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## Dead Men Tell No Tales: How the British Empire Destroyed Pirates With Monstrous Legal Rhetoric

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Dead Men Tell No Tales: How the British Empire Destroyed Pirates With Monstrous Legal  
Rhetoric

Ashley L. Nef

A thesis submitted to the faculty of  
Brigham Young University  
in partial fulfillment of the requirements for the degree of

Master of Arts

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## ABSTRACT

### Dead Men Tell No Tales: How the British Empire Destroyed Pirates With Monstrous Legal Rhetoric

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The state often enacts violence against marginalized groups by rendering them monstrous. The early eighteenth century saw early and stellar instances of this phenomenon in the way the British Empire pursued and executed pirates. These “golden age” pirates represented an extraordinary cross-section of marginalization politically, economically, socially, and otherwise, all of which threatened the political and social mores of Imperial Britain. In order to implement a policy and practice of pirate annihilation, British authorities constructed pirates as monstrous by racializing, dehumanizing, and emphasizing the supernatural quality of pirates. This study analyzes three eighteenth-century piracy trial transcripts—those of William Kidd, Stede Bonnet, and William Fly—in order to assess how lawyers and judges constructed pirates as monstrous so as to justify the massive and total violence inflicted on them as a class resulting in their complete destruction. In so doing, this study tracks rhetorical tactics and strategies still used by empires and the state today against marginalized peoples to an original historical source.

Keywords: pirates, monsters, monstrous, eighteenth century, British Empire, discourse analysis, rhetoric, trials, trial transcripts, legal rhetoric, William Kidd, Stede Bonnet, William Fly, piracy

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## Introduction

On July 12, 1726, a man named William Fly approached the gallows for hanging on charges of piracy. Despite the minister Cotton Mather's best efforts in the lead-up to execution, Fly manifested no remorse for his actions. Instead, he instructed his hangman on proper knot-work and proceeded to tie his own noose. With his handiwork around his neck, he then spent his last words not to plead forgiveness or send a prayer skyward but instead to give warning to any ships captains within reach of his voice about their "bad usage" of their crews: "all Masters of Vessels might take Warning by the Fate of the Captain" Fly had killed in his mutiny, and should "pay Sailors their Wages when due, and...treat them better" because captains' cruelty to their crews "made so many turn Pyrates." Having submitted this final protest, the 27-year old sailor was executed, and his remains were hanged in chains at the harbor to rot in "warning" to other seafarers (Rediker, *Villains* 1-2). And so ended what historians call "the golden age of piracy," a period which saw unprecedented numbers of people take to sea as pirates at a time when British imperial power was consolidating in the Atlantic.

As pirates go, William Fly was fairly standard. He was a poor man of no consequential background who signed on to be a sailor in Jamaica in April 1726. It was not long before Fly clashed with Captain Greene, whom Fly described as having "abused" his men "Barbarously" and "like Dogs." In response to this oppressive treatment, Fly and his fellow sailors mutinied, killed their captain, and having committed this capital crime did what many others had done before them as their only and last resort: they turned pirate. The crew elected Fly as their captain, set sail and took a handful of ships before they were caught and brought back in arrest to Boston (Rediker, *Villains* 1-4). Their trial was held in July; it was short, with advocate general Robert Auchmuty briefly summarizing the case by calling Fly and his men "Hellish," the "Dreggs of

Mankind,” and guilty for “unheard of Barbarities” (Fly 14). Such language was fairly standard—and even tame—for piracy trials. As pirates increasingly threatened British imperial and mercantile interests in the early eighteenth century, British legal rhetoric increased its viciousness against those brought before the bar, describing pirates over and over again as monstrous. In fact, as I plan to show, this rhetoric of monstrosity is so consistent and distinct that it deserves a closer look. In piracy trials of the early eighteenth century, lawyers and judges construct pirates as monsters not merely for stylistic flourish—instead, this legal rhetoric purposefully works to authorize British state violence to utterly exterminate pirates, regardless of the law’s usual limitations.

Legal rhetoric generally merits careful attention because its power to shape reality is inherently violent. In fact, legal scholars have noted that the law’s power is rooted in its capacity to inflict violence and death (Cover 1601). But for the law to have this power in the first place, it must articulate “justifications” to vanquish any “inhibitions” against violence (Cover 1601, 1617). Such rationalizations are necessarily rhetorical, invoking a variety of social ideas or discourses to construct a world-view that is sufficiently self-affirming (Harrington 305-306; Sarat 9). In other words, legal rhetoric shapes, enables, and justifies state violence; and rhetoric is in turn shaped by the law’s need to justify its own violence.

One way the law justifies its violence is by constructing a rhetoric of monstrosity, which it has applied in many contexts, from terrorism to drug use, sexual crimes, immigration, and so on (Greene 684-685; Saul 44; Troshynsky 741; Bender 35, 37, 39, 51, 139). It is no accident that these various contexts often implicate specific marginalized identities. While at least in theory the law seeks to disincentivize criminal behavior of all kinds, legal representatives often specifically use monstrous rhetoric as a means of targeting oppressed minorities, such as people of color

(*Dred Scott v. Sanford* 60 U.S. 393 (1856); Olson 1-2, 10; Bender 133, 139), the LGBTQ community (Bender 94; Sharpe 390), the poor (Olson 7; Bender 82), the mentally ill (Olson 10), or others at the intersections across the groups.

Pirates of the early eighteenth century provide an early, discrete, and noteworthy example of this phenomenon. Contrary to popular imagination and as recent scholarship has shown, the so-called “golden age” pirates were not merely a criminal class of sea-born thieves, but an emancipatory group challenging societal norms regarding class, race, gender, sexuality, social organization, and so forth (Linebaugh 162; Rediker, *Villains* 6). Indeed pirates were revolutionary: at a time when working class people and the poor had no opportunity for participating in democratic processes, pirate ships were remarkably oriented towards democratic ideals and equalization across the crew (Rediker, *Villains* 60-82). Because pirates particularly threatened both the British imperial economy and social order, the empire’s agents “re-created” pirates “as sub-human beings—monsters, demons, and animals” (Rediker, *Villains* 130). Historians, such as Marcus Rediker and Peter Linebaugh, have previously noted the remarkable state violence brought to bear against pirates, and have even connected it to a rhetoric of monstrosity (Rediker, *Villains* 130; Linebaugh 173), but they have not tracked how the state went about formulating and articulating this rhetoric in order to authorize such violence.

I will evaluate how legal rhetors constructed pirates as monstrous and how they leveraged that construction of monstrosity to authorize state violence against and legitimize social condemnation of pirates. While the notion of the monstrous pirate was present in multiple areas of British society, including newspapers, sermons, popular entertainment, and elsewhere (Rediker, *Villains* 127), legal sources show how the British imperial state deployed this rhetoric in ways directly motivating the extermination of pirates. And because history shows this rhetoric was

remarkably successful—piracy trials overwhelmingly resulted in sentences for execution, and pirates were wiped out by the late 1720s—this study offers a unique opportunity to show an early and successful application of this rhetoric by a nascent British empire against people from marginalized identities whom the state still renders monstrous today. Pirate history marks an important point for intellectual history where later revolutionary groups drew on elements of pirate action (democracy, etc) and were likewise treated with similar rhetorics by the empire and its progeny. As such, the clear arc of pirate history means we can also easily track the success of this rhetoric in anticipation of its later applications. In order to reveal these strategies, I perform a discourse analysis of three British trial transcripts to disclose what rhetorical strategies legal representatives used to construct pirates as monstrous, and how those strategies legitimized violence against pirates. As my analysis shows, legal rhetors employed three primary strategies to construct pirates as monstrous and to authorize state violence against them: they 1) racially othered pirates, 2) dehumanized and bestialized them, and 3) amplified to supernatural proportions the threat pirates posed. In discussing these strategies, I will identify several rhetorical features upon which legal representatives drew to make their case. These include metaphor, repetition, hyperbole, pathos, and amplification, among others.

