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On the “Pirate Frontier”:
Re-Conceptualizing the Space of Ocean Governance in Light of the Prestige Disaster

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On the “Pirate Frontier”: Re-Conceptualizing the Space of Ocean Governance in Light of the Prestige Disaster

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“On the way to its depoliticization, the declining state should first take charge of space in order to repair the damage inflicted during the current period: the ruins, the chaos, the waste, the pollution (which eventually causes the death of the seas, the Mediterranean for example, and even the Atlantic Ocean!). This work (œuvre) cannot be accomplished without conceiving a new texture of space. The declining state will be dissolved no so much into ‘society’ in an abstract sense as into a reorganized social space.”

(Lefebvre, 2003: 100)

“Every generation gets the pirates it deserves.”

(Thomson, 1994:45)

Introduction: Chronicle of a Disaster Foretold

On the afternoon of November 13, 2002, as fierce southwesterly winds lashed the shores of Galicia, the Spanish Coast Guard received an S.O.S. distress signal from an oil tanker at sea perched only 50 kms from the fishing harbor of Fisterra. A rescue helicopter sent out to survey the site encountered a wounded vessel, the Prestige (the awkwardness of the name would only be reinforced by subsequent events), containing a crew of 22 Filipinos (mostly teen-age), two Romanians, and a 68-year old Greek captain, Apostolos Mangouras (La Voz de Galicia1, 2002a). Retrieving the panicked crew, the coast guard left Mangouras, his first officer and a chief mechanic behind on the deck of the dangerously tilting ship. By 5:00PM, despite the best efforts of Mangouras to right the vessel, the Prestige began to discharge into the sea its charge of M-100 oil, one of the most toxic varieties of fuel currently known. By nightfall, a Dutch company (Smit) – the same which had salvaged the Russian Kursk submarine in August 2000 - had taken charge of recovery operations. But continued bad weather throughout the night hindered recovery efforts, so that by the morning of November 14th residents of the Galician seaside village of Muxia awoke, startled, to find the Prestige, in full view, only 4 kms from shore (VdG, 2002b). “Xa tardaba, aqui a loteria non toca, pero as desgracias caen todas”, murmured the local patrons of the Miramar bar2 (VdG, 2002b).

Redoubling its salvage efforts, the Smit proposed two immediate strategies to the Spanish government: the first would involve hauling the bleeding Prestige to a calmer area of sea, preferably close to land, where its dangerous cargo could be safely transferred to boats specially equipped for this task; the second would entail dragging the vessel to a harbor willing to accept it, where the same procedure could take effect. Both would entail substantial risks, given the boat’s age and biography; constructed in Japan in 1976, navigating international waters under a Bahamian “flag of convenience”, owned by a Swiss shipping company and insured by a Greek marine concern, the single-hull Prestige had previously been banned by the Spanish Association of Operators of Petroleum Products, and had been sanctioned in both New York and Rotterdam for

1 Hereafter, “VdG”.
2 English translation: “It was only a matter of time, here no one wins the lottery, but misfortune falls on everyone”.

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security failings. For precisely these reasons, the vessel’s itinerary, originating in Riga en route to Singapore via Gibraltar, had studiously avoided any European port of call. For the administration of Jose Maria Aznar, under the obscurantist direction of vice-president Mariano Rajoy, the Prestige was perceived as an abject space for which the Spanish nation-state, and by extension Europe as a whole, could not afford to take sovereign responsibility. Thus, barely a day after the first S.O.S. had been received, a delegate of the Galician parliament announced that the Prestige would not be allowed to approach any Spanish port. The tug-boats Ria de Vigo and Sertosa 32 were ordered to latch onto the Prestige and haul it to a point 120 miles from shore in a northwesterly direction beyond the territorial jurisdiction of the Spanish state. At this “safe” distance, Aznar’s administration was optimistic that “the leaks [of the Prestige] will be largely mitigated” (VdG, 2002b). The decision to move the Prestige into open sea would be dramatically confirmed by Minister of the Interior Alvarez Cascos, overhead ordering “Send that boat to oblivion!”

With these freighted words -- “Envienlo al quinto pino!” -- the subsequent fate of the worst environmental catastrophe in Europe’s recent memory would be sealed. Despite fervid efforts of wily and multi-lingual Captain Mangouras to preserve the Prestige in an idle state, the firing of the vessel’s motors prior to towing produced further cracks and ruptures in its fragile hull (2002b). When the Prestige reached the half-way mark en route to its 120 mile destination onto the open sea, the Spanish government relieved itself of all obligations in the matter by handing over full responsibility to the Dutch salvage company, Smit (VdG, 2002d). Placing its own economic interests ahead of that of any government, Smit changed course and proceeded in a southerly direction, hoping to recuperate its valuable cargo of fuel in a welcoming harbor, either in the Canary Islands or off the African coast. As a result of these decisions, and leaking fuel throughout, the Prestige spread an oily wake along the entire Galician coastline. By November 18th the winding slick of black fuel reached Porto do Son and threatened Ria de Arousa, the largest natural shell-fish stock in the world (VdG, 2002e). On the morning of the next day the vessel broke into two and began to sink, 260 miles from the Canary Islands, after having been hauled back and forth for a total of 243 miles (VdG, 2002f).

