



# Love Interest: Figures and Fictions of Venture Capital and the Law in Conquista

## Citation

Legnani, Nicole Delia. 2014. Love Interest: Figures and Fictions of Venture Capital and the Law in Conquista. Doctoral dissertation, Harvard University.

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**Love Interest: Figures and Fictions of Venture Capital and the Law in  
Conquista**

A dissertation presented

by

Nicole Delia Legnani

to

The Department of Romance Languages

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

in the subject of

Hispanic Literature

Harvard University

Cambridge, Massachusetts

May 2014

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Professor José Rabasa

Nicole Delia Legnani

**Love Interest: Figures and Fictions of Venture Capital and the Law in Conquista**

## Abstract

Inspired by the visual allegory ("Conquista, embarcáronse a las Indias" fol. 73 of the *Nueva corónica*), Legnani contends that the development of the laws of peoples (*jus gentium*) by 16th century Spanish jurists should be analyzed within the corpus of commercial law (*lex mercatoria*) employed by sea merchants, bankers and mercenaries throughout the 15th and 16th centuries. This dissertation explores the movement from figure to fiction in discourses of capital and violence.

What is Conquista? The first chapter contends that seafaring enterprises existed without the boundaries of land-based law and operated on the basis of two exceptions: first, the prohibition against charging interest (usury) was condoned in partnerships for overseas ventures; second, the profession of respect for *jus gentium* gave way before the universal imperative of free trade and evangelization. Via metalepsis, the practices of venture capital gained legitimacy in the process of becoming the imperial habitus of *conquista*.

How did the metalepsis of venture capital work in the Indies, oftentimes with catastrophic consequences? The second chapter traces the metalepsis of “love interest,” i.e. the synonymous use and understanding of *caritas* and *cupiditas*, as developed in the contracts (*capitulaciones*) signed between Crown, Church and conquistadors and the laws codified to regulate the imperial enterprise, based almost entirely on indigenous labor and tribute, and make it more productive. The *requerimiento*, Laws of Burgos, 1526 Ordenanzas, Leyes nuevas (1543) and 1573 Ordenanzas, along with contemporary *capitulaciones* with Pedrarias Dávila and Francisco Pizarro receive close readings.

The third chapter analyzes the subordination of *caritas* to *cupiditas* in José de Acosta’s *De procuranda indorum salute*. Written to assuage the conscience of the Spanish sovereign, and in dialogue with the specters of Bartolomé de las Casas, Acosta offers to reform evangelization and empire in the Indies, by reinforcing the synonymous use of love and interest. Finally, the metonymic relationship between *jus gentium* and empire receives full consideration in the fourth chapter, which analyzes the bid of the curacas, indigenous elites of the Andes, for incorporation into the Spanish Crown in 1561.

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A mi hija, Francesca

Amor, ch'a nullo amato amar perdona,  
Mi prese del costui piacer sì forte,  
Che, come vedi, ancor non m'abbandona



## Acknowledgements

Given the subject matter, it is more than fitting that this dissertation should begin with a list of the people and the institutions to which I, its author, acknowledge my debt, with little hope of providing adequate reward for all the emotional, intellectual and material support that I have received throughout this endeavor.

It was a privilege and an inspiration to work with José Rabasa, whose ongoing generosity, patience, sense of humor and encouragement never fail to surprise and guide me. Thank you for challenging me to embrace the questions as they arose in writing; questions that had to be raised *because* they have no easy answers. I am so fortunate to have been on the receiving end of your mentorship and dedication during your tenure here at Harvard University.

Mary Malcolm Gaylord has been my teacher, mentor and friend since I was a first year at the College. Your attention to detail, argument and structure is without parallel. Thank you for your patience and support, and for believing in the salience of this project from the very beginning. Above all, thank you for your unflagging belief in me and my scholarship.

Much gratitude is owed to Luis Girón Negrón for his comments on the theological arguments and corrections, especially to the texts in Latin. Any errors continue to be my own. Thank you for your ongoing encouragement of my love for translation, medieval culture and texts, and my interdisciplinary interests. I have been able to count on your support for over a decade!

Luis Cárcamo Huechante, many thanks for involving me in your activism and scholarship over the years and for your insightful comments, suggestions and steadfast support for my work.

It is difficult to imagine doing what I do today without the influence of my parents, Augusto and Josefina Legnani. I would also like to thank José Antonio Mazzotti for recognizing my vocation when I was an undergraduate and for encouraging and supporting my first foray into colonial studies.

Many thanks are in order to DRCLAS and Romance Languages and Literatures for their financial support for the research and writing of this dissertation.

To Christopher M. Morse, many thanks for your friendship and care, for the soup, dog walking, Ru Paul nights, and (ego) massages; most of all, thank you for your wholehearted embrace of “unclehood.”

To my sister (in-law), Andrea Gamio Felipa, I could not have done this without your love, encouragement and sustenance over the past year. Thank you for being here.

Thanks also to Roger Assezbian, Clio and Mark Bildman, Lotte Buiting, Ilana Brito, Dick Cavanagh, Rodolfo Cerrón Palomino, Tom Cummins, Luisa Felipa de Gamio, Pedro Gamio Felipa, Pedro Gamio Martínez, Goretti González, Verónica González, V. Judson Harward, Bob Higgins, Obed Lira, Salomón Lerner Febres, Melissa Machit, Giuseppe Mazzotta, María Rosa Menocal (*que en paz y amor descanses*), Afsaneh Najmabadi, María Ospina, Peter Pine, Jean Ryoo, Frank Salomon, Angélica Serna, Lois Stanley, Sarah

Winifred Searle, Mary and Steven Swig, Jorge Téllez Vargas, and Emily Westfal.

Finally, this project would not have come to fruition without Fernando Gamio Felipa. Thank you for playing your various roles as husband, friend, advocate and first reader over the years; for our beautiful, intelligent and sassy daughter; for your books; for loving me fiercely, and unequivocally. Though as spouses we have parted ways, you and I remain best friends and family. For this I remain forever grateful.

Yours,

-N.D.L.

Introduction



Fig. 1 . Felipe Guamán Poma de Ayala, "Conquista: Embarcáronse a las Indias" fol. 73, *El primer nueva corónica y buen gobierno* (1615), A Digital Research Center of the Royal Library, Copenhagen, Denmark

Une figure est (déjà) une petite fiction, en ce double sens qu'elle tient généralement en peu de mots, voire en un seul, et que son caractère fictionnel est en quelque sort atténué par l'exigüité de son véhicule et, souvent, par la fréquence de son emploi, qui empêchent de percevoir la hardiesse de son motif sémantique: seuls l'usage et la convention nous font accepter comme banale une métaphore comme "déclarer sa flamme", une métonymie comme "boire un verre," ou une hyperbole comme "morte de rire". La figure est un embryon, ou, si l'on préfère, un esquisse de fiction.<sup>1</sup>

Gérard Genette, *Métalepse : De la figure à la fiction*

*Conquista. Embarcáronse a las Indias.* (Conquest. They set sail for the Indies.) Felipe Guamán Poma de Ayala, a Christian Yarivilca of Huamanga in the Viceroyalty of Perú, wrote his *Nueva Corónica and Buen Gobierno* (1615) for Philip III of Spain (r. 1598-1621). The manuscript, held at the Royal Library of Denmark in Copenhagen, narrates the times of the Pre-Inca, the Inca, the Spanish Conquest and the Colony, and prescribes remedies for the ills and injustices of the Spanish empire. There is a logical leap in the title between the "new chronicle" of the past and his prescriptions for good government. The future, at least one of "good government," depends on a "new" presentation of past events. It is but one instance of the figure of *metalepsis*, broadly

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<sup>1</sup> "A figure is (already) a little fiction, in the double sense that it usually takes but a few words, or even one, and its fictional character is mitigated by the smallness of its vehicle and, often, by the frequency of its use, which prevents the perception of the audacity of its semantic pattern: only use and convention make us accept as commonplace a metaphor such as 'declare his flame (love),' a metonymy such as 'drink a glass,' or hyperbole such as 'die of laughter.' The figure is an embryo, or, if one prefers, a sketch of fiction" (translation mine 17).

understood, ever since Aristotle defined it in his *Poetics* as the employment of one word for another, in a transference of meaning that comprised the use of figurative language, especially synonymy, metonymy and metaphor. This dissertation explores the movement from figure to fiction in discourses of capital and violence and argues that it cannot be reduced to any one figure; *conquista* casts a wide net, and its constructedness, the fact of its artifice, does not make its effects on the lives and livelihood of the indigenous peoples of the Americas any less visceral.

The one hundred and forty ninth drawing of the *Nueva corónica, Conquista. Embarcáronse a las Indias* belongs to the section that acts as a hinge between Pre and Post Contact with the Spanish conquistadors, and, thus, indirectly, with the Sovereigns of Spain. Guamán Poma goes to great lengths to separate the times of the (first) contact with Christianity from that first contact with Spaniards. The *conquista*, Guamán Poma contends in his letter and manual to the Spanish sovereign, was a business venture and, thus, an act of apostasy; *cupiditas*, suggests Guamán Poma, cannot be a figure for *caritas*. At the same time, Guamán Poma famously declared, *no hubo conquista* “there was no conquest.”

Is *Conquista* a non-existent event, to recall the term as used by Badiou? A fundamental rupture that reveals a “truth,” which can now be named and unnamed?<sup>2</sup> If so, how shall it be named? By whom? When is this event? What

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<sup>2</sup> Badiou introduces the *event* and the *evental*, his translator’s neologism, first in *Being and Event* and later the *Logic of Worlds*.

is it called? Guamán Poma de Ayala will both use the term, *Conquista*, to name the event and deny its existence. “No hubo *conquista*,” he will assert just as strongly in his written narrative as he will write and demonstrate in his depiction: “*Conquista. Enbárcaronse a las Indias.*” Do the assertion and negation exist in contradiction within the *Nueva corónica y buen gobierno*? Can this assertion and negation serve to elucidate the most basic, but fraught, of questions: *What is a conquista?*

Is “enbárcaronse a las Indias,” (they set sail for the Indies), employed as a definition of *conquista*? Does this scene, narrated in the preterite tense, serve as a synonym? If so, is *conquista* coterminous with seafaring? With a space which, by definition, exists beyond the demarcations of land that are at the root of the law? In the first chapter I argue that seafaring enterprises, under various names, existed without the boundaries of land-based law and operated on the basis of two exceptions: first, the prohibition against charging interest (usury) fell to the wayside of the financial partnership for overseas ventures; second, the profession of respect for local laws and customs (*jus gentium*) gave way before the universal imperative of free trade and evangelization.<sup>3</sup> However, the articulation of *jus gentium* only makes sense within an imperial context, i.e. the distinction of “local” norms from a “supralocal” context, such as the Roman Empire, whose laws and practices of conquest bequeathed posterity with the terminology, *laws of peoples*. This

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<sup>3</sup> Arendt argues that Kant’s (in)famous essay “On the Perpetual Peace” is ironic. A tropological reading of “On the Perpetual Peace,” which found a preponderance of irony, following Arendt, might, in turn, align Kant’s text with satire, following Frye.

metonymic relationship between *jus gentium* and empire receives full consideration in the fourth chapter, which examines the bid of the *curacas*, indigenous elites of the Andes, for incorporation into the Spanish Crown in 1561.

As Genette has contended, in his productive use of this term for narratology, *metalepsis* denotes a figural relation between producer and production (13). The obvious example of a metaleptic relationship in the context of *conquista* would be *conquista* and *conquistador*. Indeed, the entire genre of the *relaciones*, first person narratives of past actions addressed to the Sovereign in order to receive benefits in recognition of these acts, could have provided much grist for Genette's mill. Yet *conquista* was not solely the production of the *conquistadores*; confessionals redacted in the mid sixteenth century made the corporate enterprise of *conquista* abundantly clear and the ramifications of sin and doubt could touch anyone who had profited from the Indians' losses.

As a capitalist enterprise, *conquista*'s capacity to involve all members of colonial and peninsular societies was unprecedented. The reach of *conquista*, and its multiplying effect, i.e. the excedent of *conquistas* funding more *conquistas*, projects the trope of *traductio* (*imperii: studii*) or metaphor, on the basis of similitude (ex. *las dos Españas*, *Santiago Matamoros and Santiago mataindios*) while depending on a metonymic function (contiguity). Today, mimesis in business is termed *scalability*, and understood as the ability to grow and replicate on the basis of similitude (metaphor) but with capital



originating, but dissociated from, the first enterprise in a contiguous form (metonymy).<sup>4</sup>

Our discussion of *Conquista*, following Guamán Poma, must begin by recognizing that *Conquista* did not constitute the starting point of his narrative or story. Indeed, the confessional mode of narrative elicited by *conquista* insists on the *telling of life before* the Conquista as a way of extirpating that past. Having worked for Martín de Murúa and Cristóbal de Albornoz in their extirpation campaigns in Huamanga during the second half of the sixteenth century, Guamán Poma would have been highly conversant in this form of narrative.<sup>5</sup> Refusing to begin his telling of himself, his people, and his land with the *Conquista*, he readily concedes that were it not for *Conquista*, he would not be addressing a letter to the Spanish Sovereign.

At the same time, it would be difficult to understand the relationship between his manual for reform with his chronicling of past and contemporary events without the transformative and destructive fact, recalling Hayden White's phrasing, of the *Conquista*. But for *Conquista*, there would be no need for the *buen gobierno* section. But for the chronicling of the past and how the Indians of Peru came to know God, the remedies sought in *buen gobierno* would have no overall relevance to the narrative. In fiction, Genette has

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<sup>4</sup> For the tropes used by Marx in the "Forms of Value" in *Capital*, and how these tropes structure the events, via cause and effect, in *The Eighteenth Brumaire of Louis Bonaparte*, see White's *Metahistory* (320-7). Marx's use of metalepsis and White's analysis of his discourse exemplify *scalability* both in historical and historiographic discourses. See also White's rebuttal of tropology's critics in *Figural Realism* (17-20).

<sup>5</sup> This narrative form, elicited by the confessional, may very well be the dominant mode of indigenous narratives of *conquista*. See Rabasa's *Tell me the Story of How I Conquered You*.

described this narrative confusion between causes for effects, and effects for causes, as a narrative transposition of the logical fallacy *post hoc ergo propter hoc* (after this, therefore because of this). Yet by Genette's own admission, this fallacy in narrative produces powerful fictions.

How do these tropes order narratives meant to earn something tangible in the real world? How did the metalepsis of venture capital work in the Indies, oftentimes with catastrophic consequences? *Conquista* as metalepsis insinuates itself into the power mechanisms of dominion, coterminous with discovery of the commonplace (*inventio*); it functions along the paradigmatic axis of utterance, but also of silence (of what is glossed over), until its tropes have become so ingrained so as to have become habitus, what Bourdieu has defined as "embodied history, internalized as second nature and so forgotten as history; [it] is the active presence of the whole past of which it is the product" (*In Other Words* 56).<sup>6</sup> And yet *conquista* functions on the metaleptic

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<sup>6</sup> In *The Civilizing Process*, Elias refers to the habitus—*hexis* (state) for the Greeks—of European polite society as a "second nature" that is the product of a transformation, over the *longue durée* of modernity and increasing thresholds of shame and repugnance, of all forms of comportment. While Elias implicitly accepts the "constructedness" of habitus, Bourdieu's use of the term explicitly refers to the artifice that is, nevertheless, experienced as "second nature." My own concern for the metaleptic habitus of venture capital, however, does not eschew the possibility of subjectivity, a view suggested by Bourdieu in his reflection on the sources of historical action:

The source of historical action, that of the artist, the scientist, or the member of government just as much as that of the worker or the petty civil servant, is not an active subject confronting society as if that society were an object constituted externally. The source resides neither in consciousness nor in things but in the relationship between two stages of the social, that is, between the history objectified in things, in the form of institutions, and in the history incarnated in

processes of venture capital; this dissertation aims to bear witness to the imperial habitus, in the process of becoming. The metaleptic habitus of venture capital is exposed and analyzed in chapters one and two, though I will refer to this concept throughout the dissertation. Thus, I part ways with earlier scholars of the *conquista* in ordering my own narrative: venture capital in the first chapter, the laws of the conquest in the second. The success of *conquista*'s metalepsis can be measured in large part by the preference given to the legislation of the conquest, and juridical categories, for its periodization in the scholarship of the *conquista*.

Venture capital has been highly successful in merging *caritas* and *cupiditas* so that they would be used synonymously.<sup>7</sup> This was quite a feat, considering that in becoming embodied, so as to be “second nature,” the metalepsis of venture capital had to override the ingrained trope of capital breeding capital as an *unnatural* occurrence. While the tools at my disposal allow me to focus mainly on the edifice of discourse surrounding the *conquista*, the implications of the *conquista* metalepsis were felt, suffered, believed in, performed. The constructedness of *conquista* makes it no less true than those other truths revealed by past events.

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bodies, in the form of that system of enduring dispositions which I call habitus. (190)

My conjunction of the two terms brings the question of subjectivity to the fore without resolving it. Clearly, as a figure, metalepsis insinuates a relation between the producer and the production, though its truth proposition is not so much represented as performed.

<sup>7</sup> For the commonplace on the evils of *cupiditas* see 1 Timothy 6: 10. See also Augustine, in *De doctrina christiana*, for the classic contrast between *caritas* and *cupiditas* (3.10.16).

Addressed to Philip III, Guamán Poma's narrative of *conquista* recalls an earlier habitus, when the metalepsis of love interest had not become second nature. His narrative offers both a response and a twist on European interpellation in his graphic and written representations of "discovery," *descubrimiento*, that are used synonymously with *invención* and *conquista*.<sup>8</sup> The metaleptic habitus of conquistadors manifests itself in the naming of places that already have names, given to them by their native inhabitants. These Adamic speech acts by the *conquistadores* perform the material and symbolic violence that is a common denominator in all three of the ceremonies of possession, by the Spanish, French and British empires, as argued by Seed.

According to Guamán Poma, the true discovery of the Tahuantinsuyu—the world circumscribed by Andean thought and experience—occurred during the first evangelization, or the reign of Inca Sinchi Roca, by one Saint Bartholomew, one of Christ's apostles who "salió a esta tierra y volvió" 'came to this land and returned.' In Bartholomew's original mission, only Cuzco and Collao received Christ's good news in the first wave of global evangelization (followed, perhaps, by apostasy). Finally, Guamán Poma produces an etymology of "Indios" that contradicts the history of errors in the epithet (the

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<sup>8</sup> Hernán Pérez de Oliva recurs to the rhetorical trope of the *inventio* (from *invenire*) as a term synonymous with discovery, but a "discovery" that, at least in the rhetorical convention, refers to locating the commonplace, i.e. the trope, for the construction of a discourse that will be more intelligible to the speaker's interlocutor. See Rabasa's discussion of Hernán Pérez de Oliva's *Historia de la invención de las Yndias* (c. 1528) as a counterpoint to O'Gorman's use of the term in *La invención de América* (*Inventing America* 3-4). O'Gorman famously argued that the idea of the discovery of America was an invention. The metaleptic use of *invention* for *discovery* with reference to the rhetorical tradition complicates the thrust of O'Gorman's argument.

confusion of an entire continent and its various peoples as “Indian”) which uplifts Andean topography and its peoples to the heavens. *India*, according to Guamán Poma, comes from *tierra en el día* (land, earth or even world in daylight) and this is why the natives of that part of the world are called “indios.” Rather than an erroneous name, *indios* is the perfect name for a people who are more *godly* (in-dios, in God) than the Spanish.

Guamán Poma insists on an etymology for *Indio* based on similitude and contiguity. Call us *Indians*, Guamán Poma demands, *because* we are closer to God. The *indios*, by Guamán Poma, approach God as embodiments, in metonymy and in metaphor, of their proximity to God.<sup>9</sup> To rephrase Raymond Carver’s beloved book, what we talk about when we talk about *conquista* in the Indies involves the tropes, often the same ones, used both to envision the experience of *conquista* and to make truth statements about what *conquista* was.

So, what was it? When Guamán Poma reproduces the encounter between *conquistador* and Inca in Cuzco, he reproduces the exchange in a diglossic dialogue (Fig. 2). The Inca asks his ‘Spanish’ guest in Quechua: “Kay quritachu mikunki?” (*Do you [second person sing.] eat this gold?*) and Candía

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<sup>9</sup> Following Frye, we might even expect *indios* to protagonize in tragic or romance narratives. In accordance with De Man, an allegorical reading of Guamán Poma might trace the metonymic spiral of allegory back to Plato’s *Symposium*. In the *Symposium* several experiences share the same metalepsis of receiving a piercing wound, like that made by an arrow: listening to an ironic witticism wielded by Socrates, and then trying to interpret his meaning; or experiencing *eros*, secondhand, according to Socrates. The piercing wound embodies both a process for unpacking meaning from a trope (ex. Socratic irony) and the process of experiencing the passion of *eros* in the body for the first time, in the form of a trope.

responds “este oro comemos” (*we eat this gold*). Here there is a native interpellation of the conquistador and an answer, given in Spanish, that reflects the emphasis on confession in extirpations of idolatry.

True conversion, following Augustine, and the Dominican order’s practice and theory of conversion in the Americas, is only possible once you deny your past and make it past (what O’Gorman called a process of “self-annihilation”). Is there not something similar at play? The Inca’s question “Do you [second person singular] eat this gold?” elicits a response in Candía that reflects back on the Spanish as a people: “Yes, we eat this gold.” The individual’s confession is not only damning to himself but to his entire people, a form of “ethno-suicide”; the Spanish confession re-invents the cannibal of Columbus beneath the authorial gaze of an Indian Christian; eating a Eucharist of gold, the *conquistador* confesses to idolatry but does not ask for repentance.

The scene of dialogue between Candía and Guayna Capac recalls the intimacy of Spain’s preferred mode of profit in the Indies: tribute, which depended on contact with the indigenous. The Spanish preference for labor, as Seed contends, performed similar encounters to that of Candía and Guayna Capac with the *requerimiento*, which is discussed at great length in chapter two and is one of the best examples of the metaleptic habitus of venture capital. Of the experience of reading the *requerimiento*, Las Casas wrote that he did not know whether to laugh or to weep.

Pursuit of native labor and tribute necessarily invoked an intimacy with the other that the empire would subjugate. But its civilizing and evangelizing mission made the Empire's would-be sources of usufruct brothers in Christ. For Las Casas, such a contradiction was irreconcilable. But the discursive apparatus created by the metalepsis of love interest built a formidable edifice. It is little wonder, then, that the Spanish metropoli exploded in discursive productions that struggled with aspects of *conquista* (see Gaylord).

This cultural enterprise was not so much a struggle for justice, or a polemic, but a *dubium* about the nature of each action taken, or not, in a corporate venture with conflicting goals. José de Acosta's treatise to assuage the conscience of the Spanish sovereign, with a program to reform evangelization and empire in the Indies, receives our critical attention in the third chapter precisely because this Jesuit author embraces *cupiditas* as a model for *caritas* without reservation. Yet Acosta finds himself making his case to Philip II following decades of missionary work in Peru, and the heresy trial of a renowned Dominican friar, Francisco de la Cruz, whose prophecies offer another, heterodox vision of Christian empire in response to the metaleptic habitus of love interest, as practiced in the Andes. Acosta's metaleptic feats in reconciling the irreconcilable reflect the other side of Christian political theology. De la Cruz's heresy concludes the fourth chapter on the various offers and counter-offers for reform and autonomy circulating between the Andes and the Viceroyalty of Peru in the 1560s.

Are the figures invoked by madness, heresy or apostasy all that different? Though his inquisitors qualified them via the binary, heresies or madness, the reforms put forward by Francisco de La Cruz (d. 1578), who had taught theology in the University of San Marcos, attempted to lend coherence to the discourse and practice of evangelization and empire in Peru. For all of Acosta's assurances on the providential nature of the imperial enterprise, he too would grapple with the metalepsis of *conquista*. Decades after Las Casas had declared that the destruction in the Indies was irredeemable, and the Spanish sovereign could no longer pretend to be doing God's work in the Indies, Acosta would claim to have found a solution: *mimesis* of the merchants' *ethos* would provide greater spiritual rewards for the whole empire. In effect, doubling down on the metalepsis of venture capital would be the best reform. Yet the doubts formulated in Spain by Las Casas about the conscience and the salvation of his compatriots haunted Acosta and structured his own manual for reform. A treatise in name, *De procuranda indorum salute* dialogues with the specter of the Dominican friar who, Acosta reiterates, shall not be named.

Guamán Poma's narrative of *conquista* makes an appeal to the Spanish Sovereign's conscience. In the *Nueva corónica*, Candía's return to Spain sets off a rumor of gold and cupidity, which in turn produces dreams, quasi-nightmares, and "alborotos" (*a great commotion, riots*). Guamán Poma narrates a re-volution in Peninsular consciousness, an overhaul of time and



space and collective wills. He presents the events of the recent past in Spain with the Andean trope of *pachakuti*, a cataclysmic renewal of time and space.<sup>10</sup> In other words, the *conquista* in the Indies brought about a *pachakuti* in the land of Castille. Significantly, Guamán Poma never returns to the providential arc of the original mission, St. Bartholomew's apostolic endeavor; instead of providence, these new voyages were fueled by the unruliness of adventurers and idolaters.

“Conquista: Enbarcáronse a las Indias” (*Conquest: They set sail for the Indies*) offers an “allegorical abbreviation” of the many ventures that are commonly referred to as The Spanish Conquest (Adorno *Guamán Poma* 124-5). Columbus, Juan Díaz de Solís, Almagro, Vasco Núñez de Balboa and Martín Fernández de Enciso are all on the same boat. A similar drawing, “Pontifical Flota de Colón” “The Pontifical Fleet of Columbus” offers an almost identical allegory to Guamán Poma's depiction of *Conquista* (eighteenth drawing in the *Nueva corónica*). The inclusion of Fernández de Enciso in *Conquista* emphasizes the author's apologetics for empire as the tailwind for this corporate enterprise.

At first sight, Guamán Poma's depiction of “Conquista” can be disconcerting because he represents on one plane the various expeditions, lands and seas “discovered” by the voyages of conquest during the first half of the sixteenth century. An annotation at the margin of the drawing underscores

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<sup>10</sup> For the experience of *pachakuti* as messianism in the 1550s and 60s, see MacCormack's “Pachacuti.”

his abbreviating and totalizing vision and elucidates for his readers (or his royal interlocutor) that they are, indeed, engaging with an allegory. Recalling Quintilian's classic definition of allegory, the force of this trope (and its ironic implications) resides precisely in its literal readings. So, these conquistadors are, indeed, all in the same boat. Beneath the waves another note specifies the location—"Mar del sur, setecientas leguas del Río de la Plata"—which imagines not only Transatlantic crossings but transcontinental crossings as well. In this continent, circumscribed by the voyages of these six men, Saint Bartholomew is neither a *figura* or a *pre-figura*—recalling Auerbach's paradigm for the representation of reality in Western literature—of Christianity.

*Conquista* serves Greed and not the Gospel unless the God of the Spanish is Gold and Silver (the logical conclusion sustained by Guamán Poma's narrative). In every sense, it is a commonplace, but the abbreviation of time (seventy years) and place (these six men on the same boat) inverts providence on its head. Rather than mimetic correspondance, Guamán Poma suggests reciprocal upheavals, reiterated *conquistas* and *pachakutis* in what was known as the Two Spains under the Habsburgs. The metalepsis of *conquista* in Guamán Poma's narrative blurs the Manichean divide of colonialist discourse while reproducing the *topos* of sailboat as metonymy of desire.

Where does empire operate? Guamán Poma's narrative of the upheaval caused in the inhabitants of the Iberian Peninsula when they received the (good) news of Peruvian gold, resonates with Anne McClintock's assertion for

Victorian England that “imperialism is not something that happened elsewhere” (7). According to Guamán Poma, the Spanish were completely transformed by the rumors of gold; they could not eat or drink or sleep as their thoughts were consumed with lust for the riches across the Atlantic. These symptoms, not coincidentally, are those associated with “love sickness,” as the lover is consumed by thoughts of his beloved whom, oftentimes, he has never even seen. Yet Guamán Poma is describing a collective awakening of appetites and purpose, a change in consciousness so drastic so as to galvanize the mobilization of life and capital in pursuit of great wealth beyond the horizon.

The *conquistadors* as Gold Eaters both takes Spanish cupidity to task as an *unnatural* appetite but also parodies Spanish visions of indigenous monstrosity in the form of Columbus’s foundational cannibals. In effect, Guamán Poma’s narrative of the genesis of the Gold Eaters offers not only a chastening rebuke to his royal interlocutor but also an opportunity to gain self-knowledge through the proverbial looking glass: you and your world have not been the same since your encounter with us. Moreover, his scathing representation of Spanish cupidity mines the edifice of love interest in favor of scholasticism’s condemnation of usury and cupidity, while reviving the tensions between heterogeneity and homogeneity in questions surrounding language, the Eucharist, world dwelling and money.<sup>11</sup>

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<sup>11</sup> Le Goff’s contention that the development of purgatory in the 13<sup>th</sup> century and the Church’s increasing use of accounting metaphors for its management of penance

If narratives of *Conquista* show the strains of *metalepsis* so, too, does the *leyenda negra*. Though this dissertation deals in, trades with, figures of speech, specters and the *mala fama* of the enterprises in profitable violence known as *conquista*, it does not engage in an economy of *conquista*, *conquête* or *conquest*. Decades after the death of Las Casas, Acosta cannot even utter his name when lamenting the pernicious effects that the friar's accusations had done for Spain's *fama*, its moral standing among nations. Centuries later, scholars who contend with the legacy of his figure as advocate and intellectual, as the father of liberation and Indian theology, may find themselves accused of perpetrating the *black legend* which, so the story goes, originated with the incendiary publication of the *Brevisima relación de la destrucción de las Indias* (1552) for the purposes of Protestant propaganda in the European Wars of Religion.

The use and abuse of Las Casas's text for Protestant propaganda purposes has been well documented. It is no coincidence that Thomas de Bry published both Thomas Hariot's *Report of the New found land of Virginia* (1588) as well as the translation into English and his illustrations of Bartolomé de las Casas's *Brevísima* in 1598, soon after a trip to England and in close

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nically dovetails with my inquiry into the effects of Post-Tridentine Catholicism and the implementation of what I call "love interest" in the 1560s. Le Goff's dismissal of the Jewish community's identification with usury in the European imaginary is highly problematic, however. See *Money, Language and Thought* by Marc Shell for a more nuanced approach to the configuration of credit, ethnic identity and usury, especially in his reading of Shylock in *The Merchant of Venice*.

collaboration with Richard Hakluyt. This is but one example of how the pamphlet that Las Casas had published in 1552 to move the conscience of his Sovereign in Spain was translated by his contemporaries into Latin and the modern European languages in an effort to galvanize Protestants against Catholics in the Wars of Religion. The competition among empires was fierce and waged in the court of public opinion.

Yet the Spanish empire's fiercest critics would also learn from its methods. Two colleagues of Hakluyt, John Frampton and Henry Bynneman, had translated and published the *Suma de geografía* (1519) by Martín Fernández de Enciso, who was one of Spanish empire's most ardent apologists, in 1578. Frampton's translation of Enciso's *Suma* is hardly a condemnation of Spanish empire. To the contrary, the translation comments on examples from the *Suma* as best practices for the English to follow in their encounters with American natives in their own colonies. Francis Bacon never failed to disparage the moral health of Spanish empire while admiring its methods. To borrow Samuel Huntington's concept, the *black legend* was born from a "clash of civilizations."

*Carga con tus propios muertos*. So the saying goes. How and when did we decide which of the dead were "ours"? It does not follow that the accusations leveled by Father Las Casas against the practice of Spanish *conquista* as a whole are invalid because they were used as propaganda against Spain and Catholics. However, the use of Spain's past against speakers of Spanish is a cause for concern. The *black legend* not only refers to the

allegations of Spain's *unique* violence against the indigenous inhabitants of its empire in the West Indies, but the invocation of said violence in conjunction with portrayals of the backwardness of Hispanic culture and its speakers. Coined at the turn of the twentieth century in Spain, *black legend* makes a claim to the existence of a trope underlying (mainly) English characterizations of the *value* of Spanish civilization. The existence of the trope is incontestable. The context of its genesis, after Spain's losses in 1898, belongs to the loss of empire and the introspection, and, dare I say, melancholy, that followed.

Much like *conquista*, discussions of the *black legend* involve their own metalepsis in narrative. Moreover, scholars in the Hispanic tradition have developed their own habitus, self-reflexive all the same, for justifying their discussion of violence in the *conquista*.<sup>12</sup> My claims are quite simple. The items in contracts signed between the Spanish Crown and the *conquistadors* that require the latter to show great love toward the natives cannot be emphasized at the expense of other items: which natives will be enslaved or

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<sup>12</sup> Thus, Powell and Himmerich's *Tree of Hate* traces the origin of 'Hispanophobia' in the United States to the dissemination of Protestant propaganda beginning in the late 16<sup>th</sup> century. See Rabasa's discussion of Hispanic American scholars and their revisionist readings of the Black Legend and the De Brys' engravings in *Writing Violence* (Chapters 1 and 6). The articles collected by Greer, Mignolo and Quilligan in *Rereading the Black Legend* offer explorations of different modes of imperial violence in relation to racism in the 16<sup>th</sup> and 17<sup>th</sup> centuries. Contributions in Parts II and III are especially relevant to the conjunction of discourses surrounding *lex mercatoria* and *jus gentium*. In his book on British colonialism, Cañizares-Esguera uses the metalepsis of *Puritan Conquistadors*, in order to argue for a (moral) equivalence between Puritan and Huguenot colonizers and their Spanish counterparts. The Puritans, according to Cañizares-Esguera, were *just as* intent in routing the devil, and extirpating idolatry in their colonies as their Spanish counterparts, the conquistadors, further south.

not; which native customs will be respected or not; how much each investor will receive per ship outfitted, etc. My own interest is to question how all these items, the lists in the contracts, the articles in laws, gained narrative cohesion and reconciliation in the metalepsis of *conquista*. I do not aspire to finger pointing, my own *J'accuse* moment. However, I do comment on how the native lords of Perú employed the rhetorical figure of *deixis*, i.e., finger pointing, when making a bid, in capital, for an autonomous indigenous state within Christian empire (see chapter four).

Why the fallacies behind *conquista* remain so compelling, to this day, have compelled me to write on *conquista* and its metaleptic habitus. Hence, my focus on figures and fictions of venture capital in the *conquista*, not because they are not true, but because they were constructed, with vital consequences for the lives and livelihood of millions of peoples.





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Chapter One  
Contracting Subjects: Venture Capital and Conflicts of Interest

El mucho *desorden* trahe orden. Refrán con que se da a entender que los gastos supérfluos y prodigalidad acarréan pobreza y miséria: y ella obliga à la moderación y buen gobierno.

*Diccionario de Autoridades* (1732)

What's in a name? The *Ordenanzas* of 1573 (in)famously proscribed the use of a word, *conquista* (conquest), in favor of *descubrimiento* (discovery) or *pacificación* (pacification). Recalling Juliet's plaintive question, we might ask, much like Tzevan Todorov in his reading of the *Ordenanzas*, What's in a name? Surely, it is only the word *conquest* that was banished and not the activities comprised thereof. Less than a century after the *conquista* of the Canary Islands and the so-called New World, the Spanish empire sought to turn over a new leaf in its scripting of violence for material and spiritual gain. What's in a name? And, subsequently, what's in a name change? What was at stake? Who were the stakeholders?