### **Historical Background**

Before the pirates of popular imagination became stock characters and the standard at costume parties, they were people who lived and operated in the Atlantic primarily in the 1600s through the 1720s (Rediker, *Villains* 8-9). Scholars have deemed this period “the golden age” for pirates due to its high rates of people charged with piracy—a period which began by hailing and rewarding pirates as privateers and national heroes and which ended rather abruptly when



imperial powers (particularly the British empire) brought their might to bear against them and eliminated them entirely (Linebaugh 156).

But the history of the British empire is deeply intertwined with piracy. In fact, piracy was a major instrument in Britain's journey to empire, from the reign of Queen Elizabeth I through most of the seventeenth century (Rediker, *Villains* 19-21; Linebaugh 156, 172). As western powers took en masse to the seas to expand possessions, increase trade, and battle each other, the island nation of Britain had much to gain from expanding its presence at sea (Linebaugh 172). And where the English Navy could not accomplish its objectives against other imperial powers like Spain and France, the British government would authorize private ships to act on its behalf (Linebaugh 172). Piracy became one way for the British empire to check its competitors as the British government actively encouraged British vessels to seize foreign ships and their goods as acts of patriotism (Rediker, *Villains* 19-21). Officially, the law distinguished between piracy and privateering; but pirates could be named privateers after the fact, and privateering commissions were not always legal cover (Rubin 99). So in reality, "privateer" and "pirate" were essentially convenient labels for British legal authorities to apply however they saw fit (Rubin 99). But the end of the seventeenth century officially shifted British imperial favor away from piratical acts. By that time, Spain had overextended itself and begun to decline while France could not compete with British might in the Atlantic (Rediker, *Villains* 19-21). Meanwhile, Britain's expanding colonies in North America and South Asia as well as its increasing stake in the slave trade meant that the growing empire increasingly sought to protect its strong foothold at sea (Rediker, *Villains* 140-144). Acts of piracy previously encouraged now represented a threat instead of a boon to British imperial might, and the British government cracked down hard (Rediker, *Villains* 144-147).

The British Empire's shift to antagonism against piracy tracks with the transformation pirates underwent as a class towards the end of the seventeenth century and through the first couple decades of the eighteenth. Whereas earlier pirates (like Sir Francis Drake) hailed from more aristocratic backgrounds, recent scholarship has begun to uncover how pirates in the late seventeenth and early eighteenth centuries increasingly identified and operated as a subversive class at the margins of identity, class, politics, and so forth and how their criminal enterprise largely responded to imperial oppression (Linebaugh 162; Rediker, *Villains* 6). These new pirates were broadly lower class, rebelling against terrible abuse inherent to standard British naval operation (Linebaugh 163). British ships (naval and commercial) were brutally tyrannical institutions capable of kidnapping and pressing unwilling men into service, abusing them in horrific ways, paying them little or even nothing at all, and executing without trial any who resisted (Rediker, *Villains* 42-46; Linebaugh 151). In light of these oppressive conditions, turning pirate was at times the only way out. For many, it became an emancipatory act.

And they proved their emancipation by how they conducted themselves as pirates. As a general rule, pirates did not conscript men into service on principle; instead, sailors became pirates when they mutinied and collectively assumed control of their vessel, or voluntarily joined crews that invaded their ships (Rediker, *Villains* 46-47). Pirate crews formed around democratic ideals: ship articles drafted in common by the crew ensured they could vote officers in and out, radically equalized pay across the board, balanced the captain's power against the will of all, and included provisions compensating those injured in the line of duty (Linebaugh 162; Rediker, *Villains* 60-82). This self-determination and collectivity induced a sense of sovereignty amongst pirates as a class: instead of flying flags associated with any nation, pirates made their own flags to set themselves apart as their own nation and would cooperate amongst one another across

ships and crews (Rediker, *Between the Devil* 176). Pirates also called themselves “Robbin Hoods” and interviewed captured crews on their officers’ behavior so they could levy punishments against harsh captains and reward well-behaved ones (Rediker, *Villains* 85-87; Linebaugh 162). And pirate crews were incredibly heterogeneous, famously including women and harboring political dissidents (Linebaugh 167); they were also sites of homosexual freedom (Rediker, *Villains* 74). Radically diverse, pirates welcomed people of all nationalities and races to the point that some crews famously had equal numbers of white and black sailors; for his part, the notorious Captain Blackbeard had 60 black men on his crew of 100 (Linebaugh 166). Many of the black men on pirate crews were freed slaves as pirates were well-known for attacking slaving ships (Linebaugh 166-167; Rediker, *The Slave Ship* 22-23).

In fact, in addition to destabilizing imperial social and political mores, it was piracy’s threat to the slave trade that marked them as particular enemies of the British Empire. The early 1700s marked a boom in Britain’s slave trading interest—the War of Spanish Succession’s end brought new incentives for British involvement in shipping slaves, and when the African slave trade was finally deregulated in 1712, British imperial agents and private merchants alike became all the more invested in the booming enterprise (Rediker, *Villains* 143-144). But pirates posed a terrible threat to the slave trade as they made particular targets of slave ships, with a single pirate crew capable of taking several hundred ships within only a few years at a time (Linebaugh 166-167; Rediker, *The Slave Ship* 22-23). And the numbers reflect how pirates did prevent the growth of the slave trade: the years of highest pirate activity (1720-1722) coincide with the lowest numbers of slaves exchanged in trade; and after intervention by the British imperial state to quash the pirate threat, the numbers of slaves traded skyrocket almost doubling between 1720 to 1725 (Rediker, *Villains* 144). The British empire officially completed their

extermination of pirates in 1726, after which Britain became in the 1730s—in the words of James A Rawley—“the supreme slaving nation in the Atlantic world, a standing she occupied until 1807” (Rediker, *Villains* 144). Whereas earlier piratical efforts had helped establish British power, piracy came to qualify British imperial interests in the early eighteenth century. And it was only with after removal of piracy that British imperial supremacy could be assured.

Piracy thus directly responded to the imperial project and came to represent both a subversive and an imminent existential threat to British social norms and practices across the board (Linebaugh 172). Pirates as a class threatened British conquest, rigid social structures, and international trade: politically, they challenged imperial structures; socially and morally, they violated British sensibilities; and economically, they proved too great a liability for imperial interests (Rediker, *Between the Devil* 254). In order to ensure its continued power and control of both economic interests at sea and its political and social interests (as well as sense of self) at home, the British Empire needed to eliminate and delegitimize the pirate threat.