Paraphrasing Gabriel Garcia Marquez, we may assert that the Prestige incident is the chronicle of a disaster foretold for Spain, for Europe and for the international community. Of course the story of the Prestige accident is a chronicle of greed and corruption at the highest governmental levels, of murky industrial and financial dealings implicating Europe’s most powerful elites. It is therefore naturally about the ravages of a neoliberal world order which cuts corners to get product to market as quickly and cheaply as possible, with minimum governmental oversight. It stands to show how current attempts at a new capital-centered “spatio-temporal fix”, while offering an opening for fresh rounds of accumulation, do so at a potentially great social and environmental cost if not complemented by appropriate modes of regulation (Jessop, 2001; MacLeod, 2001). But we argue that, in grasping the drama of the Prestige, such a “regulationist” analytical lens only captures a partial view, one which serves to keep “hidden” a much older socio-spatial dynamic, one which would serve as a medium and presupposition for subsequent

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3 Spanish original: “Envien el barco al quinto pino!”
territorially-based capital-centric dynamics. The latter, emerging in the wake of 16th- and 17th century mercantile capitalism, and coinciding with the slow crystallization of the global interstate system, was founded on a clear separation between the logic of rule on land and on the ocean (Steinberg, 1999). Such a distinction would make of the sea a proper space of inter-national trade belonging to no one, or in reality belonging to the dominant sea trading power, Great Britain (Schmitt, 1993: 86).

As the Westphalian interstate order consolidated itself, the arts of government derived from land-based governance would gradually occupy the only possible space for the development of all social forces, for the proper establishment and maintenance of community, of civilization, for the literal “grounding” of all politics; the space of the ocean, on the other hand (as with many 19th-century colonial possessions), would be constructed as a “great void”, an a-historical and fundamentally a-social space, a smooth and frictionless surface of cost efficient transoceanic communication (Steinberg, 1999). The institutional basis for modern norms of territorialized governance would be established on the edge of this fraught binary. As its very precondition, the sovereignty of nation-states and the associated interstate system were thus predicated on a distinction which banished the space of the ocean -- including those territories or “floating cities” (Verne, 1924) still unattached to any state territoriality -- beyond the pale of morally sanctionable community (Steinberg, 1999).

We argue that this legacy of dual thinking accorded rule over land and ocean-space continues to have significant theoretical and political consequences for our day. In this context, the Prestige is a sign and symptom of the unresolved malaise sustained by the material and conceptual separation between the spheres of land and sea, offering a unique window through which to observe the day-to-day re-enactment of a foundational schism at the heart of global rule. We suggest that contemporary political-economy narratives accounting for contemporary shifts in governance (Jessop, 2002; Brenner et al, 2003), while attentive to the functional and systemic processes underlying contemporary patterns of socio-spatial restructuring, continue to foreground the state as the primary orchestrator of these emergent logics, and thus exclude from their purview forces whose inner drive is irreducible to state-centric territorialization. In such accounts, ocean-space (if considered at all) is generally represented as sharing the same qualities as that of other mobile and stateless entities such as capital, markets and additional politically incorrect cosmopolitanisms. In this, the centuries-old cleavage between the spatialities of land and sea is reinforced, resulting in the “othering” of a large portion of the earth’s surface. While we believe many aspects of the political economy approach merit serious consideration, we believe the significance of the Prestige incident lies precisely in what it reveals about the limitations and “blind spots” accompanying efforts to represent the spatiality of rule – capital’s moment of “fixity” -- solely in territorial terms, while problematizing the often all too hasty attempts to associate the “movement” of non- or quasi-state forces to that of friction-less capital or the purely commercial interests of private agents (Hawthorne, 2000; Gowan, 2001; Brennan, 2001; Sparke, 2002). It is along the destabilized border between the fixity and motion of capital-centric and territorial logics, we propose, that the figure of the pirate emerges, whose peculiar mobility escapes both the territorial logics of capitalism’s “spatio-temporal fix” while
contesting the equally reductionist idée-fixe of the ocean as a “great void”. What the figure of the pirate reveals is a hidden sovereignty of flows, one which generates friction with the territorial logic of the nation-state and the empty space of the sea. In questioning this land/sea dualism, we will attempt to show the connections and parallels between them in order to bring to the fore the potentialities and dangers of a sovereignty that is effectively veiled in the dialectical reasoning of territorial political economy approaches.

Part I reviews a body of work that has come to influence recent debates on urban and regional governance, captured under the rubric of “territorial political economy”. Building on previous critiques, we interrogate the adequacy of this intellectual tradition in framing the problem of ocean governance from an exclusively territorial perspective, one that is implicitly based on a particular representation of the ocean as an a-historical space subject entirely to the private forces of the market. Here we also elaborate upon the manner in which ocean governance has traditionally been differentiated from land-based rule, while emphasizing their necessarily constitutive relations. In Part II we trace the historical emergence of the modern nation-state system as a particular form of global regulation requiring the elimination of all competing forms of non-state violence. In this section we reveal how the elimination of piracy and state-sponsored privateering was a necessary condition for the emergence of the modern state system, thus setting the stage in crucial ways for the social construction of an essentializable land/sea binary which paradoxically limited the sovereignty claims of nation-states on the ocean and its traffic. In Part III, we illuminate how, as codified in subsequent “Grotian” treaties and laws which perceive nature as a common heritage, the initial victory of the nation-state over piracy would set a legal precedent that would transform subsequent acts of non-state violence – whether in the form of slavery transport, maritime pollution, or the contemporary transport of “weapons of mass destruction” – from a generalized criminal and human rights problem, and thus of concern to the entire community of nations, to a purely private commercial matter demanding a minimum of (or simply no) state regulation. Accompanying Captain Mangouras on board his ship in Part IV, we suggest that the Prestige accident and its subsequent geo-political aftershocks, in a significant yet still underexplored way, were effectively “produced” as a result of the final depoliticization of ocean-space regulation in the 18th and 19th centuries. In order to prevent further 21st-century disasters of this kind, we call for a necessary re-politicization of ocean-space on the basis of a yet-to-be-imagined sovereignty of flows, one which does not homogenize mobility into a uniform and timeless “space of flows” (Castells, 2000) but conceives of places-in-movement. As detailed in Part V, pirates reappear on the scene of history as a “hidden third” between the land and ocean-based norms of rule constructed under modernity. Against the backdrop of the first anniversary of the Prestige disaster, we speculate on the possibility of recuperating the “pirate frontier” as a contemporary utopian space for politics beyond both land and sea-based modes of rule.
Part I Of “Blind Spots” and “Idées Fixes”

