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Review Essay

Customs in Common Across the Seven Seas

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Peter Linebaugh & Marcus Rediker, *The Many Headed-Hydra: Sailors, Slaves and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000). Pp. 448. ISBN Pb 978-080703317-3. Pb USD 27.50.

Alistair Couper, *Sailors and Traders: A Maritime History of the Pacific Peoples* (Honolulu: University of Hawai'i Press, 2009). Pp. 280. ISBN Cloth 978-0-8248-3239-1. Cloth USD 55.00.

Maria Fusaro, Bernard Allaire, Richard J Blakemore and Tijn Vanneste, *Law, Labour and Empire, Comparative Perspectives on Seafarers, c. 1500 – 1800*, (Hampshire: Palgrave Macmillan, 2015). Pp. 384. ISBN Hb 9781137447456. Hb GBP 68.00.

Legal discourse runs thick with the eloquent and sometimes long-winded submissions, judgments and pronouncements of lawyers. Since the Enlightenment, 'great' European and North American men of the law have dominated legal textbooks, journals and law reports. In the late twentieth century, however, social and radical pluralist historians have challenged such conceptions of legal rule from above. The three books reviewed in this essay have shaped this recent trajectory in legal history. Each traces the history of juridical thought to a specifically maritime context, from 1400, in which sailors, slaves and commoners all contributed to the evolution of legal rights and practice. As each text carefully shows, maritime contexts have been crucial to the evolution of legal rights by creating social conditions in which legal rights have translated into the practice of social justice. Common to all texts is an understanding that this process has happened in distinctive ways involving the complex interaction of transnational, macro and micro history, all occurring in the maritime arena. For the authors reviewed here, the sea became a staging ground for the first era of globalisation, from 1400 onwards. In this context, oceans became spaces that connected the four corners of the world, allowing successive generations of predominantly European and North American trading companies to ravage them through colonialism and mercantile capitalism, aided by the navies of their respective nation states. Finally, the sea – and more specifically life aboard ships – was a cultural melting pot,

internationalising labour and subjecting workers to such extremes of treatment that it forced from them organic collective responses and assertions of rights against their 'hard usage'.¹ Peter Linebaugh & Marcus Rediker, Alistair Couper and Maria Fusaro *et al* all show that, over time, legal rights became customary, common to sailors of 'all nations' and perhaps beyond.²

Linebaugh and Rediker's *The Many Headed-Hydra* (c. 2000), has very quickly become a social history classic. The collaborative social history approach developed by E.P. Thompson and Linebaugh *et al* in *Albion's Fatal Tree* in 1975 has continued to bear fruit in the twenty-first century in this collaboration between social historian, Linebaugh, and Rediker, a radical maritime historian.³ Their excoriating depiction of social life aboard the ships and in the port towns of the British Empire links a range of calamitous historical events and actors throughout the period from 1500 to 1900, from the English Civil War to West Indian slave revolts. This is meta-history, humanised by the personal stories of radical seafarers, pirates, runaway slaves and English revolutionaries.

By giving life and voice to the forgotten 'proletarians of Empire', Linebaugh and Rediker paint a lively and nuanced portrait of those whom they refer evocatively to as 'the hewers of wood and the drawers of water'.⁴ In this sense, the authors diverge from dominant modernist thought and culture that has tended to treat 'the proletariat' as a grey, impersonal mass. Rather, Linebaugh and Rediker describe a mixed race 'Trans-Atlantic working-class' who collectively identified as a 'motley crew' after their common experiences of impressment, flogging, starvation, disease, injury, non-payment and general exploitation aboard

¹ 'Hard usage' was an expression of outrage commonly used by Atlantic slaves and sailors to describe their poor treatment by ships' captains. See, for instance, Peter Linebaugh & Marcus Rediker, *The Many Headed-Hydra: Sailors, Slaves and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), 188.

² Linebaugh & Rediker, *The Many Headed Hydra*, 188; Alistair Couper, *Sailors and Traders: A Maritime History of the Pacific Peoples* (Honolulu: University of Hawai'i Press, 2009); Maria Fusaro, Bernard Allaire, Richard J Blakemore and Tjil Vanneste, *Law, Labour and Empire, Comparative Perspectives on Seafarers, c. 1500 - 1800* (Hampshire: Palgrave Macmillan, 2015). The phrase, 'all nations' is explained below.

³ Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson and Cal Winslow, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon Books, 1975).