And so in the eighteenth century, the British empire designed a rhetoric that would spectacularly transform the pirate from a privateering hero who merits praise to a threatening monster who must be eliminated (Rediker, *Between the Devil* 254; Linebaugh 173). In courtrooms and parliament, stories and sermons, pirates were branded a separate race, inhuman, beasts of prey, and *hostes humani generis*—or “enemies of all mankind” (Rediker, *Villains* 129-130; Rubin 109). The rhetoric of monstrosity was so effective that not only were pirates of the period totally eliminated—executed and disposed of by the state within only a couple of decades—but the pirate of popular imagination came to mirror the caricature constructed for imperial interests (Linebaugh 173; Rediker, *Between the Devil* 283). The British empire won: the emancipatory history of golden age pirates was obscured for a long while. But with some of their

history recovered by modern scholars, pirates present a useful case study in the law's efforts to justify state violence through a rhetoric of monstrosity both because they posed a particularly difficult legal problem for the British empire (in terms of prior law that sanctioned piratical acts and difficulties in claiming jurisdiction over them) and because the violence against them as a marginalized population was so stark and defined.

### **Theoretical Framework: What is a Monster?**

In order to construct pirates as monsters, legal rhetors relied on a rhetoric of monstrosity that otherizes the marginal and depicts it as a threat necessitating destruction. Monsters are inherently “borderline” in nature, synonymous with the marginalized, dwelling in and transgressing the liminal space between the real and unreal, between the socially and legally acceptable and unacceptable (Kearney 3, 4; Poole 23; Sharpe 387 (citing Foucault)). It is this transgressive hybridity that both defines a monster and calls for its destruction (Sharpe 391; Olson 2; Kearney 4). After all, “monster” at its etymological root (from latin: *monstrare*) means both a revelation and a threat: revelation in that it reveals the borders and sanctions that make up society, including its values, fears, and failings; threat in that it endangers those same values, fears, and failings as a transgressor of those boundaries (Kearney 6; Poole 5). Thus the label of monster is never neutral: its imposition is always an indictment. In this way, monstrous rhetoric facilitates the subject's destruction. After all, as Franco Moretti asks: “Why make a monster? To watch it die” (30).

In social and legal practice, this identity-shaping has dangerous, real world implications, going beyond the metaphorical to “shape actual historical” and legal action in terrible ways as the monstrous becomes a convenience for exorcizing various societal demons in the form of targeting the oppressed and marginalized (Poole 25, 13; Moretti 29). As can be seen over and over again in

the historical uses of monstrosity against indigenous, colonized, and enslaved peoples, monstrous rhetoric is deployed to do “social dirty work” by using the annihilation of the monstrous other to strengthen the “communal body” (Ingebretsen 32, 26; Poole 4, 13, 31). And especially in the English language, these methods have been applied emphatically against non-white communities to disastrous effect (Poole 4, 13, 31). In this way, the monstrous operates both as a rhetorical discourse altering the lived experience of real people—and most frequently people of color—identified as monstrous and also as a rhetorical marker scholars can use to identify where society has moved against the marginalized and oppressed (Poole 33; Sharpe 386).

Because monstrosity is so consistently associated with oppressed people of color, hybridity, and threats, those correlations have become features identifying the rhetoric of monstrosity. In many ways, these features work progressively, building upon one another to construct a monster. Rhetors wishing to make a monster start with basic otherization, and white rhetors have historically done so by identifying those they would deem monstrous with other races. Building upon this racialization, rhetors then render their subjects hybrids and marginal in nature: they are rejected from humanity and take on bestial characteristics. Having so dehumanized their subjects, rhetors then amplify the threat those subjects pose to supernatural proportions. Thus, one wishing to identify the rhetoric of monstrosity in action will know it by its markers of 1) racialization, 2) dehumanization, and 3) supernaturalism.

### **Method**

Since this study is specifically interested in how the British state constructed pirates as monsters, I will pull data directly from the published trial transcripts of Captain William Kidd, Major Stede Bonnet, and William Fly. Where piracy trials occurred,<sup>1</sup> trial transcripts were

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<sup>1</sup> Not many did. Between the Library of Congress and the UK’s National Archives, such trials appear to only have occurred by the dozens in this period (“Collection: Piracy Trials”; . In its efforts to eradicate piracy wholesale, the

preserved with great care because the British government had a vested interest in making piracy trials public knowledge as part of its agenda in eliminating piracy (Butler; Rediker, *Villains* 127). Because these legal documents were used by the state to shape public perception of a distinct and legally vulnerable population, transcripts of British piracy trials represent a fascinating opportunity to scrutinize the tools of empire in justifying its violence against a marginalized population. While perhaps only a dozen or so trial transcripts remain extant from this period,

Of the dozen or so piracy trial transcripts extant from this period,<sup>2</sup> I selected three transcripts which are touchstone artifacts in their own right: all three of these trials represent significant historic moments and an exemplary cross-section of the British Empire's pursuit of golden age pirates, both in terms of time and place. Captain Kidd's 1701 trial comes early in the period at the empire's seat of power—London—and represents a significant turning point in the empire's treatment of pirates, especially since some question the legitimacy of charging a man with multiple privateering commissions with piracy (Rubin 94-99). The 1718 trial of Stede Bonnet, close compatriot to the infamous Blackbeard who had only shortly prior to the trial laid siege to that very city, comes midway in the period at a high water mark for piracy in the Atlantic in Charleston, South Carolina (Butler). Finally, William Fly's 1726 trial represents for

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British empire also altered the law so that pirates could be executed without trial by anyone (Rubin 70). However this fact only proves how important the few trials that did take place were as rhetorical events: the trials that did occur, such as those evaluated in this study, offered high-profile opportunities for imperial legal authorities to articulate and justify state violence upon pirates. It is this rhetoric that is of particular interest and why these trial transcripts are so valuable.

<sup>2</sup> For the period of 1700-1726, I was able to find the following: "The Arraignment, Tryal, and Condemnation of Captain Kidd" (1701, London); "The Arraignment, Tryal, and Condemnation of Capt. John Quelch, And Others of his Company" (1704, Boston); "The Trial of Nine Persons for Piracy" (1716, Charleston); "The Trial of Four Persons for Piracy" (1717, Charleston); "The Trials of Eight Persons Indited for Piracy" (1717, Boston); "The Tryals of Major Stede Bonnet, and other Pirates, viz." (1718, Charleston); "The Trial of Twenty-four Persons" (1718, Charleston); "The Trial and Condemnation of Ten Persons for Piracy" (1718, Bahamas); "The Tryals of Captain John Rackam and other Pirates, viz." (1719-1720, Jamaica); "The Tryal of all the Pyrates Lately taken by Captain Ogle, on Board the Swallow Man of War, on the Coast of Guinea" (1722, Guinea); "Tryals of Thirty-Six Persons for Piracy" (1723, Newport, RI); "The Trials of Sixteen Persons for Piracy" (1726, Boston); "The Trials of Five Persons For Piracy, Felony, and Robbery" (1726, Boston).

some scholars the ending cut-off for the era and took place in a northern British colony—Boston, Massachusetts—that had previously benefited from economic transactions with pirates (Rediker, *Villains* 10, 98-99). Each of these trials thus represent remarkable, touchstone moments of the “golden age,” and triangulate the empire’s strategy chronologically and geographically. In all cases for this study, I accessed trial transcripts digitally: the Library of Congress has digitized copies of Kidd’s and Bonnet’s trials so that images of the original published books may be accessed in their entirety as PDFs. The Evans Early American Imprints (Evans) TCP has published transcriptions of William Fly’s trial and rendered the text searchable.