According to the authors of the 1573 *Ordenanzas*, the word *conquista* impelled agents to act in ways that contradicted the Crown's desired objectives, of a material and spiritual order, for its new subjects in the New World. The rationale behind Article twenty nine of the *Ordenanzas* seemingly argues in favor of a correspondence between the *name* for violence (conquest, discovery, and pacification) and the actions performed under its aegis, "pues

*haviendose de hazer* con tanta paz y caridad como *deseamos* no *queremos* que el nombre dé ocasión ni color para que *se pueda hazer fuerça* ni agrauio a los Indios” ‘for [as this activity is] to be done with as much peace and charity as we so desire, we do not wish for the name to give occasion for the use of force or injury against the Indians.’ The passage offers a striking contrast in subject positions, between the active “royal we” (*deseamos, queremos*) and the impersonal construction for both prescribed and proscribed actions (*haviendose de hazer, se pueda hazer*). The law’s circumlocution delineates yet another island to be discovered, populated by the very people who seem to be (un)doing the bidding of Empire. Yet empire would gloss over their agency, while alluding to the wrongs (*fuerça, agrauio*) committed by its agents, placed in parentheses by the letter of the law.

In the classical trope on language and civilization, grammar ploughs the formerly sylvan fields and shares its function with the *nomos*, the rule of law that lays claim to an ordering of the world and the right to uphold it by violent means.<sup>1</sup> In 1573, less than one hundred years after Nebrija made his (in)famous claim that ‘language has always been the handmaiden of empire,’ the laws of Spain would tame unruly subjects by offering a change in nomenclature. Yet the question remains, was this just smoke and mirrors? A lexical sleight of hand? If so, who was fooling whom? And why did *conquista*

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<sup>1</sup> See Carl Schmitt, *The Nomos of the Earth* for his discussion of the violent origins of the law in the delimitations of land.

serve as an excuse for *unruly* behavior? Why had it become antithetical to the ‘new’ mode of imperial expansion?

At the heart of *conquista* and its discontents, the question of subjectivity and agency remains. After all, cynicism aside, the *Ordenanzas* of 1573 espouse the idea, if not the belief, that removal of a word—*conquista*—could change the behavior of the laws’ agents. The laws’ premise for proper functioning was a top-down hierarchy in which the comportment of an unruly bunch could be dictated by the law.<sup>2</sup> In this imagined scenario, the metropolis imposed its vision of order on the periphery.<sup>3</sup> Yet Empire building had been a collective endeavor and its ownership was an ongoing matter of contention and negotiation. While describing the *modus operandi* of imperial violence in the Americas, Father José de Acosta (1539-1600) contrasted Spanish imperial expansion with that of the Portuguese. For Acosta, the system of remunerating *conquistadores* for their actions with labor and tribute (i.e., the *encomienda*) in the Americas emerged from private enterprise:

Ac prima illa de remunerandis laboribus sumptibusque  
militarium hominum, ex necessitate quadam potius quam ex  
voluntate, aut religione profecta fuisse videtur. Neque enim  
poterat Princeps, aut per quàm aegrè poterat, tantos tot

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<sup>2</sup> See Bauer for his reading of the *Ordenanzas* that reinforces their premises for proper functioning.

<sup>3</sup> See Angel Rama’s *La ciudad letrada* for an account of Spanish empire that follows these parameters. As with Todorov, the *Ordenanzas* inspired Rama’s vision of America emerging “Athena-like” from Spain’s utopian vision of Empire. In contrast, Baber’s account of Tlaxcalan elites negotiating the legal recognition of the city of Tlaxcala as a city in the early to mid 16<sup>th</sup> century points to native contributions in the development of Spain’s imperial bureaucracy. See also Rappaport and Cummins for indigenous writing “beyond the lettered city” in the Andes.

hominum sudores, imo verò etiam cruores dixerim, praemio pari afficere, nisi in nouo orbe illorum virtute parto, potentiam quaestumque partiretur. Nam neque isti atioqui contenti essent, et caeteris similia, audendi, aggrediendique cupiditas omnis extingueretur. In Lusitanica India, quod Regum Lusitanorum auspicijs, et auro parta sit, potuit penes Regem totus ille dominatus sine iusta fuorum querela retineri. Nostrorum verò hominum, quoniam suapte ductu et re, tanta peregerunt, longè alia ratio est. Itaque necessitates, vt dixi, cuiusdam fuit, vt suo quoadam iure, vt olim Israëliticae tribus distributore Iosuë, terram sortirentur, permanente tamen, quod minimè obscurum est, supremo omnium penes Regem imperio. (iii.xi. 289-90)

The idea of remuneration for the work and the expenses of the *conquistadores*, was born out of necessity rather than out of desire or religious concern. For the Prince was not able, or only with greatest difficulty, to give a suitable prize for such “toil and sweat” (what that really means is “such bloodshed”), save to divide up amongst them some of the power and the income of the New World which had been won through their fortitude. They themselves would not have been satisfied with any other prize and for the others who followed it would have quenched any desire to undertake similar ventures. In the Portuguese Indies, as all was conquered under the auspices and through the gold of their kings, all the dominion and control was able to be kept in the monarchy, without any just protest or offense to the individuals who carried out the task. But in the case of the Indies of Castile it is a different case altogether, since private enterprise played the major part. So, as I said, it was out of necessity, as in other times, like the tribes of Israel for example, where individuals obtained the land by lot, although as is quite clear, the supreme control of distribution always remained in the hand of the king.<sup>4</sup> (III.xi. 123)

Acosta’s thoughts on the violent origins of the Spanish Empire and his program for its reform will receive greater analysis in the third chapter. Nevertheless, several themes from this passage guide this first chapter’s initial foray into the structure of capital investment in violence and its corresponding discourse in the construction of empire: the *unique* structure of Spanish

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<sup>4</sup> Unless otherwise stated, the English translations of *De procuranda indorum salute* cites the edition and translation of G. Stewart McIntosh.

enterprise and empire vis à vis other competitors; the division of power to remunerate and compensate past investments (both in capital and labor); violence as “labor”; and the initial and ongoing (relative) poverty of Spanish Monarchs for undertaking large capital investments.<sup>5</sup> Acosta also posits a capital based theory to explain the Spanish Sovereigns’ relative lack of power vis à vis their Iberian competitors: power is proportional to the amount of capital invested by each agent in the scheme. Acosta’s theory of power distribution will merit further exploration in the section on venture capital in the 16<sup>th</sup> century, but for now his observations point to the conflicts in interest within and among the various partners in the series of ventures known as *conquista*.

Conquista underwent lexical renewal and demise in less than a century. This transformation mirrored the accelerated temporal horizons of venture capital funds. As Gibson contends, *conquista*’s entry into the early modern Castilian lexicon reflected its Latin etymology: the past participle of *conquaestare*, signifying the result of an exploration or discovery, often in lands outside of the Iberian Peninsula. By 1611, Sebastián de Covarrubias (1539-1613), would make explicit the violence of discovery and exploration in lands inhabited and ruled by others. In his *Tesoro de la lengua castellana o española* (1611), Covarrubias defined *conquista* as “pretender por armas algún

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<sup>5</sup> Recall how Cortés, by his own account, when asking Mohtecozoma for gold, justifies the repeated requests because of “his master’s great need for it” in the *Segunda carta de relación*.

Reyno, o estado” ‘to feign or expect [to achieve] by force of arms a kingdom, or state.’ The verb *pretender* reinforces the metalepsis of foundational violence “by force of arms”; without the violent reinforcement, the pretensions—fictions, but fictions that entail expectations—would remain unrealized. Similarly, the lexicographer’s alludes to “kingdoms” or “states” as the result of *conquista*’s violent enactment. The definition thus glosses over the disruption of orderly, perhaps *even* civilized societies implicated in *conquista*’s pretensions. The figurative leap of the verb *pretender* suppresses the transition from violent possession to kingdom or state. In Covarrubia’s muted allusions to foundational violence (i.e., *pretender por armas*) can be heard the faint echoes of Bartolomé de Las Casas’ diatribes against the “dichas conquistas” or ‘so-called conquests’ in his *Brevísima relación de la destruycion de las indias* (1552). When did *conquista* become “conquista”? In other words, when did *conquista*’s utterance become a self-reflexive exercise, where the speaker felt the need to justify his use of the term?

Conquista’s fortunes, in moral and material terms, were tied to the particular structure of venture capital funds in the invasion of the Americas. The term *conquista* may have grown out of favor by the end of the sixteenth century, but its mode of operations left a legacy of discourse and narrative that continue to haunt modernity.<sup>6</sup> As many other commentators on the

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<sup>6</sup> This “haunting” is responsible for other specters that respond to this terrible legacy, as Derrida explores in his *Specters of Marx: The State of the Debt and the New International* (1994).

*Ordenanzas* have observed before me, despite all the rhetoric of novelty and reform, these laws did not change the methods of empire, *a grosso modo*, at the close of the 16<sup>th</sup> century. Why, then, did *conquista* continue to be so grating a term that, for some, was nevertheless so inspiring? Popular wisdom, as recorded in the *Diccionario de Autoridades* (1732), may provide a clue to *conquista*'s continued salience: “el desorden trae el orden. Refrán con que se da a entender que los gastos supérfluos y prodigalidad acarreán pobreza y miseria: y ella obliga à la moderación y buen gobierno” ‘unruliness brings order. A saying which suggests that superfluous expenses and wastefulness entail poverty and misery; and this compels moderation and good government.’ It would seem that order and good government would be unimaginable without its antithesis, unruliness and excess.

At the same time, *empresa*, the term commonly associated with “business” or “enterprise” in contemporary Spanish suffers a transformation, similar to that of *conquista*. *Empresa* had been widely understood as an “activity with a purpose” or “activity to an end”; knights of romance narratives made *empresas* but so did day laborers (Vilar 243). By the close of the sixteenth century, the acceptance for the use of the term *empresa* becomes increasingly circumscribed, limited to the sphere of commerce. Yet commerce and violence, as Pierre Vilar suggests, could be embodied in the same figure, “Cristóbal Colón, último gran empresario caballeresco, primer gran empresario al servicio del capital” “Christopher Columbus, last great knight



*empresario*, first great *empresario* in capital's service"(245). How did *empresa* and *conquista* dovetail and then part ways? It seems almost too easy to signal Columbus as the beginning and the end of eras in capital and chivalry. Indeed, the definition of *empresa* by Sebastián de Covarrubias underscores its emblematic function, created in order to fulfill a particular end:

Emprender, determinarse a tratar algun negocio arduo y dificultoso, del verbo Latino *apprehendere*, porque se le pone aquel intento en la cabeça, y procura executarlo. Y de alli se dixo Empresa, el tal cometimiento: y por que los caualleros andantes acostumbrauan pintar en sus escudos, recamar en sus sobreuestes, estos designios y sus particulares intentos se llamaron empresas: y también los Capitanes en sus estandartes quando yvan a alguna conquista. De manera, que Empresa es cierto símbolo o figura enigmática hecha con particular fin, endereçada a conseguir lo que se va a pretender y conquistar, o mostrar su valor y ánimo. (345)

To undertake (*emprender*), to resolve to do an arduous or difficult *negocio*, from the Latin *apprehendere*, because once the intention is placed in the head, [he] intends to execute it. From this it was said *Empresa*, this undertaking: and since the knights errant would paint their shields, embroider their clothes [with it], these designs and particular plans were called *empresas*; and also the Captains [used them] in their standard when they went on *conquista*. In this way, *Empresa* is a certain symbol or enigmatic figure made to a particular end, raised in order to achieve what will be feigned and conquered, or to show valor and intent.

*Empresa* or enterprise as *a fait accompli* corresponds to events that have come to a close, that are narrated in the preterit tense, much like the narratives of the exploits of the knights errant (*caballeros andantes*). However, in the lexicon, the time of *conquistar* and *pretender* remains open-ended.

*Conquistar*, *pretender* and *emprender* are used synonymously; *conquista*, *pretensión* and *empresa* are thus corollary figures and fictions of one another. In this way, the *empresa* of *conquista* remains viable for Covarrubias at the turn of the 17th century. More than a century after the *Tesoro de la lengua* was published in Madrid, the academics of the Real Academia include the business venture as a second entry, as an extension of the first acceptance of *empresa* as emblem or sign:

La acción y determinación de emprender algún negocio arduo y considerable, y el esfuerzo, valor y acometimiento con que se procura lograr el intento. (*Autoridades* 1732)

The action and decision to set forth or (undertake) an arduous *negocio* worthy of consideration; and the effort, valor and undertaking with which the intent is procured to be achieved.

Enterprise thus acts as a hinge between a *negocio* and a sign used to signify the goal of an "arduous," "difficult," *negocio* in the process of becoming. As in the case of *conquista*, an action's intention and an action's result are conflated in the term. Yet *empresa* also invokes the emblem, the "self-fashioning" of Renaissance subjects within the parameters of socially acceptable standards.<sup>7</sup> At the same time, *empresa*, an action in the service of a prize, conflates standard with standard-bearer. As such, as an enterprise that required a degree of self-reflection, it emphasized the subject's identity and action in juxtaposition to the *empresas* of others. The self-fashioning involved in *empresa* offered the possibility of rupture but also continuity with the past.

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<sup>7</sup> Greenblatt's *Renaissance Self-Fashioning* is the classic study of the constructed persona among the upper and mobile classes of the Renaissance.

Thus, *empresa* and its agents incorporated the imagery of a battlefield and combative interests. Ideally, however, conflicting accounts of different *empresas*, could be forced to agree.

As Baldassar Castiglione (1478-1529) was to the self-made courtier, Benedetto Cotrugli (d. 1468) was to the merchant, offering these words of advice to the would-be “perfect” merchant in his book, *Della mercatura et del mercante perfetto* (1573): “When you see a merchant to whom the pen is a burden, you may say that he is not a merchant” (qtd. in López and Raymond: 375).<sup>8</sup> Cotrugli’s insistence on self-inspection in different forms of writing—*the quaderno, giornale and memoriale*—with various temporal horizons (daily, monthly and yearly) offered episodic opportunities to juxtapose and reconcile contradictions. These mercantile genres of introspection involved double entry bookkeeping but also narrative accounts of verbal exchanges with other merchants. The reconciliation of conflicting accounts was not only good for business but could prove a point of honor, where contradictions had to be ironed out in anticipation of liability claims and the testimonies involved in litigation (377). The state of a merchant’s *credit*, that is, the belief (from

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<sup>8</sup> Cutruglio Raueo (Kotruljevic of Ragusa) is thought to have written the book around 1400. The title page of the Venetian edition that was published in 1573 notes, “scritti da piu di anni cx et hora data in luce” ‘written over more than one hundred and ten years ago and now brought to light.’

*credo*) of his peers in his ability to keep his word, in turn, enabled access to greater or lesser capital investment.<sup>9</sup>

Cotrugli's "perfect merchant" is a humanist, lover of the arts and writing, knowledgeable in local customs and laws, who is a master at defending his own interests while recognizing the rights of others even when transactions involved a zero-sum game. Thus, the perfect merchant shows a certain effortlessness, akin to *sprezzatura*, in masking conflicts of interest. In effect, Cotrugli's manual of perfect (self) merchandising anticipates the concerns and machinations outlined by Castiglione's famous *Cortegiano* (1528), though the correspondences made between word, honor, value and comportment are unequivocal in Cotrugli's book.

Throughout the 16th century, the law made explicit the conflicts of interest inherent to ventures that pursued *empresas* for moral and material gains. Yet, by the close of the sixteenth century, the changes in discourse brought about by Spanish ventures in empire building unleashed a new subjectivity with formidable power, capable of reconciling paradox and marrying antitheses. Love and Interest could be yoked together in the service

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<sup>9</sup> See Sprague's *Romance of Credit* (1940) for a spirited endorsement of the capitalist's word as his "credit" just as the term *venture capital* was coming into vogue. Sullivan's *Rhetoric of Credit* similarly references double-entry bookkeeping and merchants' diaries to emphasize the interpersonal exchanges of capitalism in Jacobean London and to speculate on the reception of plays that represented City exchanges. Sullivan's recourse to the merchants' manuals underscores the *humanism* of their endeavors in an effort to contest Agnew's *Worlds Apart*, a study of Jacobean plays that largely emphasizes the alienating effect of commercial discourse on the majority of audiences in 17th century London.

of empire seemingly without conflict, though the use of the term *conquista* would become problematic, an unwelcome reminder of the embattled positions and conflicts of interest that *conquista* signified.

The *societas*, or business partnership, which had always been more palatable to Scholastic thought than loans, governs the structure for State and Entrepreneur ventures in the Americas. These joint ventures relied on the temporal paradox behind the etymology of *conquista*: they claimed ownership over things, places, and technologies as yet to be discovered or created, but nonetheless imagined; this enterprise engaged in discursive and practical metalepsis in its confusion of causes for effects and vice versa.<sup>10</sup> God's providence was confused with *pro videntia*, the foresight of the visionary entrepreneur or self-made leader who believed and was *credited* with seeing how and when the wheel of fortune would fall.

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<sup>10</sup> See the Introduction for a discussion of Gerard Genette's use of the paradox involved in metalepsis from an ontological perspective in narratology (7-16).

### *Venture Capital, Societas and Conquista*

The contracts between Crown, Church, Conquistadors and Crew can be conceptualized as a series of venture capitalist schemes in which Crown and Church provided "managerial expertise" to Conquistadors and Crew in exchange for the *quinta real* (i.e, twenty percent) and tithing (i.e, ten percent). In the twentieth and twenty-first centuries, venture capital thrives on the commercialization of science and technology. The General Partners of Venture Capital firms raise money, find and evaluate entrepreneurial ventures and participate in their management to increase their value as rapidly as possible but they do *not* provide the majority of capital invested in any one fund (Freeman 146-7). In this way, the General Partners invest and distribute capital provided by others, known as the Limited Partners of sequential endeavors (or funds). Limited Partners are often family members or acquaintances of the Entrepreneur and General Partners.

The Entrepreneur is the capitalist hero *par excellence* though, more often than not, he will make the least capital gains among all the partners of a fund, even if the enterprise was his original idea. If General Partners are valued for their ability to build a corporate structure for greatest profit, the Entrepreneur is credited with having the original idea and bringing it to fruition "against all odds." Joseph Schumpeter (1883-1950), the renowned

Harvard sociologist, placed particular emphasis on the role played by the entrepreneur's foresight as a defining trait of his character:

Here the success of everything depends upon intuition, the capacity of seeing things in a way which afterwards proves to be true, even though it cannot be established at the moment, and of grasping the essential fact, discarding the unessential, even though one can give no account of the principles by which this is done. (85)

Schumpeter's seminal description of the Entrepreneur raises the specter of irrational belief and practice; the logic of his actions only makes sense after the fact. Indeed, as a matter of narratological inquiry, Schumpeter's definition of the entrepreneur engages in metalepsis, that is, the confusion of causes for effects or vice versa. The unique faith of the entrepreneur—unique in that only he believes in the enterprise at hand—defines him by the tautology of success, in hindsight.<sup>11</sup> However, in the end, the Entrepreneur's intuition will receive less remuneration than the managerial expertise of the General Partners, who will also own the largest stake in the enterprise by the time the fund is liquidated. Entrepreneurs are willing to relinquish ownership of the enterprise to venture capital firms for the latter's valuable social networks, necessary for raising capital; because investment by a venture capital firm of renown gives the enterprise “legitimacy” and attracts more investors; this leads to more

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<sup>11</sup> For François Perroux, Schumpeter's vision of the entrepreneur, which confounds abstraction with suggestion, exhibits “an epic sublimation of modern enterprise”(18). In contrast with the production of *knowledge* of capitalism, of which the entrepreneur's “foreknowledge” is but a subset, Philippe Pignarre and Isabelle Stengers explore the possibilities of *yearning* that break the knowledge/ belief binary (66-71).

capital investment in the original idea and greater “scalability” or expansion.<sup>12</sup> Also, General Partners are believed to organize the labor force more efficiently and, having navigated nascent enterprises before, can apply practices and structures learned from past experiences to the current endeavor. Thus, if all goes well, even though the Entrepreneur loses most of the material stakes in his original idea, the distribution of risk combined with a substantial capital investment will offer a greater rate of return. For all their “managerial expertise”, General Partners receive “carried interest” once the assets of each fund are liquidated; "carried interest" is calculated after the original investment of the Limited Partners has been returned of which, normally, twenty percent belongs to the General Partners. This twenty percent often make the General Partners the owners of the largest stake in the enterprise by the time the fund closes.

In the early modern period, venture capital was known and practiced under a different name: the *commenda* or, in Romanist jurisprudence, the *societas pecunia-opera (in qua alter imposuit pecuniam, alter operam)* (the *societas* to which one contributed the money, the other the labor) and the *contractus trinus* (triple contract).<sup>13</sup> Venture capital thrived as an alternative to loans charging interest, especially from the mid 15th century onward

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<sup>12</sup> Though venture capital firms capitalize on the investment of various social and economic institutions, they are not monolithic entities; rather partnerships are broken, reformed and constructed with each new venture as the "social capital" of each partner fluctuates. “Social capital” refers to the network of investors commandeered by each partner in a fund.

<sup>13</sup> The so-called “triple contract” was a loan that charged interest in the form of a loan.



(Noonan 133-53). Successful practitioners of the *commenda*, *societas* or triple contract in the West Indies could commandeer one hundred to two hundred percent profits per fund. Speaking of a Florentine merchant who was already receiving such returns on his investments in the Americas as early as 1502, Piero Rondinelli urged his fellow countrymen to invest in Bardi's new funds because "Francisco de' Bardi s' à a fare riccho a meravaglia" 'Francesco de' Bardi knows so well how to get so rich that it is marvelous' (qtd. in D'Arienzo: 227).

Rondinelli's admiration for Bardi's know-how adds another element to the image, in the process of becoming, of America as cornucopia: it is not only a place where commodities and labor abound but also where capital flourishes. This reconciliation of the traditional oxymoron of usury—unnatural *usufruct*—uncovers the vein of promised returns on investment that is the subtext of Columbus' first letter from his first voyage. In his first letter to Luis de Santangel (d. 1498), Ferdinand of Aragon's finance minister and the main sponsor of the Admiral's first voyage, Columbus marveled at the natural bounty of the two main islands he had been observing:<sup>14</sup>

La Española es maravilla: las sierras y las montañas y las vegas y las campiñas y las tierras tan hermosas y gruesas para plantar y sembrar, para criar ganados de todas suertes, para edificios de villas y lugares. Los puertos del mar, aquí no habría creencia sin

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<sup>14</sup> Luis de Santangel was a *converso* whose family had been persecuted under the Spanish Inquisition. For his services to Castile and Aragón Santangel was awarded exemption from scrutiny from the Inquisition just one year before his death. For more on Jewish participation in the Spanish and Portuguese expeditions in *ultramar* see López and Raymond (103-108).

vista, y de los ríos muchos y grandes y buenas aguas, los más de los cuales traen oro.

The Hispaniola is a marvel: the hills and forests and meadows and the countryside and the lands that are so beautiful and loamy for planting and sowing, for raising all kinds of cattle, for building villages and places. The ports, which you must see to believe, and the many rivers, wide and deep, many of which carry gold.

Columbus's letters and *Diario* identify the opportunities for trade, mining, agriculture and enslavement. Yet Columbus was more cautious than Rondinelli would later be in his appraisal of opportunities for making money from money. Soon, the oxymoron of flourishing capital gave way to a rapid reconciliation of contradictory concepts and the original, more cautious approach to usury by Columbus is superseded by comparisons between natural and unnatural economic activities, a metalepsis without qualms.

Not only might one marvel at the fruits of the earth in the Americas, but also at the knowledge, of a certain class of men, who knew how to make money—no longer sterile—fruitful. The cornucopia of capital was not natural to the Americas; capital was marvelous in the hands of a few who, in the short term, controlled the capital flows into and without the continent. The metaphors of the land's bounty and the rivers' depths were applied to that most imperial of rhetorical figures: the *translation*, seemingly without contradiction. The dearth of coin circulating in the colonies and uncertainty about the value of commodities in exchanges within the American colonies added to the circumscription of America as a place where money went to

multiply and leave.<sup>15</sup> The dearth of coin can be contrasted to the preponderance of accounts: *diarios*, ledgers, ship manifests, *crónicas* and *capitulaciones* that all aspired for a settlement of accounts—in specie, in kind and in tribute—at the close of each fund. Losses and gains became commensurate items in the various methods for documenting profitable violence. Tabulated risks could evolve into narratives of great riches or increased material liabilities that, perhaps, were offset by the moral gains in the behavior of the subject.

Risk taking and stake holding in an enterprise were not only a means for making a profit, but also, and equally as important, a foil against committing the mortal sin of usury. During the latter half of the 16th century, financiers such as the Fuggers of Aubsburg, who financed the Hapsburgs' wars on the European continent, sought greater clarity in canon law with regard to loans that charged interest as insurance, a set up known as the "triple contract" (Noonan 206-33). Indeed, it was the Fuggers who pushed for Pope Paul III (r. 1534-49) to pronounce himself on the subject of the "triple contract" in the early 16<sup>th</sup> century by arguing its similarity to the *societas*. The financiers thus sought further validation for a practice that had enjoyed forbearance if not approval over centuries, especially in the area of navigation and exploration. Although the triple contract would remain a source of polemic within Catholic realms, the *societas* continued to offer the moral

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<sup>15</sup> See Verlinden's account of payment in specie and in kind in the colonies.

guarantee of risk and ownership, even though they were enterprises that entailed no small measure of peril, to which narratives such as the *Relación* (1542) or *Naufragios* (1552) of Cabeza de Vaca attest. At the same time, the prevalence of bankruptcy and shipwreck placed more pressure on partners to define levels of liability, often to the detriment of the smaller investors or “limited partners.”<sup>16</sup>

How a subject took on risk became a defining character trait, showing (in)commensurate courage or temerity in the situation at hand. Risky business was a double-edged sword for defining the moral virtues or vices of men with shared interests. These distinctions between licit and illicit, founded on moral and immoral pursuits of profit on the basis of risk, were themselves grounded on notions of propriety and property. On the one hand, as Noonan has shown in *The Scholastic Analysis of Usury*, the equitable distribution of risk was the main factor used by Scholastic thinkers to distinguish between a usurious loan or a legal partnership; on the other hand, this appreciation of risk contradicted Aquinas' axiomatic definitions of property that did not distinguish between the use and value of property (133-153).

Following Aristotle's arguments against usury in Book V of the *Nicomachean Ethics* and Book I of the *Politics*, Thomas Aquinas and other theologians and canon lawyers of the medieval period made no distinction

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<sup>16</sup> See Weber's *History of Commercial Partnerships in the Middle Ages* for an in depth description of the parallel development of venture capital funds and firms and their corresponding treatment as juridical personae.

between an object's use-value and its ownership, which rendered interest nonsensical and unnatural: first, it made no sense to charge a debtor interest on a loan whose purpose was obviously for the debtor's use. The creditor could only expect to receive the principal of the loan back: second, it was unnatural because, unlike a fruit tree, money was “sterile” and, thus, could not multiply of its own essence. Yet the distinction between use-value and ownership did arise in perilous areas beyond the boundaries of the *nomos*, that is, the sea.<sup>17</sup>

It is at sea where the metaphors of fruit trees for *usufruct* no longer apply and where interest gained legitimacy. Beginning with the Roman practice of the *foenus nauticum*, a loan could not be charged interest unless the creditor incurred the risk of loss on the principal of the loan. Following the norms of the Roman *Digesta*, a creditor making loans out to ship owners could avoid the charge of usury as long as the creditor assumed the full risk for the loss of goods or value of the goods when they were *actually* at sea. Interest

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<sup>17</sup> In the *Politics*, Aristotle makes a distinction between commerce (which includes seafaring), usury and labor. Yet all forms of wealth procurement beyond household management are the object of the Philosopher's derision:

There are two sorts of wealth-getting, as I have said; one is a part of household management, the other is retail trade: the former necessary and honorable, while that which consists in exchange is justly censured; for it is unnatural, and a mode by which men gain from one another. The most hated sort, and with the greatest reason, is usury, which makes a gain out of money itself, and not from the natural object of it. For money was intended to be used in exchange, but not to increase at interest. And this term interest, which means the birth of money from money, is applied to the breeding of money because the offspring resembles the parent. Wherefore of all modes of getting wealth this is the most unnatural. ( I.x)

charged for the time at sea was known as the “price of peril.” If, however, the ship owner's losses arose after the journey's end, then the ship owner was liable for the full amount of the loan. During the medieval period, the *foenus nauticum* fell out of currency as a matter of law, though in practice it continued to be employed by sea merchants and it was tolerated as a matter of *lex mercatoria*, or common law among merchants. Indeed, the risks of loss to life and property during sea voyages also made Scholastic thought more amenable to the distinction between use and ownership when such risks were pooled in the *societas* or business partnership.

The moral value of risk-taking led Scholastic thinkers, even Aquinas, to contradict their own definition of property, and propriety, which they argued in terms of use and *usufruct*: Though scholasticism made no distinction between the *use* and *ownership* of money, it is precisely on the basis of such a distinction that Aquinas defended the *societas*, i.e. in a partnership the capitalist relinquishes *use* of his money to his partner but not ownership thereof.<sup>18</sup> The introduction of a third element, *peril* (and its price), drives a wedge through the equivalence of use and ownership and allows Aquinas to accept the *societas*, seemingly without contradiction.

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<sup>18</sup> Aquinas observes in the *Summa Theologiae*: "He who commits his money to a merchant or craftsman by means of some kind of partnership does not transfer the ownership of his money to him but it remains his; so that at his risk the merchant trades, or the craftsman works, with it; and therefore he can licitly seek part of the profit thence coming as from his own property." (II-II; 9; 78: 2, obj. 5)

In order to have a *societas*, or business partnership, the term that continues to have currency in the Romance languages, ex. *sociedad* in Spanish, two or more persons form a union of their capital and /or skills for a common purpose.<sup>19</sup> In the fifth of the *Siete partidas*, Alfonso X commends the *societas* or *compañía* as a union of two or more men who seek to profit together that can provide great benefits to all; however, partnerships for usury (*dar logro*) were prohibited, although the law does not go into greater detail (Partida 5, Título 10, Leyes 1-2). Aquinas even availed himself of risk for a definition of ownership to which his earlier, axiomatic definition based on *jus gentium* does not.<sup>20</sup> Thus, a partnership in which one partner puts up capital and another labor (or "sweat equity" as it is known today) is not usurious if the risk is shared equitably, even though such a formulation would have been designated usurious in land bound contexts (Noonan 143-5). This breach in the continuum between use and ownership, which was at the heart of the prohibitions against usury, creates a place where, as Walter Benjamin declared in his Eighth Thesis *On the Philosophy of History* (1940), "the tradition of the oppressed teaches us that the state of emergency in which we live is not the

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<sup>19</sup> In the parlance of contemporary venture capitalists, a contrast is made between "capital equity" and "sweat equity," usually with time and labor receiving greater weight in the distribution of profits at the entrepreneurial level.

<sup>20</sup> *Jus gentium* is a legal term that originated in Roman jurisprudence that refers to common law, or local customs that may be recognized by imperial magistrates as long as they do not conflict with universal law. As Clarke observes in *Fictions of Justice*, however, many "laws of peoples" aspire to universality. Currently, this is the case of *Shariah* law in Africa, which is treated as *jus gentium* within the international paradigm of human rights law even though *Shariah* also makes claims to universal jurisdiction.

exception but the rule” (257).<sup>21</sup> Papal sovereignty used to authorize *conquista* in areas “beyond the pale” of European dominion demarcates the “pontifical mundo,” as depicted by Guaman Poma de Ayala, where violent *cupiditas* is the tailwind to the *nave* of state, church and commerce. How did the invocation of moral and material risks come to dominate territorial expansion even as this expansion was sponsored by a financial system that was usury in everything but name?

On the Iberian Peninsula in the fifteenth and sixteenth centuries, the Portuguese and Spanish Sovereigns negotiated the distribution of risk to capital in distinct ways. In Acosta’s contrast between the Iberian Monarchs’ *modus operandi*, the Portuguese Monarch’s relationship to seafaring entrepreneurs falls squarely within the *foenus nauticum* tradition. As the main creditor to the ship owners and their employees, the Crown of Portugal could claim full “ownership” of the enterprise and collect interest (or the “price of peril”) because it had sponsored the voyages in full (*Regum Lusitanorum auspicijs, et auro parta sit*) and had also contributed labor to the enterprise.<sup>22</sup> What follows is a commensurate relationship between capital and dominion,

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<sup>21</sup> See also Agamben’s *State of Exception* that invokes Benjamin’s *real* state of emergency as opposed to Schmitt’s tautology of sovereignty and the state of exception that permeates internationalist legal hegemony.

<sup>22</sup> Henry the Navigator (1394-1460) is the most obvious example of the physical participation of Portuguese royalty in overseas expeditions. Note that Acosta exaggerates in his estimations of the Portuguese Monarchy’s capital investments in voyages sponsored by the Crown. However, his rationale for the contrast between the two imperial powers proposes a causal relationship between capital and dominion, which, in turn may offer an insight into the insurrections of the *encomenderos* in the Indies in the 1540s and 1550s.



in which the Portuguese Monarch's contributions leave no room for political discourse (*potuit penes Regem totus ille dominates sine iusta fuorum querela retineri.*) Yet Acosta leaves an opening for disputing claims to dominion within reason. His casuistry could accommodate "just protests" (*iusta querela*) if the Monarchs had not provided all or most of the needed capital, resources or labor for the enterprise in question. For Acosta, the financing of the Spanish Indies left such an opening for *iusta querela*.

Acosta's political equation refers obliquely to the *encomendero* revolts in the Viceroyalties of Peru and New Spain in the mid sixteenth century. The *encomenderos* had disputed the Spanish Monarchs' right to dominion and usufruct in terms of capital and labor contributions to the *conquest* of the Indies. The *encomenderos* received compensation in the form of indigenous labor and tribute in exchange for the spiritual stewardship of new Christians and new subjects of the Spanish crown. Thus, the *encomienda* system compensated the past services of the conquistadors to the original expedition (which had resulted in material and geopolitical gains) and present and future actions (the ongoing "care" for Spain's new subjects). Note that whether or not the *encomenderos* were, in fact, complying with the second half of their contractual obligations (i.e., spiritual and material stewardship) was of little concern in Acosta's allusion to (un)just quarrels with the Crown. A similar comparison between investment (in labor and capital) and dominion had led the *curacas* of the Mantaro Valley, in conjunction with the Dominican friars

Bartolomé de las Casas (1484-1566) and Domingo de Santo Tomás (1499-1570), to outbid the *encomenderos*' offer to buy out Philip II (r. 1554-1598) of his dominion over Peru. The *curacas*' and *encomenderos*' negotiations with the crown are discussed further in the fourth chapter.