⁴ Linebaugh & Rediker, *The Many Headed Hydra*, 36-70.

the slave and mercantile ships of the Tran-Atlantic crossing.⁵ Linebaugh's talent for adopting the working-class cant of his historical subjects to describe complex theoretical concepts evolved in his previous monograph, *The London Hanged* and was popularised by Robert Hughes who relied heavily on Linebaugh's work in *The Fatal Shore*.⁶ This technique is on display again in *The Many Headed-Hydra* and works beautifully to explain the composition of mixed race working-class groups. The phrase, 'All Nations' is another example: the term denoted a cheap and cheery eighteenth century sailors' drink made from a combination of the dregs in all the bottles left on the tavern shelf, used as a metaphor by the crew of merchant vessels to describe themselves.⁷ Together with such phrases, the authors helpfully provide a thorough etymology and contemporary theorisation of the term 'proletarian', to reinvigorate its use by contemporary historians.

The class composition of Linebaugh and Rediker's 'deep-sea proletariat' was not constructed by 'consciousness' but a shared history of labour, race and bondage, experienced by these workers at the hands of a metropolitan ruling-class. The experience was neatly defined by eighteenth century writer, Dr Samuel Johnson (incidentally quoted in all three reviewed texts), who said that 'being in a ship is being in jail with the chance of being drowned'.⁸ As Linebaugh and Rediker make clear, shared contact with this way of life was so common across Empire that it led to similar social reaction by sailors that spread throughout the proletariat in both metropole and colony alike. The eighteenth century British ruling-class recognised this 'polyglot' group of resistant workers and revolutionaries as a 'many-headed hydra' that reared a head in every port of the Empire.⁹

Drawing on Rediker's previous maritime history, *Between the Devil and the Deep Blue Sea*, Linebaugh and Rediker assert a bold argument connecting the emergence of rights to the life and treatment of internationalised workers aboard merchant ships.¹⁰ As the authors

⁵ Linebaugh & Rediker, *The Many Headed Hydra*, 27-28, 151, 212-214, 235, 246, 331.

⁶ Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (2nd Ed.) (London: Verso, 2003); Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: The Harvill Press, 1987).

⁷ Linebaugh & Rediker, *The Many Headed Hydra*, 154, 168.

⁸ Linebaugh & Rediker, *The Many Headed Hydra*, 160

⁹ Linebaugh & Rediker, *The Many Headed Hydra*, 2-4.

¹⁰ Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates and*

explain, in late seventeenth century Britain there emerged a 'hydrarchy', which they define as 'the organization of the maritime state from above, and the self-organization of sailors from below'.¹¹ The sailors' hydrarchy was oppositional to that of the maritime state and relied on strategies of organised resistance to maltreatment and exploitation such as mutinies, strikes, desertion, riots and piracy.¹² These techniques provided sailors with 'the autonomous power to organize the ship and its miniature society as they wanted'.¹³ Crucially, however, these processes saw sailors demand and articulate their legal rights. Common seafaring conditions that prompted such action included awaiting or foregoing payment owed for two or three years work, poor rations and cramped conditions, high occupational risks including drowning and being crippled. There was also the matter of impressment, which was the process of recruitment by a 'press-gang' kidnapping men at port, and sailors being forced aboard ship only to wake up two days sail from port and then being forced into maritime labour, sometimes for years at a time. In lieu of these conditions, sailors demanded freedom and money.¹⁴ The authors show how in 1652, English revolutionary riots turned into mutinies within the King's navies and resulted in a full-scale mutiny as sailors deserted the Royal Navy for the Republican fleet. Crucially, the mutiny was motivated by an increase in pay from nineteen to twenty-four shillings per month. In 1654, the sailors petitioned the King for 'liberties' against the 'thralldom of bondage'.¹⁵ They complained of disease, starvation, flogging, wage arrears and impressment.¹⁶

Linebaugh and Rediker show how these sailors cited 'international maritime custom, by which ancient and medieval seafarers had divided their money and goods into shares, consulted collectively and democratically on matters of moment, and elected consuls to adjudicate differences between captain and crew'.¹⁷ Aboard pirate ships, buccaneers

the Anglo-American Maritime World, 1700-1750 (Cambridge: Cambridge University Press, 1989).

¹¹ Linebaugh & Rediker, *The Many Headed Hydra*, 144.

¹² Linebaugh & Rediker, *The Many Headed Hydra*, 154.

¹³ Linebaugh & Rediker, *The Many Headed Hydra*, 156.