In order to evaluate how rhetors constructed pirate monstrosity, I will conduct discourse analysis of these trial transcripts. My departure point will be Barbara Johnstone’s six principles of discourse analysis: discourse shapes and is shaped by the world, people’s purposes, linguistic structure, participants, past/future discourse (respectively), as well as its media and its media’s possibilities (xxiv). The dual structuring across these categories reflects the same phenomenon occurring between rhetoric and the law (persuasive subsets to discourse), a phenomenon I believe this analysis will track. A critical dimension to my analysis will also incorporate elements of critical discourse analysis which tracks abuses of power through the same elements above as well as “covert” textual features (Huckin 109-110; Van Dijk 387-388). Van Dijk’s ideological square and his general focus on strategies to speak positively about oneself and negatively of one’s opponents/out-groups will also feature in my analysis as a method by which these legal rhetors speak of pirates (Van Dijk 396-397). Discourse analysis goes hand-in-hand with a study of rhetoric because rhetoric is nothing if not simply a persuasive subset to discourse. Discourse analysis (and its more specific, critical subset) is a rich method for legal contexts, and particularly trial transcripts (Andrus 641; Matoesian). By breaking down legal rhetoric into its linguistic



parts—noting linguistic features that build meaningful discourse and foster certain legal outcomes—discourse analysis can show “law-in-action” and how “culture and power” participate “in the social construction” of “legal fact” (4-5). After all, the law is comprised of linguistic parts, and trial transcripts show how those linguistic parts shape and are shaped by discourse that will ultimately yield a particular judgment. By noting the rhetorical and discursive elements to legal rhetors’ diction and linguistic constructions of pirates within these transcripts, one can see how British imperial agents worked to make pirates into monsters and how those efforts then operated to justify legal violence to destroy pirates.

### **Why Pirates?**

Empires—their nature, strategies, and legacies—have been a matter of growing public interest: recent events (the Black Lives Matter movement, Brexit, the death of Queen Elizabeth II, etc.) have especially ignited analysis into the imperial lives and afterlives of the United Kingdom and United States (Sanghera 216; Elkins 3-7, 680).<sup>3</sup> How these empires fashioned the law to uphold their “imperial legitimacy” through violence has centered in discussion; but this “legalized lawlessness” (so named by Caroline Elkins) cannot be fully understood unless we can see where it started and how it was first enacted (Elkins 13-16).

Pirates are a stark and singular example of this legal rhetoric’s early formation because they only became a threat as Great Britain’s imperial ambitions grew. As mentioned above, pirates predate Great Britain’s ascension to empire and as such were first seen as British agents,

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<sup>3</sup> For examples from only the last four years of such public discourse, see the much-discussed *Legacy of Violence: A History of the British Empire* by Caroline Elkins (2022); *Empireland: How Imperialism Has Shaped Modern Britain* by Sathnam Sanghera (2021); *How to Hide an Empire: A History of the Great United States* by Daniel Immerwahr (2019); *Slave Empire: How Slavery Built Modern Britain* by Padraic X. Scanlan (2020); *The New Age of Empire: How Racism and Colonialism Still Rule the World* by Kehinde Andrews (2021). See also the popular podcast *Empire* hosted by the great historians of Britain in South Asia Anita Anand and William Dalrymple which only started August 2022.

to be rewarded and praised for their actions on the high seas and elsewhere; it was only as the British Empire came into its own that pirates were increasingly identified as “the very negation of imperial social order” (Rediker, *Villains* 180). And pirates did pose a danger to imperial policy and values (as discussed above) by attacking the slave trade, undermining the British navy, upending hierarchies (racial, political, classed, gendered, etc.), generally offending social mores, and so forth. Because they represented such a potentially ruinous menace to the nascent British Empire, pirates are a striking object of study to track how a developing empire identifies and ultimately constructs those it marginalizes. Their journey from heroes to villains makes pirates perhaps the best example to study how the legal rhetoric employed by the British empire against the marginalized developed.

And this early rhetoric must be studied because it continues to be applied against marginalized populations—ie., those identified as threats to those same imperial policies and values—in successors to the eighteenth century British Empire. Pirates’ identification with multiple marginalized identities means there has been a more direct line of application to many modern contexts: for instance, courts apply legal principles invented for use against pirates, such as the application of *hostis humani generis* against terrorists (Greene); and courts use the same monstrous rhetoric employed against pirates against a variety of marginalized populations including, for instance, women criminal defendants, juvenile offenders, and political dissidents (Potts; Titus; Elkins 620-24; Leman 31) in addition to previously mentioned contexts of immigrants, people of color, the LGBTQ community, and the mentally ill (Greene 684-685; Saul 44; Troshynsky 741; Bender 35-39, 51, 139; Olson 1-10). This legal rhetoric originated as an instrument of empire and was implemented early on against pirates to grand effect. Taking a

closer look at that legal rhetoric—how it was developed, how it was used, and how effective it was—will give us a better means to identify and address its application now.

### **Analysis**

As described above, three particular features mark the rhetoric of monstrosity: it works to define its designated subjects as 1) racially other, 2) inhuman, and 3) supernatural. All three rhetorical features—manifested via a variety of linguistic features marking the discourse — distinguish the rhetoric used against pirates in the Kidd, Bonnet, and Fly trials by prosecuting attorneys, judges, and other officers speaking on behalf of the court. Through such rhetoric, these legal rhetors construct pirates as monstrous and thereby legitimize the empire's extraordinary measures to exterminate pirates.

#### *Racialization*

Legal rhetors racialize pirates in ways clearly intended to otherize and denigrate their personhood. While language like “savage” and “brutish” also carry flavors of the animalistic, both terms likewise convey a racialized and explicitly negative implication (“Savage, n1, 3a, 3c, 5a, 6b”; “Brutish, n1-3”; Smiley). In particular, “barbarous” and “barbarity” have always denoted the foreign with a flavor of the uncivilized and violent; and historically, this has been used with great frequency against non-white peoples and communities (“Barbarity, n2a-b”; “Barbarous, n1-5”). Because the pirate crews charged in Bonnet’s trial were notoriously mixed racially (and they were being tried in a colony where black slaves already comprised the population’s majority) (Wood 36), Bonnet’s trial unsurprisingly manifests a strong use of racializing descriptors against the pirates: both the attorney general and Judge Trott each repeatedly name the pirates “savage,” “brutes,” “brutish,” “barbarous” and otherwise claim the pirates employed “barbarity” (“The Tryals of Major Stede Bonnet and Other Pirates,” hereinafter

“Bonnet,” 3, 5, 9, 24, 34). Variations on “barbarous” alone crop up some five times in Kidd’s trial and feature as the climactic final word before the the attorney general’s concluding plea for a sentence in Fly’s (“The Arraignment, Tryal, and Condemnation of Captain William Kidd,” hereinafter “Kidd,” 7, 17, 33, 49, 50; “The Tryals of sixteen persons for piracy, &c.,” hereinafter “Fly,” 14). Attorneys and judges emphasize the racial connotations of these terms by pairing them together (“savage and brutish”), or by reference to other nations (“there is no Nation so barbarous, but by universal Practice do consent to...that ancient Law of God, that *Whoso sheddeth Man’s Blood, by Man shall his Blood be shed*”). They also highlight their use of these words by various means, including as an enhancement to criminal activity (“added Barbarity to his other Crimes” (Bonnet 24); “killing after a barbarous manner” (Kidd 17)) or by adding augmentative language such as “most barbarous,” “very barbarous,” or “unheard of Barbarities” (Kidd 7, 50; Fly 14). The emphatic use of these terms across the trials shows a marked tendency amongst legal rhetors to depict pirates as negatively foreign and racially compromised.