Formulated in the mid- to late-1980s within the fields of geography, urban planning and related disciplines, the “territorial political economy” perspective sought a far-reaching re-emplacement of space and spatiality at the heart of broader social scientific and theoretical concerns (Gregory, 1978; Massey, 1984; Sayer, 1985; Storper and Walker, 1989; Smith, 1990). In so doing, this approach actively extended analysis of the social production of “nature” to the “social production of space” (Lefebvre, 1991; Soja, 1989; 1996). Soja in particular criticized the spatial assumptions underlying much of social theory, calling for a reconceptualization in which:

“…being, consciousness and action… [exist] not simply ‘in’ space but ‘of’ space as well. To be alive intrinsically and inescapably involves participation in the social production of space, shaping and being shaped by a constantly evolving spatiality” (1985: 177).

In the view of TPE adherents, the era of capitalist modernity would be marked by a particular form of spatiality, made “visible” by way of a complex dialectic between capital’s inherent and contradictory tendency towards fixity and motion. In its “restless” search for super-profits, capitalism would thus walk a “knife’s edge” between the demand for the stability of physical and social infrastructure on the one hand, and the imperatives of disinvestment so as to provide new sites for fresh capital accumulation (Harvey, 1985). It is in the ceaseless movement between capital’s desire for fixity and mobility that the drama of modern capitalist space relations would be played out; as the internal contradictions of this dialectic gained momentum in particular sites of investment, capital would seek out particular “spatial fixes” in order to overcome these structural impasses, usually by moving to fresh sites for capital accumulation not overly tainted by capital-centred logics. In the subsequent development of this perspective, its overly deterministic and functionalist logic would be attenuated by attempts to draw attention to the unique socio-spatial qualities of this dialectic (Soja, 1989), by efforts to foreground the structured gender dimension of this relation (Massey, 1994), including the development of a much richer spatial “imaginary” informed by post-colonial literary and cultural studies (Gregory, 1995).

Nevertheless, despite the attenuations and enrichments of a core historical-materialist framework, the TPE model, we argue, cannot suffice to account for the particular “status” of the ocean in the modern period. This is because, at least since the era of industrial capitalism (1760-1970) and largely into our day, ocean-space has been discursively tied to a space lying entirely outside the social, thus viewed as a “non-territory”, an untamable space resisting the “filling” or “development” dynamic characteristic of land-based capitalist dialectics (Steinberg, 1999). Indeed, constructed since the 18th-century as lying in an anarchic “state of nature” -- as a merely “empty” transportation surface -- the ocean would serve as a primary laboratory for a pure form of economics distinct from the nationally-oriented and complacently bordered logics of

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4 Hereafter, “TPE”.
state-sponsored Colbertian and Ricardian comparative advantage (Steinberg, 1999: 113). Like money or markets, the sea would be constructed without social “roots”, projected beyond society, politics or other “artificial” constructs interfering with the “natural” free flow of capital. In this manner, ocean traffic and commerce would be viewed as largely freed of the burden of government intervention and regulation, as a “self-regulating” system consonant with a laissez-faire approach to the economy. In this light we can perhaps see more clearly the role the ocean played in legitimating norms of national, land-based capitalisms in the modern era: the construction of rational, individual and (nationally) profit-maximizing homo economicus at home and the banishment of (stateless) private(ering) economicus to deep sea and tropical island hideaways. In this context, capital-centered “spatial fixes” would only make “sense” on land, the unique repository for develop-mentalist and modernizing tendencies. Ocean-space lacked both.

Similarly, in geopolitical discourse ocean-space would come to be represented as “Other”, unlike “regular” space: an empty “force field” across and within which states exercise relative power over their competitors. The techniques of modern cartography would play a vital role in this representational gesture, revealing ocean-space as one across which power was to be projected, thus ideally remaining perpetually “empty” (it is not by accident at this time that maps of the sea formerly depicting colorful fish, monsters and dramatic swells are replaced by a blue and formless expanse). Here on, the deep sea distant from coastal lands would be idealized as a “great void” (Steinberg, 1999: 112). Crucially, both the geo-economic and geopolitical construction of ocean-space would be achieved in contrapuntal fashion to the paradigmatic modern construction of land-space as amenable to rational economic planning. Thus the development of national sovereignty within the modern state system cannot be understood without simultaneously reflecting on the development of state authority in relation to the non-state space of the sea (Thomson, 1994). Rational planning, it was thought, could not prevail on the ocean because it was perceived as the wild antithesis of society, the space of “anti-civilization” providing the appropriate arena for Enlightenment Europe to test and affirm its own principles (Steinberg, 1999: 34). Like the economic rationalists of their time, this view of ocean-space would also be sustained by European Romanticism, which sought to preserve the sea as a “pure” space beyond the corrupting influence of society (e.g., Rousseau’s “noble savage”; Burke III’s view of the sea as “sublime”).

Part II Traces of Piracy in the Emergence of the Modern Nation State System

It is precisely within these mutually constitutive dynamics of land and ocean-based rule that we may come to grasp the emergence of the figure of the pirate on the scene of capitalist world history. Piracy presented a grave threat to nation-states and the associated inter-state system not only for the material losses provoked but because as a form of non-state violence in its own right it made acutely visible to national rulers the arbitrariness of that originary and violent “constitutive exclusion” upon which their respective republics were founded (Tilly, 1985; Giddens, 1985). Flying their 18th-century stateless “flags of convenience”, and falling under the territorial jurisdiction of no sovereign power, pirates – often located in remote redoubts scattered across Europe’s fragmented colonial possessions – thus contradicted the view that sovereignty emanated
not from divine intervention or through the monarch but from the nationally-bound(ed) citizen-subject himself (Thomson, 1994). Moreover, in their sumptuary consumption habits, pirates lived according to an economic logic far removed from the severe state-building projects of Colbertian rationality.