¹⁴ Linebaugh & Rediker, *The Many Headed Hydra*, 150-151.

¹⁵ Linebaugh & Rediker, *The Many Headed Hydra*, 157.

¹⁶ Linebaugh & Rediker, *The Many Headed Hydra*, 157.

¹⁷ Linebaugh & Rediker, *The Many Headed Hydra*, 158.

established even more radically egalitarian societies, 'turning the world upside down' by writing articles of agreement that enforced rights between liberated and collectivised crewmembers.¹⁸ As Linebaugh and Rediker explain, 'pirates distributed justice, elected officers, divided the loot equally, and established a different discipline'.¹⁹ The power of pirate captains was, in turn, limited by the institution of a council comprising every man in the crew – the ships' highest authority.²⁰ As a group, pirates 'distributed justice' against harsh sea captains of their own and other vessels.²¹ They even established the earliest known workers' compensation scheme, apportioning a percentage of all booty to a common fund reserved for injured and maimed shipmates.²² Through this lens, Linebaugh and Rediker turn proletarian sailors and pirates into agents of their own destiny and agitators for social democratic rights. This view has had a resoundingly significant impact on the writing of history since 2000, particularly in the fields of social, legal and maritime history. The other two texts discussed in this essay are clearly examples of this influence.

Maritime historian Alistair Couper relates a similar maritime experience in the Pacific in his book *Sailors and Traders* (c. 2009). While the subject of rights is by no means at the centre of Couper's history, his study of mercantile capitalism in the Pacific shows how indigenous and multi-ethnic crews within this region were no less resistant to exploitation than their Atlantic counterparts. Pacific crews certainly engaged in industrial action and asserted legal and social rights. Couper's history is an incredibly welcome and important addition to a genre of maritime history dominated by scholars and historians in the Global North.

As a former Pacific seafarer himself, Couper's perspectives on maritime life and society integrate practical understandings of seafaring skills with an acutely empathic anthropological knowledge of Pacific Islander culture and his fellow mariners. The key theme of Couper's work is that Pacific mariners have always been a diverse and multi-ethnic group, and that they have grown as a people, survived colonialism and continued to pursue self-determination through collective processes of co-operation

¹⁸ Linebaugh & Rediker, *The Many Headed Hydra*, 162.

¹⁹ Linebaugh & Rediker, *The Many Headed Hydra*, 162.

²⁰ Linebaugh & Rediker, *The Many Headed Hydra*, 163.

²¹ Linebaugh & Rediker, *The Many Headed Hydra*, 163.

²² Linebaugh & Rediker, *The Many Headed Hydra*, 164.

between people of diverse cultures. Constitutive of this co-operative process, argues Couper, has been 'ship life', a way of life arising from the 'dangers of the sea, living and working in an enclosed and inescapable ship space, separation from families, continuous travel, the ease of adjustment to multiethnic settings on board and in 'sailor town' enclaves when ashore, and exposure to exotic diseases'.²³

Couper scrutinises relations between Europeans and Pacific Islander people during the eighteenth to mid-twentieth centuries, to show how social change in the Pacific was underwritten by various episodes of European exploitation and colonisation of Pacific peoples. According to Couper, regular contact between the two peoples commenced in the eighteenth century, mainly through prostitution. He explains how European sailors interrupted Pacific Islander lives by paying for sex with iron from the ship (predominantly nails). This, in turn, created a political economy based on the accumulation of iron, introducing market inequality to Pacific Islander society for the first time, while devastating Pacific populations with new venereal diseases.²⁴ Couper describes how, during the nineteenth century, the first patterns of organised resistance to Europeans by Pacific peoples involved the establishment of rival shipping and mercantile transport companies by predominantly Maori and Hawai'ian Chiefs. Despite the exercise of self-determination by these First Peoples, Couper shows how competition with rival European shipping companies demanded equally exploitative labour practices and capitalisation through tribute, entrenching social inequality through tribal structures.²⁵ These indigenous enterprises had all but disintegrated by the late nineteenth century although, as Couper notes, in the late twentieth century, a co-operative of Pacific Island nation states have proudly re-entered the international shipping arena through the publicly owned *Pacific Forum Line*.²⁶

As European powers colonised the Pacific throughout the nineteenth century, Pacific Islanders were employed, enslaved and impressed *en masse* aboard European ships where they interacted with European crews. From the very earliest periods of contact aboard ships, Couper shows how Pacific people joined European sailors in combination, riots,

²³ Couper, *Sailors & Traders*, 2.