And by appealing to the historically racial and negative connotations of these terms, legal rhetors co-opt an established discourse already in use to diminish the humanity of specific populations. In other words, the legal rhetors employ a convenient, pre-established rhetoric and apply it to another community in order to perform a similar diminishment in a new context. The somewhat racially-integrated nature of pirate crews offered a convenient mechanism to invite the use of this rhetoric even though only white men stood accused in courtrooms. In fact, pirates’ lack of discrimination between races and religions is specifically cited in the courtroom where the prosecutor points out that “all” are “alike to Pirates” because “they distinguish not Nations or Religions” (“Kidd” 17). Similarly, the attorney general in Bonnet’s trial highlights the fact that Bonnet threatened to “make a Slave of” white men who did not willingly comply—showing

pirates treated white men without deference and in a way that was read as a racial challenge. In trials where judges were white, attorneys were white, and juries were all white, and notably not all pirates were white, these turns of phrase work to collectively otherize pirates, drawing particular attention to their racial collaboration, and setting them outside the bounds of white human society. And in an empire increasingly reliant on slaves both black and indigenous, racializing pirates likewise associates them with the non-human status of the slave—which prompts the next step of dehumanization.

### *Dehumanization*

Legal rhetors then construct a monstrous pirate by stripping away his humanity, which they do by creatively employing “human” and related terms in such a way as to diminish pirate personhood as well as by altering and adjusting the legal terminology against pirates. First, legal rhetors invoke “men,” “human,” “mankind,” and related terms with insistent repetition throughout the trials in ways that actively work to diminish pirates’ humanity. Some of this language is explicit and obvious: for instance, the attorney general in Stede Bonnet’s trial is perhaps the most blunt, calling Bonnet and his crew “inhuman” twice and saying the men had “lost all sense of...humanity” (“Bonnet” 9, 11, 37); the judge of this trial also calls the pirates “inhuman” (“Bonnet” 5). But legal rhetors in all three trials cleverly and creatively vary their approaches to depicting pirates as inhuman. Indeed, they take full advantage of the spectrum of language to demean pirates: as the attorneys in these trials state, they are “the worst of men” (“Bonnet” 10), “the dreggs of mankind” (“Fly” 14), and they do not “deserve” the “name of Men” (“Bonnet” 11). Most interestingly, that last not only places pirates outside the scope of humanity, but also deprives them of pity or recourse to return to humanity. Such language insists

that pirates are non- or in-human humans: a truly liminal or borderline state indicative of monstrosity.

And of course, repeating the inhumanity of pirates in many permutations also serves as an amplifying mechanism, as in this passage where the attorney general Richard Allein seeks to rebut the idea that Stede Bonnet was a man of honor: “How can a Man be said to be a Man of Honour, that has lost all Sense of Honour and Humanity, that is become an Enemy of Mankind, and given himself up to plunder and destroy his Fellow Creatures, a common Robber, and a Pirate?” (9). Repeating the charge of inhumanity (in opposition to Man of Honour) amplifies each added epithet and builds the sense of moral outrage. A similar tactic imbues the words of Thomas Hepworth shortly thereafter in the trial, as he charges the jury to:

reflect and consider how long our Coasts have been infested with Pirates, (for the name of Men they do not deserve),...and how many poor Men in whose Blood they have imbru'd their hands with the greatest inhumanity imaginable, and how many poor Widows and Orphans they have made, and how many Families they have ruin'd, and how long they have gone on in their abominable Wickedness” (11).

Once again, the repeated accusation of inhumanity builds on itself to underscore how far outside the bounds of humankind the attorneys would like to depict pirates, especially crucial here as prelude to Hepworth in his next breath describing how the pirates “sent for Medicines” (11). Normally, people acting criminally in order to retrieve life-saving drugs could call forth a touch of sympathy; but by emphasizing pirate inhumanity first, the attorneys minimize the possibility of sympathy with the pirates or their motives by placing them outside of humankind’s reach.

But legal rhetors have even subtler tactics that exclude pirates from humanity by redefining “human” in virtuous terms. William Fly’s prosecutor implies certain virtues inherent

to mankind when he says the pirates had abandoned their “native Integrity” (“Fly” 14); by so constructing man as constitutionally possessed of integrity, loss of integrity (by acts of piracy, one must suppose) then implies loss of humanity. The attorney in Kidd’s trial employs a similar tactic when he states that one “could scarce think that any Man could so betray the Trust and Confidence the Publick placed on him,” again implying certain moral virtues endemic to mankind and placing the pirate outside those confines (“Kidd” 17). Such rhetoric constructs a vision of man as naturally virtuous precisely for the purpose of excluding the pirates from such categorization. This intent to exclude becomes even more explicit in Kidd’s trial when the prosecutor flips the script and instead depicts the pirates as rejected from inclusion in mankind when he charges Kidd and his crew with “Villainies” so bad that “all Mankind equally and justly detest and abhor” them (“Kidd” 17).

This last is perhaps most revealing of how qualifying pirate humanity is meant to set them apart from their fellow men in ways useful for legal rhetors. By constructing a definition of mankind as intrinsically virtuous—a flattering depiction for lawyers, judge, and jury, to be sure—these legal rhetors need only prove pirates lacked virtue to prove they were inhuman. Having already primed the jury by associating pirates with racialized persons who were dehumanized in many material ways—including enslavement—attorneys both explicitly and implicitly break down the humanity of pirates and thereby prepare the audience to accept pirates as inhuman. And by negating the humanity of those charged at the bar, the legal rhetors in turn bind judge, attorney, and jury in a common bond constituted by virtuous humanity that relies on its contrast against pirate vice, or inhumanity. A similar presumption constructed to bond judge, lawyer, and jury against the pirates crops up in Bonnet’s trial where the judge calls the “Evil and Wickedness” of piracy “evident to the Reason of all Men” and later states that “no one can think

but that the Sentence of Death” is the only punishment possible for the pirates (“Bonnet” 24). In so doing, they set pirates apart from humankind—render them exceptional because of their alleged ill deeds—and thus set them outside the bounds of the sanctioned and normal. This is Van Dijk’s ideological square in action whereby the positive traits of the in-group are emphasized (and negative aspects are de-emphasized) while identified negative traits are foregrounded for the out-group (Van Dijk 396-397). This delineation likewise reaffirms jury and society’s normality and lawfulness, thereby strengthening the “communal body” Ingebretsen and Poole described as one of the purposes of constructed monstrosity (Ingebretsen 32, 26; Poole 4, 13, 31).