_The Golden Age of Piracy_

The shape of piracy was as manifold as its places and times. Its main characteristic was that it was bound to the sea and some hidden coasts. At the same time it was conceived as something that disturbed political order; from an economic point of view its acts of robbery lacked any ambition to accumulate property. Merchant ships and supertankers today are required to cross the oceans according to a certain schedule, to move according to the rules of supply and demand for its cargo. The pirate ship, however, emerged when demand on its “services” disappeared, its numbers increasing when supply is bountiful but there is no offer on hand; when its cargo space is empty but its canons are loaded. Piracy ran against the trend and yet was produced by it; it was governed by the rhythm that makes people superfluous only to reward them highly the next moment or just as easily by expulsing them from the surface of the earth. This is the tide piracy has followed throughout its history.

On the one hand one could affirm that piracy merely represented a particular system of redistribution. On the other, it also entailed a vision of an alternative political order produced by total exclusion from society. The first step on the deck of a pirate ship meant that there was no way back except as a dead man. Hence the decision to become a pirate was rarely an act of choice. In the year 1724 Lieutenant-Governor Hope of the Bermudas believed that the origins of piracy lay in the practice of the Spanish to attack ships and abandon their crew to lonesome islands (Cordingly, 1996: 7). Indeed, at the outset of a pirate’s career one would always encounter an act of expulsion. Be it as an effect of poverty and unemployment, crime, abduction or war, piracy always began with the impossibility of staying in one’s place. So, as Gilles Lapouge states (1987), it is not that a man or a woman chose piracy; it is more that piracy chose them. Hence the act of revolt associated with piracy was less the result of a thought-out concept than from the possibility of another life that suddenly opened up. Rather than informed by a concrete project, the pirate was guided by a range of possibilities, extending from the very brutal to a life of self-determination, including even a vision of paradise such as the one espoused by Captain Misson’s Libertalia on Madagascar or the diverse pirate republics of the Caribbean. Thus, in a Hobbesian vein, the life of a pirate was usually nasty, brutish and short, confined mostly to a little more than ten years, and associated with few exceptions to young men (Cordingly, 1996). It was a life on the move, on the track of heavily used routes of naval commerce, navigating ocean straits, unsurveyable islands and fissured coasts, places often recognizable only to the one who had been there previously. Yet on their zigzag course through the oceans, circling around certain areas,

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5 From the 1699 Act of Piracy until their effective suppression 30 years later, pirate communities formed on Tortuga and Jamaica, then reunited in Madagascar in 1693 where the French pirate Misson founded the “socialist republic of Madagascar” (Lapouge, 1987). They subsequently fled this island and by 1700 reappeared in the Bahamas where they established a “Pirate Republic” at New Providence after the War of
then departing again to embark upon the long pirate route from the Western to the Eastern shores of the world’s oceans (Marx, 1996) pirates left very little historical records besides that of stories that others made of their lives (Lapouge, 1987).

Were we to engage in a true “archaeology of globalization” (Buck-Morss, 2003) by focusing our attention on the historical governance of piracy, we would need to examine what has changed from the time Francis Drake was honored to become a Sir by Queen Elizabeth I in the second half of the 16th century (Andrews, 1970) to the era of Bartholomew Roberts, last of a notorious breed of pirates who, after having privateered around 400 ships within a few years, was killed together with his completely drunken crew off the coast of Guinea by British Navy forces in 1722 (Marx, 1996). The time-span between these two men captures the rise of the British Empire and the evolution of the European model of the nation-state. Pirates of necessity played a crucial role in these wider imperial dynamics. Sir Francis Drake discovered new islands on behalf of the queen but was also the first to offend Spanish hegemony in the New World. He thus inaugurated a whole chain of wars that would haunt Europe and its colonies from the War between Britain and Spain (1585) until the British-American War in 1812. The latter, marked by religious conflict between Jesuits and Calvinists, played itself out as a battle over sea power and entailed a representational shift which envisioned the sea as the realm of freedom, captured in the songs of Dutch “gueaux”: “the land becomes the sea, but it will be free” (Schmitt, 1993: 83). Throughout this period, a new balance of power within Europe was fought out, often with little more than ten years of peace between one war and the next. This militarized rhythm wove a pattern of piracy into the oceans, from the Western ports of Britain around Bristol and Poole, to St. Malo, the Barbary States, and the Caribbean up to New York and Boston, extending around Western Africa and reaching from Madagascar into the Indian Ocean. It thereby founded something like a transnational brotherhood around the world. Its tides reached a peak at the turn of the 17th century and only collapsed after a massive attack by the British Royal Navy, which succeeded in bringing to a close the posthumously labeled “Golden Age of Piracy”. It is this short period which continues to fuel people’s fantasies on piracy up to this day.

The official demise of piracy was only the climax in a development that had already been occurring for more than a century already, marking a shift from a regular phenomenon to an unintended overflow. At the core of this change was the transition from heavy state dependence on private sovereign power and financial resources for war...
making (Tilly, 1985) to the monopolization of violence, through which would emerge the territorial nation-state (Thomson, 1994). If the exclusion of non-state power from within and beyond territorial borders was a cornerstone of state territorial sovereignty, then paradoxically the final disappearance of piracy was the major enactment of it, revealing a suppressed form of sovereignty that could become incorporated into the territorial logic of the nation state only gradually.