If the Spanish Crown's material and labor contributions had been so slim, with what right could it restrict remuneration—in monies, tribute and labor—and, at the same time, continue to profit from these enterprises? Unlike the *encomenderos*, Acosta does not push his own logic to its obvious conclusion, and turns to biblical authority to designate the Sovereign as the final say on distribution (*supremo omnium penes Regem imperio*). Acosta concludes that the *encomienda* system, in which *conquistadores* received land use, tribute and labor from indigenous subjects in exchange for spiritual stewardship and as payment for services provided, had emerged as a necessity. The *encomienda* system was necessary, according to Acosta, because without it the *cupiditas*, however inordinate, of men like the first *conquistadores*, would be extinguished and without *cupiditas* there could be no evangelization in the Americas.<sup>23</sup> In other words, this desire (*cupiditas*) was itself a resource in the service of conquest that had to be renewed; it was an emotional investment that expected material returns which, in turn, fueled more desire. In this way, desire functions like capital in its disjunction and alienation from its original

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<sup>23</sup> The premises in Acosta's line of reasoning will be discussed in detail in the third chapter, in contrast to the thought of Las Casas.

source.<sup>24</sup> However, how could capital and desire provide the basis for dominion? Acosta does not analyze the dynamics between capital investment, *cupiditas* and empire in greater detail. At the same time, Acosta proposes a commensurate relationship between capital investment and political dominion that he himself is not quite ready to defend.

Acosta strikes a marked contrast between Portuguese and Castilian modes of financing conquest that may be over determined. While it is true that the Portuguese monarchs were majority stakeholders in 15th and 16th century expeditions, the feudal station (*mayorazgo*) of Admiral evolved out of a venture capitalist structure, one that was never fully abandoned. In the 12th century, the Portuguese Crown made contact with Genovese merchants to mount an offensive against Muslim held dominions on the Iberian Peninsula and Northern Africa.<sup>25</sup> In the 13th and 14th centuries, sea merchants linked to the large commercial houses of Genoa, with large amounts of capital to spare, were engaged by the Iberian monarchs for their ships, martial expertise, and ship building techniques. Often, ships that were used for fighting were also used for trading; oftentimes, the same men traded roles between merchants and mercenaries based on the need of the moment (see D'Arienzo 12-59). The first Admiral of the Iberian Peninsula was Ugo Vento, named by Alfonso X (r. 1252-84) to lead an expedition against the city of Solé in Morocco. Vento was

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<sup>24</sup> For more on alienation, Ollman's inquiry into Marx's theory has the most thorough discussion of capitalism's effects on all subjectivities captivated by its thrall, including that of the capitalist.

<sup>25</sup> The terms are outlined in the *Historia compostelana*, cap. 103.

followed by Benedetto Zacaria, also Genovese, who was named *Almirante Mayor del Mar* by Sancho IV (r.1284-95).

By the reign of Alfonso XI of Castile (r.1312-1350), the position of Almirante had taken on the qualities of the *mayorazgo* as a hereditary station. Ambrogio Boccanegra, who served Enrique II (r. 1369-79), inherited the admiralty from his father, Egidio Boccanegra, who was Alfonso XI's admiral. In Portugal, Emanuele Pessagno (Manuel Pessanha), Almirante do Mar de Portugal, and King Denis made explicit the transition from payment for services rendered episodically to a system of fealty. The admiralty was a *mayorazgo*, or hereditary title, that required descendants of Pessagno to swear loyalty to the king and to have twenty Genovese *sabedores de mar* ready at all times; in return, the Pessagno family could use an emblem or *empresa* as a sign of their house (a ring, a short sword and the royal arms). However, this *mayorazgo* only supplemented the family's affairs; the feudal structure was grafted onto what had been a series of venture capital funds with an ensuing inversion in ownership and management.

By the mid fifteenth century, the Portuguese Monarchy owned the ships and the Pessagno admirals offered the "managerial expertise" for sustaining an ongoing naval enterprise. For his know-how and leadership in commercial and military endeavors, the Admiral received the "carried interest" or a fifth part of all booty amassed from infidels and enemy kingdoms, except for slaves and enemy ships that were claimed by the Portuguese Crown. The Pessagnos

continued to take freight and sell insurance on their own ships and transported goods and slaves between Flanders, Lisbon, North Africa and Genova on Portuguese navy ships when these were out of commission. This did not amount to a “side business,” rather the admirals’ active involvement in the commercial and mercenary networks of continental Europe and North Africa made them all the more valuable to the Portuguese monarchy. The monarchy also conceded an independent jurisdiction to the Admiral’s quarter in Lisbon, offering a legal and spatial axis between capital and sovereignty that Lisbon’s inhabitants navigated on a daily basis.<sup>26</sup> Similar to the Portuguese Admiral’s twenty percent share of all navy ventures, the Spanish monarchs received the *quinta real*, or one fifth of all booty from *conquistas* on ships they did not own.

Did the Portuguese model, lauded by Acosta, lead to greater political power of the Portuguese Monarchs over their colonies, as the Jesuit scholar suggested? Just as a comparison between the Iberian empires remains beyond the scope of this dissertation, so to the larger question of the relationship between capital and power may provide the true north, but not the final destination, of this inquiry.<sup>27</sup> However, the inverse proportions of capital

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<sup>26</sup> See D’Arienzo for reconstructed maps of Lisbon in the 13th, 14th and 15th centuries. The city’s distribution is begging for a reading in terms of “strategy” and “tactics” along the lines of Michel de Certeau’s influential “Walking in the City” in *The Practice of Everyday Life*. Genovese communities in the Mediterranean required similar concessions in other cities, like Seville or Soldaia in the Ukraine, in return for managing their navies.

<sup>27</sup> As is well known, Marx was to have followed his voluminous *Capital* with a tome on *Politics*.

investments offer a stark contrast in the subjects making claims to “managerial expertise” in *conquistas*: in Portugal, the *quinta de admiral*; in Spain, the *quinta real*. In Lisbon, the *barrio de Admiral* would be translated into the Monarch’s own mini citadel: *the Casa de Contrataciones* in Seville.

The Bankers’ network had built its mini citadels across cities around the Mediterranean, and Atlantic coasts of Europe and North Africa. It has been widely accepted that though these settlements were profoundly different, their planning reflected the subdivisions of the Genovese republic: *castrum*, *civitas*, and *burgus*. The most strongly defended part of the Genovese *comuna* was its commercial core, the *castrum*, which consisted of a gridded system of urban blocks. This grid extended into the *civitas*, a second enclosed perimeter that included the buildings occupied by the Genovese urban aristocracy. Beyond the *civitas*, and always or almost always outside the walls, grew the *burgus* or *borgo* ("town") in a relatively *ad hoc* manner: a heterogeneous urban quarter in which building construction and daily life were no longer constrained by the grid of the financial center (*castrum*) but, nonetheless, revolved around it. In general, the Genovese did not live in the *borgo* or impose direct rule on the city to which they had appended their fortunes. Juxtaposed to the native city’s power center, the Admirals’ *barrios* and Genovese quarters employed a strategy of independent management for the commercial and territorial ambitions of their local clients and the *comune* of Genoa. In the Spanish mode of *conquista*, the bankers’ city within a city took

on a new aspect with the construction of the *casa de contrataciones* in Seville in the early 16th century. Taking its cue from the successes of the Genoese model, the Spanish monarchy laid claim to the *quinta* and, in doing so, made a larger claim to “managerial expertise” when overseeing the maritime trading and colonial ventures also known as *conquista*.

Acosta’s comparison between the Portuguese and Spanish modes of conquest does not refer to the Church’s early involvement with the Genoese model of *conquista*. However, the earliest incursions into the venture capital model on the Iberian Peninsula may be attributed to the Church and its ties to the Genoese colony at Santiago de Compostela. It provided material and spiritual incentives to Christians by outfitting commercial and martial expeditions that bore a close resemblance to the usury that its theology condemned. Offering material and spiritual compensation for sea merchants and men fighting against Muslim populations in the Iberian Peninsula and Northern Africa, Bishops were able to procure labor (among Christians) in order to procure labor and materials (from the *infidels*) for major construction projects. In the twelfth century, Diego Gelmírez (c. 1069-1149), the Bishop of Santiago, funded his campaign in Northern Africa by purchasing the ships and paying for a Genoese shipmaster to oversee the military and trading expeditions; the Holy See supported the voyages by promulgating crusade letters and bulls which allowed the Bishops to preach holy war against the Moors in their dioceses and offer plenary indulgences to members of the fleet.

The Bishop received twenty five percent of all booty in addition to his share as ship owner, which suggests involvement at both the General and Limited Partnership levels in the fund. However, the sea merchants did not partake of the spoils in labor. All Muslims who had been taken prisoner were to belong to the Bishop in order to provide manual labor for the construction of the Church dedicated to Santiago in Compostela.

The Church's reckoning with sins, labor and ships for the construction of, among other structures, a *nave* at a pilgrimage site brought a measure of sanctity to maritime enterprises that had, for so long, existed beyond the *nomos* of the land. After all, the ship as symbol for the Church has deep roots in Christological and patristic imagery from the earliest period of Christianity. Not only had the ledger book, as Le Goff has contended, influenced the creation of Purgatory as the space where service of a spiritual debt involved the activities of both the living and the dead; the ship of souls tossed on the waves of profanity no longer brought the believers to safe harbor. Instead, the traffic of souls, of believers and nonbelievers, became another currency in the *conquistas* for monetary and spiritual rewards.

The Church as vessel for these souls no longer sought safe harbor, rather it projected itself as underwriter for the exchange of goods, labor, and indulgences in which it had much to gain in material and spiritual terms from believers and non-believers alike. In effect, the Church had become party to its own "triple contract." Yet the spiritual insurance provided by the Church



would nonetheless, paradoxically, imperil its own powers in matters of the life and death of the soul when it sought to adjudicate as well as participate in the Conquest of the New World, a theme to be explored in greater depth in chapters two and three. Moreover, accounting for credits and debits between *infidel* labor and believers' indulgences became infinitely more complex when the discourse of the enterprise shifted, and everyone, including the former enemy, was said to gain. The contradictions that emerge in the contracts and laws drawn up to "reckon with" new subjects, slaves and neophytes in the Americas are examined at greater length in the second chapter.

Following Seville, the other major centers of *compañía en el banco y en el cambio* were Valencia and Palmas de Gran Canaria. Bankers such as Francesco de Bardi, of the "marvelous" ability to make riches in the West Indies, who also had personal connections to Christopher Columbus, operated in Andalucía, the mid Atlantic Islands and in Santo Domingo. But the great "revolving door" between enterprise and state could be found in Seville among families of Genovese, Florentine and Andalusian origins as they jockeyed for positions as financiers and state comptrollers of expeditions. Foreigners and other "undesirables," such as Portuguese *conversos*, who were nominally prohibited from migrating to the Indies could nonetheless be called upon to invest in venture capital funds. Foreigners were also nominally prohibited from engaging in *negocios* and receiving *concesiones* or *asientos*. However,

procurement of a “naturalization” certificate allowed bankers of different nationalities to make loans and occupy bureaucratic posts as a way for the Crown to service its debt (Sanz Ayán 1-37). Thus, the foreigner prohibition and naturalization exemption serve as another example of making recourse to the exception when reckoning with limited access to capital and subsuming that capital in the service of empire.<sup>28</sup>

The venture capital model serves to elucidate Spanish Sovereigns’ contributions to the imperial enterprise and to highlight some glaring conflicts of interest. For example, it has been noted that before the large-scale extraction of silver from Potosí, expeditions to the Spanish Americas operated at a net loss (Fisher 22-3). However, in venture capital funds it is possible for the enterprise to go bankrupt but for the General Partners and some Limited Partners to receive carried interest. Within these parameters, the Crown and Church would be the General Partners in a series of funds (*conquistas and descubrimientos*). As providers of “managerial expertise,” they did not make the major capital investments but organized and distributed the enterprises through tangible and intangible forms aimed at rapid expansion (in the face of competitors) and sustainability. Yet sustainability and scalability compete for

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<sup>28</sup> For Francis Bacon (1561-1626) “all states that are liberal toward naturalization are fit for empire,” though Spain’s empire offered an exception worthy of note to the English statesman and essayist: by “employ[ing] almost indifferently all nations in their militia of ordinary soldiers, yea, and sometimes in their highest commands” Spain was able “to clasp and contain so large dominions with so few natural Spaniards” (150-1).

resources in any enterprise and come into conflict among the priorities pursued by individuals within the Venture Capital Hierarchy.

It is worth recalling that the 1573 *Ordenanzas* did not restructure the Crown's investments in specie and in kind, rather the laws kept the Crown's initial investment at a minimum, maintaining a common practice that had been in effect since 1504 with the official abolition of state sponsored mercantilism.<sup>29</sup> Yet as bankers and entrepreneurs organized transatlantic trading companies in Seville, the Crown responded by creating its own mini-citadel that structured the commercial activity of the financiers (*cambiadores u hombres de negocio*) and merchants (*mercaderes*). Investors made contributions to the fund both in coin and in kind, such as grains, animals, clothe, weapons etc. leading to uncertainty in determining the relative values of commodities, specie and, thus, distribution of ownership in any one enterprise. This uncertainty stretched across enterprises and into the fiscal operations of taxes and tribute. A *banquero*, *mercader* or *hombre de negocio* could expect the award of an *asiento* as both loan guarantee and debt service. The award of an *asiento* to tariff or tribute collection in specie or in kind gave the *asentista* the right to collect and enforce collection in name of the State

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<sup>29</sup> As outlined by the Real Cédula of 1503 that ordered the creation of the Casa de Contrataciones. Keeping capital investment at a minimum also reflected the constant threat of the Crown's impending insolvency. The Crown's insolvency culminated in crises of 1575 and 1597 when the Crown suspended payments on principal and interest of loans from Genovese, Austrian and Castilian bankers.

and, in turn, to receive repayment for an outstanding loan to the Crown from the monies or tribute collected by the *asentista*.<sup>30</sup>

The conflicts of interest inherent to such a system of repayments were blatant to all parties involved. *Cambistas* and *mercaderes* of Seville lent their expertise to the Crown: refining gold destined for the *Casa de la Moneda*.<sup>31</sup>The term *banquero* first appears in Seville in the documents outlining the liquidation of a fund owned by two Genovese brothers, Batista and Gaspar Centurione. In their *Convenio*, they described themselves and their company as “compañía en el banco y cambio, y fuera de él en cualquier manera” or “cambio de Batista y Gaspar Centurione, banqueros” (Otte “Sevilla, plaza bancaria europea” 93). Though this *societas* only lasted for three years (from 1507 to 1511), Gaspar Centurione formed another short-lived partnership with Juan Francisco Grimaldi (from 1511 to 1514). In this way, the activities of the Centurione and Grimaldi families in Seville reflect the classic pattern of venture capital funds: a rapid succession of three year funds that create accelerated temporal horizons for profit. Yet risks for the bankers were

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<sup>30</sup> Soon after the Crown’s cessation of payments in 1597, the Castilian Monarchy followed the Portuguese Monarchy’s example in issuing *asientos de esclavos* as repayment for capital loans to European financiers (Sanz Ayán 36-37). The *capitulación* between Ferdinand of Aragon and Pedrarias Dávila shows an instance of giving an *asiento de esclavos* as a method to finance the *conquista* in Tierra Firme. For discussion of the slave trade as a form of financing, see the sections on the Laws of Burgos (1512) and the *requerimiento* in the second chapter.

<sup>31</sup> In 1517, the Crown assumed control of refining and minting gold for the *Casa de la Moneda*. However, Gaspar Centurione held and sold the Mexican gold in a public auction before refining, minting and liquidating the fund (and release of the *quinta real*) could proceed. By 1522, Stefano Centurione was running the public auctions of American gold for the Royal House of Coin.

plentiful as well; the failure of one expedition associated with the fund owned by Díaz de Alfaro, Rodrigo Iñiguez and Bernardo Grimaldi, brother of Juan Francisco, left Grimaldi bankrupt in 1510.<sup>32</sup> Until that moment, Bernardo Grimaldi had been the most active of all Genovese merchants in Seville.<sup>33</sup> It was the task of the *Casa de Contrataciones* and the *Consejo de Indias* to ensure continuity among various funds, to thread a grand narrative of empire from the various episodes of expeditions: from a series of *conquistas*, the Conquista.

The appreciation in value of science and technology took on an institutional form with the creation of such positions as the Piloto Mayor (first held by Amerigo Vespucci) and the Universidad de Mareantes. As the state reduced capital investments in each enterprise funded by various *banqueros*, it built an apparatus that sought to reduce inefficiencies such as the loss of cargo or life due to the lack of expertise of navigators or the temerity of expedition leaders. The Universidad de Mareantes provided instruction and certification in the use of instruments such as the astrolabe and cartography, creating knowledge values for best sailing practices. The Crown constructed the *Casa de contrataciones*, a mini-citadel, to manage the exchange of commodities, treasures and people between Spain and the Americas.

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<sup>32</sup> For analysis of the first series of funds and their expeditions in the Americas see Otte's *Sevilla y sus mercaderes* and *Sevilla, siglo XVI*.

<sup>33</sup> The misfortunes of the Grimaldi family as a whole were short-lived as evidenced by the *letras* signed between Charles I (1516-56) and later Philip II (r. 1556-98).

Each *capitulación* signed between the Crown and Crew outlined subordinate *empresas* to the main enterprise. Line by line, the identities of the indigenous, as new subject or slave, were defined in lockstep with the itinerary that delineated the geographical area and its peoples subject to the *conquista* at hand. Stipulations not to weigh down the *naos* with too much cargo, salaries for clergy, the different distribution schemes of booty at sea and on land, the laws of inheritance, grains to be cultivated are not only orders to be fulfilled but indices, or *empresas*, of the underlying structures of investments, partnerships and ownership. On the one hand, bureaucracy flourished in an attempt to reduce the risks of failure or corruption in each imperial enterprise, each item in every contract signed between the *socios*. Bureaucracy also acted in the service of each *empresa's* stakeholders, many of which also occupied official posts. It was not unheard of for the state treasury to act as a guarantor to loans made by private bankers back to the state.<sup>34</sup> On the other hand, had they not incurred material risks these enterprises would have been in danger of committing usury.<sup>35</sup> Yet, if the Crown protested, perhaps too much, that its share of material risk must be reduced, why then does the Crown's "managerial expertise" carry such a heavy price? Why do

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<sup>34</sup> Sanz Ayán offers a comprehensive panorama of the complex family and "national" networks involved in trade, finance and politics in Castile and Aragón under the regency of Ferdinand of Aragon and Juana I of Castile (1-20).

<sup>35</sup> Following Philip II's decision to cease payments to creditors in 1597, the Medio General, a consortium of creditors made up of Genovese bankers, mostly, justified its right to charge and receive back interest on loans based on moral arguments that referred to the price of peril (Sanz Ayán 28). However, it would seem that suffering a default on a loan would exemplify the instance of peril that had given moral legitimacy to their moneylending in the first place.

some types of risk underwrite the moral propriety of economic activity while others reflect poorly on the moral health of diverse subjects?

After all, risk taking was not without its moral faults. Courting risk in games of fortune, such as cards or dice were frowned upon and, as in Ferdinand of Aragon's contracts with explorers, strictly prohibited.<sup>36</sup> As in the 1542 laws concerning the *encomiendas* and slavery, risk was not defined *per se* but functioned as common currency in the moral economy of empire. Like many coins in circulation at the time, ensuring the equivalence between the face value and intrinsic value of *peril* was an activity fraught with anxiety.<sup>37</sup>

### *Interest and Inter esse*

Venture Capital offers great rewards at great risk to its investors for it traffics in a paradox of great import to the "Conquest of America": ownership in something as yet to be discovered, invented or created. Unlike other business ventures, the stakes are drawn in an enterprise before it begins or is even completely understood. Failure of the enterprise brings great losses, but success brings commensurate gains, often in novel ways. The promise of the novel enterprise—and to own a piece of "it" before it comes to fruition—draws investors to its cause. As such, this type of business venture arises from a consciousness not readily explained by Scholasticism's powers of the soul

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<sup>36</sup> As in the *capitulaciones* signed with Diego Colón and Pedrarias or Pedro Arias Dávila, among others.

<sup>37</sup> See Elvira Vilches and her analysis of the confusion of value, specie and form, generated by the influx of American bullion in Spain during the 16<sup>th</sup> century.

(memory, understanding, will). It also calls into question the argument made by Edmundo O'Gorman in *La invención de América* that unless you *intend* to discover an entity, it has not been discovered by you. Much like Juan Huarte de San Juan's revision of Scholasticism's powers of the soul which replaced *la voluntad* (the will) with *la imaginativa* (the imagination) during the latter half of the 16<sup>th</sup> century, venture capital privileges the imagination as the faculty for appropriation. Hence, stakes are drawn in an enterprise before it begins or even completely understood. The "process" of exploration as the cultural geographer John Allen argued, "is conditioned by the imagination" and the interplay between received and empirical knowledge of *terrae incognitae* (58). Like exploration, venture capital is an inter-subjective process of creation and appropriation. As discussed in the previous section of this chapter, venture capital's increasing acceptance as a legitimate means for profit drove a wedge between use-value and ownership in canonical definitions of property and moral propriety, an altogether unorthodox distinction that relied on, among other things, the subject's penchant for taking risks.

Who were the venture capitalists? In 15th and 16th century Spain the Limited Partners were wine, grain or wool merchants who had the international networks and disposable income to invest large amounts of capital or goods in short term *conquista* funds. In addition to being merchants or merchant capitalists, as Braudel described them, they often held and pursued *asientos* and *juros* within city governments or in the *Casa de*



*Contrataciones*.<sup>38</sup> As creditors of the Crown and tax and tariff collectors, this often led to conflicts of interest. Yet these Limited Partners were only one piece of the venture capital puzzle.

A vocation limited to a reduced number of people within the venture capital fund as a whole, entrepreneurship dominates narratives of conquest and venture capital. Vocation, from *<vocare*, to call or summon, implicates both the act of calling and the state of being called, an inter subjective dynamic that bears some similarities to the duality of love, Lover and Beloved. Yet proponents of capitalist vocation, such as Max Weber (1864-1920) and Shumpeter, have turned the tables on the Aristotelian binary that favors the “active nature” of the Lover over the passive nature of the Beloved. What would be the implications of visualizing entrepreneurs as passive agents, i.e. as *being called*? This calling, as Weber argued in *The Protestant Ethic and the*

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<sup>38</sup> *Capitalism*, as a term to describe the economic activities of Europe’s elite during the early modern period, has been met with resistance. The compunction to “close the door” on the term *capitalism* responds to the inherent circular logic behind comparisons, especially across temporal divides. Yet, as Braudel concedes, “certain mechanisms occurring between the fifteenth and eighteenth centuries are crying out for a name all their own. When we look at them closely, we see that fitting them into a slot in the ordinary market economy would be almost absurd. One word comes spontaneously to mind: *capitalism*. Irritated, one shoes it out the door, and almost immediately, it climbs in through the window. Capital denotes only accumulations of money but also the usable and used results of all previously accomplished work [...] but capital goods only deserve that name if they are part of the renewed process of production” (*Afterthoughts on Material Civilization* 45). See Banaji’s chapter on “Islam, the Mediterranean and the Rise of Capitalism” in *Theory as History* for a discussion of Muslim traders’ contributions to the rise of the *societas* in seafaring expeditions in the Mediterranean. Banaji takes issue with historians who project Marx’s analysis of industrial capitalism onto earlier forms of merchant capitalism.

*Rise of Capitalism*, has a particular voice: an inter-subjective drive for material and spiritual redemption that manifests capitalism as both choice and thrall.<sup>39</sup>

Invocation confuses the “calling” with “being called,” yet narratives of entrepreneurial efforts offer an insight into the upheaval of the Active/ Passive binary in capitalist consciousness. Thus, despite the corporate nature of venture capital, and the conflicting interests at play in each enterprise, narratives of *empresa* portray the entrepreneur as a solitary figure who follows a calling. Navigating the dire straits of Transatlantic commerce, *empresarios* heed the siren’s call, *cupiditas* incarnate, then court the risk, reap benefits and live to tell the tale. The rise of romance and conquest narrative during Europeans’ quests within and beyond the bounds of Hercules’s columns from the twelfth century to the modern period, as explored by Nerlich and Campbell, represent the subjectivity of booty-driven capitalism<sup>40</sup> However, even forms of “primitive” or “adventure capitalism” were corporate entities with many individuals that responded to (a) *calling(s)* that incorporated conflicts of interest and varying levels of liability among its members.

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<sup>39</sup> See also Tawney’s *Religion and the Rise of Capitalism* for a heroic account of Protestantism and its effects in overturning centuries of peroration against interest and the merchant class. Tawney’s account underscores the rise of personal liberty as the result of religion assigning moral values to individual choices. For a provocative reading into Capitalism’s thrall and the place of Marxism in a global re-revolution in consciousness see Stengers and Pignarre in *La sorcellerie capitaliste*.

<sup>40</sup> Booty driven or adventure capitalism is the term employed by Weber to describe economic practices that rely on raids led by charismatic leaders on foreign countries for the sake of treasure (extracted from temples, tombs, mines, the chests of conquered princes, or levies on a population’s jewelry or ornaments).

The etymology of *interest*, from the Latin *inter esse* or inter-being, refracts onto the processes of incorporation in the construction of companies and empires. The legal personhood of corporate entities masks their ambivalence, or the coexistence of at least two opposed and conflicting wills. As Weber concluded in his *History of Commercial Partnerships in the Middle Ages*, the law struggled to define the juridical personhood of these partnerships in the context of international commerce. The *Statutes of Genoa (1588-9)* codify into law the multifaceted hierarchy of venture capital firms more than a century after the household and the physical warehouse (*bottega*) had given way to the various accounts in capital held by each firm. The terms of liability changed and multiple personae emerged. Partners of a *societas* were only liable for those contracts signed by another partner who represented the other members of the firm. The *duplex persona* (double personality) emerges to account for distinctions between *propria negotia* (personal business) or *quorum nomina expenduntur* (those whose names have been left out). In this way, the identities and “personhoods” can change from fund to fund.

However, synecdoche, the trope for personhood in the *societas*, unless made explicit by the individual contract, both loses its function for representing *empresas* in liability cases while having an exaggerated role in the figures of entrepreneurs as heroic, solitary figures; a totality, or *corpus*, is affirmed in the legal fictions of the *societas* but it remains in constant flux.

This explains, in part, the incongruity of the many figures of metalepsis in representations of venture capital enterprises.

The disconnect between the *corpus mysticum ex pluribus nominibus conflatum* (a juristic person comprised of many names) and the narrative of these firms' actions widens in adventure writing ideology. As the law attempts to keep abreast of liable persons and personhoods in international commerce, the multifaceted *duplex persona* sets out on heroic, individualized quests. Rather than representing hybrid corporate beings, narratives of *empresas* represent knights fighting the monsters without, though evident sutures in heroes' characterizations warn of the monster within. One such suture is the *topos* of the double name or translated names of the hero in adventure writing. The possibility of Leviathans venturing out on quests seems almost nonsensical, or topsy-turvy, much like the adventures of the giants Pantagruel and Gargantua and the institutions founded by them in the Pantagruel series narrated by François Rabelais (c. 1483-1554).<sup>41</sup> In contrast to the *bricolage* characteristic of mythological thought, as elaborated by Claude Lévi-Strauss, the *duplex personae* of the *empresa*, though monstrous, are cut from the same cloth of goal oriented and capital driven ad-ventures. In this sense, the uniform delineations of corporate personhood in venture capital funds are closer to Miller's concept of the "suture" to trace the subject's insertion, via

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<sup>41</sup> In *Rabelais and his World*, Bakhtin is able to reconstruct the order of the author's world by untangling the carnivalesque reversals of mores and discourse employed in the Pantagruel series. See also Duval for a reading of the Pantagruel series as a humanist's rebellion against the monstrosity of Scholastic thought.

signifier, into the symbolic order of language. That the monstrous nature of venture capital funds should split into inordinate desires on the one hand, and the ordering impulse on the other, speaks to the conflict of interests embodied by corporate beings that, nevertheless, attempt to erase their *inter esse*.

It is no wonder then that the most ardent critic of the system of martial commerce in the West Indies, Bartolomé de las Casas, would withhold the names of the individuals whose actions he condemns in the *Brevísima*. To do otherwise would be to succumb to the logic of the *commenda* and its system for limiting the liability of General Partners who, at the apex of the venture capital firm, kept separate accounts for each fund (i.e., the limited partnerships); this not only limited their liability for each failed fund but also allowed them to profit from each and every success.

The military and literary career of Gonzalo Fernández de Oviedo y Valdés (1478-1557) elucidates the bifurcating trajectory of adventure writing ideology. A Spanish courtier turned adventurer and businessman in the Caribbean, Fernández de Oviedo wrote his *Claribalte* (1519), a chivalric romance, in Spain shortly after his return from his first trip to the West Indies. Oviedo's *Claribalte* follows the genre's *topoi* and the metaleptic insertion of the producer in the production. For example, the author affirms that he offers his readers but a translation of an original work that had been written in Tartar, which he found in the kingdom of Firolt. The hero's *cupiditas* and the impetus for his travels is set off by the invocation of Claribalte (whose name is

“translated” as Félix). Félix then wages a tour de force throughout Europe with the aid of a magic sword and necromancers. Set in a Christian era before the “discovery” of America, Claribalte’s story never makes it as far as the New World although he does suffer a shipwreck off the Cape Verde islands. Through strength of arms, magic, a fortuitous marriage and the protagonist’s own illustrious lineage, Claribalte not only manages to kill the giants of the Isla Prieta (Black Island), but *also* secure the Crown of Emperor of Constantinople and the seat of supreme Pontiff of the Christian world in Rome. Thus, Oviedo’s synthesis of spiritual and temporal powers in the figure of the chivalric knight reconciles the stark contrasts among interests held by the Church, State and investors in venture capital funds. By constructing the narrative climax around the (con)fusion of spiritual and temporal powers, Oviedo’s *Claribalte* depicts a unified terrain of European dominion. This depiction of continental unity, however, could not be further from the reality on the ground: an emerging schism in the Church with the Reformation and failed attempts to reconcile differences between the Orthodox and Roman Churches.<sup>42</sup>

Claribalte’s double throne accomplishes in chivalric fiction the pretensions to temporal and spiritual dominance as outlined by the Conquest’s General Partners in the legal document known as the *Requerimiento* (1511).

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<sup>42</sup> In a clear nod to Weber, Mazzotta contends that the “Age of Disenchantment” began with the Council of Ferrara-Florence in 1437 when the Bishops of the Roman Church were unable to reconcile the schism with the Greek Orthodox Church.

The *requerimiento*'s author, probably Juan López de Palacios Rubio (1450-1520), presents the universal authority of a Church whose seat is in Rome but *could be moved anywhere*. As presented by the *requerimiento*, the Church's universal dominion allowed its Supreme Pontiff, Pope Alexander VI (1431-1503), to "give" part of the world west of the Cape Verde and Azores Islands to Isabel of Castile and Ferdinand of Aragon and their descendants. However, both the papal bull *Inter caetera* (May 4, 1493) and the Treaty of Tordesillas (June 7, 1494) were promulgated *after the fact* of capital investment and returns on investment in Portuguese and Spanish journeys of exploration West and East of the Iberian Peninsula.

The Papal Donation and the *requerimiento* are analyzed within the larger context of legal developments throughout the sixteenth century in the second chapter. For now, Oviedo's incursion into adventure writing ideology serves as a reminder of the various fictions at play in the *Conquista*, including the legal ones. More than a century before the conquest of the Canary Islands (known as the Fortunate Isles), Luis de la Cerda received the title of *Caballero de la fortuna* from the Pope in Avignon.<sup>43</sup> Like the trajectory of the eponymous knight errant in the *Claribalte*, who, like don Luis de la Cerda, also assumes the epithet *Caballero de la fortuna*, the narrative of *conquista* blurs the causality between causes and effects. Yet there is some truth to *Claribalte*'s

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<sup>43</sup> Petrarch describes the ceremony, which he claims to have witnessed, in *De vita solitaria* (II.xi). As D'Arienzo contends, the titles to the Canary Islands may have been rewarded to the Castilian claimant following a failed Florentine-Portuguese expedition to the same islands in 1341. Boccaccio gives an account of this voyage in *De Canaria et de insulis ultra Hispaniam in Oceano noviter repertis*.

narrative fictions: the fact of spiritual and temporal dominion *rewards* the empresario after a difficult and arduous journey, not before.

Upon his return to the West Indies, Oviedo channeled his imperialism as self-appointed royal historiographer. The *Historia general y natural de las Indias* (1535, Primera Parte) and its *Sumario* (1526) exploits the chivalric quest for its narrative horizon: the cornucopia or grail. By offering his readers a treasure trove, i.e. a *thesaurus*, of exotic commodities and moralizing anecdotes, the self-proclaimed royal historiographer pursued the temporal and spiritual dominion visualized at the close of the *Claribalte*.<sup>44</sup> Rather than follow the trajectory of one knight-errant, Oviedo offered up his pen to document all the wealth and exploits at the service of Conquista. An ardent defender of the Spanish Crown's rights to the Indies, Oviedo enjoined his fellow conquistadors to efficiency in their pursuit of profits through violence. Oviedo did condemn the use of indiscriminate violence against the native peoples of La Florida by the failed expeditions of Pánfilo de Narvaez (1478-1528) and Hernando de Soto (c.1496-1542). Yet his condemnation of *indiscriminate* violence, as Rabasa contends, begs the question of what exactly constitutes a *discriminating* use of violence (see "Violence in De Soto Narratives" in *Writing Violence*). In effect, Oviedo urged his peers to follow a

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<sup>44</sup> For the authoritative analysis of Cornucopia and Grail topoi in the context of Mediterranean mercantilism and its increasing deployment of the check as forms of payment that operate on a dialectic between absence/ presence see Shell's *The Economy of Literature and Money, Language and Thought*.



cost-benefit analysis of their violence. To claim Oviedo as a pacifist would be an exercise in the absurd.

Legitimacy and efficiency dovetailed in Oviedo's program for a successful empire; a thorough knowledge of the peoples in the process of becoming subjects of the Spanish empire complemented the textual cornucopia of riches he offered his readers. Within Oviedo's ethos of Spanish and Christian dominion over the West Indies, the bounty of knowledge turned epic narrative on its head. Rather than defining the horizon of desire for the quest, the treasure trove, or *thesaurus*, became the start and end of capital funded ventures. Like the discomfiting oxymoron of the capital begetting process, reconnaissance for the sake of creating more knowledge to inform even more quests obeys its own self-replicating dynamic: the preferred trope of scalability that functions contiguously but projects itself mimetically.

Subjugated peoples, their territories, and the Beloved share the verb that places them in the sights of the conquistador and lover: the *requerimiento de amores y de gentes*. Yet the entrepreneur in conquest was also something of an active listener to voices whose traces we can elicit from narratives of conquest.<sup>45</sup> Indeed, the entrepreneur and venture capitalist follow a calling, one that serves to remind us that the periphery makes possible the kind of economy and society found at the core and vice versa, as Harvey proposes in "The Geography of Capitalist Accumulation." Yet the master fable of solitary

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<sup>45</sup> *Trace* as used by Derrida and Gayatri Spivak in the preface to her translation of his *Of Grammatology*.

Entrepreneur/ Lover endowed by foresight, prescient in his ability to intuit success, nonplussed by rejections to his advances by the Beloved, glosses over the inter subjective nature of interest. Narratives of these corporate efforts that accept the legal fictions of the *societas* and its discoveries settle accounts and liabilities all too prematurely.<sup>46</sup>

The multifaceted agency of *societas* and empire makes it difficult to define the moral personas of these corporations in order to adjudicate liabilities. Thus, Weber's definition of the modern state as "the monopoly over the legitimate use of violence" falls short of describing the interaction between capital and violence in "foreign" conquests.<sup>47</sup> In this sense, discussions of corporate, legally sanctioned violence, such as *Conquista*, that fail to engage with piracy, mercenaries and banditry remain circumscribed by the tautology of legally sanctioned violence. The shift in discourse to (en)force a

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<sup>46</sup> Excellent descriptions of the legal debates surrounding the Spanish Conquest can be found in the works of Helen Parrish and Lewis Hanke. See Pagden for an approach that emphasizes the origins of modern ethnography within an Aristotelian framework for subjugating foreign peoples. See Adorno in *Polemics* for her proposed Latin American narrative tradition founded within Spanish legal debates on possession.