The legal concepts and terminology invoked throughout the trials set the final authoritative seal on the constructed inhumanity of pirates, the legal coup de grace to cap the dehumanizing discourse throughout. The most overt example is the manipulated use of the Latin term *hostis humani generis* which is also repeated throughout the trials in its English translation, “enemy of all mankind” or more simply “enemy of mankind.” The trials heavily feature this particular legal terminology, Kidd’s trial citing it three times and Bonnet’s, five times (“Kidd” 17, 48-49; “Bonnet” 3, 5, 8, 9, 34). While the Latin phrase does indeed date back to antiquity (and to the lawyer Cicero in particular), legal scholars note that eighteenth-century courts fundamentally misinterpreted its classical meaning; the phrase originally applied only as a narrow, political classification of distinct Eastern Mediterranean communities whom Cicero designated as legal enemies in the context of war (Rubin 11-12, 83). The term fell out of use and fashion in the middle ages (converted to describe the Devil for the most part) (de Wilde 164); its application to pirates may first come from a scholar at Oxford in the late 1500s who called Pirates as “hostes omnium,” a classification that other scholars did not accept at the time (Rubin



23-24). However, the exact phrase of *hostes humani generis* was not in print in England until 1644 where it made allusion to Cicero, but was applied to common robbers (Rubin 83). Over the ensuing decades, and as seen in these trials, legal rhetors began to co-opt the phrase and apply it to pirates: a radically different legal context from the communities Cicero described and with no impetus of war to legitimize it (Rubin 83). The hollowness of reference here was even remarked upon in contemporary accounts, such as in Matthew Tindall's *An Essay Concerning the Law of Nations* (1694) where he exclaims, "Hostis Humani Generis, is neither a Definition, or as much as a Description of a Pirat, but a Rhetorical Invective to shew the Odiousness of that Crime" (Tindall 25-26). Nevertheless, eighteenth century attorneys and judges—such as these here examined—applied the term against pirates all the same, and by the time of Blackstone's commentaries in 1765, *hostis humani generis* had cohered in meaning as a term used specifically of pirates and to justify any action taken against them (Rubin 109).

By thus altering legal terminology, legal rhetors created a convenient opening and justification for essentially placing all pirates outside the standard operation of the law. The judge in Bonnet's trial goes on to say that because they are the "enemies of all mankind," the pirates are "not deserving the benefit of the law," that they are those "with whom no Faith nor Oath ought to be kept," and to whom "neither are Oaths or Promises made [are] binding" ("Bonnet" 11, 34). Through the various ways these rhetors invoke and ascribe legal concepts and terms to pirates, they carve out an exceptional space for pirates that leaves them vulnerable and unprotected from violence the law can apply with authority. In this way, legal rhetors exclude pirates from humanity, rendering them exceptional, and thereby construct a legal framework that would authorize any violence against them, a process which only continues as the rhetors expand upon the need for violence as they depict the pirates as animalistic.

In fact, legal rhetors repeatedly invoke legal terms that render pirates not only inhuman but also bestial (and therefore monstrous by this liminal status). The most common phrase, especially in Bonnet's trial, is "Beasts of prey," which occurs no less than seven times over the course of the trial ("Bonnet" 3, 4, 8 (twice), 11 (twice), 34). Men who are like animals are monsters, an idea the word "beast" conveys since it means both animal and monster ("Beast, n1d"). The additional descriptor "of prey" enhances the threatening implications to this phrase by making it explicitly predatory, which is further emphasized by the other legal term used for pirates—"Sea-Wolves" ("Bonnet" 8). Both of these phrases are specifically named by the court as legal terms for pirates, along with another animalized word: "brutes" ("Bonnet" 3). Because these legal terms are specifically animalized, they once again make pirates exceptional before the law; however, in a step beyond the dehumanizing force of previous legal vocabulary, these terms rewrite the record on pirate action. Pirates are not simply outside the natural milieu of humankind; now they are predators threatening good law and society. They not only lack virtue; now they are a force of carnivorous chaos completely incompatible with humankind and yet inhabiting a human form.

An extended passage reveals how these legal rhetors (here the Attorney-General in Bonnet's trial, Richard Allein) stitch together their case for pirate monstrosity through dehumanization and implications of bestial natures. After describing pirates as "Sea-Wolves...Beasts of Prey, and Enemies of Mankind, with whom neither Faith nor Treaty is to be kept," the Attorney-General unfavorably compares pirates to their animal counterparts:

For Beasts of Prey, tho fierce and cruel in their natures, yet, as has been observ'd of them, they only do it to satisfy their Hunger, and are never found to prey upon Creatures of the same Species with themselves. Add hereto, that those wild Beasts have neither

rational Souls, Understanding, nor Reason to guide their Actions, or to distinguish between Good or Evil. But Pirates prey upon all Mankind, their own Species and Fellow-Creatures, without Distinction of Nations or Religions....And if a Stop be not put to those Depredations, and our Trade no better protected, not only Carolina, but all the English Plantations in America, will be totally ruined in a very short time (“Bonnet” 8).

Here, the Attorney-General reminds the jury of the bestial and inhuman nature of pirates through naming specific legal terminology, specifically “Beasts of Prey.” Having done so, he takes his rhetoric several steps further by actively comparing pirates metaphorically to “Beasts” in an extended description that puts pirates even further beyond the pale. Here, he literalizes the legal term and investigates its metaphorical possibilities in application against pirates. Where animals “only” act out of “Hunger” and do not attack their own kind, pirates “prey upon all Mankind” and, Allein implies, do so without the need of lesser creatures. Such comparison places pirates squarely outside of humankind, and yet also renders them all the more unnatural for making them neither human nor beast. And Allein then ties this destabilizing liminality to an apocalyptic prophecy of pirate-created ruin for all of America, showing just how pirate disruption of comfortable human/animal boundaries produces outsized and exaggerated fears. Thus, in this passage we see the integration of multiple elements to the rhetoric of monstrosity, building on one another to affirm the case for their necessary destruction for the salvation of mankind.

The animalistic verbs legal rhetors employ take the threat one step further and imply a need to eradicate the pirate threat as one would with vermin or dangerous predators. Attorneys and judges in both Bonnet’s and Kidd’s trials say pirates “infested” the seas, a revealing description that not only reduces mere pirate presence to the animalistic, but portrays it as threatening and pestilential (in fact, in Kidd’s trial this is made explicit: “very dangerously

infested”) (“Bonnet” 11; “Kidd” 16). Legal rhetors also describe more active pirate action in similarly threatening animalistic terms, though these verge more on the carnivorous. In Kidd’s trial, pirates “lie in wait” for ships (a repeated phrase), whereas in Bonnet’s, they “prey” upon ships (although one of Kidd’s prosecutors describes his quarries as “prey” in noun-form) (“Kidd” 18; “Bonnet” 8). Both verbs are used for hunting animals, again implying that pirates are both bestial and dangerously so. With verbs that span the spectrum from the verminous to the predatory, and coupled with the earlier-discussed legal rhetoric doing the same, legal rhetors thus construct an idea of pirates that transforms their inhumanity into something bestial. Worse, it paints them as beasts that threaten: as pests whose mere presence must be wiped out before they corrupt, or predators that must be eliminated before they kill. Either way, the otherizing tactic rooted in animalizing pirates metamorphoses them into monstrous threats.