The power released through the usage of non-state violence expressed itself primarily through the practice of privateering, which became legalized through so-called “letters of marque” signed by a war-making party against another. Not only was privateering a quite common practice of war making among the European powers before the nation-state came into existence, it also changed its meaning when it became heavily used, a fact which earned Great Britain the reputation of being a pirate state itself (Sattler, 1971). At its core, privateering entailed a claim of power that was not yet territorialized and could be spread over space by transferring it to moving subjects on board ships. It is only when these subjects formed a thoroughly mixed-up and international crowd with its own rules and hideaway locales situated on the peripheries of the world’s oceans, and thus able to considerably interfere with Britain’s main sea-based trading routes, that they became a real danger for evolving British naval supremacy. It is not to overemphasize the threat to mention that privateering induced enforced street building activity within the country as a response to increasingly insecure sea routes (Thomson, 1994). It was symptomatic of the territorial restructuring of European states that as power became constrained to governing populations within national borders (Hirst, 2002), the subjects of privateering were spit out onto the oceans in the wake of internal and external turmoil. In the juridical gray zone of the sea, the latter consequently developed their own rules of survival, thus partially escaping state control only to be subsequently recuperated by the peaceful and re-territorialized governance of ships adopting the rules of their respective flags and national laws. When piracy was effectively defeated, these re-nationalizing logics would be extended to the remotest colonies. But it is in the temporary “blinking” of such a de-territorialized order that we may witness the glimmering of an alternative sovereignty of flows whose repression had the effect of subjecting land and sea to entirely different rules. In so doing, the sovereignty of flows would be the medium by which to exert state power beyond a national territory while also being a precondition for internal development and pacification.

It is in this context that we may appreciate the Golden Age of Piracy as the effect of two increasingly sovereign powers confronting each other as sharply as they were unprecedented in history. Each logic played out a particular territoriality, one of which tried to capture and freeze space as an even surface, while the other floated along through a strategy of emerging and disappearing opportunities. The spatiality of this latter sovereignty of flows can be grasped through a chain of signifiers: flag, ship, coast and code. The pirate’s black flag already marked them as tricksters, pushing them completely off the track of the colorful banners of territorial states. Raised shortly before an attack, its ship revealed its identity as a sudden change from a mask to a deadly danger.

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7 Privateering originally constituted a practice of feudal law entailing the right of individuals granted by their ruler to be compensated for losses they had suffered by the subjects of another state.
Featuring the canonical skull and crossbones, “Jolly Rogers” signaled pirates’ amorality and life beyond societal norms. Pirate societies developed their own rules, which were put to the vote on the basis of equal rights for each member of the crew. These rules involved the election of the captain, the equal sharing of booty, sanctions for misbehavior on board ship, and even rules of compensation for injuries suffered while under attack. Most importantly, however, these rules were only valid for the time a ship was at sea (Marx, 1997; Lapouge, 1987). In this way, the ship was the only enclosed place where a stable social order emerged. As soon as a ship entered coast this order broke apart immediately. Coastal zones became “places of jollification” where the carouse lasted as long as the money and gold that changed hands from pirates to innkeepers to merchants. But they were also the places where crews mixed-up again and pirate rules on board ship were reinvented.

The pirate code was invented against the hierarchical rules of subordination enforced by countries of origin, and hence as a direct offence against their states. By emphasizing freedom, equality and solidarity they might have announced the ideals of the French Revolution, yet they never came close to being fixed into law. Indeed, one could argue that it was the fixed catalogue of behavioral rules that might have brought down Captain Misson’s Libertalia on Madagascar (Lapouge, 1987). While the denial of states and property as well as the acknowledgement of the right to violence might well resemble anarchist ideas (Ansard, 1994), pirates never developed a concise perspective on that. However, one could argue that the pirates’ impetus for fluid and very practical rules of behavior, as well as their heavy reliance on the lively power of their crews, unintentionally brought them very close to a lived form of anarchy. With their skilful crews of seafarers and their floating mobility, they at least showed a sovereign power against states that anarchist movements never enjoyed. Pirate mobility thus stands in stark contrast to the Proudhonian ideals of localism or organized federalism. One might summarize that pirates’ “sovereignty of flows” entailed a non-exclusive control of territory, with flexible and situational boundaries. It was based on temporal rule setting only and mutual recognition at the level of the individual without any monopoly on external or internal violence.8 In sum, the differences between being inside or outside a territory were blurred. The moving spaces of pirate sovereigns consisted in the ability to catch the lines of the ocean’s waves. In this sense piracy could be named a frontier society.

Part III Governing the Pirate Repressed

It is thus not by accident that for the inchoate European nation-states, the stability and legitimacy of the emerging inter-state system required that a collective decision be made on the proper regulation of piracy. The importance of this issue for subsequent modalities of ocean governance cannot be overstated. Indeed, it would not be an exaggeration to assert that the outcome of choices made in dealing with the issue of piracy laid the foundation for subsequent regulation of “negative uses” of the sea, such as

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8 By comparison, Paul Hirst lists as characteristics of the sovereign territorial state exclusive sovereignty of the state at the expense of all other societal entities and mutual recognition of each other as exclusive rulers of a definite territory (Hirst 2002).
in dealing with matters relating to the slave trade, as well as issues pertaining to interference with undersea cables and marine pollution. In view of that necessary exclusion of ocean-space for the “unconscious” establishment of national sovereignty, the challenge for statesmen and global shipping companies alike was how to assert hegemony over the sea without exercising territorially sovereign power over ocean-space (Steinberg, 1999: 126). As territorial strategies were discarded, a non-territorial mode of regulation emerged which would hold the “home” state of pirate vessels or individual pirates responsible for the actions of its citizens on the high seas. Here, pirate ships would be perceived as “floating mini-societies”, as territorial extensions of land-based societies. The problem of this approach would be soon acknowledged, as it was recognized that ships sailing under one flag often carried sailors from many other states. Furthermore, pirate ships often claimed allegiance to anarchic “pirate commonwealths”, or to land bases in remote, non-European ports beyond the control of any recognized sovereign (Verne, 1896; Bey, 2001; Lapouge 1987, Cordingly 1996, Roder 2002).