<sup>47</sup> See Barkawi for an in depth discussion of the conceptual gaps that arise when scholars maintain the categories used by economic and imperial powers to obfuscate the interrelations between political and economic violence when analyzing violence and its origins. As Barkawi contends, "The choice of term already suggests that organizing force beyond the jurisdiction of the local state is abnormal. It means literally beyond the jurisdiction of the local state, indicative of the juridical character of much of the reasoning behind employments of Weber's definition of the state. A gap is opened between juridical and *de facto* relations, a gap one could drive an army through, but an army opaque to social scientific inquiry based on juridical premises" (37). Barkawi's analysis is clearly indebted to Walter Benjamin's famous dictum on the state of exception.

reconciliation between antithetical love and interest falls squarely within this tradition.

## Chapter Two

### En(Forcing) Love Interest: Contracts and the Law in the *Conquista* of America

Es sin duda el bien de todas las cosas universalmente la paz; y así, donde quiera que la ven la aman. Y no solo ella, mas la vista de su imagen de ella las enamora y las enciende en codicia de asemejársele, porque todo se inclina fácil y dulcemente a su bien [...] Porque si navega el mercader y si corre los mares, es por tener paz con su codicia, que le solicita y guerrea.

-Fray Luis de León, *De los nombres de Cristo* (1583)

Porque estimamos en mucho más, como es rrazón, la conseruación de sus vidas, que el ynterese que nos puede venir de las perlas...

-Charles I, *Leyes nuevas* (1542)

The conquistadors and their general partners sought out populations; their projections for profitable violence did not envision deserted landscapes as areas fit for *conquista*. As Tomlinson contends with his *exemplum* of the Bermudas, uninhabited spaces were largely avoided by Spanish, English and French explorers throughout the sixteenth century unless they were lured there by the natural resources in the area.<sup>1</sup> However, even a strategically situated archipelago in the Gulf Stream could be largely “shared,” in transit, by ships laying anchor to replenish fresh water and other supplies as long as there were places, with peoples, to be invaded; a lack of aboriginal presence made

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<sup>1</sup> Tomlinson opens *The Singing of the New World* with a reflection on Bermuda and its “haunting” voices.

that land strangely undesirable to new claims. That indigenous populations would give purpose to these projects of imperial expansion, lends another dimension to *conquista*: it cannot be imagined *properly* without an interlocutor, also the object of the envisioned expropriation of inhabited, and therefore habitable, territories.<sup>2</sup> Though ceremonies of possession, to borrow Seed's term, did take place in the absence of indigenous interlocutors, the scripts of these performances were nonsensical without the imagined presence, at the very least, of the anticipated aboriginal other.

Indigenous inhabitants were not only expected but, indeed, desired. Yet this desire for an indigenous presence brought to the fore the intended violence of the undertaking. Staking a claim to land, the literal demarcation of the earth by the *nomos*, as discussed at length by Carl Schmitt, is an act of foundational violence underlying the guarantees of the law.<sup>3</sup> What, then, is to be made of the act of staking claims to land that is already inhabited? Have the inhabitants made no claim to the land? Do they not have a *nomos* of their own

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<sup>2</sup> Thus Pierre Chaunu made the unequivocal distinction between *conquête* and *conquista*: "La *conquista*, non la *conquête* [...] La *conquista* n'implique aucune action sur le sol; elle n'entraîne aucun effort en profondeur pour entamer un nouveau dialogue entre l'homme et la terre. La *conquista* ne vise pas la terre, mais uniquement les hommes" "The *conquista*, not the *conquest*. The *conquista*, does not imply any action on the ground; it does not bring about any effort in depth to start a new dialogue between man(kind) and the land. The *conquista* does not aim at land, but only at men" (120). In elaborating on this distinction, *conquista*/ conquest, I might add that the indigenous acted as an intermediary between the *conquistadors* and the "new" lands through systems of indirect rule.

<sup>3</sup> The Greek *nomos* is the unit of land whereby Schmitt analyzes *nomos* as "the *measure* by which the land in a particular order is divided and situated; it is also the form of political, social and religious order determined by this process. Here, measure, order, and form constitute a spatially concrete unity"(70).

and, if so, why would their claim be lesser than that made by the new claimants? And if they have no *nomos*, that is, no law of their own, then wouldn't this lack make them effectively *lawless*? Yet can there be habitation without the law? Or habitation without knowledge for that matter? The not entirely rational desire of the European venture capitalists to seek out inhabited *terrae incognitae*, an obvious contradiction in terms, set the stage for the over determined debates on the nature of those inhabitants and legalistic inquiries into rights that continue to receive *a priori* treatment in any discussion of the so-called Conquest: the Papal Donation and the laws of peoples (*jus gentium*).<sup>4</sup> It bears reminding that the question of the nature of indigenous peoples and their rights arose from a specific profit motive: usufruct from the indigenous in the form of labor and tribute. Any discussion of the Papal Donation should begin with this profit motive, that depends on contact with (an)other humanity, clearly articulated in Pope Alexander VI's bull *Intercaetera* (May 4, 1493):

Sane accepimus quod vos, qui dudum animo proposueratis aliquas insulas et terras firmas, remotas et incognitas ac per alios hactenus non repertas, querere et invenire, ut illarum

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<sup>4</sup> The so-called Papal Donation refers to the three bulls promulgated by Alexander VI in 1493. *Eximiae devotionis* (May 3), *Inter caetera* (May 4) and *Dudum siquidem* (September 26) sought to incorporate "discoveries" made by expeditions managed by the Spanish monarchs into previous schemata for conquests of *terrae incognitae* developed with Portuguese sovereigns in the 15th century. The bulls set the stage for the negotiations that led to the Treaty of Tordesillas in 1494. What exactly the Pope had donated and whether he had the right to do so were questions hotly debated by Encinas, Palacios Rubio, Francisco de Vitoria, Bartolomé de las Casas, Juan Sepúlveda, Francisco Suárez to mention a few notable authors.

incolas et habitatores ad colendum Redemptorum nostrum et fidem Catholicam profitendum reduceretis [...]

We have indeed learned that you, who for a long time had intended to seek out and discover certain islands and mainlands remote and unknown and not hitherto discovered by others, to the end that you might bring the worship of our Redeemer and the profession of the Catholic faith to their residents and inhabitants.

Unlike the venture of the Bishop of Santiago de Compostela, Diego Gelmírez, discussed in Chapter One, the imagined scenario for material and spiritual profits (i.e., converts to Catholicism) does not equate the losses of the vanquished with the victor's gains. In the Bishop's expedition to North Africa, the Muslim infidel remained the enemy from death to enslavement; the infidels' losses were the bishop's gain. In the Alexandrine bull, however, and, it must be added, in other *conquistas* of Muslim held territories, the possibility, indeed, necessity to convert the other complicated the profit motive of absolute hostilities.<sup>5</sup> Instead, it was argued that the inhabitants of the *terrae incognitae* would have something to gain, i.e., Catholicism, despite their losses. In the conversion paradigm, accounting for the indigenous became increasingly complex; by virtue of contact, inhabitants of coveted (yet unknown) lands were both enemies and potential brethren in Christ.

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<sup>5</sup> Taking her cue from Las Casas, Seed argues that the *requerimiento* originates in Muslim practices of conquest. See Derrida's "On Absolute Hostility" in his *Politics of Friendship* for a sustained analysis of the contradictions inherent to Aquinas' distinction between *inimicus* and *hostis*.

These anticipated interactions in the context of profitable violence redefined tropes of conduct, expected rewards and (un)founded fears. Recall the ‘writing violence,’ to borrow Rabasa’s concept, in the *Intercaetera* which, in one breath, attested to the existence of ‘peoples who live peacefully’ in the newly discovered lands (“in quibus quamplurime gentes, pacifice viventes [...] inhabitant”), yet commended the foresight of Columbus and his men to ‘build a well-fortified fort’ (“unam turrim satis munitam”) whence they could ensure the expansion of “Christian empire” and the reach of its enterprise.

The complexity of the desire of European invaders for the indigenous presence in the Americas has been attributed by Roland Greene to a Petrarchan subjectivity expressed as a first person singular whose unrequited love for a silent Beloved leads to painful introspection. Yet, much unlike Laura, the indigenous of the Americas were anything but unresponsive to the claims and clamor of their invaders, as suggested by the promulgations of Alexander VI and Isabel of Castile. Moreover, when the Crown enjoined the conquistadors to treat the indigenous *amorosamente, con mucho amor, or con dulçura*, this injunction was accompanied by a prerogative to document native beliefs, practices, social organizations i.e. *to listen*.<sup>6</sup>

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<sup>6</sup> Ranajit Guha provides an indispensable framework for reading colonial documents as counter-insurgent texts in *Elementary Aspects of Peasant Insurgency in Colonial India* which then supply indices of subaltern subjectivity and ingenuity in their acts of resistance against empire. Guha’s view of imperial listening (through filters, as it were) can be contrasted with Gayatri Spivak’s “Can the Subaltern speak?” and Rabasa’s rejoinder, “can ‘we’ listen”?



Loving the indigenous was codified in law and related in Spanish. By virtue of translation, *eros*, *storge*, *agape*, *philia*, *cupiditas* and *caritas* could be loosely rendered as *amor*.<sup>7</sup> The complexity of *amor* and *amar* as umbrella terms to denote various acts and states of being from passions and emotions to virtues and duties comes to the fore in the entries for *amores* and *amar* by the famous Andalusian lexicographer, Sebastián de Covarrubias Orozco (1539-1613):

AMAR, es querer, o apatecer alguna cosa. Amor es el acto de amar, lo primero y principal sea amar a Dios sobre todas las cosas, y al próximo como a ti mismo. Díxose del verbo Latino *amare*. No tengo que deternerme aquí pues he dado etimología Latina.

AMORES, de ordinario son los lasciuos, tratar amores, tener amores. Amores, requiebro ordinario. Amoricones, los amores entre villanos. Amorío por amor, término aldeano. Amada la querida. Amigo y amiga, se dize en buena y en mala parte, como amador y amante: amigado el amancebado con la amiga: amigarse, amancebarse [...] amante el que ama y amantes los que se aman. (63)

TO LOVE, is to want, or desire something. Love is the act of loving, which first and foremost is the love for God above all else, and to love one's neighbor as oneself. From the Latin verb, *amare*. I need not explain this further as I have given the Latin etymology.

LOVES, in the lascivious sense, to make love, to have a love. Loves, an ordinary [or vulgar?] compliment. *Amoricones*, the

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<sup>7</sup> For Plato *eros* was a painful passion, similar to allegory in its effect on the subject (*Symposium*). See also De Man and Roilos for their interpretations of allegory in platonic terms. Hellenist visions of *eros*, more generally, is a passion induced by the Gods in humans, ie. of an external origin to humanity. *Storge*, the love of family, is a duty that, for Aristotle, edifies the commercial pursuits of merchants. The duty to provide for loved one elevates an occupation otherwise contemptible for its pursuit of material gains. *Agape*, as employed in the New Testament, refers to altruistic love. *Philia* refers to brotherly love. Both *philia* and *agape* comprise the Latin usage of *caritas*, especially as employed in Aquinas.

loves among peasants. Love affair (*amorío*) for love, the term used by villagers. Beloved, f., the desired one, f. Friend (m.) and Friend (f.) are used, in a good and a bad sense, as lover and mistress: befriended [refers to] the man who cohabits with a mistress: to set up house together, to live together [...] lover is the one who loves and lovers are those who love each other.

Covarrubias opens his entry with an allusion to the appetite for things (*cupiditas*) which is soon followed by a definition of love that seems to reference Aquinas' understanding of *caritas* as the "amicitia quaedam est hominis ad Deum" 'friendship of man for God' and the love of neighbor, but also in "excellentiore ... omnibus aliis virtutibus" 'the most excellent of virtues' (*Summa theologiae*. 2-2. q. 23. a.6).<sup>8</sup> Covarrubias follows the allusion to Aquinas with an elliptical reference to the Latin etymology of *amare* and a more detailed exploration of *amor* in its plural, colloquial forms. The *amores* entry explores the ramifications of cohabitation, especially among the lower classes. The *requerimiento de amores*, the forceful courtship of the Beloved, belongs as much to low brow as well as high brow codes of love in the Romance language tradition.<sup>9</sup> The juxtaposition of *cupiditas* and *caritas* in the *amor* entry by Covarrubias undergoes a reconciliation via the metalepsis of

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<sup>8</sup> Virtue, when accounting for its Latin etymology, is a highly gendered term. Virtue, from *virtu* < *vir* meant "manliness" in classical Latin. See Price, Nederman and Wood for discussions of Machiavelli's constant references to *virtù* as a discursive effort to eschew with Christian ideas of virtue in favor of the original Latin sense of "manliness" or "prowess." See Bloch for her analysis of the gendered use of "virtue" in revolutionary America.

<sup>9</sup> Numerous studies of lyric, love poetry could be mentioned here. I am particularly fond of María Rosa Menocal's *Shards of Love*.

*conquista*, one intimately related to translation and the commonplace *traductio imperii, traductio studii*.<sup>10</sup>

As Nebrija (in)famously argued, “language is the handmaiden of empire.” In this case, *amor* as a translation of terms that denote a conflicting affect and ethics—*cupiditas* and *caritas* come to mind—was too broad, imprecise, overarching. It’s not that *cupiditas* was never translated into the more precise *codicia*, the desire for things. Moreover, Christians’ love for God and for each other (*caritas*) was the subject of treatises in Castilian.<sup>11</sup> It would also require a stretch of the imagination and an over determined faith in the power of language to suggest that all encompassing *amor* could wreak such havoc in discourses and practices of *cupiditas* and *caritas*.

Yet the (con)fusion generated by the metalepsis of Love and Interest offered a seamless reconciliation, in *name*, of conflicting passions and virtues. *Amor* was efficient for the purposes of empire for it reconciled *cupiditas* and *caritas* without a change in nomenclature. The synonymous use of Amor as *caritas* and *cupiditas*, offered a seamless transition to an economy of love. However, this metaleptic habitus of *conquista*, where people and their things and their residences on this earth could become both the object of *cupiditas*

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<sup>10</sup> See Curtius for his classic study of this trope. Also, Navarrete for the expression of this trope in the poetry of golden age Spain in the aptly titled *Orphans of Petrarch*.

<sup>11</sup> By no means an exhaustive list, these are some of the most representative works on *caritas* written in Spanish in the 16th century: *De los nombres de Cristo* (1583) by Fray Luis de León (1529-91), *Tratado de la vanidad del mundo* (1574) by Diego de Estella (1524-78), *Llama de amor viva* (c. 1585-6) by John of the Cross (1542-91), and *Moradas* (1577) by Teresa de Jesús (1515-82).

and *caritas*, was met with resistance by the critics of conquest, for the push to reconcile *caritas* and *cupiditas* took aim at Christian values as a whole; the conventional antithesis of *amor* and *interés* was difficult to overcome.<sup>12</sup>

In this sense, Greene's focus on the *cupiditas* and concupiscence of conquest elaborates on one potent aspect of Petrarchan subjectivity that goes to the heart of the (con)fusion of love in the Romance languages in general. What goes missing, however, is the counterpoint of Christian remorse, the literal self fracturing that characterizes Petrarch's fragmentation between *caritas* and *cupiditas* (so memorably rendered in Poem 30 of the *rime sparse*, a reworking of the hierarchy of adoration in Psalm 118 in the *Vulgate*).<sup>13</sup> The subjectivity of venture capital is no less complex than the fragmented self but strives for reconciliation. If Petrarchan subjectivity sees itself reflected on a shattered surface, the expanding subjectivity of venture capitalism (its *scalability*) approaches itself within a labyrinthine world of ramifications and

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<sup>12</sup> In one of the more brazen efforts to reconcile *caritas* and *cupiditas*, Balbuena's *Grandeza Mexicana* offers a celebration of Mexican mercantile capitalism that would place private interest at the service of the Christian, public good and vice versa. Ercilla's diatribe against interest in the *Araucana* is a classic example of the depiction of private interest as the public good's (*bien público*) foremost enemy (Cantos III and XXV). This is not to say that Ercilla's rejection of *amor* as "love interest" in Cantos III and XXV indicated an overall rejection of the imperial project. Ercilla was certainly critical of the empire he served. So, too, were Oviedo y Valdés and, as we shall see in greater detail in the third chapter, José de Acosta.

<sup>13</sup> This is Petrarch's (in)famous confession that his covetousness for Laura is a form of idolatry. The last three lines of the sestina read as follows: "L'auro e i topacii al sol sopra la neve/ *vincon* le bionde chiome presse a gli occhi/ che menan gli anni miei sì tosto a riva" "gold and topaz in the sun above the snow/ *vanquish* (or *are vanquished by*) the golden locks next to her eyes/ that lead my years so quickly to shore" (emphases mine, Durling's translation). These lines overturn the hierarchy of *caritas* over *cupiditas* in Psalm 118 of the *Vulgate*: "ideo dilexi mandata tua super aurum et topazion" 'I have loved thy commandments above gold and topaz.'

tautologies. While emphasizing the individuality of each partner, the corporate fund believes it has found the shortcut through the eye of the needle. Its *amor* for the indigenous—that is, *caritas* and *cupiditas*, hand in hand—satisfies the body and soul in their preparations to receive grace and the material comforts of life on earth.

Yet for *caritas* and *cupiditas* to gain some kind of rhetorical equivalence, they have been weighed against each other. The reconciliation has been achieved through the logic of market values, weights and measures, in a simulacrum of trade in the public square; in this way, *caritas* succumbs to *cupiditas*.<sup>14</sup> It is the only way that Charles I could even postulate the absurd proposition of measuring human life against pearls as a remedy for his confession that the loss of indigenous life weighed so heavily on his conscience. But, such is the prerogative of the Sovereign. Thus, Petrarch, who counted himself doubly a sinner for holding Laura higher than treasure and his God's commandments, can't hold a candle to the sovereign's torment in the 16th century. Charles I's conscience is entangled in that most imperial of metaphors: translation.

The eurocentricism of the desire for “*terrae incognitae*” (but inhabited) raises the obvious question (unknown to whom?), but it also underscores a

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<sup>14</sup> Ollman's inquiry into alienation among capitalists stemmed from his own experience with entrepreneurship. A heterodox Marxist in the department of Politics at NYU, Ollman started a company to sell a board game he called *Class Struggle*. This experimentation with his own consciousness led to a compelling argument on the alienation of the capitalist.

value to habitation that undercuts the self-proclaimed superiority of European knowledge: a eurocentricism whose axis of being is centered, paradoxically, on habitations external to itself.<sup>15</sup> Clearly, something was to be gained from indigenous habitation. How to profit in spiritual and material terms while making claims that the indigenous also gained from venture capital's enterprise added a new layer to the discourse of legitimacy which, as argued in the first chapter, made recourse to two exceptions: the *societas* (moral exception to usury) and free trade and evangelization (geopolitical exception to *jus gentium*). What made the "win-win" promise of venture capitalism so compelling?<sup>16</sup>

### *Contingency Plans*

By following the itineraries of conquest designed in the Casa de Contrataciones in Seville and executed in the Islands and Tierra Firme throughout the sixteenth century, let us delve into the contradictions latent in imperial injunctions to love and listen. The *capitulaciones* (contracts) signed between the Spanish Crown and the commanders of expeditions throughout the sixteenth century provided the blueprint to the master fable of conquest.<sup>17</sup>

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<sup>15</sup> See O'Gorman's *La invención de América* and Rabasa's *Inventing America*.

<sup>16</sup> Sorcery! (see Pignarre and Stengers).

<sup>17</sup> Note that Vas Míngo and Morales Padrón, editors of the *capitulaciones, leyes* and *ordenanzas* consulted for this chapter, dispute the category of "contract" for the documents that define the obligations of Crown and Crew to each other. They prefer to analyze the *capitulaciones* in terms of medieval suzerainty, of services and gifts exchanged between a liege lord and his loyal subjects. However, their distinction

In this master fable, the Empire brought civilization and benefits to the lands inhabited by the weaker other: the sovereign showed his or her love for the new subjects by protecting the innocent, freeing peoples from the shackles of bondage and bringing order to chaos; these others were taught the ways of the good life, including an introduction to Christianity. At the same time, the Empire and its agents received material profits from the lands of others: in kind, in labor, geopolitical advantage but also in moral value. In the discourse of Empire this *quid pro quo* follows the logic of “love interest,” an over determined reconciliation of antitheses and unity of purpose among temporal and spiritual sovereigns, subjects, new and old, financiers and the ever present enemies and future friends of the State. No longer do *cupiditas* and *caritas* struggle for preeminence within the subject as the subject of venture capital and empire has forced a synthesis between the two.

Yet from the juxtaposed items in the contracts, which outline debts and limit obligations, foresee contingencies and distribute profits, the master fable unravels, exposing loose threads. The Laws seek peace by creating zones of armed conflict; the Law recognizes local laws and customs (*jus gentium*) but only to the extent that these do not conflict with the civilizing mission or the profit imperative of the Sovereign and his agents. The contracts and laws underscore and hide anxieties about the moral and material risks at play with each venture, each intended expansion of the Empire’s reach. Empire accords

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between feudal and mercantile relationships, as we saw in the cases of Portuguese-Genovese admirals in the first chapter, is overstated.

different values to *love, charity, and peace* but also labor, commodities, titles and subjects. Even time—which belongs to no one but God—receives a value.

The *Treaty of Tordesillas*, signed between King John II of Portugal (r.1481-95) and Isabel of Castile (1474-1504) and Ferdinand of Aragon (1497-1516) on June 17, 1494, assigned a value to the spiritual life of sovereigns relative to the Church’s jurisdiction over spiritual life.<sup>18</sup> Schmitt’s notorious definition of the sovereign as “he who decides on the exception” in *Political Theology* offers a paradoxical insight into a treaty signed among two temporal sovereigns and adjudicated by the third, spiritual sovereign. How, then, to enforce rules of an agreement among three “deciders” of the exception?<sup>19</sup> Threats of war and trade sanctions were themselves causes of just war; a treaty made in good faith, to keep the peace, could involve such means of enforcement if they were not themselves infractions of the treaty. In the case of the Treaty of Tordesillas, Pope Alexander VI (r. 1492-1503) made recourse to a spiritual exception in order to enforce compliance between the two temporal sovereigns of the Iberian Peninsula.

By tying the hands of the Church in the realm of the monarch’s consciences, the treaty had a binding effect on the spiritual life of the Iberian Sovereigns:

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<sup>18</sup> The Treaty of Tordesillas defines the meridian as 370 miles west of the Cape Verde Islands. Subsequent Spanish and Portuguese navigators, including Martín Fernández de Enciso, who brings up the stern in Guamán Poma’s allegory of conquest, attempted to define the demarcation line in degrees.

<sup>19</sup> The echoes of contemporary encounters with another “great decider,” George W. Bush, undoubtedly reverberate in this reading of the treaty.



E contra alguna parte dello e por mayor seguridad e firmeza de lo susodicho juraron a Dios e a Santa María e a la sennal de la cruz en que pusieron sus manos derechas e alas palabras de los Santos Evangelios de los dichos sus constituyentes que ellos y/ cada uno de ellos ternán e guardarán e cunplirán todo lo suso dicho y cada una cosa e parte dello realmente e con efeto, çesante todo fraude, cautela, enganno, ficción e simulación e no lo contradirán en tiempo alguno ni o alguna manera, so el qual dicho juramento juraron de no pedir absolución ni relaxación del a nuestro muy santo padre ni a otro ningund legado, ni perlado que ge la pueda dar e aunque propio motu ge la den no usarán della, antes por esta presente capitulación suplican en el dicho nonbre a nuestro muy santo padre que a Su Santidad plega confirmar e aprouar esta dicha capitulación segund en ella se contiene a mandado expedir sobre ello sus bullas a las partes o a qualquier dellas que las pidieren [... ]

(Tratado de Tordesillas, 60)

And against part of it and for greater surety and security in the aforementioned [treaty] they swore to God and Saint Mary and made the sign of the cross and placed their right hands on the Holy Gospels that they would keep and uphold the aforementioned in each and every thing effectively, without fraud, machination, ploys, lies or dissimulations and they will not contradict it at any time or in any manner, and they swore on that oath not to ask for absolution or laxity from our Holy Father or any other legate or prelate who could give it and even if he were to give it of his own accord they are not to make use of it. By the present treaty they beg of His Holiness that he confirm and approve this treaty and publish his bulls to each party mentioned therein and any other party who may so request it.

By swearing on sacred objects to uphold the terms of the treaty, the three sovereigns formalized the negotiations that had taken place in their absence in the weeks prior to the actual drawing up and signing of the document on June 17, 1494. Yet the possibility that the Catholic Monarchs and King John II might foreswear themselves had to be entertained, thus leading to the second oath: should they break the first oath (to uphold the terms of the treaty), the second oath forbade the sovereigns from pursuing absolution from the Pope or any other Church prelate. Even if the Pope or another prelate were to offer

absolution of his own accord, the second oath preempted the sinner from receiving it. But what if He or She were to accept absolution? This would have implied a breach of the second oath, and so on. The implied concatenation of oaths, sworn and foresworn, involved a continuous examination of conscience by each sovereign. It also formalized the attempt to create a binding, overarching sovereignty out of this performative, dare we say magical, document.<sup>20</sup> The treaty acted as a barrier to absolution in the event that it is given by any other Catholic prelate; it offered an exception contingent upon the other sovereign's exercise of the exception. Yet, like the contradiction inherent to the search for inhabited unknown lands, another paradox emerged from Alexander VI's claim to radical title over the earth.

Paradoxically, the power of the Pope to divide the world in two undermined the Church's power to intervene in the spiritual terrain at the highest level: the conscience of the sovereign. Or, rather, it attempted to enforce through the threat of passivity. The Church and its prelates intervened in the Sovereigns' conscience through non-intervention therein. If the sovereign indeed resides both within and without the law, such a document, in the area of inter-sovereign enforcement, entailed an abdication—if only formal and fragmentary—over the Church's absolute power to provide succor in the

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<sup>20</sup> I use *magical* with reference to Mauss's problematic distinction between religion and magic in his *General Theory of Magic*. See also Malinowski's "Magic, Science and Religion" and Tambiah's *Magic, Science and Religion and the Scope of Rationality*. All three authors attempt to define magic in contrast with science and religion, and secret and public practices. Yet such distinctions are rooted in Church doctrine. See Moore for his argument that all art is magic. It is a compelling argument but it fails to account for the different *pathos* elicited by magic and art.

face of spiritual death. The terms of the treaty indicate that for a providential enterprise, ventures in *conquista* entailed enormous risks, including the increasing fragmentation of corporate institutions in their pursuit of universal sovereignty. The treaty's turn to *aporia* in the realm of conscience management, however, also calls into question Schmitt's definition of the sovereign as "the decider" of the exception.

The Pope eliminated absolution as a means for enforcing a treaty between two sovereigns, but only in the matter of exploration and settlement along the dividing line between Portuguese and Spanish domains. This limited appeal to the exception retained absolution only in the matter of adherence to the treaty, nothing more and nothing less. The sharply delimited spiritual "no man's land" served as a guarantee to pursue the spiritual and material profits promised by the three European powers' shared enterprise in the inhabited *terrae incognitae* of the world. Yet this recourse to the exception, as employed by the highest echelon of the Church hierarchy, would be expanded by the confessors in defense of the indigenous less than a decade after the promulgation of the bulls of Alexander VI and Julius I (r. 1503-13) and ratification of the Treaty of Tordesillas.

The conscience of the sovereign was tied to the habitations of the New World. For the critics of the *conquista*, the refusal to provide absolution became an exception wielded in favor of the oppressed. By decoupling spiritual and material gains, the value of a clean conscience could no longer be written

off by the princes of the Church. Accounting for sins, for friends and enemies, slaves and *encomendados*, became a habitus codified in law but also an intellectual crutch in the discourse of *conquista* itself, and its unrelenting belief in the transformational power of creative destruction.<sup>21</sup>

*The requerimiento* (1512)

This short, thousand word document, reviled and re-written in *relaciones*, histories and fiction, declaimed and performed by armed men and prelates, may be unique to the Spanish experience of imperial expansion but it belongs, indeed, it inserts itself within the *universal* expansion of empire.

Accompanied by men bristling with weapons and snarling mastiffs, on or off

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<sup>21</sup> This should come as no surprise to readers familiar with Derrida's *Politics of Friendship*. As he reminds us in his reading of Montaigne and Aristotle, loving and befriending are actions that create a hierarchy between lover and beloved, friend and befriended for there is the question of action and passivity or how to make friendship *count*. The politics of friendship is not without its accountants for, though "it is possible to love more than one person, Aristotle seems to concede," Derrida *reckons* with the limitations of number in friendship, "to love in number, but not too much so—not too many" (21). Though boundless love, akin to boundless law, seems an impossibility yet, Derrida continues,

It is not the number that is forbidden, nor the more than one, but the numerous, if not the crowd. The measure is given by the act, by the capacity of loving *in act*: for it is not possible to be in act (*energein*), effectively, actively, presently at the heart of this 'numerous' (*pros pollous*), which is more than simple number (*ou gar oión te áma pros pollous energein*). A finite being could not possibly be present *in act* to too great a number. There is no belonging or friendly community that is *present*, and first *present to itself, in act*, without election and without selection.

There is an inherent tension between being and loving in the *present*, but accounting for the future. In the *conquista*, the distribution of love *presently* nonetheless looks to the future *interests* of imperial expansion. Moreover, this love—as we shall see with Carlos I's burdens of conscience—trades in death and slavery (i.e., 'social death') but protests its ability, indeed its duty, to deny the limitations of love and account for new subjects and slaves even if, at *present*, they are enemies to be reckoned with.

the shores of the Americas, the *requerimiento*'s "draconian series of speech acts" reiterated efforts to legitimize and perform possession in the terrible union of pen and sword that, nevertheless, veered toward the absurd, even quixotic *avant la lettre* (Gaylord 88). In the *Brevísima relación de la destrucción de las Indias*, Bartolomé de las Casas's condemnation of the *requerimiento*'s legitimacy is preceded by emotional appeals to truth, justice and Christianity: the *requerimiento* "es una burla de la verdad y de la justicia y un gran insulto a nuestra fe cristiana y a la piedad y caridad de Jesucristo, y no tiene ninguna legalidad" "makes a mockery of truth and justice and is a great insult to our Christian faith and the piety and charity/ love of Jesus Christ, and has no legal basis (43).<sup>22</sup> The recuperation of *caritas qua caritas* in the incendiary pamphlet by La Casas, not only serves to undermine binaries such as civilization/ barbarism, as argued by Rabasa in *Writing Violence*, but also to restore a radical understanding of Christian *caritas* that cannot be confused with *cupiditas*. Who are the real Christians?<sup>23</sup>

The *requerimiento*, Guamán Poma de Ayala reminded Felipe III (r. 1598-1621), was a sordid affair. As explored in the Introduction, Guamán Poma de Ayala undermines the *requerimiento*'s legitimacy in the *Nueva corónica y buen gobierno* by exposing the "backstage" machinations behind its unhappy reception in Cajamarca: an *amorío* between the Coya and a mere

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<sup>22</sup> See Hanke's "Requerimiento" for an apologetics of the document. However, readers may also wish to consult Gutiérrez's "Evangelization at Gunpoint" for his response to charges of anachronism that have been leveled against critics of the *requerimiento*.

<sup>23</sup> A question foregrounded by discussions of empire and capitalism in Negri and Hardt but also, more recently, by Beverley's *Latinamericanism after 9/11*.

commoner and failed interpreter, Felipillo. Guamán Poma's recourse to comparisons between the *requerimiento* and *illegitimate* love responds to the *requerimiento's* own promotion of its loving, legitimate intentions toward its newfound subjects in the Indies. As Roland Greene has argued, the *requerimiento* of new subjects to the Spanish Crown shares the rhetoric of the *requerimiento de amores*, where the silence and disdain of the Beloved for (her) Lover's entreaties emboldens him all the more. By casting itself in the Lover's mold, the Spanish imperial venture reinforces the Aristotelian binaries of strong over weak, man over woman, Lover over Beloved, active over passive, master over slave, etc. (see 1 *Politics*). Yet there is something decidedly weak about the Spaniards who rely on the philandering Felipillo for the purposes of *conquista*. As Adorno has remarked, Guamán Poma's lapidary statement—"no hubo conquista" "there was no conquest"—offers legal arguments, like Las Casas, to support his case against the illegitimacy of the Spanish invasion. Yet, also like Las Casas, Guamán Poma denounces the amoral marriage of love interest to which the Spanish empire is beholden.

The origins of the *requerimiento's* critique can be found within the text itself. In their redaction of this most performative script, the *requerimiento's* authors, including Palacios Rubios in consultation with Martín Fernández de Enciso, display a self-reflexive understanding of their own limitations, especially in their appreciation for the paradox of the document at hand: "Notificación y requerimiento que se ha de hazer a los moradores de las yslas e

tierra firme del mar Oçeano que *aún no están sujetos* al rey nuestro señor” ‘notice and requirement that is to be made to the inhabitants of the islands and mainland who *are not yet subject* to our lord the king’ (in Morales Padrón 338).<sup>24</sup> The intended audience is not *yet* subject to the sovereign but will be by the end of the performance; they are but *inhabitants* of Islands and a mainland but will become *subjects* by the power of this *requerimiento* and through the representation of the king’s “*criado, mensajero y capitán*” ‘servant, Messenger and captain.’ The means for contracting new subjects are imperfect, the text has its messengers acknowledge, but “vos notifico y hago saber como mejor puedo” ‘I give you notice and will have you know to the best of my ability.’ This caveat does *not* exempt the *requerimiento*’s captive audience from claims, however well-founded, of ignorance. What follows is an abbreviated course in Christianity, a Western Civilization 101, if you will, that seeks to gloss over the fraught question of (in)vincible ignorances when inviting a new party to undersign a covenant or contract.

The *requerimiento* proceeds with its history of universal descent from “un hombre y una mujer, de quien nosotros y vosotros y todos los hombres del

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<sup>24</sup> Martín Fernández de Enciso, *Bachiller*, and also a member of Pedrarias Dávila’s expedition, whose *Suma de geografía* was published in Seville in 1519. Fernández de Enciso recounts the reception of the *requerimiento* among the caciques of Cenú in order to justify the violence of Pedrarias Dávila’s expedition against the native inhabitants of the Darien. Las Casas cites the passage in its entirety in the *Historia de las indias* (III.53). Even Fernández de Oviedo, another member of the Dávila expedition, took issue with the *requerimiento* by his own account (*Historia general*, libro 29, cap. 7). Never an advocate for the Indians, his cynical assertion that the *requerimiento* presupposed that the Indians had been put in cages, preemptively, nonetheless rings very true.

mundo fueron y son descendientes y procreados” ‘one man and one woman from whom we and you and all the men of the world were and are descendants’ and offers an explanation for how these generations of humanity were dispersed throughout the world, leading to their division into different “kingdoms and provinces”: it could not be otherwise, “que en una sola no se podrían sostener ni conservar” ‘for they could not subsist in one sole area.’ This explanation for the emergence of differing and distinct peoples with their own customs and laws for self-rule is similar to the arguments offered by José de Acosta in favor of free trade but in reverse.