### *Supernaturalism*

The monstrous threat implied in the language is then amplified to supernatural proportions by legal rhetors’ use of absolutes and totalities, fantastic imagery, and appeals to the demonic. First, the language applied to piracy throughout the transcripts is absolute and extremist, totalizing and all-encompassing, and tends to ends of the spectrum—all in ways to amplify the threat posed by this crime to the point that they almost strain credulity. For instance, Bonnet’s judge says twice that piracy is “destructive of *all* Trade and Commerce between Nation and Nation,” which certainly overstates the case; and in the same trial the prosecutor elsewhere calls piracy the “worst sort of robbery,” which verges on hyperbole (“Bonnet” 3, 10, 34, emphasis added). Likewise, Fly’s prosecutor calls piracy “a crime of the first Magnitude in the Catalogue of Capital Offenses,” certainly heightening the crime’s nature to elevated heights (“Fly” 14). By describing piracy in such terms, legal rhetors maximize it into a

disproportionately offensive crime. But even if one were to take the judges and lawyers at their word on their assessment of piracy's offensive nature, their acute descriptions certainly serve to intensify its menace to exceptional levels that would place those guilty of piracy into a perilous league of their own.

But legal rhetors do not stop at the crime itself; they also go out of their way to over-ascibe extreme evil to the pirates themselves. Here, superlatives abound. Various across the trials, the accused pirates are "most mischievous," acted "most grievously" or with "most unheard of impudence," and are the "worst of men" ("Bonnet" 8, 10; "Kidd" 49). In fact, attorneys and judges resort to "worst" and "greatest" often: Kidd and his crew are described as "acting the greatest treachery and greatest falseness that ever Man did" ("Kidd" 17) and Bonnet's crew likewise perpetrated the "greatest inhumanity imaginable" ("Bonnet" 11). Kidd and Bonnet each are described in their trials respectively as the "greatest and worst of all" and the "Archipirata... taken in the worst sense" ("Kidd" 16; "Bonnet" 9). This insistence on rendering the pirates peerless in their degree of evil is rather extravagant in its application to a group of men whose reign of terror was really rather limited. Still, the effect produced by this emphatic rhetoric is transcendent: these pirates have exceeded usual evil and instead enacted the maximum.

Even beyond superlatives, other extreme language sweeps broadly, alternating between the all-encompassing and the exclusionary. Totalizing language like "all" groups the pirates with every form of ill, such as when Kidd's advocate general says he and his crew were "attended with all the Circumstances of Cruelty and Falshood" and "all manner of ill" ("Kidd" 17). On the other hand, exclusionary language sets the pirates apart from all other ill-doers by placing them on a higher tier: "No one" says the advocate general at Kidd's trial, "has done more mischief" or

“has occasioned greater Confusion and Disorder” than Kidd and his crew (“Kidd” 17). In so setting the pirates apart and exaggerating their level of evil to the height of what language allows, legal rhetors amplify the pirate threat to practically mythic proportions. They liberally apply this descriptive language to augment how bad or unique pirates are, effectively maxing out the extent of language to do so.

And where superlative, totalizing discourse reaches its limits, legal rhetors add fantastic imagery that reaches beyond the human or animalistic into frightful tableaux better suited to infernal landscapes. Some of these fantastic images are directly described—for instance, attorneys in both Fly’s and Bonnet’s trial do not just say pirates shot men, or shot them in the head, but say that they “blow’d his brains out” (“Bonnet” 26; “Fly” 14). The more descriptive image certainly heightens the effect of horror in the action. And while this description might be defended as perhaps more arguably precise, other imagistic flourishes are not quite so practical. In those same two trials, the attorneys also describe pirates as “embrewing their hands with innocent blood” (“Bonnet” 11; “Fly” 14). The image of “embrewing” or “imbruing” is one of either plunging something into or stewing something (as with dyes) to stain, thus painting a vivid and appalling picture of pirates’ hands plunging into and steeping in blood (“Imbrue, n1-2”). Surely this imagery is less precise of actual actions taken by the pirates and instead invites listeners to imagine the pirates in a more fiendish light.

Similar invitations come with less precise images and instead encourage the listeners (ie, the jury) to imagine fantastic pictures of pirates committing infernal acts: “what enormous and horrid Crimes the Prisoners at the Bar have committed” states a prosecuting attorney in Bonnet’s trial, leaving his description open-ended (“Bonnet” 11). Elsewhere, the same attorney calls up a fantastic and emotional vision as he asks “who can think of [pity and compassion], when you see

your Fellow-Townsmen, some dead, and others daily bleeding and dying before your eyes?” (“Bonnet” 10). This call to the jury explicitly draws on “fellow” feeling and the specific conjuration of sight in order to direct their minds to violent and awful images: friends dying or dead. Such a line does not work to recall actual images the jury may have seen, but instead persuades them to compose such images in their mind. By couching such fantastic imagery in this invitational format, these lawyers and judges encourage each other as well as the jury to collaborate in reconstructing pirates as monstrous, expanding on pirates’ transcendent and mythical status elsewhere established in the discourse with alternately vivid or open-ended visions that heighten the supernatural quality being incorporated into pirates and piracy.

While the fantastic imagery evocatively verges on the horrifyingly infernal, legal rhetors also employ language throughout directly appealing to demonic or devilish descriptions. Repeated phrases in Fly’s trial reinforce over and over that the pirates did not have the “fear of GOD before [their] eyes” but that they were “instigated by the Devil,” phrases also used against Kidd in his trial (“Fly” 9, 12, 16; “Kidd” 5). So the court explicitly incorporates a supernatural element to the pirates’ actions—they both denied God and followed the Devil. And as these phrases show, judges and attorneys in these trials effectively imply the pirates replicated the fall of the devil himself by “blaspheming their Creator,” as Fly’s crew is charged (“Fly” 14). In so doing, legal rhetors render the pirates quite literally demonic, which judges and lawyers buttress by coloring pirates and their actions with an array of demonically-inflected adjectives, including “hellish” (“Fly” 14), “wicked” (“Kidd” 27, 59; “Bonnet” 35, 36), “cruel” (“Bonnet” 8, 37; “Kidd” 17 (twice)), “possess’d” (“Kidd” 59), and so forth.

These various descriptions produce a compounding effect that accentuates the devilish implications in each. Though Kidd was charged with saying a few off-color things throughout

his trial, the prosecuting attorneys latch onto one particular expression: he allegedly said “he had rather his Soul should broil in Hell” than harm other pirates, a statement the attorneys repeat three times in their jury address in addition to the three other times they have the one witness repeat his testimony during questioning (“Kidd” 17, 28, 35). Even where some expressions might seem rather general—such as when the judge twice charges Bonnet with “Great Evil”—their juxtaposition alongside other remarks citing how the pirates had “highly offended God” and “must necessarily sink into the Dwellings of everlasting Misery,” to “the Lake which burneth with Fire and Brimstone,” which had been “prepared for the Devil and his Angels” all build upon one another to generate pirates who have become at minimum demonic in the literal sense, and at worst simulacrums of the Devil himself (“Bonnet” 34-35, 42). Legal rhetors literally and by implication depicted pirates as demonic and thereby converted pirates from mere sea thieves into full-blown monsters. As demons, pirates become a supernatural threat of existential and metaphysical proportions, necessarily superseding the consequences owed to ordinary men before the law and requiring sanctions over and above the normal. The peril demons pose cannot be underestimated; their monstrous nature demands whatever the law might impose to quash their threat.