The strategy of ocean governance ultimately implemented, rather than blurring the boundaries between land and sea-based modes of rule, avoided any attempt to re-assert state-centric territoriality on the high seas by reinforcing the system of sovereign territorial states over the entire planet (Steinberg, 1999). This was achieved by “upgrading” the status of colonial possessions and forcefully incorporating the “hidden” land-bases of pirate commonwealths within the territorial domain of one or another European state. Indeed, and as often transpired, pirates were invited to return to the warm fold of the national community, offered “amnesty” and full citizenship rights (Thomson, 1994). This “solution”, however efficient, only served to reinforce the binary dualisms of rationality/irrationality, civilization/barbarism, society/empty void characteristic of land and sea-based notions of governance, respectively. In this view, state-sponsored ships would become the “bastions of society on the ocean” (Steinberg, 1999: 131), while those ships not flying a national flag (or only flying flags of “convenience”) would be considered “not of the land”, linked to the anti-civilization of the sea, indeed as the enemy of a state/civilizational system. As the modern inter-state system increasingly incorporated all legitimate recourse to extra-territorial violence, pirates would come to be defined as legitimate prey for ships of all land-based “civilized” nations (Steinberg, 1999: 131). Piracy would thus be criminalized and turned into an awkward “human rights” problem, but the sea would remain a “pure” space for trans-oceanic commerce (Thomson, 1994). With this pat formula, statesmen across Europe could now sleep soundly, assured that their trans-oceanic commercial interests – and by extension, their nationally competitive economies -- were secure.

As the Golden Age of Piracy came to an end, the resulting separation of land and sea served both to mask British hegemony as a decentered and mobile power while projecting it onto the free space of the sea. It coincided with a new perception of space that was finally capable of penetrating and occupying the great void of the sea by

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9 It goes without saying that throughout the 19th-century, as the global reach of empire extended across much of the globe, such strategies of increased micro-surveillance and control would also be applied to “unruly” domestic populations of all kinds – proletariat, gypsy, female, anarchist and Bohemian – particularly within Europe’s burgeoning industrial metropoles (Wilson, 2001).
overcoming the *horror vacui* associated with pre-Enlightenment empty space (Schmitt, 1993:66). In this manner, the dichotomy of land and sea became a cornerstone of modernity on the basis of which Western domination of the colonies could be established to repress alternative forces of movement beyond the borders of nation-states.

*Refining On-Board Norms and Forms of Behavior: the “Grotian” Model of Ocean Stewardship*

Despite the eradication of piracy, further rounds of European expansion revealed the limitations of sovereignty applied to the high seas, leaving the problem of ocean governance unresolved (Thomson, 1994). Particularly in the latter decades of the 19th-century, the increasingly intensive use of ocean-space for commercial purposes once again pressed home the issue of its proper regulation. Here, an exponential growth in shipping and the consequent demand for secure maritime routes was matched by a need to properly “standardize” the relation of ships to their home countries; the interaction between ships of different nationalities when meeting on the high seas; and the relation of ships to foreign states in whose territorial waters or ports they might find themselves. Such anxieties extended to the regulation of behavior on board ships (Steinberg, 1999:125). At the International Maritime Conference (1889), tensions surface between manufacturers and insurers on the one hand, who wished for a greater standardization in norms of conduct at sea, and commercial interests and maritime states, notably France and Great Britain\(^{10}\), who demanded to preserve ocean-space as a “void” for laissez-faire commercial interests.

In order to resolve the impasse, a model was proposed for a “Grotian”\(^{11}\) model of sea-based stewardship, in which the ocean’s resources were to be regulated by the global community as a whole (Steinberg, 2000). But such Grotian standards would subsequently only be established weakly, for fear that governance of the sea at any scale might compromise the “great void” ideal of the ocean. As a compromise, powers of stewardship were granted to non-state entities, under the assumption that they would be less likely than states to expand rights of territorial closure. This new mode of ocean regulation became particularly relevant with respect to 20th-century ocean commerce; since the “great void” ideal constructed the sea as a non-territory, legislation concerning ships and shipping would become increasingly concerned with behavior on board the “discrete territorial entities” of ships. But as state laws could not govern the ocean other than through the establishment of fixed borders, appropriate codes of conduct were often derived from the municipal laws of each ship’s respective home state (Steinberg, 1999: 125).

\(^{10}\) Not by coincidence, this debate ran in tandem with more general societal concerns regarding the institutionalization of modes of popular governance at the urban and regional scale, where questions regarding the rights and duties of citizens in an increasingly international environment become paramount (Thomson, 1994: 147).

\(^{11}\) Derived from the name Hugo Grotius (1583-1645), famed Dutch international law expert who authored a number of works arguing for a fully international system of norms governing usage of the sea.
Despite the creation of a means of Grotian world-stewardship that avoided the projection of territorial sovereignty over the seas, European nation-states remained uneasy with the legislative endorsement of states exerting social power over ocean-space. Here, regulatory mechanisms used to address issues of piracy and pirate rule would only hesitantly be applied to other “negative” uses of the sea, such as acts of sea pollution. In so doing, the limits of land-based governance would be revealed in its dialectical relationship with the idée fixe of the ocean as a pure economic space. In the case of marine pollution, any claim by the world community to govern the ocean would imply legitimating the right of a world body to control the sea as its territory, an act which would run counter to the “Indian Ocean”-like ideal of the sea as lying outside society. So, while the Convention on the High Seas (United Nations, 1958) decreed that “every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines…” (Article 24) and that “every state shall take measures to prevent pollution of the seas from the dumping of radio-active waste…” (Article 25), the international community assumed no enforcement powers with respect to these issues. Similarly, although the 1982 Convention on the Law of the Sea (United Nations, 1983) contains a lengthy section on the preservation of the marine environment (Part XII), the enforcement of environmental regulations on the high seas remains the sole responsibility of an offending vessels’ home state, which is urged to voluntarily enforce standards set at international conferences or enshrined in domestic laws (Article 217) (Steinberg, 1999).