Writing in the latter half of the 16th century, Acosta will argue that the dispersion of the human race around the world makes free trade a moral and universal imperative:

Iam vero mercaturae artis hoc propriam est, ut quae apud suos abundant, deferant ad externos, & quibus vicissum illi circumfluunt, reportent suis. Ita enim comunis nostris generis autor mortales omnes interse sociandos & quodam communion in officio retinendos existimavit, si sibi essent vicissim opportuni & commodi.

Furthermore, it is part of the nature of commerce to carry to foreigners what we have much of, and what is superfluous to their needs for them to bring it to us. Thus it pleased the common Author of mankind for all mortals to associate themselves in this manner and to maintain themselves in unity through mutual communication, so that they might be of mutual help and advantage one to another.

*(De procuranda indorum salute II. xiii)*

The free trade doctrine is not further elaborated in the *requerimiento* but alluded to in the enumeration of benefits promised in return for peaceful



subjugation: the entrance into a neighborhood of subjects, like those of other isles, “vecinos de las otras yslas,” who have converted and received, in exchange from the Crown, privileges “privilegios,” exemptions “esençiones,” and gifts “mercedes” (Morales Padrón 339). The diversity of habitats and the riches of each land *necessitates* the free commerce of goods and peoples. At the same time, the common origin of mankind, dispersed, obligates a univocal leadership: San Pedro, “para que de todos los hombres del mundo fuese señor e superior, a quienes todos ovedesçiesen e fuesen cabeça de todo el linaje umano donde quier que los hombres viviesen y estuviesen, y en qualquier ley, seta o creencia y diole a todo el mundo por su reyno señorío y juridiçión” ‘so that he would be the overlord of all humankind, to be obeyed by all and to lead the human race wheresover humans live and inhabit, and in whichever law, sect or belief and he gave the whole world for his kingdom and jurisdiction’ (338). As in the exposition of free trade, the customs and laws (*jus gentium*) are subject to a universal imperative. Conspicuously absent is Christ himself in this formula for worldwide Christian empire.

Why should St. Peter’s preeminence be so self-evident? Only a few lines earlier the text mentions that humankind could not subsist as one, in one place, that diversity of livelihood and customs made sense within the divine plan for humankind. That claim to universal dominion rests on an unspoken, but necessary, analogy to the unifying imperative of trade. The *requerimiento* omits Christ, though Christians are just another *item* under the litany of

peoples under the Pope's jurisdiction (including 'Moors,' 'Jews,' 'Gentiles and any other sect or belief'). Moreover, this move toward centralized power in the "silla en Roma" 'seat in Rome' stakes a claim to any place on earth where it "pudiese estar y poner su silla en qualquier otra parte del mundo" 'could reside and place his seat in any other part of the world' (339). The universal jurisdiction of the Pope paradoxically undermines the *modus operandi* of law-making and of the sacred, a theme explored in the third chapter, that depends on meaningful demarcation and signification through metonymy.<sup>25</sup> Yet a world of *immanent* domain where all is demarcated is also a world in which nothing is demarcated; lawless and without the sacred, almost meaningless, the power of the Pontifical World stakes a claim by gesturing toward the foundational violence of the law. This works to the benefit of empire, but also exposes one of its greatest weaknesses: immanence does not easily translate into eminence. A stake, or a banner, the *empresa* is driven into the ground to mark the ontological claim to *estar* (to be) here, in this place inhabited by others. Does a universal delineation of the law permit the possibility of thinking without it?

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<sup>25</sup> One could say that the Geotheology of Stakes began with the Treaty of Tordesillas. I borrow the term, 'geotheology,' from the cultural geographer John Kirtland Wright, to describe the general relationship between space and the worship of god(s). As delineated in the Bulls of Donation and in the *requerimiento*, Christianity declares all of the world *sacred* for the Pope, whose seat is in Rome, and who could move it to any place he wished. As Tuan contends, the "long term effects of Christian doctrine was to denude nature of its spirits and mystery" (26). Effectively, by declaring that the entire world was sacred it erased the sacred, since *sacer* is a legal term to denote the process by which a place has been given over to the deity, under the authority of the state (17). By staking a claim to all of the earth, Christianity paradoxically denied the power of stake holding, of the *nomos*, and the delimitation of *sacer* from what is not *sacer*.

After declaring universal jurisdiction, the *requerimiento* takes pains to demarcate the earth once more, this time to explain the Papal Bull of Alexander VI. It is less than a decade old. The script for *conquista* covers more than ‘five thousand years,’ but the phrasing does not acknowledge the relative novelty of the event to the narrative’s intended audience. Instead, there is a timelessness to it, an effort *not* to pinpoint the year in which Papal Bulls were promulgated or treaties signed among two Sovereigns on the same peninsula:

Uno de los Pontífices passados que en lugar deste suçedió en aquella silla [...] hizo donaçión destas yslas y tierra firme del mar Oçéano a los dichos Rey y Reyna y a sus subçesores en estos reynos [...] segund se contiene en ciertas escripturas que sobre ellos pasaron [...] que podeys ver si quisieredes.

One of the past pontiffs who took [this one’s, i.e. St. Peter’s] place in that seat [...] made a donation of these islands and Mainlands of the Ocean to the King and Queen and their successors in those kingdoms [...] as witnessed by these documents [...] that you may see if you so choose.

The offer to demonstrate the legitimacy of the papal donation by showing notarized copies of the papal bulls and treaties is worthy of the derision that subsequent commentators have shown it, given the obvious limitations in communication between the Crown’s representatives and their native interlocutors. What slips through the cracks of righteous condemnation, however, is a demonstration of humanists’ productive use of sacred history.

So much is achieved by this abbreviation in time between St. Peter and Alexander VI, almost as if Rubios and Encinas could perform a temporal sleight of hand. Perhaps the authors of the text would like to believe in its

veracity, by relegating it to mythological, primordial time of the world's origins under Adam and Eve or even the pontificate's founding with St. Peter in classical antiquity. It is a rhetorical feat, similar to the narratives of forgery attributed to Michelangelo and other humanists in the *Lives of Artists* (1550) by Giorgio Vasari (1511-74).<sup>26</sup> Who is that pontiff who made the donation? One of 'those past pontiffs who succeeded the other one [Peter].' *When?* Like other Renaissance men eager to pass off their own sculptures as recently excavated treasures to gullible antiquities dealers, the authors readily proffer these documents from some remote, yet so novel, so recent, past, and marvel at their own skill, so proximate to the ancient model. The lack of details, the abbreviations, omissions, the gaps in information—like an arm or a nose broken off a marble figure of a deity no longer venerated or a text truncated mid-paragraph—only serve to lend the foundational myth and this most recent historical artifact more validity. They are, after all, one of the Crown's own letters addressed "to posterity."

Gaining steam from the manufactured antiquities offered, *caveat emptor*, the reasons for submitting to the 'aforementioned King and Queen' are as numerous as all the neighbors who have already submitted to their

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<sup>26</sup> The superiority of the humanist's knowledge and connoisseurship—of authorship, provenance and history when coupled with erudition and skill at imitation—hangs in the balance. The *dominio* of the artist and the humanist allow them to perform secular miracles, whose secrets are known only to a select few. See Lorenzo Valla (1407-57) for the other side of the coin in *On the Donation of Constantine* (1439-40). Valla uses philology and observations of human character to debunk the authenticity of the Church's claims to legitimate power. The humanist positions himself as the ultimate arbiter in the ordering of history.

dominion, following a reading of the *requerimiento* just like this one: “con buena voluntad y sin ninguna resistencia” ‘with good will and without resistance.’ Yet the rush to sign the deal “sin dilación” ‘without delay’ underscores the fragility of the named and unnamed authorities of the proffered narrative. Neighboring inhabitants provide compelling examples of Christian empire’s benefits. Those who have accepted the missionaries in their midst were received by their Sovereigns ‘happily and benignly’ “alegre y benignamente.”

The *requerimiento*’s interlocutors at present are urged to follow suit, by taking the *necessary* or *fair amount* of time to “entenderlo y deliberar sobre ello el tiempo que fuere *justo*” ‘to understand and deliberate on it for the *justo* [exact, precise, fair] amount of time.’ The document’s insistence on a precise measurement of time to permit meaningful consent incorporates another value—time—into the proposed exchange with the indigenous. The units of *tiempo justo* become yet another currency in the moral and material economy of love interest, in the allusions to the dangers of temporal excess. Let us recall that one of the arguments against charging interest (i.e. *lucrum cessans*), analyzed at greater length in the first chapter, was that humanity could not charge for something (time) over which it held no ownership rights. The *requerimiento* makes no claim to ‘giving’ or ‘bestowing’ enough time to deliberate the weighty matter of submission to Pope and Crown. However, as the document alludes to a precise allotment of time for deliberation, just

enough to be fair and legal (*justo*), it makes a temporal incursion, fraught with moral peril, into the realm of the *sacer*.

Soon thereafter the *requerimiento* invokes pursuit of *malicious delay* (“en ello dilación maliciosamente pusierdes”) in indigenous deliberations as a cause for *just* war. Willing submission ensures incorporation (“vos recibirán”) by the Sovereigns with “todo amor y caridad,” ‘much love and charity,’ including a promise to freedom from servitude and recognition of existing property rights as well as privileges, exemptions and gifts. Conversion is an option, not an obligation, though, as we saw in the earlier clause, there is an obligation to listen to preachers.

Refusal to submit or malicious delay incurs the full wrath and power at the speaker’s disposal, who threatens to do “vos haré todos los males e daños que pudiere” ‘all the evil and harm that I am able to do’: all out war, the yoke of the Church and State, enslavement, and seizure of property (340). Moreover, the fault and the guilt for these malicious actions—defined as such by the speaker, as intended to do the maximum harm and destruction possible—are your own “sean a vuestra culpa.” In this imagined scene of total and utter devastation, there remains a modicum to be transferred from one party (*yo*) to the other (*vosotros*): guilt and liability.

Despite the protestations on the “free will” of the native interlocutors to accept or deny submission to the Crown in the *requerimiento*, with all its attendant consequences, a close reading of the contract signed between

Pedrarias Dávila and Ferdinand of Aragon reveals the predetermined nature of *encomendados* and *esclavos*. As stipulated in the contract for the joint venture, the “choice” for the indigenous, slavery or *encomienda*, was predetermined and, thus, a counterfeit of war. Slaves, as Orlando Patterson contends, live the paradox of social death, for that is the life and place of slavery within the social compact. *Encomendados*, the indigenous who provide tribute in labor and in goods to the conquistadors in exchange for Christian tutelage, submit to the slow deaths of their *former* selves in the process of ethno-suicide. War, as Negri and Derrida, among other authors, have contended allows for no decision-making. The itinerary for war and slave or subject making, as argued below, navigates the “free will” among the residents of neighboring isles with all haste as their fates—slaves or *encomendados*—were already cast.

*The Laws of Burgos (1512)*

A reading of the contract, signed between Pedrarias Dávila and Ferdinand of Aragon "para poblar e paçificar " ‘to settle and pacify’ the Darién, offers the mercantile framework within which the *requerimiento* would be performed and the *Leyes de Burgos*, passed on December 27, 1512, applied to labor and spiritual exchanges (known as the *encomienda*).<sup>27</sup> As

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<sup>27</sup> Las Casas traces the origin of the *encomienda* system to a misreading of a letter written by Isabel of Castile days before her death. The letter itself, reproduced by Las Casas in chapter fourteen of the third book of his *Historia de las indias* is discussed at greater length in the third chapter. Andre Saint-Lu omits Isabel’s letter in his edition of the *Historia de las indias*, but it is included in earlier, nineteenth century editions

alluded to in the earlier section on exceptions to absolution in the Treaty of Tordesillas, critics of the conquista widened the exception to create a blanket denial to absolution as a spiritual bludgeon wielded in favor of the oppressed.

Following the sermon by fray Antonio de Montesinos (d. 1545) the joint venture in the West Indies between Church and State experienced a crisis of legitimacy. The Laws of Burgos were scripted, in part, to respond to this crisis in *fama* and in faith. In the sermon, Montesinos condemned the *encomienda* and the *encomenderos* to a life without absolution. His refusal, and that of other Dominicans, to give the sacraments of confession and absolution to *encomenderos* would become the *modus operandi* for indigenous advocacy among the religious in the Indies. We do not have the full text of the sermon, only remnants from its gut wrenching refrain—*soy la voz que clama en el desierto* (I am the voice crying out in the wilderness)—that allowed Montesinos to take on the mantle of John the Baptist. One of the young *encomenderos* who answered his call to conversion from a life of usury and sin, the future fray Bartolomé de las Casas, gives a harrowing account of his awakening to the suffering of the Indians in his *Historia de las Indias* (III.iv-v). Following Christian precepts on fair exchange values, not only did Montesinos claim that the integrity of missionary work in the Indies was at stake, but also the moral status of the labor and spiritual exchanges (*encomienda* system). Yet, as examined in greater detail in the third chapter,

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of the work, as well as in the volumes dedicated to the *Historia* in the edition of *Obras completas* under the direction of Castañeda Delgado and Huerga.



free trade and missionary work were reason enough to justify Spanish ventures in the West Indies. However, since labor, especially manual labor, required remuneration to avoid usury, the Crown and the *encomenderos* had to give something of value in exchange for indigenous labor. The Laws of Burgos itemize the items and exchange values in greater detail than in any earlier legal code written for the purpose of managing *conquista* in the Americas.

The Laws of Burgos propose remedies to reform the labor and spiritual exchange. The tenth law, for example, urges clergy to provide the sacraments of confession to the Indians and to bury their dead "sin por ello llevar interés alguno" 'without profiting from it.' The indigenous must be taught Catholic doctrine "con mucho amor y dulzura" 'with much love and sweetness'; *encomenderos* who failed to uphold their duty to catechize would be fined six *pesos*, or units of gold. These *pesos* would be distributed equally between the Sovereign's treasury, the accuser and the sentencing judge. Other laws regulated, ordering times for rest and types of work, i.e. pregnant women received a reprieve from manual labor (eighteenth law); local customs such as the *areitos* were to be permitted (fourteenth law). Other laws that required the distribution of one hammock per Indian (nineteenth law), and meat on Sundays and other holidays sought to ensure basic living conditions (fifteenth law).<sup>28</sup> However, the Crown also required that one third of all *encomendados*

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<sup>28</sup> Much more could be said about the regulation and demarcation of time for the purposes of venture capitalism in these laws and those of the 1526 *Ordenanzas*, as well as the *New Laws* (1542). For a compelling account of the homogenizing effects of industrial capitalism in England, see Thirst. He argues that workers replaced, that is,

serve in the mines, which was, in effect, a death sentence (twenty fifth law).<sup>29</sup> Moreover, though some instances of *jus gentium*, such as the *areitos*, were to be tolerated, others, such as marital and sexual practices, and the perceived lack of suitable attire were not. For example, indigenous elites (*caciques* and their wives) were to dress as befitted their station; polygyny and homosexuality were outlawed and punishable by death. That many chose exile in the *monte* (i.e., to live as outlaws) and death over the life regulated by the exchanges of the *encomienda* system was related in great detail by Las Casas but also alluded to in Ferdinand of Aragon's preamble to the Laws of Burgos. Therein the Spanish regent laments the great distances separating the *encomendados* from the *encomenderos*, a physical distance that had to be bridged in order to ensure "conversión continua" (continuous and contiguous conversion) (in Morales Padrón 311).

Laws thirteen and twenty-seven, however, provide the exception to the labor and spiritual exchange and underscore the tenuous distinction between social life and death in the new colonies. Slaves need not enjoy the benefits of the temporal division between work and rest. Law twenty-seven displays some confusion about the exception that seems to prove the rule. The *encomenderos*

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destroyed, their own consciousness of time—seasonal labor, social events, tasks—with the owners' time, a "future oriented calculative rationality" (567). See also Kuriyama's "The enigma of 'time is money'" for an engaging reflection on the relationship between capital, time and consciousness in a non-modern society, Meiji Japan, in particular, in the process of learning Western ways.

<sup>29</sup> Las Casas has a close reading of the Laws of Burgos in the *Historia de las Indias* that is devastating (II. xvi-xviii).

had to follow the guidelines for the equitable distribution of time (labor and rest) and resources (material and spiritual) for their *encomendados*, unless their *encomendados* were slaves. This slippage reveals some confusion in the law as to the treatment and identities of slaves and *encomendados*, even if the text of the *requirimiento*, as analyzed above, would seem to offer a clear option between the two statuses. Work and rest must be distributed for the *encomendados* in keeping with the law,

Salvo si los tales indios fueren esclavos, porque a estos tales cada uno cuyos fueren los puede tratar como él quisiere, pero mandamos que no sea con aquella riguridad y aspereza que suelen tratar a los otros esclavos, sino con mucho amor y blandura para mejor inclinarlos en las cosas de nuestra fe.

(Ley veinte y siete, Morales Padrón 323)

Unless these Indians [brought from other neighboring islands] are slaves, because these can be treated as each [*encomendero*] so chooses, but we order that they be treated not with the rigor and harshness with which the other slaves are treated, but with much love and leniency so as to persuade them in the matters of our faith.

Slavery, or social death, provides the exception to the rules of the *encomienda*. Slaves brought from the other islands “los puede tratar como él quisiere” ‘can be treated as [each *encomendero*] so chooses.’ However, a distinction should be made between these slaves and “los otros esclavos” ‘the other slaves’ who the law acknowledges are treated with “riguridad y aspereza” ‘great rigor and harshness.’ We can infer that mention of the ‘other slaves’ refers to the peoples brought from Africa, and they are the exception to the exception of the *encomienda* system. Even within the binary of colonial thought and practice,

another Manichean distinction along the fault lines of race and geo-spatial provenance emerges.

*The Contract between Pedrarias Dávila and Ferdinand of Aragon (1513)*

The laws of Burgos arrived in Santo Domingo with three members of the order of St. Jerome in December 1516. They were put into practice, however, as early as 1513 when Pedrarias Dávila, fifteen ships and over two thousand men and women set sail for the Darién peninsula in what is now Colombia. This contract between Ferdinand of Aragon and Dávila stipulated the erasure of the area's indigenous name, “a la tierra que se solía llamar [ilegible]” ‘the land that used to be called [illegible]’ (Morales Padrón 89). The new name would reflect back on Castile in the hues of the monarchy's most prized commodity: “la mandamos llamar Castilla aurífera” ‘we order [it] to be called Golden Castille’ (89). What follows is an itinerary for slave making and selling; making “new subjects” and “pacifying” them. A cartography of human habitation receives an itinerary so that the *requerimiento* may be put into practice. This section is worth quoting at great length and begins with the Spanish Sovereign delineating the stops to be made before reaching the Darién. Ferdinand of Aragon routes Dávila's enterprise accordingly:

Derrota derecha para la provincia del Darién i sin estorvo ni tardança del viaje lo pudierdes fazer aveys de tocar en las yslas de los Canibales que son isla fuerte Baru San Vernaldo, Santa Crus, Gayra, Cartajena, Caramari, Codego que están dados por esclavos

por razón que comen carne humana y por el mal y dapno que han fecho a nuestra gente y por el que fazen a los otros indios de las otras yslas y a los otros vasallos y a la gente que destos reynos avemos enviado a poblar en aquellas partes y por mas justificación nuestra sy hallardes manera de poderles requerir los requerir que vengan a la ovediençia de la iglesia y sean nuestros vasallos y si no lo quisieren fazer o no lo pudierdes requerir aveys de tomar todos los que pudierdes y enviarlos en vn navio a la ysla Española y allí se entreguen a Miguel de Pasamonte nuestro tesorero y a los otros nuestros oficiales para que se vendan y el navío que con ellos fuere os ha de llevar lo que de la dicha Ysla Española se oviere de llevar a la dicha Castilla aurífera y por todas las otras partes que pasardes especialmente en qualquier parte que tocardes en la costa de la dicha tierra aveys de escusar que en ninguna manera se faga dapño a los indios por que no se escandalizen ni alboroten de los christianos antes les hazed muy buena compañía y buen tratamiento porque corra la nueba tierra adentro y con ella vos resciban y vengan a comunicaros y en conosciimiento de las cosas de la nuestra santa fee católica que es a lo que principalmente os enviamos y deseamos que se açierte. (90)

Make straight for the Darien without stopping or delaying travel and, if possible, land on the islands of the Cannibals, which are the islands of Baru San Vernaldo, Santa Crus, Gayra, Cartajena, Caramari, Codego. [The cannibals] are given as slaves because they eat human flesh and for the damages they have done to our people and [the damage] done to the Indians of other islands and the other subjects and the people we have sent from our realms [.] If you are able to summon them [*requerirles*] subdue them so that they may obey the Church and be our subjects but if they do not wish to [obey] or you are unable to subdue them you are to take as many of them as you can and send them in a boat to the Española and hand them over to Miguel de Pasamonte, our treasurer, and to our other officials so that they will be sold [.] Then use that same boat [used for the slave trade between the Cannibal islands and Española] to take whatever [materials, resources] are needed to the aforementioned Golden Castille and in all the other places you pass through. Especially if you are on the coast of that aforementioned land [i.e., Golden Castille] you should take care not to do any damage to the Indians so that they are not shocked and do not riot against the Christians [.] Instead, show companionship and treat them well so that rumors flow inland and with them you shall be [well] received and they will come to communicate with you and in the knowledge of the matters of our holy catholic faith which is your primary reason for being sent and we wish you success.

The instructions given to Dávila seem contradictory and plagued by the confusion of causes for effects, or metalepsis. On the one hand, he should take the shortest route possible to the Darién, without delay. On the other, he must stop at the “Cannibal islands” to capture ‘cannibals who are given as slaves’ for the crimes of ‘eating human flesh,’ attacking other Indians and the Spanish king's subjects, and for loss of life and property. However, though the text had already instructed that the cannibals should be taken as slaves, they also should be given the chance to submit to the Crown (as part of the performance of the *requerimento*, more on that below). Finally, the contract foresees the logistics for the transport and sale of the human cargo in Santo Domingo.

That slave ship is then to be filled with other cargo and destined for the Darién, which is to be called ‘Golden Castille’ and the peoples found there will also be offered the choices of the *requerimiento* (submission or slavery). There, the Spanish Sovereign anticipates their willing submission if his soon-to-be subjects are shown companionship and are well treated by his current subjects, thus making them more amenable to evangelization efforts. At the same time, the King contends that failure to treat these new subjects in a ‘loving manner’ will result in *escándalos* and *alborotos*, scandals or riots.<sup>30</sup> This emphasis on irrational rebellion speaks to the circular logic of the foundational violence at the heart of this entrepreneurial program, which Las

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<sup>30</sup> The reliance on rumor to woo subjects in absentia falls squarely within the courtly love tradition which, as De Rougement contends, is also indebted to Jewish and Muslim mystics and the Greek understanding of the workings of *eros* through sight and rumor.

Casas would later refute in his *Brevísima relación* (1552) with the caustic observation that people raising arms to defend themselves cannot be called rebels if they were never subjects in the first place; “que ninguno es ni puede considerarse rebelde si primero no es súbdito” ‘that nobody is or can be considered a rebel if he is not a subject in the first place’ (112). The contract positions the decision making power of the indigenous in a sequence of ramifications, functioning like the “decision tree” in corporate manuals and imperial bureaucracies.<sup>31</sup> The ultimate goal is to homogenize actions when faced with multiplying branches of uncertainty. However, profit motive is the ultimate horizon for this highly scripted behavior.

The details of profit distribution among the general and lesser partners of the joint venture immediately follow the itinerary of enslavement. The fourth item specifies that the Monarch should receive “las dos partes” ‘the two parts’ of the booty taken on land and at sea in addition to the “quinto ordinario” ‘regular fifth,’ i.e., twenty percent from the ships that he has outfitted with his capital, i.e. “puestos los caxcos.” However, in ships outfitted by other investors, the Monarch will receive the “ordinary fifth.” The distribution of wealth from those ships’ agents will follow the customs of booty distribution among the *armada* ‘land armies’ and *marineros* ‘sailors’ (89). The King will provide for the salary of the bishop and clergymen for ten years or once they start tithing the native population, whichever comes first (90-91).

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<sup>31</sup> Unity of action in the face of ramifications characterizes bureaucracy in its efforts to limit decisions (*From Max Weber* 196-240).

The first conquistadors of the Darién (Ojeda, Nicuesa and Martín Fernández de Enciso) will be made *vecinos* of Castilla de Oro; so, too, would Francisco Pizarro (c. 1471-1541) several years later. Then, as another item, among several others, the *requerimiento* is paraphrased and glossed once more:<sup>32</sup>

Y en caso que por esta vía no quisieren venir a nuestra ovediençia y se les oviere de fazer guerra aveys de mirar que por ninguna cosa se les faga fuera no seyendo ellos los agresores [...]

And if they should not wish to show obedience to us and war must be waged, you must take care that under no circumstances should war be waged unless they are the aggressors. (92)

Ferdinand of Aragon anticipates the possibility of refusal but adds that aggression should be employed *only* as a means of self-defense. He appeals to legal forms, including the new laws of Burgos that Dávila should make public upon his arrival to the Indies. Following the legal formalities, Ferdinand of Aragon engages in a candid discussion of the inherent conflict of interest between slave taking and *encomienda* making:

Les dareys primero a entender el bien que les verná de ponerse devaxo de nuestra obediencia y mal y dapño y muertes de onbres que les verna de guerra especialmente que los que se tomaren en ella vivos han de ser esclavos y que desto tengan entera noticia y que no pueden pretender ynorançia porque para que lo puedan ser y los christianos los puedan tener sin su sana conçiencia esta todo el fundamento en lo suso dicho [...] (93)

First you will have them understand the good that will come to them by submitting to us and the wrongs and damage and deaths of men that will come from war [...] Especially, since those who will be taken alive are destined to be slaves[...] They should be fully informed of this so that they cannot feign ignorance of what they could

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<sup>32</sup> These *items* include recommendations to avoid making promises that cannot be kept to the Indians, injunctions against gambling, regulations on inheritance, and the grains to be cultivated in Castilla Aurífera.



become[,] and so that Christians may take them with a clear conscience the grounds reside in the aforementioned [laws].

From this passage we can infer that Ferdinand of Aragon believes death is preferable to slavery. He also hurries through the fraught doctrine of invincible and vincible ignorances and nescience. Briefly, invincible ignorance in Catholic theology refers to the knowledge that an individual has no way of obtaining, and thus provides an exemption from the sin otherwise committed, whereas vincible ignorance refers to a lack of knowledge that any rational person could obtain if they applied themselves to it; in secular law, the axiom *ignorantia juris non excusat* ‘ignorance of the law is no excuse [for breaking it]’ bears some similarity to the doctrine of vincible ignorance. Ferdinand’s haste recalls the value placed on the distinction between “tiempo justo” and malicious delay in the *requerimiento*, a distinction that in itself anticipates shared knowledge, customs and time frames for decision making.

The *requerimiento*’s summary introduction to Christianity and the papal donation would provide the fodder for discussions of invincible and vincible ignorances and the relationship between the temporal and spiritual powers of the Church and State for years to come. Ferdinand, however, chooses to gloss over the ignorance of his soon-to-be subjects with the more readily vincible ignorance of his actual subjects:

aveys de estar sobre aviso de una cosa que todos los christianos por que los indios se les encomienden tienen mucha gana que sean de guerra y que no sean de paz y que siempre han de hablar en este propósito y aunque non se pueda excusar de no le platicar con ellos es vien estar avisado desto para el crédito que en ello se les debe dar

y parece aca que el mas sano parecer para esto será el del reverendo fray Juan de Quevedo obispo de el Darién y de los clérigos que están mas sin pasión y con menos esperança de aver dellos ynteresse.

You must be forewarned of one thing [:] that all Christians prefer that the the Indians to be given to them in *encomienda* be of the warring and not peaceful [type] and always speak to this purpose[.] And though not speaking to them cannot be excused in any way it is good to be warned of this for the credit that must be done to them [.] Here it seems that the most wholesome person for this [judgment] is reverend friar Juan de Quevedo, bishop of Darién and other members of the clergy who are less impassioned and have less hope for the interest to be obtained thereof.

The contract displays the cognitive and legal difficulties involved in establishing use value and property value in venture capital schemes, as analyzed in the earlier discussions of the Scholastic treatment of usury vs. sea voyage partnerships, or loans, and the *societas* in general in the first chapter. It also demonstrates greater familiarity, comfort even, with the temporal paradoxes of venture capital.<sup>33</sup>

*Charles I's Burdens of Conscience and the Capitulaciones signed with Francisco Pizarro (1526)*

The preamble to the 1526 Ordenanzas famously refer to Charles I's "cargo de consciencia" 'burdens of conscience' that are charged to the "Codicia

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<sup>33</sup> The *Capitulaciones of Santa Fe*, the contract signed between Christopher Columbus and Isabel of Castile before the first voyage in 1492, display an outright contradiction in the relationship between what has been discovered and the voyage to be made: "Las cosas suplicadas e que Vuestras Altezas dan e otorgan a don Christoval de Colón, en alguna satisfacion de lo que *ha descubierto* en las Mareas Oceanas y del viage, con la ayuda de Dios *ha de fazer* por ellas en servicio de Vuestras Altezas, son las que siguen" (emphases mine, Morales Padrón 54). Later documents show consistency in the use of the periphrastic future tense that also functions as an imperative.

desordenada” ‘unruly Greed’ displayed by many of his subjects in the Americas. These phrases are later reiterated in the so-called *Leyes nuevas* of 1542. Though Ferdinand had not used these catch phrases to refer to the frenzy for gold, pearls and especially labor in the Americas, he did show concern for conquistadors’ interest in making slaves over subjects, hence the recourse to the Bishop for his arbitration over the decisions to make war. In other words, Ferdinand attempted to organize cupidity or ‘bridle greed’ preemptively: first, by emphasizing the attitudes of love and companionship that Dávila and his cohort were to show to his new subjects in the Darién; second, by engaging the arbitration of a third party—the Church—which did not have as much profit motive, in material terms, from the final status of the indigenous (i.e., *encomendados* or slaves). In November 1526, Charles I followed his predecessor’s example and underscored the role of the Church as moral policeman in law and contractual agreements. Charles I places a greater emphasis on brotherly love as the mechanism to hold in check the appetites of his unruly subjects *and* business partners. Yet this greater emphasis on love does not implicate lesser violence, just a more efficient (or *disciplined*, to cite the terminology of Charles I) use of it.

Remedies are set in place to investigate and punish “culpa de muertes y esclavitud *indebidas*” ‘guilt for *improper or wrongful* deaths or enslavements’ and Charles I turns to clergy for their arbitration on these matters (Morales Padrón 375). References to improper or wrongful deaths or slavery would

imply that there exist rightful and proper deaths or enslavements, as articulated in the *requerimiento*. Along the same lines, Charles I's concern for his new Christian subjects (the *encomendados*) is reflected in the injunction prohibiting their return to their old homes “aunque ellos lo quieran” ‘even if they desire it’ in order that “se aparten de sus vicios” ‘they be separated from their vices’ by living within the *encomienda* system (376-8). Like Ferdinand's instructions to Dávila, the sixth and ninth ordenanzas of 1526 similarly paraphrase the *requerimiento* and its procedure for making new subjects or new slaves. The prohibition against opening new mines similarly allows for an exception, at the discretion of clergy, but stipulates that miners should be treated “as free persons” (ninth and tenth laws). However, as is made clear in the eleventh law, “new Christians” are subject to the *encomienda* system and, thus, could be forced to reside near the mines and work for the mines within the paradigm of *encomienda*, the labor for catechism exchange.

Charles I's *capitulaciones* signed with Francisco Pizarro in July 1529 show a concern for proper procedure with regard to creating “disciplined greed.” Thus, he commends Pizarro, a *vecino* of Castilla de Oro, and Diego de Almagro, a *vecino* of Panama, for obtaining the permission of Pedrarias Dávila, the Governor, before leaving for the coast of the Southern Sea in order to ‘conquer, discover and pacify.’ Moreover, the costs incurred by Pizarro, Almagro and their cohort during this first expedition would not be reimbursed by the Crown (233). According to the contract, Pizarro et al. spent 30,000

*pesos* in gold and would continue with the enterprise “con el deseo de nos servir” ‘by serving us’ but at no expense to the Crown. The *conquista* would be done “a vuestra costa e mission syn que en ningund tiempo seamos obligados a vos pagar ny satisfazer lo que en ellos fizieredes mas de lo que en estas capitulaciones vos fuera otorgado” ‘at your cost and liability; we are under no obligation to pay or reimburse you for anything more than what is stipulated in this contract’ (234). What follows is the famous delimitation of Pizarro's governorship from Tensinpulla to Chincha and items detailing how salaries of functionaries were to be paid from the distribution of lands and labor to be conquered.

Pizarro is instructed on creating positions for mayor, squires, peons, a doctor and a pharmacist. Four fortresses are to be constructed for “pacification” purposes and at the conquistadors’ own expense. In fact, the document goes to great lengths to specify that neither Charles I or his heirs are obligated to pay for construction or upkeep of these fortresses. However, the Crown does give the monies to pay for artillery and ammunitions, which would be disbursed at the Casa de Contrataciones in Seville (237). The Sovereign includes exemption from some tariffs (*alcabalas*) on imports and exports for a ten-year period as an incentive to the conquistadors. Moreover, the “ordinary fifth” will apply to all wealth gained from mines, trade and mounted raids (*minas, rescates y cabalgadas*) (235). Some *mercedes* (gifts) bestowed on the conquering party include titles of lesser nobility (to be *hidalgos de solar*

*conocido*) and to keep their rights to land and labor in Castilla de Oro or to sell them if they so choose (236-7).

Yet there are some items that concern our larger discussion of enslavement and *encomienda*. Item nineteen refers to the Crown's gift of African slaves who are 'free of all rights' to be traded in the Caribbean en route to Peru. The Crown will deduct their worth from its own treasury:

Otrosy vos daremos licencia como por la presente vos la damos para que destos nuestros Reynos o del Reynos de Portugal e yslas de cabo verde o de donde vos o quien vuestro poder oviere quisieredes e por bien tovieredes podays pasar e paseys a la dicha tierra de vuestra governación cinquenta esclavos negros en que aya a lo menos el tercio hembras libres de todos derechos A nos pertenscientes con tanto que si los dexarades todos o partes dellos en las yslas española san Juan y cuba e Santiago o en castilla del oro o en otra parte alguna los que dellos ansy dexaredes sean perdidos e aplicados e por la presente los aplicamos a nuestra camara e fisco. (238)

We give you license in this present document so that you or whoever has your power of attorney may take fifty slaves free of all rights (of which at least one third will be women), which belong to us from our realms or the realms of Portugal and the Cape Verde Islands or wherever you wish, to the lands of your governorship [Peru.] So that if you leave them all or in part on the islands of Hispaniola, San Juan, Cuba and Santiago or in Castilla del Oro or somewhere else they will be applied as a loss, as they are applied now to our own chamber and treasury.

Charles I treats the slavery of Africans as a gift that could be written off with the precision of an accountant ensuring that his books are in order. Item twenty-five then makes a references to the 1526 Ordenanzas for procedures regarding the Indians and the *encomiendas*.

