political Science Review* 20 (1936).

<sup>107</sup> Stanley Fowler Wright, *Hart and the Chinese Customs*, (Belfast: W.M. Mullan & Son, 1950), p.133.

<sup>108</sup> Guangqi Wei, '清代後期中央集权财政体制的瓦解 (Qingdai Houqi Zhongyang Jiquan Caizheng Tizhi De Wajie, the Collapse of the Late Qing System of Centralisation of Public Finance)', *近代史研究 (Jindai shi yanjiu, Modern History Research)* 31, no. 1 (1986), p.227.

<sup>109</sup> For details of the failure of the 'Lay-Osborn' Flotilla see Jack Gerson, *Horatio Nelson Lay and Sino-British Relations, 1854-1864*, (Cambridge, Mass.: East Asian Research Centre, Harvard University, 1972), pp.189-94.

<sup>110</sup> The Zongli Yamen official Wenxiang made this remark to Robert Hart. See Robert Hart's Journal, 20 July 1865 in Richard J. Smith, John King Fairbank, and Katherine Frost Bruner, *Robert Hart and China's Early*

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*Modernization: His Journals, 1863-1866*, (Cambridge, Mass.: Council on East Asian Studies, Harvard University: distributed by the Harvard University Press, 1991), pp.302-3.

<sup>112</sup> Zeng Guoquan's memorial to the Emperor, T[ong] Z[hi] 2, M8, D27 (9 Oct. 1863), Memorial 757, juan 20 in *Chouban Yiwu Shimo : Tongzhi Chao (CYTZ) 籌辦夷務始末：同治朝 (the Complete Management of Foreign Affairs: Tongzhi Reign)*, (Beijing: Zhonghua shuju, 2008), pp.887-90.

<sup>113</sup> Robert Hart's Journal, 30 May 1865 in Smith, Fairbank, and Bruner, *Robert Hart and China's Early Modernization*, pp.264-5.

<sup>114</sup> For the establishment of the Zongli Yamen and its transformative effects see Masataka Banno, *China and the West 1858-1861: The Origins of the Tsungli Yamen*, (Cambridge (Mass.): Harvard University Press, 1964), Jennifer M. Rudolph, *Negotiated Power in Late Imperial China: The Zongli Yamen and the Politics of Reform*, (New York: Cornell University East Asia Programme, 2008) and Richard Horowitz, 'Central Power and State Making: Zongli Yamen and Self-Strengthening in China' (PhD Thesis, Harvard University, 1998).

<sup>115</sup> For the compilation of the archive for the Daoguang reign in the 1850s see Chang Chihyun (張志雲) Hou Yanbai (侯彥伯), Fan Yijun (范毅軍). '瞭解中西交往的關鍵史料 - 《籌辦夷務始末》的編纂與流佈, (Liaojie Zhongxi Wangjiao De Guanjian Shiliao <Chouban Yiwu Shimo> De Bianzuan Yu Liu Bu - *Understanding the Important Documents Associated with Sino-Foreign Relations - the Compilation and Circulation of the "Complete Records of the Management of Foreign Affairs"*)', *古今論衡, gujin lun heng (discussions on the past and present)*, no. 24 (2013), p.84.

<sup>116</sup> Notes in the margin in MacDonnell to Alcock, 16 May 1866, FO228/423.

<sup>117</sup> Kuper to Padget, 22 July 1864, ADM1/5976 and Walker to Holloth, 9 August, 1864, enc.1 sub enc. 2 in Kuper to Padget, 4 Sep. 1864, ADM1/5877.

<sup>118</sup> Fox, *British Admirals*, pp.155-9.

<sup>119</sup> Lung, 'Britain and the Suppression of Piracy,' p.245.

<sup>120</sup> Fox, *British Admirals*, pp.181-2.

<sup>121</sup> Ward, *Sui Geng*, p.8.

<sup>122</sup> Ward, *Sui Geng*, pp.10-11.

<sup>123</sup> Ward, *Sui Geng*, p.33.

<sup>124</sup> Hamilton, Sheila E., *Watching Over Hong Kong: Private Policing 1841-1941* (Hong Kong: Hong Kong

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University Press, 2008), p.94.

<sup>125</sup> Romaine to undersecretary of state for the colonial office, 3 March 1868, enc. 2 in Stanley to Alcock, No.38, 5 March 1868, FO228/446.

<sup>126</sup> Romaine to Hammond, enc.1 in Hammond to Alcock, 23 Jan. 1866, FO228/402.

<sup>127</sup> Hammond to Alcock, 26 March 1866, FO228/402.

<sup>128</sup> Figures from *China Mail*, 6 July, 1869, p.3 and the quote is taken from the *Hong Kong Daily Press*, 14 July, 1869, p.2

<sup>129</sup> *Hong Kong Daily Press*, 10 Feb. 1869, p.2.

<sup>130</sup> Lung, 'Britain and the Suppression of Piracy'. P.299.

<sup>131</sup> *Report on the Trade of Kiungchow, 1877*, in B[ritish] P[arliamentary] P[apers], 'Commercial Reports from H.M. Consuls in China, 1877' 1878, Vol.LXXV, C.2109, p.98

<sup>132</sup> *Report on the Trade of Amoy for the Year 1879* in BPP, 'Commercial Reports from China, Japan, and Siam: Commercial Reports by Her Majesty's Consuls in China', 1879, Vol.XXVIII, C.603, p.3

<sup>133</sup> *Report on the Foreign Trade of Kiungchow During the Year 1881*, in BPP, 'Trade Reports by Consuls in China, Japan, and Siam: Commercial Reports by Her Majesty's Consuls in China', 1882, V.XXXVII, C.573, pp.70-72.

<sup>134</sup> *Hong Kong Daily Press*, 21 May, 1892.

<sup>135</sup> Westlake, John, *Chapters on the Principles of International Law* (Cambridge: Cambridge University Press, 1894), p.82, cited in Mark Mazower, *Governing the World: The History of an Idea*, (London: Allen Lane, 2012), p.72.

<sup>136</sup> Benton and Ford, *Rage for Order*, p.119.

<sup>137</sup> Blue, 'Piracy on the China Coast', pp.79-80.

<sup>138</sup> Philip Thai, 'Law, Sovereignty, and the War on Smuggling in Coastal China, 1928-1937', *Law and History Review* 34, no. 1 (2016), p.99.

<sup>139</sup> See for example the Chung Tam Wok case of 1932 in Peter Singleton, 'Defining Piracy: The Chung Tam Kwong Case and British Piracy Suppression in China in the Early 1930s', *The Great Circle* 5, no.1 (1983), pp.48-9.