### *Justification*

The ultimate end of this rhetoric of monstrosity—produced by reality-shaping discourse—is, of course, the gallows. Legal rhetors are perfectly clear on this front, as can be seen in an illustrative passage from Judge Trott towards the close of Bonnet’s trial which demonstrates every element of this rhetoric in succession:

As to the Crime that you are convicted of, which is Piracy, the Evil and Wickedness of it is evidence to the Reason of all Men: So that it needs no Words to aggravate the same; and which is so destructive of all Trade and Commerce between Nation and Nation, that



Pirates are called Enemies to Mankind, with whom no Faith nor Oath ought to be kept; and they are term'd in our Law Brutes and Beasts of Prey. And therefore it is the Interest, as well as Duty, of all Governments to bring such Offenders to Punishment....[T]hey are in the Height of their Sins; and therefore, without the infinite Mercies of God,... must necessarily sink into the Dwellings of Everlasting Misery. And indeed, most sad and deplorable is the Condition you have brought your selves to: To be adjudg'd by the Laws of your Country unworthy any longer to live, and to tread the Earth, or breathe this Air; and that no further Good or Benefit can be expected from you but by the Example of your Deaths; and to stand like Marks or fatal Rocks and Sands, to warn others from the same Shipwrack and Ruin for the future (“Bonnet” 34).

So legal rhetors manifest in their discourse throughout these piracy trials all the makings of monstrous rhetoric: they otherize pirates in racial terms meant to denigrate them (“Brutes”); they then dehumanize pirates by excluding them from mankind and depict them as bestial, predatory and verminous (“Enemies of Mankind”; “Beasts of Prey”), which then introduces an element of threat; and finally they amplify that threat into supernatural proportions that ultimately terminate in making pirates out to be demonic (“Evil and Wickedness”; “without the infinite Mercies of God...must necessarily sing into the Dwellings of Everlasing Misery”). By thus recreating pirates as racially other, inhuman, and supernatural, legal rhetors complete their construction of pirates as monsters, and thereby tee up an articulated justification for the law to impose any violence it sees fit against those so accused and found guilty. The pirates are then left “unworthy any longer to live” and offer “no further Good or Benefit” except to “warn others” by their received punishment of state-enacted violence.

## Conclusion

And the British Empire did impose incredible violence against the monsters they had created. Pirates may indeed have been criminals, but they were treated very differently from other thieves and robbers. With monstrous rhetoric, British legal authorities succeeded in fashioning pirates into an exceptional class before the law: undeserving of rights to trial, or other rights of British citizenship, but nevertheless still treated as British subjects under the authority of British jurisdiction (“Bonnet” 33-34). British law providing cover for pirates in previous years was rejected and forgotten; Kidd’s privateering passes did not save him (“Kidd” 33; Rubin 99). In this way, British authorities systematically dismantled prior protections and support for previously sanctioned privateering.<sup>4</sup> Having successfully transformed pirates into monsters and thereby stripped them of their legal rights as humans, British authorities legitimized any means of putting an end to the pirate threat (Rediker, *Villains* 144-146; Rediker, *Between the Devil* 282-285). Private citizens and civil authorities alike were all charged to quash pirates—and so they did (Rediker, *Villains* 144; Rediker, *Between the Devil* 282-285). Wherever they were found, pirates were shot, drowned, blown up, sunk, hanged, dismembered, and so on—any means would be satisfactory to the British government (Rediker, *Villains* 144; Rediker, *Between the Devil* 282-285). Pirates did not go willingly and many were killed in violent encounters; but occasionally someone captured them long enough to perform a more formal execution to which large multitudes were invited to gather and watch (Rediker, *Villains* 144-145; Rediker, *Between the Devil* 282-285).

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<sup>4</sup> There is another argument to be made—outside the immediate scope of this article—that the rhetoric I analyze here also legitimized a shift in legal treatment of piracy in the British Empire: by painting pirates as monsters, lawyers and judges could more conveniently insist on overcoming legal issues related to matters of jurisdiction (stemming from arguable pirate claims to sovereignty) or to whether a crime had even been committed (given prior government sanction). Rediker touches on the prior in his works (*Villains of All Nations* 164; *Between the Devil* 176) and Rubin discusses legal implications of the latter particularly with reference to Kidd’s case (94-99).

Because some considered pirates folk heroes and worthy of sympathy, piracy trials served to encourage public endorsement of pirate eradication by promoting a unified view of pirates as monsters, and what piracy trials did occur were greatly publicized and transcripts made available for public consumption above and beyond normal availability of trial records (Butler; Rediker, *Villains* 127). Consequently, hangings—the standard execution for pirates—were greatly attended and frequently gruesome affairs, made all the more horrifying for the remains left on display afterwards (Rediker, *Villains* 146). Clemency was rare (Rediker, *Between the Devil* 285). Ultimately, these executions, in all their varieties, were simply the final garnish on the rhetoric of monstrosity developed in the courtroom: the chained corpses left to rot in port city docks produced the final striking image of monstrosity to linger in the minds of all. And by about 1726 (with the death of William Fly), the British empire finally succeeded in eliminating the pirate threat and thereby ushered in a new era for British imperial power that expanded to assume control over large portions of the globe going forward (Rediker, *Villains* 144). The British values of property and social order, including the integrity of the slave trade, had been shored up with the deaths of thousands of people (Rediker, *Between the Devil* 256, 283).

The rhetoric of monstrosity had proved itself a highly effective method for legitimating imperial power and violent action. Its application against pirates may be an early and stellarly successful example of how such rhetoric can directly feed into imperial projects and abuse of power, but it is hardly the only time monstrous rhetoric has been used this way. In the aftermath of the golden age, pirates may have been officially suppressed but their methods were not: merely pushed “belowdecks” for a time, mutineers in subsequent decades continued to call for and inspire democratic processes for the working class, even influencing American founding fathers with their rhetoric (Linebaugh 173; 216-218; 327-329). This subversive and revolutionary

strain continued forward and each time incurred the wrath and monstrous rhetoric of authorities (Linebaugh 173). Even more specifically, discursive elements here discussed have afterlives, such as *hostis humani generis* which has increased its application from pirates to contemporary enemy combatants and terrorists (see Greene). More generally, modern empires must likewise justify the violence of law, and so legal rhetors have resorted and still resort to these same discursive methods to transform their target subjects into monsters exceptional before the law and therefore worthy of whatever punishment the state wishes to impose (see eg., Greene 684-685; Saul 44; Troshynsky 741; Bender 35-39, 51, 139; Olson 1-10). But perhaps by tracking the discursive markers of the rhetoric of monstrosity and the ends for which it is used, we can begin to counter abuses of power before they strike home. After all, if this rhetoric first rears its head in trials, then there is hope that it can be redressed in the courtroom before the decision is made.

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