Despite the concerns for the Sovereign's conscience elaborated in the 1526 laws, the contract between Charles I and Pizarro et al. that was written within their legal framework hardly makes any reference to the Crown's new subjects. This may be due to the Sovereign's explicit approval for Pizarro's *modus operandi* in the initial venture and experience on the Isla del Gallo. Unlike Cortés, who had no initial contract with Ferdinand or Charles I, neither Pizarro, his brothers, or Almagro had shown any signs of insubordination or intent to commit regicide. As *vecinos* of good standing in Castilla de Oro, they all had experience with the *requerimento*. The contract's main concern was to organize expectations, profit margins and motives in greater detail and refer back to labor regulation as a framework with which all parties seemed to be largely familiar. Unlike Ferdinand of Aragon's contract with Dávila, which had to include mechanisms for introducing new law into the colony as part of the venture agreement, this contract largely took most items related to the indigenous, especially the script of the *requerimento*, for granted by and large.

### *The Conscience of the Sovereign*

Charles I's preamble to the *Leyes nuevas* (New Laws), which were promulgated on November 20, 1542, condemns the *codicia desordenada* (unruly greed) as the root of the violent excesses waged by the king's subjects against the Indians. Lamenting, as he had earlier in the *Ordenanzas* of 1526, that the violence in the Indies weighed heavily on his conscience, the Sovereign proposed what was in his mind a measured response to the pall of

vice that had befallen the Spanish empire. Weighing in on his conflicting motivations for incursions into the Indies, Charles I displayed his reasoning behind the new prohibitions on certain economic activities. However, by the 1540s, the conscience of the Sovereign had fully assimilated the cost-benefit analysis of a moral economy where love and interest dovetailed.

The twenty fourth law is a case in point for its emphasis on moral efficiency. This law requires the immediate cessation in pearl fishing “*si les paresçiere que no se puede escussar a los dichos yndios y negros el peligro de la muerte [...] ‘if it is believed that the aforementioned Indians and Blacks cannot be excused from the risk of death’* (emphasis mine, Morales Padrón 435). Charles I evaluates the almost certain death of subjects, on the one hand, and the loss of profit on the other, “*porque estimamos en mucho más, como es rrazón, la conseruación de sus vidas, que el ynterese que nos puede venir de las perlas*” ‘because we place greater value, as is reasonable, on the conservation of their lives than on the interest that we could gain from the pearls.’ In addition to the cessation of pearling operations, the reforms attempted to ameliorate living conditions for the Sovereign’s indigenous subjects, eliminate corruption in the governing bodies of the Indies overseas (*Audiencias*), and streamline judicial review of criminal and civil cases by the Consejo de Indias in Seville (the highest governing body over the Indies with executive, legislative and judicial powers). However, the New Laws are most famous for their



reorganization of labor exchanges, known as the *encomienda*, and slavery in the Indies.

The *encomienda*, whereby the indigenous gave labor in exchange for spiritual stewardship, had been condemned for its abuses ever since Fray Antonio de Montesinos had inveighed on the institution in his sermon on the fourth Sunday of Advent in 1511. Yet the *New Laws* did not abolish slavery, rather they issued guidelines for remedying *illegitimate* cases of past, indigenous enslavement (Laws twenty and twenty-two). Similarly, the New Laws' reform of the *encomienda* system tried to reduce abuses against the indigenous *and* redress inequities in remuneration among the earliest conquistadors. Thus, Law seventeen redistributed Indians from *encomiendas* with an excess number of Indians to “primeros conquistadores” who had none, colonists who were married and, ultimately, to the Crown. This new law directly contradicted the *capitulaciones* (contracts) signed between the Crown and Conquistadors, which had authorized the labor for spiritual stewardship exchange to the conquistadors and their descendants, i.e. *encomienda* in perpetuity in some cases. Less than one year later, following the outbreak of rebellion by the *encomenderos* in the Viceroyalty of Peru, the Prince (and future monarch Philip II) would overturn the newest reform of the *encomiendas*, for which Father Las Casas would famously take him to task in the *Brevísima relación de la destrucción de las Indias* (1552). The rebellions of the *encomenderos* also highlighted the tensions that were involved in

making the full transition from a series of joint ventures among private and state actors to the Sovereign's direct stewardship of the spiritual and economic enterprise of Empire.

As explored above, the examples from the *New Laws* bring to the fore the contradictions of this moral economy in which labor and conscience had exchange values. The union of the two antithetical poles of *amor—caritas* and *cupiditas*—was an unhappy one. Yet by the end of the 16<sup>th</sup> century they co-existed in a parallel accounting system, seemingly without contradiction, in the 1573 *Ordenanzas*. How, then, can we reckon with the conquest when accounting for sins and souls, gold and precious gems, slaves and *encomendados* was intrinsic to the metaleptic habitus of *conquista*?

### *1573 Ordenanzas*

As Todorov observed, the 1573 *Ordenanzas* prescribe dissimulation for initial encounters between the conquistadors and the inhabitants of *terrae incognitae*. Does dissembling mean that the Crown's pursuit of 'love,' 'charity' and 'peace' toward its American subjects or, to be more precise, American subjects in the process of becoming, was any less sincere? Its *amor*, *caridad* and *paz* were no more a semblance than the Fuggers' request for a papal pronouncement on the moral validity of the triple contract. However, by the time the 1573 *Ordenanzas* were promulgated, reckoning with sin and

reckoning with material wealth was a balancing act performed on an imperial scale.

This does not mean that moral economy of empire met no resistance. As Negri has argued, Macchiavelli had prescribed dissimulation to the embattled, self-made leader in response to the power of the multitude. It is but one of the options because the “multitude's unity of action is the multiplicity of actions it is capable of” (*The Porcelain Workshop* 67). The union of *cupiditas* and *caritas* in loving empire spawned circumlocutions in legal discourse to widen the boundaries of the *nomos*, to make it all encompassing.

There are hundreds of *ordenanzas*, often couched in the conditional, attempting to anticipate, overcome and erase insurgency. The “decision tree” aspect of contracts signed between Sovereign and conquistador, as we have seen in the Pedrarias Dávila and Pizarro et al. *capitulaciones*, are translated back into law, branching and multiplying in ramifications as they become law. Why question the validity of the Crown's “burdens of conscience”? Merely indicating that these burdens did, indeed, have a *value*, which generated new burdens, reveals a simulacrum of earlier injunctions against usury: the unnatural, self-replicating *specie*. Let us continue to take the empire at its word, then, and examine how moral risks could be mitigated by a change in name and a renewal of loving discourse.

As seen in the first chapter, venture capital is an inter-subjective activity that depends on *happenstance*, much like the stakes drawn in distinct events

to denote the difference between friendship and enmity. Yet the 1573 *Ordenanzas* show little appetite for risk, in moral or material terms. For the Crown, the pecuniary stakes in play changed with the 1573 *Ordenanzas*, although the moral and material stakes could not have been higher. Although the Crown's contributions in capital to the *empresas* (enterprises) in the Americas had never been overwhelming, article twenty five declared that the Crown would no longer participate with capital investments. It also made the distribution of wealth in new settlements proportional to the amount of the original investment (“conforme al caudal original que uno tuviere para emplear a mesma proporción se le dé repartimiento de solares y tierras de pasto y labor de indios [...]” law 47). Similarly, the Crown renewed its provisions for receiving “carried interest” (twenty percent or one fifth) from all mining and pearling operations (law 50). These *ordenanzas* reaffirmed the practice of profit distribution that we saw in the *capitulaciones* drawn up with Dávila and Pizarro; namely, land, labor and nobility titles would be commensurate to the individual’s original investment.

Moreover, the *requerimiento*, or something similar, continued to be performed, as law thirteen stipulates:

las personas que fueren a descubrimientos por mar o por tierra tomen posesión en nuestro nombre de todas las tierras de las prouincias y [Tachado: tierras que descubrieren] partes adonde llegaren y saltaren en tierra aziendo la solenidad y autos necesarios de los quales trayan fee y testimonio en pública forma en manera que haga fee. (Morales Padrón 490).

The persons who are to make discoveries by land or sea should take possession, in our name, of the lands and provinces and [Striked through: lands to be discovered] areas where they may arrive and land. They shall make the solemn and necessary acts to which they will give faith and testimony in a public manner.

“Tierras que descubrieren” ‘lands to be discovered’ was the phrase that reiterated and highlighted the contingency of “the discoveries” on the “solemn acts” and, unsurprisingly, become the target of attempted erasure. Perhaps this was due to the embarrassment at the self-fulfilling, performative acts of possession; yet the circumlocution, “areas where they arrive and land,” nonetheless describe the tautology of the acts, and bring greater attention to the details of performances that were already learned, a habitus of *conquista*. Similarly, the *encomienda* continues to function and forced resettlements are reaffirmed as the norm (laws 50 and 58). Though the laws repeat concern for the indigenous within the framework of divine providence, prescribed reactions are contingent upon resistance and insurgency.

The indigenous are approached as “friends” but treated as enemies; the public square is to be cordoned off in order to wage preemptive attacks against the indigenous (law 113).<sup>34</sup> Law 136 revisits the modality of the *requerimento* and its enumeration of benefits as part of the peaceful submission package.

The law is expressed in the conditional construction:

*Si los naturales se quisieren poner en defender la población se les dé a entender como se quiere poblar allí no para hazerles algún mal ni*

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<sup>34</sup> The construction of a palisade in the public square recalls Negri’s definition of that “place where the individual can distribute gifts to friends and inflict death on enemies”(17).

tomarles sus haciendas sino por tomar amystad con ellos y enseñarlos a bivar políticamente y mostrarles a conocer a dios y enseñarles su ley por la qual se salbarán dándoseles a entender por medio de los religiosos y clérigos y personas que para ellos diputare el gouernador y por buenas lenguas y procurando por todos los buenos medios posibles que la población se haga con su paz y consentimiento y si todavía no lo consintieren haviéndoles requerido por los dichos medios diuersas vezes los pobladores hagan su población sin tomar de lo que fuere particular de los indios y sin hazerles mas daño del que fuere menester para defensa de los pobladores y para que la población no se estorue. (515)

*If* the natives were to mount a defense against the [new] settlement make them understand that we wish to settle there. [We do not intend] to harm them or take their property but to befriend them and teach them how to live politically and show them to know God and his law through which they will be saved by the religious and clergy and persons and good interpreters to whom the governor has delegated this mission. By all good means possible [procure] that the settlement be made with their peaceful consent. And *if* they still do not consent, even if they still have not consented by different means on various occasions, the settlers should settle without taking what belongs to the Indians and without doing more harm than what is necessary for the defense of the settlers, so that the settlement is not impeded. (Emphases mine)

Unlike the earliest version of the *requerimiento*, this legal document does not detail the painful consequences entailed in any refusal to submit; rather, it emphasizes what the natives stand to gain by consent. The litany of empire's benefits expands the love interest of *conquista* via an economy of scale, in the metalepsis of contiguity and similitude. By virtue of rhetorical largesse it seeks to erase the violence of *conquista* and its ignominy but to retain the habitus of love interest.

The circumlocution of violence, and its attempted erasure, only serves to delineate it, much like a palisade constructed around a public square. The conquistadors, no longer, cannot take the property of the indigenous, according to the letter of the law. How can they stand to make a profit? Necessity and defense mitigate against the main benefits of the *societas* and its practitioners: shared risk and ownership. As proposed in the first chapter, the great promise of venture capital is not collateral offered as security, or the interest garnered upon repayment of a loan. Carried interest is so profitable as a function of *appropriation* for posterity. So, the law orders a paradox: appropriation in a property vacuum.

The law thus depends on two fictions: the settlement of inhabited lands without misappropriation and the absence of aggression. In this imagined “no man's land,” there are no aggressors; both the Indians and the settlers are “defenders.” Even so, measures of harm may be doled out to would-be-friends. Once the land is pacified “*estando la tierra pacífica*,” the Indians are to be distributed in *encomiendas* or *repartimientos* (redistributions, another redundancy) and are obligated to pay “moderate tribute” in kind (*usufruct*, that is, “*frutos de la tierra*” ‘fruits of the earth’). Peaceful evangelization and pacification include taking hostages under the premise of offering an education in ‘proper attire’ (law 142). Yet the law concedes its ignorance on all the manners to proceed ‘conveniently’ and leaves ‘other means necessary’

("otros medios que paresçieren conuinientes") to the discretion of the pacifiers, explorers, discoverers but *not* conquerors:

*Si para que mejor se paçifiquen los naturales fueren[sic] menester conçederles ynmunidad de que no paguen tributos por algùn tiempo se les conçeda y otros preuilegios y exençiones y lo que se les prometiere se les cumpla. (Law 146)*

*If it is better to concede a temporal immunity from paying tribute in order to procure the pacification of the natives, do this and grant other privileges and exemptions and ensure that everything promised is fulfilled.*

Contingency plans in the law thus prescribe exemptions to the law and include intelligence-gathering measures that will lead to further ramifications in the decision tree. The circumlocutions of the law must concede that that the law has boundaries. Paradoxically, the excess in codifying the love interests of empire only served to highlight the law's limitations.

Can "loving empire" make claims to providential discovery, while engaged in a never-ending pursuit of contingencies? As we shall see in the next chapter, the apologists of Spain's empire insisted on providence as the *telos* in discovery, conquest, exploration. Yet the imperial apparatus codified its activities in the Indies in response to the happenstance of friendship and enmity.<sup>35</sup> Who are the Christians in this world where stakes are driven into the ground to make a palisade of the public square? How could they be

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<sup>35</sup> "For to love friendship," as Derrida contends while addressing Nietzsche, "it is not enough to know how to bear the other in mourning; one must love the future. And there is no more just category for the future than that of the 'perhaps'" (*The Politics of Friendship* 29).



recognized? Could Christ's injunction to love your enemies as a friend be obeyed without charging interest?

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Chapter Three  
The Specters of Las Casas in the Political Theology of José de Acosta

Dijeron que el papa debía estar borracho cuando lo hizo, pues daba lo que no era suyo, y que el Rey, que pedía y tomaba la merced, debía ser algún loco, pues pedía lo que era de otros, y que fuese allá a tomarla, que ellos le pondrían la cabeza en un palo, como tenían otras, de otros enemigos suyos [...] y dijeron que eran señores de su tierra y que no había menester otro señor.

Martín Fernández de Enciso, *Suma de geografía* (1519)

The exchanges proposed by venture capital in the conquest depend on an understanding of love that privileges the metaleptic use of *amor* and *interés* as synonyms, seemingly without contradiction. Reception of this ideology defined the political and religious thought of Bartolomé de las Casas (1484-1566) and José de Acosta (1539-1600), whose influence was felt beyond the Spanish speaking world both among their contemporaries and by subsequent generations.<sup>1</sup>

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<sup>1</sup> See Conley and also Rabasa in *Writing Violence* for the reception and translation of the *Brevísima* in Protestant Europe. The *Brevísima* was the only work by Las Casas that was translated and printed in modern European languages during the 16th century. Manuscripts of his *Historia de las Indias*, *De unico vocationis modo*, *Apologética historia*, *De regia potestate*, *De thesauris*, etc. were circulated and read among members of his activist network in Iberia and the Indies. See Parish for detailed accounts of the circulation, reception and publication of the early works by Las Casas (*The Only Way* and *The Life and Writings*). See Losada and Denglos for circulation and reception of *De thesauris* and the *Tratado de las doce dudas* (in *Obras completas*). Acosta's *Historia natural y moral de las Indias* (1590), in contrast, was an instant "bestseller" in Spain, Italy, France and England both in translations to modern languages and in Latin. See also Del Valle "José de Acosta, violence and rhetoric," for her discussion of the influence of the *Spiritual Exercises* by the founder of the Society of Jesus, Ignatius of Loyola (1491-1556), on Acosta's *Historia natural y moral de las Indias*. To place Acosta's oeuvre within the *longue durée* of Spanish scientific writings

Recently, these two authors have both been acclaimed as precursors to “liberation theology” and “teología india,” movements that privilege the poor, on the one hand, and indigenous cultures’ existential understanding of themselves on the other.<sup>2</sup> This chapter examines the related concepts of freedom and salvation as professed by the Dominican friar Bartolomé de las Casas and its reception and criticism by the Jesuit José de Acosta. Although both authors shared the conviction that the Spanish invasion of the Americas had been illegal, their views on free trade and evangelization methods could not be further apart. As these moral and legal exceptions are related directly to the *state of exception*, as seen in chapters one and two, their treatment of these two exceptions (to usury and *jus gentium*) merit the in depth inquiry of this chapter. It is not enough to define one’s position within the circular logic of the law. The prescriptions for converting the indigenous to Catholicism made by Las Casas and Acosta were inextricably tied to their understanding of the indigenous subject’s self-knowledge and knowledge of the world.

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and imperialism, see Cañizares-Esguerra’s *Nature, Empire and Nation*. A little over a hundred years after the first publication of the *Historia natural*, Giambattista Vico (1668-1744) referenced José de Acosta and Francisco Suárez (1548-1617) in his exposition of the poetic history of primitive peoples in the *New Science* (1701).

<sup>2</sup> For comparisons to liberation theology, see *Las Casas: In Search of the Poor of Jesus Christ* by Gustavo Gutiérrez and Walter Mignolo’s Introduction to the English translation of Acosta’s *Historia natural y moral de las Indias*. For the lascasian origins of “teología india” see Rabasa, *Tell me the Story of How I Conquered You*; in defense of his use of the term “teología india” against the inquiries of the Office of the Doctrine of the Faith, López Hernández has reminded Church authorities that it was Bartolomé de las Casas who originally coined the term, *theologia indorum* or “theology of the Indians.”

Were *conquista*, and its discontents, “haunting” the Spanish held Indies? Acosta belonged to the writers of the post-1573 generation for whom *conquista*, following the prohibitions of the law seen in the first and second chapters, ought to have been a memory of the past.<sup>3</sup> It would be impossible to imagine Acosta writing *De procuranda indorum salute* (1589) and his *Historia natural y moral de las indias* (1590) without the written work and activism of Las Casas in the back of his mind. Yet not once does Acosta mention Las Casas by name in *De procuranda*, even though he polemicizes with the entire body of lascasian thought, especially from the latter years, throughout his work. Though Las Casas belonged to an earlier generation of missionaries in the Americas and had passed away four years before the young Acosta would receive his order to travel to Peru in 1570, the Dominican friar cast a long shadow over the Jesuit’s mission and livelihood. When Acosta arrived in Peru he found that the new viceroy Francisco de Toledo (1515-82) had recently upended the Crown’s strategy toward the Vilcabamba insurgency by choosing military invasion over diplomacy; the last Inca of Vilcabamba, Tupac Amaru I, had been executed in the public square in Cuzco only months before Acosta set foot in Callao in April 1572. On the ideological front, Toledo scoured the Inca centers of power for native informants whose histories could attest to an Inca tyranny. His efforts attempted to counteract the proponents of self-

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<sup>3</sup> In the spirit of Michel de Certeau’s paradoxical assertion that “the ghosts find access through *writing* on the condition that they remain *forever silent*” (*Writing of History* 2).

rule based on native elite structures, such as the Incas or the *curacas*, without the secular apparatus of the colonial state.

The advocacy of Dominican friars, such as Domingo de Santo Tomás (1499-1570), on behalf of the *curacas* of the Mantaro Valley in the 1560s had received theoretical support from Las Casas in *De thesauris* (1563), which sought remedies and remuneration on behalf of the indigenous for the lives and treasure lost with the Spanish invasions.<sup>4</sup> The *Tratado de las doce dudas* (1564) asserted, without a doubt, that the damage done to the Indies was irredeemable and that Spain's monarchs and its people would be forever damned unless they retreated from the Americas. Supporters of Las Casas were dispersed among faculties of theology and indigenous languages in Lima and among Dominican, Jesuit and Augustinian friars in the highlands. The advocacy for self determination by this lascasian network was opposed by the *extirpadores de idolatrías*, such as Martín de Murúa (1525-1628) and Cristóbal de Albornoz (1530-?).

José de Acosta established close ties to the Viceroy and ecclesiastical hierarchy in Alto and Bajo Perú. Soon after his arrival in Lima, Acosta traveled throughout Cuzco, Juli, Arequipa, La Paz, Chuquisaca (Sucre) and Potosí in an itinerary and time table that largely coincided with Viceroy Toledo's *informaciones* and *ordenanzas*. Upon his return to the Ciudad de

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<sup>4</sup> The posthumous publication of *De regia potestate* (1571) in Frankfurt, which argued in favor of autonomous, native rule, has led researchers to question its authorship. In their introductory study, Pereña and González Rodríguez point to evidence in favor of Las Casas' authorship.

los Reyes (Lima), Acosta participated as a *calificador* in the Inquisition trial against three Dominicans, Francisco de la Cruz (d. 1578), Pedro del Toro, and Alonso Gasco, and a woman, María Pizarro.<sup>5</sup> De la Cruz was burnt at the stake for heresy; his citations for apostasy against the faith included advocacy for polygyny among laymen, the abolition of celibacy for priests, and promoting the priesthood of women and the self determination of the indigenous peoples of Peru. De la Cruz had occupied a high post in the ecclesiastical hierarchy of colonial Peru; his beliefs, his apostasy and his downfall must have had quite an effect on Acosta, who would later warn fellow and future missionaries in *De procuranda indorum salute* of the corrupting influence of native practices on the spiritual and physical health of priests.

Acosta saw the influence of the devil in native practices which, uncannily, mirrored Christian sacraments (such as anthropophagy : Eucharist), and were referred to broadly as examples of *simia dei*. His influence on the decisions and catechisms developed during the III Council of Lima (1582-3) are widely documented (Lisi).<sup>6</sup> The catechisms emphasized exploration of the native interlocutor's conscience for details of

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<sup>5</sup> For the larger context of the Lima Inquisition within the empire as a whole, see *The Inquisition in the Spanish Dependencies* by Charles Lea. The proceedings against Francisco de la Cruz can be read in the editions by Abel Castelló et al. See Marcel Bataillon's "La herejía de fray Francisco de la Cruz y la reacción antilascasiana" for a persuasive argument that the proceedings against Francisco de la Cruz had wider repercussions against Las Casas and his followers in Perú.

<sup>6</sup> Acosta personally brought the minutes of the proceedings and decisions of the III Concilio limense to Rome, for the Pontiff's approval, in 1588 and Philip II's ratification in the Escorial in 1591.

illicit sexual acts (especially sodomy, fellatio, incest, polygyny) and knowledge of accounting and narrative practices (the *kipu*) for extirpation campaigns.<sup>7</sup> By promoting the sacking of tombs and areas of ancestor worship in order to confiscate the narrative *kipus*, Acosta pushed back against Las Casas' arguments that all objects associated with native burial practices belonged to the indigenous and their descendants. Soon after his participation in the III Concilio and a brief sojourn in Mexico, Acosta returned to Spain where he continued to scale the hierarchy within his order and in academic circles; he died in 1600 as the Superior of the Jesuits in Valladolid and the rector of the Colegio jesuíta in Salamanca.

More than any other humanist and religious thinker who preceded him, including Francisco de Vitoria (1492-1546), Juan Ginés de Sepúlveda (1490-1573) and Domingo de Soto (1494-1560), Father José de Acosta asserted within the parameters of his faith and reason that spiritual enterprise was a comparable and inseparable handmaiden to free trade. His position on the role of trade in evangelization could not have been more alienating to the project of Bartolomé de las Casas. Throughout his ecclesiastical career, first as an ordained priest and later as a Dominican friar, Protector of the Indians and Bishop of Chiapas, Las Casas had firmly

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<sup>7</sup> As demonstrated by Horswell, the Spanish tradition of material and discursive persecution of “efeminados” and “sodomitas” was employed in Perú to justify the conquest, once colonists had experienced and observed third gender rituals. Horswell’s *Decolonizing the Sodomite* offers a history of indigenous gender and sexuality in Perú by taking Ranajit Guha’s *Elementary Aspects of Peasant Insurgency* as his methodological starting point.



believed in the positive influence of Iberian peasantry and tradesmen in securing the trust of indigenous interlocutors; he had little faith in capital and its agents.<sup>8</sup> His failed settlement in Cumaná (Venezuela) and his ventures into evangelization in Verapaz were exemplary of peaceful contact, for his supporters and detractors alike. Las Casas thus established an important precedent in the discourse of evangelization: firstly, any discussion of method had to take into account the indigenous habitus prior to contact; secondly, indigenous reception of the Faith could not be divorced from an honest and detailed accounting of the violent methods used by missionaries and *conquistadores* and the injuries sustained by the indigenous in these encounters. Thus, his treatise on the only way to evangelize the indigenous, known by its shortened Latin title, *De unico modo*, envisioned, and put into practice, merchants and missionaries entering indigenous lands, unarmed and willing to assume martyrdom.

The *Historia de las indias* and its offshoot, the *Apologética historia*, complemented *De unico modo's* treatise on evangelization by contesting the Aristotelian argument in favor of natural slavery on several rhetorical fronts. As Hanke has observed, Las Casas had a mercurial relationship with the Philosopher (124-5). If in 1519, Las Casas denounced Aristotle as a heathen philosopher whose beliefs on proper government had no bearing

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<sup>8</sup> Las Casas shows his appreciation for cultivated fields and derision for the Spanish rush for gold in the *Brevísima*. It is not that Las Casas disparaged all means of *usufruct*, rather he valued sweat and toil that did not get subsumed into the processes of capital. Unlike Acosta, Las Casas did not count the activities of the *conquistadores* as labor.

on Christendom, the *Apologética* would argue that indigenous societies displayed the characteristics of civilized societies, by referencing the categories employed by Aristotle in his *Politics*.<sup>9</sup> To Juan Ginés de Sepúlveda, the learned humanist and translator of the *Politics*, Las Casas showed little deference, arguing that Sepúlveda had not understood Aristotle's doctrine of natural slavery which was, in any case, irrelevant to the Indies since only a reduced number of individuals in *any one* society, but not entire *peoples*, could be considered natural slaves. Moreover, the indigenous could not be enslaved under the civil regime envisioned by Aristotle as the Spanish had no just cause for war against the indigenous, who had every right to defend themselves against violent invaders. At the same time, as Rabasa has contended in *Inventing America* (164-79), Las Casas later undermined the conventional alignment of binary oppositions (civilized vs. Barbaric, Christian vs. Heathen, sheep vs. wolves) in the *Brevíssima* and *Apologética*, thus questioning the relevance of binary thought and the Aristotelian paradigm in and of themselves.

Do all these references to Aristotle make Las Casas an Aristotelian thinker, as O'Gorman has argued? His ongoing and evolving dialogue with Aristotelian thought throughout his life suggests that Las Casas felt compelled to engage with Aristotle, but was not an Aristotelian *per se*. Confronted with justifications of natural slavery and civil slavery at every

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<sup>9</sup> In *De unico modo*, Las Casas defines love based on the Aristotelian definitions (in the *Ethics*, *Metaphysics* and *Politics*).

turn in the practice of conquest in the Indies, Las Casas whittled away at them both for over fifty years, using all the rhetorical tools at his disposal. This included arguing within the Aristotelian system and without it, depending on the project at hand.

Las Casas learned from his enemies. He would argue, forcefully, that the indigenous learned many things, including rationalization of the irrational, from their enemy invaders. From Fernández de Enciso's *Suma de geografía* (1519), Las Casas discovered the power of the Indians' voices, as an original source that resisted the framework of imperial apologetics within which it was presented.<sup>10</sup> In his narrative of the *requerimiento's* reception in Cenú, Fernández de Enciso cites indigenous arguments against the *requerimiento* as examples of their unruliness, their lack of respect for King and Pontiff, and a resistance inspired by spite:

Respondiéronme que en lo que decía que no había sino un Dios y que éste gobernaba en el cielo y la tierra y que era señor de todo, que les parecía bien y que así debía de ser, pero que en lo que decía que el papa era señor de todo el Universo, en lugar de Dios, y que él había hecho merced de aquella tierra al rey de Castilla, dijeron que el papa debía estar borracho cuando lo hizo, pues daba lo que no era suyo, y que el Rey, que pedía y tomaba la merced, debía ser algún loco, pues pedía lo que era de otros, y que fuese allá a tomarla, que ellos le pondrían la cabeza en un palo, como tenían otras, de otros enemigos suyos [...] y dijeron que eran señores de su tierra y que no había menester otro señor.  
(qted in Las Casas *Historia de las Indias* III.63)

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<sup>10</sup> Las Casas refers to him derisively as the “*Bachiller Anciso*” who believed in the legal fictions of the *requerimiento* because he was an argumentative lawyer; “y como Anciso era jurista, debió parecerle que justificaba, con usar del *requerimiento*, mejor sus robos y violencias que iba a hacer a los vecinos de Cenú.”

They answered me that, as for my saying that there was but one God, and that this God ruled heaven and earth and was Lord of all, this seemed all well and good, and this is how things must be. But when it came to the Pope being lord of the universe, in the place of God, and that he had granted the favor of bestowing that land on the King of Castile, they said that the Pope must have been drunk when he did that, since he was “bestowing” something that was not his, and that the King who requested and accepted the favor must have been somewhat mad, since he was requesting something belonging to someone else, and that he should come here and [try to] take it himself so they could drive his head on a stake as they had with other enemies [...] And they said that they were lords of their land and that there was no need of another lord.

Limiting his commentary to a reiteration of the arguments and questions raised by the men of Cenú, Las Casas concludes, sardonically, that this Bachiller, believer in legal fictions, must have created what could only be a fictitious response. For, in the space of an hour, and with no knowledge of each others’ languages, how could they have discussed pontiffs, donations, monarchs and the Trinity? And yet, as with the eloquence of Hatüey or the mothers justifying infanticide both in the *Brevíssima* and the *Historia de las Indias*, Las Casas does not deny the truth of the people of Cenú’s claims. Fernández de Enciso had also accused the indigenous of committing suicide out of spite, in order to deny Spanish access to labor, and rejecting forced baptism. Las Casas does not deny the possibility of spite driving the indigenous responses to the *requerimiento*, rather he factors in the original action of the conquistadors and evangelizers in his economy of retribution (i.e., indigenous *despecho* for the conquistador’s *amor*).

Las Casas does not deny these motivations, rather he argues that rational, caring human beings would not have reacted in any other way. It has been widely noted that suicide in the public square is the greatest example, and the most feared act of defiance, of the empire's limits on regulating biopower.<sup>11</sup> All the more so in the labor and spiritual exchanges of the *encomienda* system that placed a premium on the labor and souls of potential neophytes. Suicide introduced a radical alterity into that equation and, despite Fernández de Enciso's protestations to the contrary, articulated a rational rejection of Christianity as it was practiced in the Americas by its zealous proponents.

With *De unico vocationis modo omnium gentium ad veram religionem*, Las Casas aimed to widen the breach between the general partners of the *conquista*, Church and State, and to reintroduce missionary work as a labor fraught with moral and physical peril; his ideal missionary would not count on armed men to guard his life, thus armed men would have no place in the social order. He proposed entering Tuzutlán, in

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<sup>11</sup> In his lectures on "Security, Territory, Population," Foucault tied "massifying" forms of biopower to the emergence of the absolutist, European state. The role of trading companies in exploiting biopower, in the economy of life and death in the Indies, would not fit in a Foucauldian history of biopower. According to Hardt and Negri, "Biopower is a form of power that regulates social life from its interior, following it, interpreting it, absorbing it—every individual embraces and reactivates this power of his or her own accord. Its primary task is to administer life. Biopower thus refers to a situation in which what is directly at stake in power is the production and reproduction of life itself" (*Empire* 24). Their example for the limits of Empire recalls the self-immolation of Buddhist monks in Tibet.

Guatemala, a place known as *tierra de guerra* by the Spanish colonizers, without any means of physical defense.

As argued in the second chapter, inhabitants of designated *tierras de guerra* were living a social death, already accounted for as slaves-to-be-captured. For the Dominican missionaries there were no guarantees of success and no temporal horizons to account for timely conversion. At the same time, the haste of the conquistadors and their leaders to gain dominion over native lands and labor had created malicious delay in the true conversion of the indigenous. For Las Casas, this damage to others was irreparable; robbed of their time to repent, the indigenous saw their opportunities for salvation cut off:

sed potissime tempus vitae, quo necessario indigent ad fidem suscipiendam, baptismum et paenitentiam tollantur [...] Ergo maximum peccatum inter peccata contra proximum committit, qui causam dat illius perditionis. (*De unico modo* 526)

especially for having robbed them of their lifetime which would have been enough to receive the faith, baptism and repentance [...] Thus they commit the gravest of all sins against another, for they have been the cause of the other's perdition.

Rooted in the Scholastic understanding of time as a thing of God, the theft of time—unlike material and spiritual goods—had no remedy or satisfaction; perhaps the only satisfaction would be the knowledge that the thieves had committed a mortal sin that could not be absolved, likely, because no act of reparation would adequately compensate the aggrieved for the time lost that could have been spent in a state of grace: “sunt ergo

rei supradicti omnes totius damnationis omnium eorum” ‘so that all the aforementioned men are accused of damnation.’ Only sins against the Holy Spirit are unforgivable, but by raising the specter of the impossibility of accounting for the lost time in a state of grace of another, Las Casas approaches an *aporia* in the Catholic economy of faith and repentance. We can infer from Las Casas’ economy of time and repentance that absolution for *encomenderos*, and, ultimately, the Sovereign, was impossible. It was an impossible possibility that went against the doctrine of the Church, as all sins except for that against the Holy Spirit are forgivable, but it nonetheless existed by *fiat, de facto*, much like the empire of Spain was said to exist in the Indies, because a handful of men, the preachers who refused to give the *encomenderos* absolution, had willed it so.

Moreover, Las Casas notified, that is, *required*, the *encomenderos* of Verapaz and beyond to remain without the process of dialogue with entire *peoples*. As the full title of his treatise suggests, Las Casas struggled with the “protected” status of individual Christian neophytes within larger communities of nonbelievers. Where Las Casas did turn to free trade, he did so in an effort to place trade in the service of evangelization. Thus, when he attempted to put his ideas into practice in Verapaz, Las Casas enlisted indigenous Christian merchants, who already traded with the *indios de guerra*, to continue trading while singing of their faith in Maya. If their professions of faith were met with welcome and the community reached a consensus to invite missionaries, only then would Spanish missionaries

follow traders into this *tierra de guerra*. The emphasis on *omnium gentium* both underscored the universal ambitions of his project and its inherent paradoxes: how to maintain the cohesion of the *gentium*, while undergoing the fracturing and denial of self that is part of the conversion process.

Bartolomé de las Casas's approach to defending indigenous claims to sovereignty thus became a case by case defense and an itemized call for remedies and satisfaction. Both the *Brevísima* and the *Historia de las indias* offer an overwhelming casuistry that defends the real political subject in each and every case of attempted subjugation.<sup>12</sup> Las Casas addressed the coherence of the indigenous peoples of America, and especially of Perú, within the capital flows of empire in *De thesauris*. The *Tratado de las doce dudas* served as a supplement in moral and political theology to *De thesauris*.

Described by researchers, such as Ángel Losada, as a largely incongruent treatise written in the last years of his life, *De thesauris* (1564) couples Las Casas arguments favoring reparation for looted tombs and sacred places and beings (*huacas*) in Peru, and also Mexico, with the illegitimacy of the conquest of the Indies. Like the *Doce dudas* (1564), *De*

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<sup>12</sup> As Giorgio Agamben has shown in his analysis of Paul's letters, messianic time is defined by the suspension of the law, of the exception as law, when paradox reigns and our understanding of "the people" becomes fragmentary. For Agamben, the political legacy of Pauline messianism (the when and how of conversion to Christianity) is the remnant, "that which can never coincide with itself, as all or as part, that which infinitely remains or resists in each division, and, with all due respect to those who govern us, never allows us to be reduced to a majority or a minority. The remnant is the figure, or the substantiality assumed by a people in a decisive moment, and as such is the only real political subject" (57). This real political subject, whom the *requerimiento* created, while denying its right to exist, also offers another frontier, in consciousness, to which imperial power would stake a claim.