²⁴ Couper, *Sailors & Traders*, 74.

²⁵ Couper, *Sailors & Traders*, 75-99.

²⁶ Couper, *Sailors & Traders*, 180-185.

desertion, mutinies, strikes as well as the assertion of the 'customs of the sea' and maritime law in demanding their social rights.²⁷ Strikes were one of the most common forms of resistance to unfair and unsafe labour conditions by Pacific seafarers and, as Couper notes, 'the very term 'strike' emanates from sailors in its original warship meaning of stopping a ship by striking at its sails and masts, or striking the ship's colors as a signal of surrender'.²⁸ Couper explains that in the Pacific 'multinational crews continually appealed to the custom of the sea, as preserved in their oral traditions that had been carried between ships' and 'before signing on a ship, they would negotiate wages and a scale of provisions and would assess what they considered to be a safe ship and safe manning'.²⁹ Due to their isolation and lack of definitive law, Pacific crew members were particularly vocal about the dangers of their work, the hours they worked, the quantity and quality of food, and the brutality of maritime discipline.³⁰ The Pacific perspective offered by Couper writes the voices of First Peoples into the history of rights. In the process, Couper engages with a relational approach between labour and capital that provides a truly internationalist perspective on the struggle for social rights from the bottom up.

Released in early 2015, *Law, Labour and Empire*, is an edited collection compiled by historians, Maria Fusaro, Bernard Allaire, Richard J. Blakemore and Tijn Vanneste. The book is an edited collection of Mediterranean maritime history, funded as a collaborative research project between European scholars by the European Union. This project represents a legitimisation and acceptance of Linebaugh and Rediker's contribution to the emergence of international law and rights discourses, albeit with more detailed and nuanced exploration of the subject matter in a different geography. Linebaugh and Rediker's work is referenced heavily by many of the sixteen contributing authors. The editors are keen to point out that 'sailors were the first workers to inhabit a truly international labour market'.³¹ They wish to 'collectively stress the legal agency of early modern seafarers and the resilience of their customary law, while at the same time acknowledging the pressures placed upon

²⁷ Couper, *Sailors & Traders*, 118-164 and 129-135.

²⁸ Couper, *Sailors & Traders*, 129.

²⁹ Couper, *Sailors & Traders*, 133.

³⁰ Couper, *Sailors & Traders*, 133.

³¹ Fusaro et al. *Law, Labour and Empire*, x.

them by state-driven legal reform'.³²

However, unlike Linebaugh, Rediker and Couper – whose scholarship focuses on both legal and extra-legal responses to maritime labour in the formation of legal rights – this edited collection focuses exclusively on *de jure* legal approaches to maritime labour disputation. It is through this framework that Fusaro *et al* explore how commonalities between sailors arising from their internationalisation often led to radical progress for workers within hegemonic legal structures inside nation states. A central theme common to most authors in this collection is the use and knowledge of the various laws of the sea argued by international sailors within the courts of various national jurisdictions. The twelfth century, *Roles d'Oleron* and *Ordonnance de la Marine* (1681) were the main international legal documents codifying maritime law throughout the period.³³ Together with knowledge of customary law of the sea, each chapter discusses different approaches to these rules taken by sailors, captains and traders in admiralty, European and common law courts over various claims for legal rights. This theme reflects colonialism historian Lauren Benton's argument that sailors, commoners and indigenous peoples across empire, contested the law and their legal rights both inside and outside legal systems.³⁴

Unfortunately the strict legal focus of *Law, Labour and Empire* means that it is sometimes dry and tedious. And while Fusaro establishes the use of law by radicalised sailors as one of the dominant themes of the book, the involvement of formalist legal historians to convey this point is, at times, off-message.³⁵ For instance, co-editor and Oxford historian Richard Blakemore argues that Linebaugh and, in particular, Rediker have exaggerated the agency and class motivations of sailors in legal disputes, suggesting that Rediker's view is 'antagonistic' and 'extreme'.³⁶ Blakemore instead argues that 'the law was a site for contests between

³² Fusaro *et al*. *Law, Labour and Empire*, x and xii.

³³ Maria Fusaro, 'Chapter 2: English and Dutch Seamen in Mediterranean Courts of Law', in *Law, Labour and Empire*, eds. Fusaro *et al*, 33-34.

³⁴ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*, (Cambridge University Press, 2002), 167; see also, Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900*, (Cambridge: Cambridge University Press, 2009).