As a result, the establishment of a Grotian model of ocean stewardship in international law has had the effect of gradually depoliticizing piracy and related non-state acts of violence. In the 1982 United Nations Convention on the Law of the Sea, the pirate “as the enemy of mankind – hostis humani generis” – and “an offence against the law of nations whom any nation may in the interest of all capture and punish” (Moore 1927, cited in Steinberg 1999: 132) would be gradually transformed into a mere illegal act of violence committed for private ends by the crew or passengers of a private ship against another ship or aircraft on the high seas or in a place outside the jurisdiction of any state (United Nations 1983). What was once conceived with a certain amount of drama as a political crime against humanity was thus ratcheted down in importance to that of a private act of robbery (Sattler 1971). To add insult to injury, piracy soon became defined in such a way that most pirate acts today would not be included, since most occur not on the high seas but within the ports and territorial waters of generally tolerating states (Roder 2000). In this final act, piracy was pushed into nonexistence. It became, at least for a time, “invisible”. But it would just be biding its time, waiting to explode into the open again.

The “untimely” re-emergence of piracy today announces a crisis of modernity which resembles that of the mid-19th century (Casarino, 2002), when the international settlement on piracy coincided with the decline of British hegemony at sea and the sailing ship was replaced by the steam boat and then the submarine (Schmitt, 1993). As during that era, the construction of the sea as a great void under common stewardship now reveals its limits. In such a context, is it merely a coincidence that the Prestige accident is followed this year by a discussion of cyber-piracy at the U.N. world summit on the information society (Deutsche Gesellschaft fur die Vereinten Nationen, 2003) and by an
initiative of President Bush and some allied countries to intercept ships at high sea suspected of carrying unconventional weapons (New York Times, 2003)? Elements of the non-modern in the history of modernity that can barely be kept hidden under the blank surface of the sea.

**Part IV “Que lo Envien al Quinto Pino!” -- The Prestige as Pirate Ship Revisited**

It is within this paradoxical, contradictory and “unsatisfactory” legal construct of ocean-space that Captain Apostolous Mangouras found himself drifting into Spanish territorial waters on the afternoon of November 13, 2002. And it is on the stage of the Prestige, we would argue, that the spatiality of a banished pirate logic returned to exact its revenge on the heart of Europe. In the context of the foregoing historical reconstruction of ocean-space, vice-president Rajoy’s order to send the Prestige “to oblivion” – out of sight and out of mind - was entirely consistent with a centuries-old tradition of territorial privilege avoiding full and sovereign responsibility for acts of non-state violence, whether in the form of 18\(^{th}\)-century privateering and piracy, 19\(^{th}\)-century slavery, 20\(^{th}\)-century attempts to tamper with undersea cables, and now, early 21\(^{st}\) century ecological disasters and illegal weapons transport on the high seas (Langewiesche, 2003) . But as quickly became apparent, the Prestige – as with earlier forms of piracy and tampering – could not be left to operate according to the dictates of private market logics in the “great void” of the ocean, since left unattended the scope for potential “violence” was unprecedented in its ferocity, in this instance taking the form of an environmental and economic catastrophe of incalculable proportions for Galicia. As measured by the various reactions of the Spanish government and European Union, the Prestige, true to its pirate “cunning”, gradually insinuated itself into the cracks of the European inter-state system, exposing the tension-filled fault lines between its sovereign member states.

Astoundingly, and despite the obvious harm done to one of its poorest and most politically faithful regions, the Spanish government continued for weeks to downplay the danger of the oil spill, silencing its critics and openly blocking international recuperation efforts. Lacking anti-pollution ships of its own, Spain refused assistance at first from Germany, Italy and Great Britain (VdG, 2002e). A few days after the disaster struck, when Portugal and France claimed to have spotted new fuel stains on the surface of the ocean, Spain rejected the assertion and optimistically forecasted a much lower level of spill (VdG, 2002g). Shortly thereafter, Spain denied access to any foreign news source attempting to fly over the affected area, producing a virtual news blackout (VdG, 2002j). Hovering over the disaster zone, vice-president Rajoy could confidently assert that “things have been managed reasonably well” and that the boat “sunk at a reasonable and prudent distance [from shore]” (VdG, 2002f).

Rather than accept its share of blame, Aznar’s administration sought culprits abroad in a desperate attempt to distract world media attention from its own mis-handling of the incident. Thus, on the day after the first S.O.S. received from the Prestige, Minister Alvarez Cascos announced legal actions to be taken by Spain against Greece and Lithuania, respectively, for insuring and offering the original source of fuel for the vessel
In the interim, the European Commission, officially labeling the Prestige “suspicious”, opened an investigation into whether Britain adequately inspected the Prestige before allowing it to set sail from Gibraltar (VdG, 2002g). Despite the gravity of the environmental damage done to the Galician coast, Aznar’s administration was not able to secure financial support from the Europe of 15 member states, as Schroeder had achieved in the wake of earlier catastrophic flooding in Germany. In the opinion of Michel Barnier, director of the European Regional Development Fund, the EU was exempted from shoudering the cost of Galicia’s environmental recuperation because, in contrast to Germany’s natural disaster, Galicia’s was entirely “man-made” (VdG, 2002i).