*thesauris* reflects on the judgments that confessors had to make when hearing the confessions of *conquistadores* and *encomenderos*. What if they confessed to pillaging a tomb? Or owing back wages to their servants? What if they had waged war *a sangre y a fuego*? Or if they had burdened their Indians with too much tribute? Or worked them to death in the mines? What could be asked of them to make reparations and give satisfaction to the aggrieved? Who was ultimately responsible?

*De thesauris* defines the state of the question by opening with the specific, material case of the *huacas*, their belongings and their ownership:

Nunc autem queritur en illa pertinebunt indifferenter ad quemlibet qui, uel propia autoritate, uel de licentia Regum nostrorum Hispaniarum siue gubernatorum, nomine regio, partes illas gubernantium, quesierit, foderit, repererit et tulerit, animo sibi retinendi, itaque acquirat dominium earum rerum pretiosarum siue thesaurorum et possit, salva conscientia, retinere. (12)

The question is whether all this [treasure] shall belong, indiscriminately, to whomever that, or by his authority, or with license by our Spanish monarchs, or by the governors who in their name head the governments of these regions, search (*quesierit*), unearth, find and remove it for the purpose of keeping it, if they shall acquire dominion over these precious treasures and can, in good conscience, keep them.

Las Casas presented this state of the question and his response as part of his last will and testament to Philip II. His reference to *regum nostrorum Hispaniorum* specifies his own sense of belonging while (re)presenting the habitus of others' belongings. In the document that keeps his own, impending interment on the horizon, Las Casas offers a juxtaposition in autochthony: recall the place where "our" and "their" ancestors are buried.

This exercise in juxtaposed autochthony—the sense of belonging that comes from the deep earth (*cthon*) both as grave and source of abundance—goes to the heart of the contradiction in searching out inhabited *terrae incognitae*.

How can this treasure, which can be found only through the knowledge of native inhabitants, be the object of *conquista*? His use of the verb *quaerere* could not be more explicit. Las Casas thus begins his own inquest into autochthonous wealth by recalling similar practices of burial among all peoples of antiquity. The original intent and honors of such burials could only be undone, willingly, by the owners of the grave or their descendants. Foreign kings could not even inquire, that is, discover, *conquaerare*, their locations and belongings. Since the moment of the first discovery, by Columbus, most of the indigenous peoples of the Americas had not proffered the wealth of their ancestors to the conquistadors of their own free will, thus the Crown and the *conquistadores* remained indebted to them and their descendants. Moreover, Las Casas suggests that the entire conquest was suspect as the wealth of burials had served to fund subsequent expeditions (i.e., its scalability in the *modus operandi* of venture capital). Furthermore, the Papal Donation had given the Spanish monarchs the responsibility to evangelize in the Indies, but not to have dominion over it. Responsibility, for Las Casas, included providing the material means for missionary work. Yet most *capitulaciones* signed from the 1560s onward did not provide the salaries for priests associated with the ventures; the indigenous were expected to tithe in addition to providing

tribute, in labor and in kind, to the *encomenderos* or *corregidores*. This situation was untenable, especially when imperial expansion had depended on priests for labor and capital. A notorious example was Hernando de Luque, who had participated as a *socio* in the *conquista* of Peru with Francisco Pizarro, Diego Almagro, and the Licenciado Espinoza, and had profited from the *huacas*.

The mendicant orders led by Archbishop Loaysa in Lima heralded the decade of the 1560s with *Avisos breves para todos los confesores del Perú cerca de las cosas que en él suele haver de más peligro y dificultad* in March 1560. Based on Las Casas' earlier *confesionario*, the twenty six articles of the *Avisos breves* (1560) created a manual for confessors that provided the counterpart to the decision-tree like manuals of the *capitulaciones* for venture capitalists, analyzed in the second chapter. The *avisos* took the *confesionario* one step further because they tried to account for all parties involved in the business of conquest: weapons dealers, merchants, and servants; pretty much anyone who had received something in specie or in kind from a conquistador was in danger of not receiving absolution. Those in doubt had to provide restitution to the Indians. Doubt, rather than polemic, informed the experience of conquest and understanding of self for all parties involved. The *Tratado de las doce dudas* most likely arose as Las Casas' response to twelve doubts put forward by a fellow Dominican friar, Fray Bartolomé Vega, when he was consulted as a moral authority (Denglos xvi-xxxv).

As opposed to a debate on the state of a question, that can be discussed on the merits, a doubt, for a Catholic subject, as a practical matter, is a mortal sin. Yet acting with a doubtful conscience without justifying the act beforehand could prove even more problematic when the subject in question is a Catholic sovereign. Ultimately, the *Doce Dudas* touched upon the doubt of a decider, the Sovereign, on the lawfulness or unlawfulness of an action, or the law itself; doubt, which is a matter of moral theology, was treated by Las Casas as political theology *avant la lettre*; Las Casas would not free the deciders of the exception, Schmitt's definition of the Sovereign three centuries later, from their doubts on the exception.

In *De thesauris*, Las Casas had implied that the Sovereign could not be absolved of mortal sin unless he or she decided in favor of the liberty of the indigenous, whose violation implied a series of remedies and satisfactions. In the *Doce dudas*, the doubts of the Sovereign that had been made manifest in the preambles to the laws on the Indies promulgated in 1526 and 1542, required an urgent resolution. The economy of conscience, the weight and measure of it, so famously articulated by Charles I in the 1526 *Ordenanzas* and later the *Leyes nuevas* (1542), were for Las Casas a manifestation of a Sovereign conscience in a state of sin.

From Las Casas' treatment of Sovereign doubts, it can be inferred that promulgating laws in a state of ambivalence were sinful acts. Enacting laws that codified ambivalence between *caritas* and *cupiditas* was doubly

pernicious. As his last will and testament, Las Casas willed his Sovereign to recognize that *caritas* and *cupiditas* were antithetical. It was as if Las Casas, ever ironic, were asking of his Sovereign, *you must decide*.

The thorny question of the Sovereign's liability directly touches upon the recourse to exceptions in the venture capital model and its role in the denouement of the state of exception in the conquest of America. The sources for the first shipments of bullion from Perú were well known: ceremonial centers had been sacked as payment for the ransoms of indigenous leaders such as, most famously, Atahualpa, but also the *curacas* of Lima, Pachacamac, Jauja and Huancavelica. The objects made of gold and silver, feathers, paint, stones and ceramic were stripped down to their metal base and melted into bullion in Cajamarca before they were distributed, packed and shipped to Panamá and Seville. Investors and partners, such as the licenciado Espinoza, in Nicaragua and Panamá had to be repaid; the King had to receive his carried interest (*quinta real*). By dedicating an entire treatise to the lost treasures of Perú *and* the illegitimacy of the conquest as a whole, Las Casas exploited the extensive documentation of grave looting in Perú to expose the insurmountable debt of the empire, from its very inception as a series of venture capital funds, to the *peoples* of the Indies.

Incurring mortal sins for crimes against *jus gentium*, which Las Casas argued were crimes against God's covenant with Christians, *and* amassing debt with the indigenous dead and their descendants places the

very conscience of the sovereign at hock; how *can* it be repaid, let alone absolved? It was a gesture that drowned the trope firing the imperial foundry; Las Casas refused to privilege the translation of the indigenous *sacer* into the metropoli's *capital*; it upheld the alterity of the *huaca* in the castellanos de oro passing hands in the European money markets. To the credit of Las Casas, he raised the specter of the indigenous ancestors over the credit of the Spanish sovereign.

As noted by the Portuguese ambassador who was received by Philip II in his *audiencia*, the *crédito* of the Spanish sovereign was formidable: a chest full of bullion on display in the throne room (Sanz Ayán 21). Yet this ostentatious wealth belied a constant lack of liquidity. 1557 was the first year in which the Spanish Crown had to default on its debt service to its creditors and it marked a shift in the Crown's *modus operandi* for financing the state and its wars on the European continent. The experience with bankruptcy had led Philip II, the Consejo de Castilla and officials of the Casa de Contrataciones to ask the *encomenderos* of Perú and the new viceroy, the Conde de Nieva, to make him an offer for concession of the *encomiendas* in perpetuity. Domingo de Santo Tomás and Fray Bartolomé de las Casas, on behalf of the *curacas* of Perú responded, famously, by making Philip II a counter-offer.

Whereas the Crown's *quinta* from its American ventures had figured prominently as a source of credit prior to the 1557 default, the full haul of the treasure galleons increasingly underwrote loans for the Crown after

that first crisis of faith in Philip II's credit. The ramifications of *De thesauris* for the empire and its financiers after 1557 were all too clear; servicing one kind of obligation while ignoring another made the good faith of these *negocios* entirely dependant on the worst kind of theft: of the time for salvation and the wealth of the dead and their descendants. Almost immediately following the passage of the 1573 *ordenanzas*, and almost ten years after the passing of fray Bartolomé de las Casas, the Crown would once again find itself unable to fulfill its obligations, material or otherwise.

Acosta condoned grave robbery in the name of saving the Indies from the scourge of the devil in his subterranean domains. As argued in *De unico modo* by Las Casas, the devil and idolatry entered the Indies with the *cupiditas* of the conquistadors. Acosta's project to free the indigenous was surely no less earnest than that of Las Casas; yet for the Jesuit, the greed that fueled the *conquista* was a godsend as it brought Christianity to dominions ruled by the devil.<sup>13</sup> The extirpation of *huacas* and their accompanying narrative objects, the *kipus*, had to be compensated in some way. It was, after all, hard work, that needed compensation. It is thus hardly surprising that Acosta would model his *Historia natural y moral de las indias* and the *De procuranda indorum salute apud Barbaros* on the influential works of Las Casas. However, the similarities between their works were limited to the format: Latin treatise on evangelization

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<sup>13</sup> For the argument that English colonists were similarly motivated, see Jorge Cañizares-Esguerra's *Puritan Conquistadors*.

accompanied by a History of the Indies that examined the indigenous habitus before and after the conquest. Though their projects shared a similar approach, the culmination of comparative ethnology within Aristotelian categories in Spanish letters, according to Pagden in *The Fall of Natural Man*, their *ethos* could not be further apart.<sup>14</sup>

Acosta and Las Casas held similar positions on the Papal Donation as argued by the School of Salamanca, especially the articulation of legal titles of appropriation by Francisco de Vitoria. Vitoria's equanimous treatment of the seven "unsuitable and illegitimate titles" (*tituli non idonei sec legitimi*) have been celebrated by generations of jurists in the realm of international law (Schmitt *Nomos of the Earth* 113-20). Vitoria contested rights of appropriation based on imperial world domination, papal world domination, the right of discovery, the rejection of Christianity, the crimes of barbarians, the free consent of Indians, and divine (providential) donation. However, Vitoria's seven "suitable and legitimate titles" of appropriation (*tituli idonei ac legitimi*) provide an opening for inquiry into the assumptions of hegemonic, universalist thought: right to free trade (*jus commercii*), right to propagate the faith (*jus propagandae fidei*), the right to protection (for Christian Indians), papal

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<sup>14</sup> Allow me to state the obvious: there are no institutes or organizations that cherish the memory of José de Acosta as an advocate for the indigenous and the underserved in Latin American societies. This, despite the fact that Acosta's major works have benefited from more continuous publication since the sixteenth century. A comparison of the two thinkers along the lines of their reception of Aristotelian thought thus seems somewhat arbitrary, unless it accounts for their respective positions on the time and place of conversion of the indigenous and the place of free trade in evangelization.



mandate (*jus mandati*), intervention against tyranny (*jus interventionis*), right to free choice (*jus liberae electionis*), and the right to protect one's allies or associates (*jus protectionis sociorum*).<sup>15</sup> Thus, though Vitoria contested Sepúlveda's arguments for Spain's titles to the West Indies that were based on cultural superiority (i.e., the Aristotelian argument in favor of subjugating weaker classes of humanity) or the imputed crimes of Indians against others, such as cannibalism or human sacrifice, he agreed with Sepúlveda on the matter of free trade and the free dissemination of the faith.<sup>16</sup> Opposition to the free passage of traders and missionaries were grounds for a just cause of war (*causus belli*); moreover, Vitoria defended Spain's right to intervene on behalf of those Indians who had converted to Christianity. Thus, the presence of Christian neophytes in indigenous communities effectively circumscribed them within the tautology of legitimate violence. Yet questions on the *time* and *means* of conversion brought into focus the loopholes through which universal imperatives, such as the dissemination of Christ's news in the known world, could override local beliefs and forms of government (*jus gentium*). In this way, messianic time and place makes its own claim to appropriation in the consciousness of each potential neophyte.

What then of *jus gentium* when "the people" are caught up in the process of its own destruction? Vitoria's position on free trade and missionary

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<sup>15</sup> The longevity of these titles, just or not, continues to manifest itself. Consider the "defense of the innocent" and "freedom from tyranny" arguments invoked by President Obama before air strikes on Libya.

<sup>16</sup> We—who is this "we"?—might refer to them as "crimes against humanity" nowadays.

work never engaged the question of the time and means of conversion;<sup>17</sup> Vitoria did not consider the *moment* or *means* of conversion as part of his larger arguments on the legitimate use of force by foreign powers, but these were the considerations at the heart of most approaches, including those of Bartolomé de las Casas, Domingo de Soto and José de Acosta, to missionary work in the Indies. Though Vitoria had called for restitution for injuries suffered by the Indians in his letter to fray Miguel de Alarcos, especially in the case of Perú, he did not go as far as Las Casas, whose calls for remedies for time lost addressed the economy of *conquista* and its reliance on the habitus of love interest.

For Las Casas, free trade was little more than an excuse for armed men to elbow their way into foreign ports.<sup>18</sup> He tells the story of King Manuel of Portugal's armada that had been sent to India in 1500, with reference to Juan de Barro's *Décadas* (*Historia de las indias* 1. 173). In the first section, Las Casas's narrative voice conforms to the metalepsis of venture capital, including approval for the division of 'spiritual' and 'material and temporal' agents among the Franciscans and mariners on the Portuguese expedition. Everything, notes Las Casas, was done according to canon law, including the necessary "requerimientos" with the formula that would become even more notorious in the West Indies some twelve years later. The Portuguese *requerimiento* not only made reference to Christ's

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<sup>17</sup> More precisely, if Vitoria had made references to cases from the *conquistas* in the Americas during his lectures in the 1530s, his students made no note of them.

<sup>18</sup> There are more recent figures of trade at gunpoint. For example, Commodore Matthew Perry's turning of his ship's cannon on Edo to open up Tokugawa Japan to American goods.

“caridad y ley de amor” ‘charity and law of love,’ but also to the need to respect “comercio o conmutación, que es el medio por el cual se adquiere y trata y conserva la paz y amor entre todos los hombres, por ser este comercio el fundamento de toda human policía” ‘commerce and exchange, which is the means by which humanity procures, fulfills and conserves peace and love, for commerce is the foundation of human civilization.’<sup>19</sup> In this way, Las Casas recognizes the ethical appeal to the free trade argument and seems to validate it, as the exchanges of material goods would restrain humanity within the bounds of civilized discourse.<sup>20</sup> However, Las Casas introduces the caveat, the impossibility of true dialogue in these fight or flight situations: “pero con que los contratantes no difieran en ley y en creencia de la verdad que cada uno es obligado a tener y creer de Dios, que en tal caso les pudiesen hacer guerra cruel a fuego y a sangre” ‘as long as the parties do not differ in religion and belief in the truth, for every one is obligated to have and believe in God, in which case they could wage the cruelest war (*a sangre y a fuego*).’ Las Casas opposes each individual conscience against the threat of all out war (*guerra a sangre y a fuego*). The phrasing of “no difieran en ley y en creencia de la verdad” establishes a counterfactual; after all, it is *because* these peoples are not believers that

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<sup>19</sup> Kant will make similar claims in his essay “On the Perpetual Peace.”

<sup>20</sup> Las Casas concludes by referring back to chapters 19, 22, 24 and 25 of the first book of his *Historia de las Indias* to remind his readers that Portugal initiated the process of “free” trade and evangelization in Africa (*Guinea*), which was later followed by Castile.

they and their lands are pursued by these commercial enterprises with impunity.

In the paragraph that follows, Las Casas lets loose the full wrath of his ironic wit, observing that the Indians of the subcontinent received the faith “a porradas” ‘by blows.’ Moreover, the “freedom to trade” was a misnomer for material exchanges made under duress, for “aunque no quisiesen, habían de usar el comercio y trocar sus cosas por las ajenas, si no tenían necesidad dellas” ‘even if they did not wish to, they were to trade and exchange their things for another’s, even if they had no need for them.’ Las Casas concludes by suspecting that, much like their counterparts on the other side of the Tordesillas line, the Portuguese sought out violent resistance in order to justify the slavery of the indigenous inhabitants.<sup>21</sup>

As discussed in the first chapter, Acosta admired the Portuguese model of conquest, and found significant differences between the Portuguese and Castilian monarchs and the reach of their power, based almost entirely on their stakeholdings in each imperial venture. Acosta shared with Las Casas an acute understanding of the material motivations behind the conquistadors’ actions in the Indies. Unlike Las Casas, however, Acosta admired the *cupiditas* of the conquistadors and wished that missionaries would be similarly motivated by the promise of spiritual profits (i.e. Christian neophytes) in the Indies.

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<sup>21</sup> Recall Ferdinand’s admonitions to Dávila and crew to avoid the temptation to subjugate all indigenous as *indios de guerra*.

Specifically, Acosta contemplated missionary work among *Barbarians* whereas Las Casas speaks of working among *Peoples*. Though Las Casas was obviously committed to converting Indians to the Catholic faith, his emphasis on the coherence of the indigenous habitus, which he insisted in the *Apologética historia sumaria* would not have been denied God's universal salvific grace, contemplated losses as a part of conversion so that material remedies and spiritual satisfaction always had to be accounted for, as it was impossible to speak of true conversion without loss (though freely given). Las Casas envisions evangelization as an ongoing appeal to the understanding, following Augustine's famous image of the convert smashing his idols, which culminates in the convert's selective rejection of that aspect of his former self.<sup>22</sup>

Reparations and satisfactions were owed to the infidel or the convert for any violent intrusions on this subjective process of the understanding and the will; book six of *De unico modo* elaborated the various material

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<sup>22</sup> Citing Augustine at length, Las Casas explores the pain of loss when it is done voluntarily:

Nam sit, ut ait Augustinus in quodam sermone, leve cuique non est dimittere propria et sectari aliena incerta, dimittere quod scias, quaerere quod ignores, quis enim propria sine dolore deseruit aut sine lacrimis reliquit?  
(*De unico modo* 466)

And let us consider also what Augustine says in a sermon: leaving one's goods to follow uncertain and alien things; leaving the known for the unknown is no small burden for anyone. Who abandons his things without shedding tears?

If an abjuration of one's former self and *belongings* is difficult, when done willingly, Las Casas reiterates once and again, the pain of forced loss is incommensurate, a permanent wound to the soul.

remedies and spiritual satisfactions required to compensate the indigenous for the injuries they had received at the hands of their unlawful invasion. However, to the extent that conversion was itself a disruptive process, the indigenous always stood to lose part of themselves, as a community, that, for Las Casas, even without an explicit profession of the Christian faith, nonetheless might have benefited from universal salvific grace. The questions for Las Casas, then, were whether knowledge of the true faith could make up for all the losses suffered by the indigenous given the reality of Christianity's introduction in the Americas. At the beginning of his career his response might have been positive but by the time he wrote the *Tratado de las doce dudas*, Las Casas could not imagine Christianity in the Americas *with* the presence of European Christians without net losses, material and spiritual, both to the indigenous and to the people of Spain and their Sovereign.

Accounting for remedies and restitutions had been integral to Las Casas' thought since at least 1537 when he preached *De unico modo* and started putting it into practice. Throughout *De unico modo*, Las Casas repeated Christ's injunctions against taking possessions along missionary work or receiving gifts from converts because the material exchanges could easily confuse potential neophytes on the true objectives of the mission.<sup>23</sup>

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<sup>23</sup> Las Casas paraphrases Christ as follows,

Christus etiam prohibuit Evangelii sui promulgatoribus ne possiderent aurum vel argentum nec pecuniam [et] multo fortius ne ab his, quibus

Moreover, the prohibition against material accumulation before, during or after missionary work would also condition preachers to avoid the (con)fusion of *caritas* and *cupiditas*. The Dominican's insistence on decoupling free trade and evangelization later received the most vociferous response from José de Acosta.

Acosta's latter day accounting for new souls in the Indies did not reckon with indigenous losses and referred to free evangelization and trade collectively as activities that merited armed protection. As Acosta found indigenous societies to be *lacking* in general, indigenous interactions with Christianity and its believers, in whatever guise, would always provide these indigenous individuals with a net gain in material and spiritual terms, even if they had suffered material and moral injuries. Thus, the merchant capitalists of Iberia were commendable, admirable even, because they pursued profit with zeal to the ends of the earth. In order for them to make a profit, the merchant capitalists had to supplement the areas of indigenous life that were lacking, i.e. "la vida de pulicía" 'civilized life.' If only missionaries would be similarly inspired to fill in the gaps of indigenous spirituality!

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praedicaturi erant, non solum ut non violenter raperent aut ab invitis tollerent, verum etiam nec ab volentibus libenter dare acciperent. (416)

Christ prohibited the preachers of the Gospel from carrying gold, silver or money; and not only were they not to rob the men whom they came to preach, or take anything against their will, but also they were not to accept any thing that [the gentiles] would willingly give them.

In what moral universe would merchants become models for missionaries? For Acosta's comparison to work, the values of spiritual and material gains would have to be interchangeable credits and debits in the parallel columns of the accounting system developed by humanist merchants such as Bernardino Cotrugli in 15th century Italy. Not only would Acosta rehabilitate the synonymous use of *caritas* and *cupiditas*, which had fallen into disrepute by the influence of Las Casas, but *cupiditas* would become exemplary for the ambitions of *caritas*:

Iam illud multum mouere nos debet, quod videmus ad gentes profundi sermonis, & ignotae linguae homines penetrare lucrispe, nec deterreri barbarie immensa, sed universa mercium gratia lustrare, [...] augeant tam longam, & periculosam peregrinationem avidissime suscipiunt, ut profecto admirabile sit omnes pene per utriusque Oceani, omnes finis orbis terrarum stationibus nauium Hispaniensium teneri, omnes Indorum *Satrapas* cum nostris mercatoribus, & nautis commercium habere. At qui pretiosissimas merces quaerimus animas Dei imagine insignes, qui lucra non incerta, aut breuia; sed aeterna in coelis spetamus, linguae difficultatem, locorum asperitate causamur.

An argument that ought to stir [the] zeal of [missionaries], is to observe the people in this century who are reaching the unreached language groups and unknown tribes for the hope of becoming rich. They are not scared off by the most aggressive Barbarians, rather they risk all to take them their business offers and their wares [...] All the [men] (*omnes*) and [Satraps, provincial lords] (*Satrapas*) of the Indies now trade with our merchants and our navigators. So there is no reason, then, why we, who are looking for much more precious goods, that is to say the souls that bear the image of God, and expecting no uncertain or short-term profit, but the eternal heavenly kind, should be discouraged by the difficulty of the language and the places.<sup>24</sup> (I. IX. 29-30)

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<sup>24</sup> I have changed McIntosh's translation of "omnes Indorum Satrapas" 'men and Satraps of the Indies' to more accurately reflect the terms used by Acosta to describe



Acosta can draw parallels between mercantilism and missionary work because the equivalence between free trade and evangelization were taken for granted by most authors before him, including, notably, Vitoria. However, Acosta's praise for merchants and their pursuit of profits as paeans to be emulated by missionaries offers a vociferous response to his greatest intellectual competitor, Father Las Casas, and this author's ironic and at times disparaging treatment of drawing comparisons between what were, to the mind of the Dominican friar, incommensurate moral actions and passions that did not deserve equal treatment under the law.

Acosta was not one to deny what he called the "excesses of zeal" in the pursuit of material or spiritual profit, rather he advocated in favor of humanitarian reform and efficiency for a universal economic and spiritual system that he viewed as a done deal. His importance to our story of the union between love, violence and interest, resides in his popularity among his contemporaries throughout Europe and his intellectual and material legacy in the apologetics of empire. Like the work of Las Casas, Acosta's oeuvre, especially his *Historia natural y moral de las Indias* (1589) was influential among his contemporaries and in posterity. Yet before we turn once more to Acosta's theology of indigenous liberation, we must first consider its position relative to Catholic thought on salvation and freedom.

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indigenous forms of self-government. Acosta's use of the generic "men" and the alienating term *satraps*, the lords of provinces in the Persian empire, leave little doubt as to his views on indigenous sovereignty in the context of Christian empire.

### *Define Liberty*

*Porque son libres*, “because they are free.” Bartolomé de las Casas repeats this refrain time and again as he condemns the *encomienda* and the laws of conquest throughout the *Historia de las Indias*. But what can he mean by *libres*? Let us recall Cyprian’s (in)famous aphorism *extra ecclesiam nulla salus* (outside the Church there is no salvation).<sup>25</sup> Does freedom outside of the Church equal damnation? For gentiles born during periods thought to be governed by natural law (Adam to Moses) and written, Mosaic law (Moses to Christ), their implicit understanding of God would be enough; this understanding would be made manifest if their laws and customs followed the precepts of natural law. However, is an implicit faith in God enough *after* the coming of Christ and the law of grace? How about peoples who had lived since Christ’s first coming without exposure to the Good News? Could entire peoples be compared to the savage child of Aquinas’ conundrum?<sup>26</sup> Moreover, following a thorough catechism, what rational human being would reject the love of Christ?

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<sup>25</sup> Many are the authors who have spilled ink on the thorny question of exclusion in Cyprian’s phrasing. A more recent consensus, shared by the likes of Gutiérrez, González Ruiz and Benedict XVI (then Cardinal Ratzinger) emphasize the unity of the church as a route to salvation. However, on the basis of Cyprian’s phrase, writers in the Augustinian tradition created a stark delineation between Christians and non-Christians. For an understanding of Thomistic thought on universal salvation see Capéran’s classic *Le problème du salut des infidèles*.

<sup>26</sup> In *De Veritate*, Aquinas posits the problem of the savage child: raised among barbarians, but during the *time* of the law of grace, is this individual shut out from God’s salvific grace? For Aquinas, if the child follows natural reason in search of the good, upon attaining the age of reason, God, by some extraordinary measure, would

These weighty questions, which had become quasi hypothetical in Scholasticism's heyday when Thomas Aquinas first posited his *exemplum* of the savage child acquiring reason, became an urgent matter in the sixteenth century (*De veritate*. q14, a.11, ad.1). As written, the formula of the *requerimiento* may have assumed the rational intelligence of the indigenous, as Muldoon has proposed. However, Muldoon's proposition is overly generous in his assessment of the options given to the indigenous. After all, refusal to submit to the Pontiff and monarchs was met with enslavement and death, punishments worthy of naturally born slaves, defined in the Aristotelian tradition as irrational beings. Does it follow, then, that refusal to submit is a sign of the potential new subject's lack of reason? Can one refuse the gratuitous love of Christ rationally?

As practiced, the *requerimiento* treated the indigenous as the violators of natural law, the "savages and sub-humans" who, in the evangelization schemes put forward by humanists such as Juan Ginés de Sepúlveda, Martín Fernández de Enciso, and González de Oviedo were headed straight for damnation; saving the otherwise damned through violence was the obligation of every good Christian.<sup>27</sup> Neither author contemplated the possibility of a rational rejection to Christianity since they

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intervene (in *Opera omnia* q. 14, a. 11, ad. 1). But, how? And if God would use extraordinary measures for one savage child, what of a multitude?

<sup>27</sup> Ginés de Sepúlveda's most vehement arguments in favor of violent evangelization were articulated in his *Apologia*, which is earlier than the *Democrates alter*, his best known work. In the *Historia general de Indias*, González de Oviedo uses even more demeaning language to deny rational thought to the indigenous.

failed to articulate a rational, indigenous subject. Indeed, the most complex articulations of God's universal salvific grace belong to those authors who seriously engage with the indigenous as rational interlocutors.

Francisco de Vitoria and Domingo de Soto engaged in nuanced discussions of time, the law(s) and the possibilities of God's universal salvific grace.<sup>28</sup> For Vitoria, the horrific means of evangelization in the Indies had spoiled indigenous exposure to Christianity. Thus, the indigenous could not be accused of willfully ignoring Christian precepts. Moreover, indigenous practices and beliefs displayed a natural understanding of God so that the possibility of salvation remained open to them even if they did not express explicit faith in Christ.

For Las Casas, God's universal salvific grace was denied to none, not even for those *without* the Church: those who had not professed freely their faith in Christ and those who had no exposure to Christ's teaching. Placing limits on God's mercy was the height of arrogance; arrogating knowledge of God's divine plan an affront to God's universal salvific will.<sup>29</sup> He defended the right of all peoples to make "universal truth claims" in good conscience and to persist in free dissent of competing claims, including the claims of Catholicism that he held as his own (Dussel 6-7).

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<sup>28</sup> Both jurists belong to the modern scholastic tradition of the School of Salamanca, which also includes Francisco Suárez, whose *Disputationes* proved essential to the thought of Giambattista Vico.

<sup>29</sup> See Dussel's "Alterity and Modernity" for a reading of Las Casa's entire body of work as squarely at odds with modernity and European imperialism. For an opposing viewpoint, based almost entirely on the early work of Las Casas, see Castro's *Another Face of Imperialism*.

The ramifications of this radical position were many, calling into question the moral and legal validity of the *encomienda* system, but also, and more importantly, a defense of indigenous sovereignty that emphasized not only an explicit expression of the consensus of the people to be governed but also for their “universal truth claims” to enter in a true dialogue with their would-be overlords.<sup>30</sup>

Las Casas traces the origin of the *encomienda* to a faulty reading of Isabel of Castile’s last wishes for the evangelization of the native inhabitants of the Islas and Tierra Firme. The letter is worth quoting extensively as it makes policy for the indigenous based on her understanding of *libre*<sup>31</sup>:

Por quanto el Rey, mi señor é yo, por la Instrucción que mandamos dar á don frey Nicolás de Ovando, comendador mayor de Alcántara, al tiempo que fue por nuestro Gobernador á las islas y tierra firme del mar Océano, hobimos mandado que los indios vecinos y moradores de la isla Española fuesen *libres y no sujetos á servidumbre*, según más largamente en la dicha Instrucción se contiene, y agora soy informada que, á causa de la mucha *libertad* que los dichos tienen, *huyen y se apartan de la conversación y comunicación de los cristianos*, por manera que, áun queriéndoles pagar sus jornales, no quieren trabajar y andan vagabundos, ni ménos los pueden haber para los doctrinar y traer á que se conviertan á nuestra sancta fe católica, y que, á esta causa, los cristianos que están en la dicha isla, y viven y moran en ella, no hallan quien trabaje en sus granjerías y mantenimientos, ni les ayudan á sacar ni coger el oro que hay en la dicha isla, de que á los unos

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<sup>30</sup> Consider, as an example, the liberal position of John Rawls who cannot contemplate a dialogue among competing universal truth claims that does not leave benevolence at a loss on how to proceed (166-7, 417). The contingency of benevolence on the acceptance of Western-held universal truth claims privileges the refusal of one party to dialogue.

<sup>31</sup> Note that Hanke attributes this line of reasoning to Fray Bernardino de Mesa, King Ferdinand’s confessor (23). However, the discourse of indigenous idleness and the economy of liberty precedes the Laws of Burgos by several years, having been articulated and promulgated by Isabel of Castile in December 1503.

y a los otros viene perjuicio. Y porque nos deseamos que los dichos se conviertan á nuestra sancta fe católica, y que sean doctrinados en las cosas della, y porque esto se podría mejor facer comunicando los dichos indios con los cristianos que en la dicha isla están, y andando tratando con ellos, y ayudando los unos á los otros, para que la dicha isla se labre, y pueble, y aumenten los frutos della, y se coja el oro que en ella hobiere, para que estos mis reinos, y los vecinos dellos, sean aprovechados, mandé dar esta mi Carta, en la dicha razón.

Because my King, my lord and I, in the Instructions that we sent to Sir Nicolás de Ovando, friar, knight commander of Alcantara, when he was our Governor of the islands and mainland of the Ocean, had ordered that the *indios vecinos* and inhabitants of the Hispaniola were *free and not subject to bondage*, as outlined in the aforementioned Instructions, I am now informed that, because they enjoy *too much* liberty, they escape and avoid conversation and communication with the Christians. Even when offered wages, they do not wish to work and live like vagabonds, and so they cannot be found in order to catechize them so that they may convert to our holy catholic faith. For this reason, the Christians who are on this island, and live and reside there, cannot find anyone to work on their farms and their upkeep, and they do not help them to pan and mine for the gold on the island, which is prejudicial to all. And because we wish the aforementioned to convert to our holy catholic faith, and know its tenets, and because this can best be achieved by [enforcing] communication between the Indians and the Christians, who try to reach out to them, on that island, helping one another so that the island be cultivated, and populated, and fruitful, and so that the gold there be collected. So that these my kingdoms, and the neighboring ones, will benefit, I gave my reasons in this Letter.

This first section of the letter offers an economy of liberty (too much, not enough) that favors productive *communication and conversation*. There must be usufruct in exchanges between the indigenous and the “Christians”; literally and figuratively, the land must be cultivated and populated; refusal to work, especially when there are wages to be had, is another sign of too

much freedom. An excess of liberty would be defined by Isabel of Castile as choosing not to listen to Christian doctrine, deciding not to live among Spanish Christians and not to work for them in the fields or in the mines. The power to decide one's residence, one's means of sustenance or one's interlocutors is excessive. She argues that this refusal to work, trade (*tratar*) and cohabit in the same place is detrimental to both parties, Indians and Spanish alike. Isabel follows her exposition of the problem with an order for the following *remedies* to be put in place immediately:

Por la cual mando á vos, el dicho nuestro Gobernador, que, del día que esta mi Carta viéredes en adelante, compelaís y apremieís a los dichos indios, que traten y conversen con los cristianos de la dicha isla y trabajen en sus edificios, en coger y sacar oro y otros metales, y en facer granjerías y mantenimientos para los cristianos vecinos y moradores de la dicha isla, y fagais pagar á cada uno, el dia que trabajare, el jornal y mantenimiento, que, según la calidad de la tierra, y de la persona, y del oficio, vos pareciere que debieren haber, mandando á cada Cacique que tenga cargo de cierto numero de los dichos indios, para que los haga ir á trabajar donde fuere menester, y para que, las fiestas y días que pareciere, se junten á oír y ser doctrinados en las cosas de la fe en los lugares deputados para que cada Cacique acuda con el número de indios que vos les señaláredes [...]

For this reason I order you, our aforementioned Governor, henceforth upon receipt of this Letter, to compel and force these Indians to trade and converse with the Christians on that island and to work in their buildings, to collect gold and other metals, and to labor in farms and their upkeep for the Christian *vecinos* and inhabitants on that island. And you shall ensure that each Indian receive a wage for each day of work, according to the qualities of the land, and the persons, and the stations you think they should have. [To this end,] order each *cacique* to keep a certain number of Indians under his charge, to make sure they work where they are needed, and so that, on the feasts and holidays they see fit, to gather the Indians to listen to matters of the faith in the designated places for each

*cacique* to meet there with the number of Indians designated by you [...]