³⁵ Fusaro, 'English and Dutch Seamen', 21-42.

³⁶ Richard J Blakemore, 'Chapter 6: The Legal World of English Sailors, c. 1575-1729', in *Law, Labour and Empire*, ed. Fusaro *et al*, 116.

numerous different and shifting interests, not two diametrically opposed classes'.³⁷ This is not an entirely accurate depiction of Rediker's argument which, as Linebaugh and Rediker's portrayal of maritime custom and institutional decision-making shows, is very much engaged with patterns of relationality *between* class and authority, rather than binary oppositions. By making this argument, it is clear that Blakemore is attempting to distance himself from class history, despite it being an overarching theme of the book. Nevertheless, Blakemore accepts E.P. Thompson's argument that 'law has not only been imposed *upon* men from above: it has also been a medium within which other social conflicts have been fought out'.³⁸

Meanwhile, Blakemore's historical evidence contradicts his rejection of class history. Like the other contributing authors in this book, Blakemore demonstrates that an overwhelming majority of admiralty jurisdiction cases (eighty three percent in one court) were wage claims brought by sailors against masters.³⁹ Despite these inconsistencies, this edited collection represents an important step towards mainstream academic acceptance and international political recognition of the maritime rights thesis. Chapters Three and Four, for instance, discuss the establishment and use of legal forums throughout the Mediterranean, predominantly for the settlement of wage disputes by sailors.⁴⁰ In Chapters Fifteen and Sixteen, Matthias van Rossum and Yu Po-ching consider multicultural and subaltern dimensions of seafaring life.⁴¹ In Chapter Nine, Jelle van Lottum, Aske Brock and Catherine Sumnall explore similar themes through the perspective of micro-history, focussing on the personal hardships of ship life (including its mental health impact) on 'The Life of Joseph Anton Ponsaig', a German-born 'Danish Asiatic' sailor in the late

³⁷ Blakemore, 'The Legal World of English Sailors', 117.

³⁸ Thompson, 'Whigs and Hunters', 267.

³⁹ Blakemore, 'The Legal World of English Sailors', 114, his emphasis.

⁴⁰ Andrea Addobbati, 'Until the Very Last Nail: English Seafaring and Wage Litigation in Seventeenth-Century Livorno', in *Law, Labour and Empire*, ed. Fusaro et al., 43-61; Joan Abela, 'Sailors' Legal Rights in a Mediterranean Hub: The Case of Malta', in *Law, Labour and Empire*, ed. Fusaro et al., 61-79.

⁴¹ Matthias van Rossum, 'Claiming their Rights? Indian Sailors under the Dutch East India Company', in *Law, Labour and Empire*, ed. Fusaro et al., 272-287; Yu Po-ching, 'Chinese Seamen in London and St Helena in the Early Nineteenth Century', in *Law, Labour and Empire*, ed. Fusaro et al., 287-304.

eighteenth century.⁴² The diversity of these approaches also provides some relief from the dry discussion of contractual legal disputes between sailors and masters.

Recovering the maritime histories of rights from below continues to be an important project. It is a field that makes connections between a huge range of human activity, from the history of mercantile capital and the international labour movement to the evolution of human rights. Such histories also speak critically to the relationship between law, labour and capital in the present. At the moment, sustained globalisation continues to perpetuate extreme exploitation and marginalisation of labour, particularly in the Global South, through low wages, slavery and poor working conditions. Global capital flows freely around the world while, unlike the past, the global working-class remains firmly entrenched in factories and sweatshops, predominantly in the Global South. The authors reviewed here provide historical context to these developments. They show that, despite some historical differences, maritime context remains crucial to understanding how exploitative and marginalising practices associated with trade and commerce can be resisted. In this respect, two key strategies emerge: first, that the making of legal and social rights can only be pursued after consideration of a multiplicity of international and multicultural perspectives - those of workers in particular. Second, that the assertion of international law and custom must continue to be key instruments in the toolkit of labour organisations and trade unions. These strategies are critical to the success of two recent international labour struggles launched by the International Trade Union Confederation (ITUC) to stop global slavery and to protect workplace rights such as the right to strike, which came under attack by employer groups from the Global North in the International Labour Organisation earlier this year.

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⁴² Jelle van Lottum, Aske Brock and Catherine Sumnall, 'Mobility, Migration and Human Capital in the Long Eighteenth Century: The Life of Joseph Anton Ponsaing', in *Law, Labour and Empire*, ed. Fusaro et al., 158-177, 158.