As European leaders met to discuss what was to be done to prevent further Prestige-like crises, additional strains appeared on the normally placid and superficially consensual façade of Union Europe. Without seeking the approval of European Transport Minister Loyola de Palacio, Schroeder and Chirac agreed to reduce the period for a moratorium on single-hulled ships from 2010 to 2005, and ordered the mandatory use of double-hulled vessels by 2015 (VdG, 2002b). Greece, Great Britain and The Netherlands would break ranks with the European Franco-German “axis” by demonstrating an open reluctance to apply these new maritime security measures (VdG, 2002g). For Greece, holder of the most extensive oil fleet in Europe, the measures would entail substantial overhaul costs, while for Great Britain and The Netherlands the new rules would severely cut into a profit margin derived from controlling the lion’s share of Europe’s crude oil market (VdG, 2002h). Sweden, Denmark and Finland showed their subsequent displeasure with these rulings, angry that Europe would take unilateral advances in these matters without first consulting the International Maritime Organization (VdG, 2002h).

Watching these proud affirmations of hurt pride and national sovereignty played out on a tiny black and white television whose Spanish broadcasters he cannot understand, Captain Mangouras, locked away on substantial bail in a tiny jail in the Galician village of Teixeiro (La Coruna), employs his “impressive English” to befriend a number of fellow inmates, all from foreign lands (VdG, 2002j). According to the local prison officials:

“We don’t know what this man has done out there, but here he makes no difficulties, [he] never protests, [he] is well educated and behaves in a completely normal way.”

(VdG, 2002j: 3; translated from Spanish by author)

Hunched over his domino board game, we detect a smile in the worn face of Captain Mangouras. Where does this smile come from? What “hidden” knowledge does it protect, against all odds? It might be the knowledge of somebody able to envisage the Prestige disaster as the future anterieur (Casarino, 2002) of an old pirate past. Not only would this smile reveal knowledge about the newly rising numbers of oil spills (Hofer/Mez, 2001); the arbitrary and precarious labor rules developed among the international crowd of seamen on these ships; and the hidden ties linking “flags of convenience” to the most
honorable countries and companies of the international state system (Langewiesche, 2003). Most of all it would reveal how impossible it is to govern this floating sovereignty by merely implementing international rules banning its power to the great void of non-existence. Indeed, he might be aware of how fragile this “blank blue” is.

Part V Conclusion: Towards the “Pirate Frontier”

As revealed in the foregoing, the self-complacent 300-year old period of modernity defined by the rise and consolidation of the capitalist inter-state system has been regularly punctured by the figure of the pirate. Even at the peak of late 19th-century industrialization, as intellectual and geographical frontiers were being pushed to their limits, both sea and underground urban spaces were re-envisioned by anarchist-inspired writers and thinkers as new “frontier areas” which partially escaped the logic of the capital-centric spatial practices of industrial capitalism. Like the Romantics before him, Jules Verne perceived the ocean as a “pure” arena where individuals could escape the barbarisms of land-based rule, with its “police-ridden” societies and constraints (Chesneaux, 1972). Borrowing a term from 19th-century anarchist circles, he considered the sea as a “free medium”, its island states – not “in” the sea but “of” the sea – understood as “free environments”, liberated from governmental restraint and harboring the potential to reorganize social relations with ease and flexibility.12

For many, therefore, it might not be unexpected that piracy is alive and well today. In fact one could say that piracy always accompanied naval commerce, that it is a phenomenon that was haunting all the seven oceans of the world from the earliest days of sea-based trade. What should come as a surprise, however, is that piracy is considerably on the rise again since the mid-1990s, with pirate attacks being reported now in fourfold increase, particularly in the Southeast Asian Sea but also in the somewhat classic areas of pirate activity, such as the Indian Ocean and East Africa, West Africa (i.e. the traditional slave coast), South America and the Caribbean, and of course the Mediterranean (Roder, 2000). Yet these attacks are normally reported merely as acts of robbery, and although they are registered by a special anti-piracy office in Kuala Lumpur they are of no relevance for any international bargaining today and are often concealed even by affected ship owners and crews (Ellen, 1996; Langewiesche, 2003).

Piracy today is invisible, emerging as quickly as it disappears and developing as a sudden short-lived wave of destruction while leaving a pale shade of another possible world. Despite the inherent fuzziness of the term, when we take piracy as a model of ocean governance and apply it to the Prestige disaster, we do it for two reasons. First, to bring to the fore the causes of a not so uncommon environmental disaster while getting rid of natural and technical explanations like the stormy weather, or the advanced age of the ship, or the lack of a double hull for the tank. Secondly, in so doing we would like to re-politicize the term piracy by revealing the intricate link binding it to the emergence of

12 It is thus not by chance that Verne established close ties with French anarchist circles, particularly with the regional geographer Elisée Reclus (Chesneaux, 1972). Verne’s anarchism would be “tempered” by his fascination for classificatory science, however, bringing him more in line with the work of the Russian aristocrat-turned-anarchist Peter Kropotkin (Steinberg, 1999: 121).
the model of the nation state and establish it as an alternative model of sovereignty that might be called a “sovereignty of flows”. As such, it gestures towards a spatiality that differs in critical ways from that of the territorial nation-state, one we need to give honor to in order to understand the precariousness of the latter and explore the potentialities as well as the dangers of an alternative model. Lastly, it might show us a road to prevent further oil spills on the sea, while allowing us to come to terms with similar problems of governance beyond the logic of the nation-state, as exemplified by unregulated flows of migrant workers, hidden spillovers of knowledge and money, and cross-border environmental problems. To acknowledge this repressed sovereignty would necessarily entail appreciating its peculiar spatiality, which is anything but a smooth movement across blank space.

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