This letter is the first instance of the queen making an explicit recourse to indirect rule, i.e., keeping existing, indigenous power structures in place to the extent that they can be productive for the imperial enterprise. She also recognized their authority to uphold the “conversation,” productively. Thus, Isabel charges native elites with the distribution of tasks for the Indians under their stewardship and for ensuring the presence of the same to listen and receive instruction in the Catholic faith. She explicitly calls for the reduction of the Indians’ liberty, excessive in her view, in exchange for wages and instruction in the Catholic faith. In the latter half of the letter, Isabel also makes provisions for the basic living conditions and safety of her new indigenous subjects. They are not to be treated as *siervos* (slaves) but as free subjects, just not as free as they were before.

Isabel’s economy of liberty will be known by another name in the seventeenth century, i.e. the social contract. Articulation of the social contract has been attributed to the likes of Hobbes, Locke, and Rousseau; authors who speak of power and freedom of subjects in relation to the Sovereign, but not in terms of labor or the means of production.<sup>32</sup> At the heart of the enlightened models of the social contract lies the exchange, tacit or explicit, of an excess of liberty for the rule of the sovereign as a

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<sup>32</sup> Articulated in the form of government either by the rule of a monarch or by majority rule.



means of protection. What goes missing from the “rights” talk of the Enlightenment is the explicit consideration of labor and time in the exchange between individual subjects and the sovereign. Yet Isabel’s letter to a local magistrate in the Indies could not be more clear on the matter of labor and time. In this lesser known imperial formula of the early sixteenth century, the social contract emerges as a business contract. It is a *negocio*, recalling the Latin etymology for “business,” (busy-ness); it is the negation of *otium*. It obligates the excessively free to make *productive use of their time* in the service of empire in return for the benefits of a new political order.

Isabel’s formulation, driven by the pragmatic concerns of subjugating new subjects, emphasizes another aspect of the social contract that is lost in later treatments: enforcement of the new political order on the indigenous entails losses of their lives and a life lived in hardship and fear. It is impossible to overstate the importance of Isabel’s acknowledgement of indigenous resistance to Spanish “benevolence.” The Indians’ refusal to concede defeat exposes the ideological *lacunae*, in the sense used by Althusser, in the forced reconciliation between *caritas* and *cupiditas*.<sup>33</sup>

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<sup>33</sup> In *Ideological State Apparatuses*, Althusser argues that ideology is constructed in the relations between what is said and what remains unsaid. The ‘gaps’ “*lacunae*” in Isabel of Castile’s ideology of “liberty” are exposed when she admits to her new subjects’ resistance to coercion.

If Las Casas saw in Isabel's letter her admission, however slight, of the indigenous will to live without the Spanish political order, he reserves judgement in this section of the *Historia de las Indias*. Instead, Las Casas charges the Spanish sovereigns with ignorance about the true conditions of their new subjects. In subsequent chapters Las Casas argues that Isabel's last order to Nicolás de Ovando, her representative, was grossly misinterpreted, in bad faith, by her Spanish subjects in the Indies. However, Las Casas does underscore that *in effect*, "en la realidad de la verdad," the obligation to inhabit in *repartimientos* was a sentence of slavery in perpetuity: "y así los dio, en la realidad de la verdad, perpetuamente por esclavos, pues no tuvieron libre voluntad para hacer de sí nada o algo, sino donde la crueldad y codicia de los españoles quería echarles" 'and so she gave them [the Indians], really and truly, into slavery for perpetuity, for they did not have free will to do anything or nothing with themselves, but what the cruelty and will of the Spanish wanted for them.' Las Casas' protestations of Isabel's, then Fernando's, then Juana's ignorance about these true conditions are made in the conditional form: had they known the truth, they would have immediately sought to remedy the situation.

The struggle to overcome invincible ignorance cuts both ways, for subjects and Sovereigns. Yet when it comes to liability and culpability, Las Casas reasserts the responsibility of the general partners who participate in an "advisory" role: "principales autem in delictis sunt praecipientes seu

mandantes et hi qui dant consilium patrandi maleficium” “for the main guilty parties are those who give orders, and those who advise evil” (*De unico vocationis modo* 532). The limited partnerships that serve to protect the pooled assets of the larger fund and the more powerful partners do not, as Las Casas asserts, work for salvation. However, his patience wears thin with Charles I and Philip II. He replaces his ironic references to the monarchs’ ignorance with protests of his increasing despair at the Sovereign’s delay, suspected as malicious, in its actions or inaction to remedy the loss of life and liberty of the indigenous.

Increasingly, the positivist hold of secular law held sway over the moral theology written in Salamanca and Alcalá de Henares with the emergence of probabilism as a moral system. With probabilism, if a Christian subject is in doubt about the lawfulness or unlawfulness of an action, it is permissible (i.e., not sinful) to follow a solidly probable opinion in favor of liberty even though the opposing view is more probable. This position, favored by Francisco Suárez in the *Disputationes* and defined by Bartolomé Medina (1527-80) in his “Expositio 1am 2ae S. Thomae,” placed the enforcement power of absolution in peril (see Schüssler *On the Anatomy of Probabilism*). Moreover, as theorists of *moral* theology, they skirted the questions of political theology that had been raised, time and again, by Las Casas over the years: how are Christians to *act* when one Christian Sovereign’s doubts are *enacted* into law? How could they fail to act when they could no longer, in good faith, claim ignorance? And if one

chooses to follow the probable position in favor of liberty, isn't one morally obligated, politically obligated, as a ruler enforcing a "vida de puliçia," 'the political life,' to ask: the liberty of whom?

In his campaign for remedies, Las Casas narrates iterations of origins to the injustices suffered by Indians, Africans, and Indians of the subcontinent. If there is truth to Chakrabarty's contention in *Habitations of Modernity*, that origins—especially violent origins that give way to modernization processes—lure the intellectual into redacting their narration, especially when the intellectual feels implicated in the legal conservation, through state powers, of that foundational violence, what can we make of Las Casas repeatedly indicating one or another event as the origin of systematic oppression, up to his very present (31)?

### *What's Free Trade Got to Do with It?*

As we saw in Chapter 2, by explicitly outlining the paternalistic goals of civilizing the indigenous so that they could lead a 'political life,' the 1573 *Ordenanzas* fully endorsed the Aristotelian binary of civilized vs. barbaric that had been promoted vociferously by Juan Ginés de Sepúlveda. As Hanke observes, though Las Casas had never approved of Aristotelian doctrine, he responded to the imputations of barbarism against the Indians by methodically demonstrating evidence of indigenous political life in his *Apologetica historia sumaria*.

Acosta, on the other hand, formally aligned himself with Sepúlveda's Aristotelian arguments even as he claimed disagreement with the Dominican on the just causes of war. "Ut enim Barbari," 'The Barbarians,' according to Acosta,

veluti mixta humana & ferina natura constant, ut moribus non tam homines, quam hominum monstra videantur sic quae cum illis institutenda est consuetudo, partim humana & liberalis, partim subhorrida, & ferox sit, necesse est, usque; dum nativa illa sua feritate deposita, paulatim mansuescere incipiant, & ad disciplinam humanitatemque traduci.

display a nature that appears to be a mixture of the wild animal and the human being, and their customs are such that they appear to be human monsters rather than humans as such. So we have to begin a treatment of them that is partly human and partly animal, until they begin, little by little, to lay down their native wildness, and become docile and accustom themselves to discipline in proper human customs. (II, xii)

The imposition of sedentary life, the *reducciones*, the cultivation of wheat, grapes for wine and olives for oil, the wearing of shoes, had all been benefits of "poliçia" and Christianity as outlined in the 1573 *Ordenanzas*, with whose implementation in Perú, under Viceroy Toledo, Acosta was familiar.<sup>34</sup>

Monstrosity and savagery go hand in hand with a litany of the good life in law one hundred and forty one:

y los tenemos en paz para que no se maten ny coman ni sacrifiquen como en algunas partes se hazia y puedan andar seguros por todos los caminos tratar y contratar y comerçiar aseles enseñado poliçia visten y calçan y tienen otros muchos bienes que antes les heran prohibidos aseles quitado las cargas y serbidumbres aseles dado vso de pan vino azeyte y otros muchos mantenimientos paño seda lienço cauallos ganados herramientas armas [...] y que de todos estos

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<sup>34</sup> Viceroy Toledo's reforms (1569) pre date the *Ordenanzas* and were a model for the laws promulgated by the Consejo de Indias in 1573.

bienes goçaran los que vinieren a conoçimiento de nuestra santa fee catholica y a nuestra obediencia [...]

And we have pacified them so that they do not kill or eat or sacrifice one another as they did in the past. And they can travel and trade and do business on the roads, safely; we have taught them to live in polite society. They dress and wear shoes and have other goods that were previously prohibited to them. We have removed their burdens and servitude and given them the custom of [eating and drinking] bread, wine and oil and other sustenances. Cloth, linen, horses, livestock, tools and weapons [...] and they will enjoy all these benefits if they come to the knowledge of our holy catholic faith and to our obedience [...]

Like Toledo's push to use native informants in an effort to delegitimize the Incas of Peru and, thus, legitimate the Spanish as liberators of native tyranny, the law combines a narrative of past grievances, such as monstrosity (cannibalism) and servitude, with an enumeration of material and spiritual benefits, which include an enforced 'peace' that is conducive to free trade. Obeying the law, becoming a subject, then, entailed a process of self-effacement and scripting: accepting the imputed monstrosity, reifying the practices and traits associated with it, rejecting them, learning to value the temporal and spiritual 'benefits' of the new regime. Becoming 'civilized' includes evaluating self-interest—temporal and spiritual—within this new paradigm. Thus, Acosta's need to 'tame monstrosity' echoes the sentiment and letter of the law that promises benefits and punishment (i.e., the 'carrot and stick') to ferocious men. At the same time, Acosta subscribes to Vitoria's analysis of the just causes of war so that his justification for the Spanish presence in the Indies remains

free trade and evangelization, whereas dominion is explored in Aristotelian terms.

In the first and second books of *De procuranda indorum salute*, Acosta recalls the arguments of Vitoria, Sepúlveda and Las Casas to his readers. He summarizes and approves of Vitoria's reasoning thus:

Praeter hanc causam acceptae iniuriae, aut violati iuris gentium, nullum nostri maiores iustam agnoverunt, neque; gloria quaerendae, neque; cumularum opum, neque; amplificandi dominatus, neque vero religionis propagandae. Quotquot ver nolaesi arma sumpserunt, eos praedonis potius, qua milites vocitandos cenfuerunt. (II.iv)

Without this cause of harm received or the violation of human rights, our peers did not recognize any other form that was deemed a *just cause*. A *just cause* cannot be for gaining honor, nor for the accumulation of wealth, nor for extending dominion, not even that of propagating holy religion. Those who, not having received any type of harm but yet took up arms, were judged to be more worthy of the name bandits than of soldiers.

Yet Acosta will argue vociferously that the conquistadors are not, in fact, bandits even though their unbridled Greed may have given cause for such an imputation. Moreover, he treats Spanish dominion as a *fait accompli* and accuses Las Casas, though never by name, of playing temporal and spiritual powers against each other.

Acosta condemns unbridled Greed in the actions of the conquistadors and missionaries who have succumbed to the corrupting influence of riches in the Indies (I.xi). Self criticism, Acosta argues, would recognize that “plusque operae coligendo argento ponamos, quam in acquirendo populo Dei” ‘we are more involved in money-making than gaining people for God,’ a self-serving

attitude that has led the ‘Barbarians’ “barbari” to conclude, understandably, “ne vaenale putent barbari esse Evangelium, venalia Sacramenta, neque; animas nobis curae esse sed nummum” “that we charge for the Gospel and the sacraments and that we only care for the money and not for their souls’ (34). Instead of self-interest and the pursuit of profits, missionaries and explorers should succumb to love toward the Barbarians as the motivating force behind evangelization (I.vii). Indeed, Acosta, citing Chrysostom, argues that the rewards for converting a soul are much greater than riches (I.iv). Following the examples of the gospels and patristic authorities, Acosta likens souls to riches. Thus, it is only when self-interest is wed to love for the other that Acosta feels that he can properly speak of sanctified “love interest,” without contradiction.

At the same time, although Acosta denies acting out of self-interest in the pursuit of temporal riches, he admires entrepreneurs and reiterates the material benefits (the civilizing of *hominum monstra*) enjoyed by the Indians. Entrepreneurial zeal thus provides a model for missionary work, offers the material benefits for indigenous conversion and civilization, but, in excess, corrupts and is materially and spiritually inefficient. The effects of unbridled greed have been to strip the Indies of their "ancient prosperity" and to diminish the Indian population (I.xiii).

Acosta then levels his greatest moral attacks not against the conquistadors but against Father Las Casas and his adherents. In his discussion of the proper means for conversion, he recognizes that the ‘gospel of peace’ and ‘sword of war’ joined together are a paradox, but it is love and, perhaps, a leap



of the imagination that are able to unite them even when the understanding cannot (II.i). In this way, though he subscribes fully to Vitoria's argumentation on the just causes of war and titles of dominion, he will deny the salience of peaceful evangelization that Las Casas, taking the first apostles as his model, outlined in *De unico modo*.

Acosta rejects evangelization in the manner of the Apostles on two counts: peaceful evangelization and its associated martyrdom is wasteful in the West Indies; the Indians are inferior to the ancient pagans in culture and rational thought, thus Indians are more inspired to belief than their Greek and Roman counterparts but their 'ungodly' habits are more difficult to extirpate. Acosta attributes the dearth of miracles in evangelization campaigns of the Indies to the lack of rational thought among the indigenous rather than a manifestation of the *doctrineros'* impurity. In contrast, the intellectual rigors of the Greek and Romans posed a formidable challenge to the humble apostles, rendering miracles a necessity to overcome disbelief and instill faith (II.x).

Acosta's examples of "wasteful" martyrdom include the deaths of priests in La Florida (II.viii). He goes into a cost-benefit analysis of martyrdom in greater detail, and condemns what he perceives to be the self-interest of martyrdom seekers. They show a lack of prudence for "specie iustitiae sanctoris committere, ut salutem abijcias, & alienam nihilo amplius compares" 'under the guise of greater holiness [...they nonetheless] gain no lives from it.' Indeed, nothing is more wasteful than becoming the object of monstrous anthropophagi, which would not result in 'true martyrdom.' What, then,

constitutes a 'true' as opposed to a 'false' martyrdom? Acosta's rejection of martyrdom in the Americas could not have been expressed in more visceral terms:

Neque vero ab istis Martyrium expectandum est, quae fortasis spes tantum discrimen levaret, non enim pro Fide, pro Christo, pro Religione moriendum est: Sed ut vel Suaviores epulas de te praebas, quod Brasiliensibus, & toti Septentrionali orae huius orbis vulgare est, vel spoliū praebeas barbaris elegans, vel denique; quia visus es numquam, & quid in te sibi liceat, experiri iuvat.

And it is not as if a true martyrdom would await us, which would be a great relief in such labors. For death would not come to us for the Faith, for Christ, or for our religion, but rather to make us a more succulent morsel for their palate, as is common in Brazil and in all the northern coasts of the New World, or to become a hunting-trophy for them. Or, finally, if they had not seen a foreigner [before] to experiment and see what they could do to us.

Let us put aside the objections of the missionaries who died in precisely the manner derided by Acosta and were later canonized for their martyrdom by the church. Acosta's reasoning shows an almost utilitarian disdain for the deaths of his brethren in Christ, *unless* they could maximize (i.e., scale) the number of neophytes achieved per death. Yet Acosta not only frowns upon martyrdom in quantitative terms. He analyzes the efficiency of martyrdom based on the lesser worth of the neophytes' souls. Miracles and martyrdom are wasted on the neophytes of the West Indies.

Having refuted the arguments for peaceful evangelization with his cost benefit-analysis, Acosta proceeds to analyze the other two options for evangelization: to preach among those who 'are already subjected justly or

unjustly to the Christian princes' or to seek out new converts among those who have remained beyond contact, with a garrison of soldiers for an escort. Acosta commends both options. The greatest confusion in his thought emerges precisely in the area of dispelling doubts on the viability of conversion among those 'already subjected justly or unjustly.' Las Casas had explored such doubts to the ultimate logical consequences in the *Tratado de las doce dudas* (1562).

Acosta pursues Las Casas with a relentless circular logic where prudent evangelization (i.e., under the protection of the state) is the ultimate *telos*. Thus, the Crown and Church must uphold their partnership, even if *past* actions were criminal. We saw in the first chapter how venture capital engages its partners in a metalepsis of the future; post 1573, the same can be said for Acosta's attitude toward the past. Acosta laments that Las Casas could have promoted such a schism between the Crown and the Church. It was reckless and inefficient advocacy to demand the restoration of Peru, and all of the Indies under Spanish *imperium*, to their native lords. Himself a Spanish subject, the doubts of Las Casas on the mortal sin of the Spanish sovereigns and their subjects, unless they abandoned the Indies, might have weighed heavily on Acosta's conscience. Yet they were weighted on a merchant's scale, much like Charles I's burdens of conscience.

Acosta's arguments, doubts no longer, sought shelter in the *fait accompli* and the state's constituted powers—*de facto* or *de iure*—to protect the already converted (one of Vitoria's just titles of war) at any cost:

Nihil perinde instructioni, & saluti Indorum nocere compertum est, atque; perversam quandam, & malignam potestatum temporalis, & spiritualis concertationem, aut imminutionem, aut quoquomodo offensionem. Atque; ut de caeteris modo magistratibus saecularibus taccamus, certe graviter errat quidam specie fortasse pietatis, ius regium, & administrationem vocantes in dubium, quarendentes interdum, quo titulo, & iure Hispani dominantur Indis? Num haeredutarui iure ad bis devoluti sint, an bello iusto subiecti?

It is a well known fact that nothing causes such damage in the instruction and the spiritual welfare of the Indians than the competition between the two powers, i.e., the temporal and spiritual, and the deterioration of relationships or any other type of struggle with the civil powers. Let us leave aside for the momento other types of secular magistrates, and focus on those who, under the guise of piety, cast doubt upon the right of our kings and their government and administration. They are the ones who stir up disputes over the rights and terms through which the Spaniards dominate the Indians, and the question of whether Indians are just an inheritance transferred from their princes to ours, or if we have merely conquered them through a just war. (II.xi)

Acosta then justifies his refusal to pursue the logical consequences of reasoning on the manner, means and time of conversion to a newfound expediency. Even though the Crown had sought to avoid *conquest* at all costs, by insisting on the ‘new methods’ for exploration, discovery, and pacification, Acosta concedes *merum imperium* with little thought toward restitution. This would imply that Acosta felt there was no moral risk for preachers involved in forced conversions, in illegal *encomiendas* or a continued partnership with an unjust temporal power. Spiritual profits for the Church trump any other consideration:

Quae sane disputatio pertinet, ut administrationis Indicae, vel tollatur vel certe debilitetur autoritas, quo semel si gradus fiat, quanta sit futura pernicies, quae perturbatio rerum omnium consequatur, dici vix potest. Neque; vero id ego modo suscipiam, ut

bella, bellorumque; gestorum rationes defendam, atque omnes illos superiorum temporum turbines. Illud religiose & utiliter moneo non oportere in hac causa amplius disceptare, sed veluti praescriptum iam sit, optima fide agere debere Christi Servum.

These sorts of polemics might lead us to abandon the dominion or the administration of the Indians, or, at the very least, greatly debilitate our control over them. And if we begin to yield to these sorts of opinions, and we do not reprimand them with a firm hand, we cannot say what sort of evils and universal ruin may follow, and the grievous perturbation and disorder in everything. Now it is not that I am proposing here to defend the wars of the past and all that happened through them nor all the revolutions and disturbances that have taken place, but I am warning as a supremely useful religious piece of advice that *it is not worth while* going on arguing over this matter, but rather the servant of Christ in good faith should take it as a fait accompli. (Emphasis mine)

Writing almost two decades after the deaths of the Incas of Vilcabamba, Titu Cussi Yupanqui and Tupac Amaru, Acosta does not deny the possibility of a return to original rule but rather argues against its worth: in time, in labor and in (good) conscience. Like the contingency plans made law in the *1573 Ordenanzas*, what Acosta offers his brethren in Christ are ramifications for their (im)proper conduct and speech in the Indies. The pursuit of truth and justice, a Sovereign's examination of conscience, or that of his subjects, these are all *happenstance* for insurgency. The risk of insurgency and apostasy were unacceptable among the gamut of risks that could or even ought to be taken, though merchants and conquistadors should be commended for taking risks to their lives and livelihoods in pursuit of profits.

Without a doubt, it is ironic that a Jesuit, professed in the tradition of Loyola's *Spiritual Exercises*, would advocate, wholeheartedly, against

examinations of conscience. Or, to be more precise, Acosta relegated the matter of *conquista*, love and interest to a 'polemic' (*disputatio*), purging it of the urgency of the *dubium* that, for Las Casas and his followers, posed the existential threat to all those who had profited from the venture capital enterprise known as *conquista*.

In Acosta's critique and prescriptions for reform, Philip II could once again indulge in the doubt of a Sovereign, though it would be reified by the discourse of polemic. Acosta was critical of what the conquest had been, but his solutions were logical extensions of the practice of *conquista*. However, the memory of the lascasian treatment of the Sovereign's doubt and indigenous freedom remained alive and well in the Viceroyalty of Peru. The following chapter is dedicated to the indigenous reception of the ambivalence inherent to the venture capitalist model of *conquista*, beginning with the counter-offer made to Philip II in 1561 by the *curacas* of Peru. To this day, the question remains: Who are the *true* Christians? What is a *true* Christian?

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## Chapter Four

### The Bidding of Empire: the *Curacas* Negotiate Dominion with Philip II

En nombre de los indios del Perú, contra la perpetuidad; y ofrecen servir con lo mismo que los españoles y cien mil ducados más; y si no hobiere comparación de lo de los españoles, servirán con dos millones, pagados en cuatro años, con las condiciones que ponen.

*Petición a Felipe II a favor de los Indios de Perú (1560)*

Were the *curacas*, the native elites of Andean society, *socios* in venture capital? If so, were they partners at the general or limited partner level? Were they entrepreneurs? If there had been partnerships between the indigenous and their invaders, does *conquista* then belong as much to the native peoples of the Americas as it did to their invaders? And does this question itself amount to an economy of *belonging*? As much as *conquista* may have been about possession, among other things, is partnership in a venture synonymous with ownership? Who held stakes in it? Is material benefit from a venture enough to implicate a beneficiary in the wrongs performed by an enterprise? While it is possible to hold stakes in a venture without having an effect on the corporation's culture or governing ethos, especially at the limited partnership level, the guidelines used by the lascasian network of confessors held that receipt of any *usufruct*, direct or indirect, from *conquista*, was a liability on the conscience.



Who owns the *conquista*? Who is liable for it? Who participated in the *sociedad* of empire and its *negocios*? Are all inhabitants of empire imperialists by virtue of participation in the day-to-day life of transactions with capital? Can one live and thrive within the dominion of venture capital without being one of its “little hands”? Does bidding in the code of busy-ness, of venture capital, mean that you are doing the bidding of empire? Where does agency begin and liability end?

Perú in the 1560s offered a dynamic, constantly changing landscape of institutions and alliances. Manco Inca’s insurgency in 1536 and later retreat to Vilcabamba was followed by the wars among various Spanish factions as the original partnership between Francisco Pizarro and his brothers with Diego Almagro fell apart over who would control Cuzco, the center of the Inca empire. In all these violent encounters, local indigenous elites (*curacas*) and *indios* cast their lots in these conflicts that were rending at the seams the original corporation behind the conquest of Perú. In this context, for the *indios* of the *encomiendas* before the 1st Lima Council of 1551, there was little Spanish influence felt in their daily lives except for those areas of intense interaction—areas with preconquest accumulations of wealth in labor and precious metals—such as Cuzco and Lima (Lockhart *Spanish Peru*). Despite the desire of the *encomenderos* to live near the *indios*, who had been placed in their care for spiritual tutelage in exchange for their labor, the only non-indigenous allowed to live among the *indios* were the *doctrineros*.

It has been argued that the *encomienda* system in the Andes was grafted onto the existing institutions of *ayllu*, *minka* and *mita* which native elites, i.e. the *curacas*, had managed as tribute to the Inca hierarchy. *Curacas* were prominent members of a large kin group (*ayllu*) that claimed a *huaca* as a common ancestor; the *huacas*, the ancestors embodied in mummies (*mallki*) and uncanny land and water formations, speak to their descendants, involving themselves in the lives of those who venerate them. *Curacas* had always found themselves in tension between the demands made on them by their kin and the *huacas*, at the local level, and the requirements made of them at the supra-local level by pan-ethnic overlords such as the Incas.<sup>1</sup> *Minka* was and is a reciprocal labor exchange within the *ayllu* and it is given priority over labor tribute to the state (*mita*). As numerous authors have contended, *curacas* had access to the excedents of the *ayllu*, both in labor and in kind, through their control of women and the practice of polygyny and goods produced by women (such as corn beer and textiles).<sup>2</sup> The *conquistadores* recognized the importance of alliances with the *curacas*, but the *encomiendas* were not distributed in accordance with the traditional boundaries of the prehispanic *ayllus*. This discrepancy in the organization of kin, territory and labor created

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<sup>1</sup> For the Andean archaeological record, Lanning coined the term “horizons” to refer to the eras of inter-ethnic political and cultural cohesion in the central Andes (i.e., Chavín, Huari, Tiahuanaco, Inca) and “periods” to refer to polities that remained “local” in their forms of organization (ex. Paracas, Lima, Moche, Chimú).

<sup>2</sup> See Gose, Murra, and Duviols. Though all authors agree on the prehispanic importance of corn beer in Andean society, there are, however, discrepancies on the subject of prolonged inebriation. For Gose, drunkenness and orgies emerged as a degeneration of the traditional system, caused by the stresses of conquest and the imposition of monogamy by the State and Church. For a millenarian view of ritual drunkenness, see Duviols.

upheaval in traditional power structures, depending not only the hierarchy among greater and lesser *curacas*, but also the animated landscape of power among the mummies and *huacas* that continued to speak to their kin but could no longer perform the organization of *ayllu*, *minka*, and *mita* coherently.

The mismatch between institutions in the Andes, the desolation of the indios, and the increasing campaigns to ‘extirpate idolatry’ led to the retreat of the *huacas* from their traditional vessels. In the 1560s, followers of the *taquiyo ongoy* (the dancing and singing sickness) movement sought to revive the *huacas* by providing themselves as places where the *huacas* could recover their strength, enough to fight against the Christian God and saints and expel the Spanish once and for all. The *taquiungos* demanded that the *curacas* purify themselves in order to communicate with the *huacas* once more; these demands, in turn, implied that the *curacas* had been ‘contaminated’ by their contact with the Spanish and, thus, lost their ability to perform the will of the *huacas*. As Stern has contended, the ambivalent attitude of the *curacas* toward the demands of the *taquiungos* exemplified the conflicts of interest performed by native Andean elites. However, the *curacas*’ bid for incorporation with the Crown in 1560 displays a moment, if only for a couple of years, when the interests of *encomenderos* and *curacas* did not align. However, both parties would claim to represent, truly, the interests of the Indians.

Were the *minka* and *mita* translated into a *sociedad* between *encomenderos* and *curacas*? Was the Spanish sovereign just another overlord in a series? One more “horizon,” in the pendular movement between local and

interethnic polities in the Andes? If so, was it only a matter of time before insurgency would reclaim the local imperative? What are the contradictions posed by indigenous *sociedad*—both as partnership and society—in the *conquista*?

The system of labor tribute in exchange for Christian tutelage, known as the *encomienda*, relied on the prehispanic habitus of labor and kin relations between the *curacas* and the *ayllus*, while upending their traditional boundaries. The tribute of the *indios* not only provided material rewards to the *encomenderos* and the royal coffers, but also paid for the salaries of the *doctrineros* sent to live among them and teach Christian ways. The various political visions that emerged in Perú during the decade of the 1560s all had to address this foundational contradiction in the labor and spiritual exchange. The alternative proposed by the *curacas* in their bid for incorporation to the Spanish Crown deserves critical attention because they were widely seen, by all parties, as the mediators of the spiritual and material economies of the empire.<sup>3</sup> Yet their mediation, between *ayllu* and empire, at the time of the competitive bidding for perpetuity or incorporation, remains difficult to define.

What does it mean to *negotiate*? In the book of edited articles on the native peoples of New Spain and their negotiation “of the terms of their

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<sup>3</sup> As employed by Stern, “mediation” and “negotiation” in the Andean context are similar to being stuck between a rock and a hard place, i.e. “the post-Incaic alliances caught native elites between traditional roles as protectors of ayllu interests, and new opportunities and demands as ‘friends’ of the conquistadores” (158).

submission,” Kellogg uses the phrase “negotiation within domination” to refer to the participation of indigenous elites in the development of colonial institutions. Yet this focus on indigenous elites could serve as another instance of a system predicated on indirect rule, whereby the metropoli relies on indigenous elites to organize domination of productive classes in the service of capital. How, then, might we describe the alliances between *encomenderos* and indigenous elites *against* the metropoli? As Ruiz Medrano has argued, the last direct descendant of the Mexica ruling class, Don Luis de Santa María Cipac, who was also the governor of México Tenochtitlán, allied himself with the Spanish *encomenderos*, in a revolt against Philip II that would have led to the establishment of a new monarchy with Martín Cortés, the second marqués del Valle, at its head. The *encomendero* and Mexica revolt responded to changes in law that redirected most tribute to the King, leaving little for local elites.

Could the participation of Mexica nobles in the *encomendero* insurgency in the city of Mexico (1564-66) be qualified as an instance of *Indian* political consciousness, as contended by Ruiz Medrano?<sup>4</sup> Was it an elite bid for increased power in a new empire? Can indigenous elite and *indio* be used synonymously, without taking *Indian* consent as a given? If so, what is the nature of that consent? Is it the result of persuasion or coercion? The synonymous use of *indio* for indigenous elite could prove problematic for our

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<sup>4</sup> In the *Anales de Juan Bautista*, cited by Ruiz Medrano, the revolt of the *indios* against the Philip II’s new tribute could *also* be interpreted as a revolt against their indigenous overlord, Santa María Cipac (69).

own understanding of the power dynamics in the Spanish empire. Should indigenous elites be taken at their word when making claims as advocates for Indian interests? Or is Indian interest yet another trope of legitimacy wielded among combative elites?

As Ranajit Guha has argued both in *Elementary Aspects of Peasant Insurgency* and *Dominance without Hegemony*, the colonial structures of power needed the participation of indigenous elites in order to maintain productivity. Perhaps the synonymous use of *indio*, *curaca*, and *cacique* ought to be avoided in discussions of colonial power structures in Latin America because the interplay between power, hegemony and the subaltern gets confused in the redaction. This is especially true in imperial modes of conquest that use the structure of venture capital, the trading companies, for their incursions into foreign lands before founding colonial rule on native institutions, as long as these can be coerced into the service of capital. Guha's analysis of colonial history and power thus assumes significant distinctions among the indigenous in his privileging of the consciousness of the subaltern, history from below. The question remains, did negotiation "counterbalance" domination, as suggested by Owensby (xii)? Or is negotiation just another form of domination? Were indigenous elites persuasive or coercive in their power relations with the *indios* when negotiating on their behalf with the Spanish Sovereign?

In their failed bids for incorporation and perpetuity, both the *encomenderos* and *curacas* claimed to speak in the interest of the *indios*. Were

the *indios*, indeed, their *socios* in these bids for new political organizations of tribute in labor and in kind? In the Andes, how did the general and limited partners in the *conquista* confront the contradictions that came to the fore in these divergent proposals for doing the empire's bidding in 1560?

Is this negotiation within domination, as Kellogg has argued for similar proceedings in New Spain? Is negotiation another aspect of domination? While, as Kellogg has contended, "it is also true that the ability of the Crown to assert authority—whether by Isabella in the Caribbean and early sixteenth century New Spain or the Hapsburgs in later sixteenth-century New Spain and Perú—lay in part in the willingness of the indigenous population to accept that authority," doing *negocios* with another, in the busy-ness of it, demarcates liabilities, and envisions, as a function of mutual gain, a shared future (4). Also, how is indigenous *acceptance* of the Crown's authority construed? Was it freely given? Coerced? The result of persuasive argumentation? As argued in the second and third chapters, the forms of indigenous consent were under continuous review. Moreover, the social contract(s) in the *negocio* of the Indies, per Isabel's letter to Ovando, explicitly make the colonial subject's liberty a function of productivity. The distribution of labor, its *usufruct* and its times of productivity and rest supersede any other concerns, including questions of justice. Indeed, the *encomienda* economy makes justice contingent upon *usufruct*. This *usufruct*, in turn, depended on the indigenous habitus, entirely at odds with the *modus operandi* of Christian empire.

This chapter examines the failed bids for perpetuity of the *encomienda*, by the *encomenderos*, and the counter-offer for incorporation by the *curacas* that ignored their erstwhile allies. Finally, the visions of a prominent dominican, Fray Francisco de la Cruz (d.1578), are analyzed for their grand attempt to reconcile all contradictions between the Spanish *modus operandi* and Andean habitus in the service of a new Christian empire centered around Lima as the new seat of temporal and spiritual power. His advocacy for polygyny and the marriage of prelates within what he considered was a coherent, and very Catholic worldview, ended with several trials by the Inquisition in Lima. Notably, the trials did not stop following his death when he was burnt at the stake as a heretic in 1578; years later, his inquisitors could not decide if his attempts at reconciliation were a sign of madness (*locura*) or heresy (*herejía*). In turn, the binary opposition of heresy and madness in Perú in the late 16th century represents a clear break with Alfonso X's characterization of heresy as a form of madness in the *Siete Partidas* (7.26).

### *Bankruptcy and Bidding*

As mentioned in the third chapter, the crown's bankruptcy of 1557 lent new urgency to negotiations with the *encomenderos* and *curacas* of Perú. Following the bankruptcy, Philip II made the first overture to the *encomenderos* in the viceroyalty of Perú, offering perpetuity of the *encomienda*, but also greater jurisdictional power to the *encomenderos*, in



exchange for gold and silver. The terms Philip II offered to the *encomenderos* in 1559 surpassed the demands that Gonzalo Pizarro and his cohorts had made in 1546.

As presented by Philip II, the transition to *perpetuity* would have given the *encomenderos* limited sovereignty over native subjects but not over the territory they inhabited. Spanish residents with *encomienda* (*vecinos encomendados*) could leave their labor and land tributes to their inheritors, reside with the Indians and have jurisdiction over them.<sup>5</sup> The residency clause was particularly important to the *encomenderos* and a cause of concern not only for the clergy and the curacas, but also to Spanish residents without *encomienda* (*vecinos sin encomienda*) such as merchants, and *conquistadores* or their descendants, who already complained that the *encomenderos* had a monopoly on indigenous labor. For their spiritual care, the *encomenderos* had to pay a tenth of the tribute to the clergy responsible for evangelizing among the Indians who gave them tribute. This had led to many *encomenderos* having a hand in assigning the *doctrineros* to preach in their *encomienda*; however, there were also many complaints leveled by *doctrineros*, who claimed that they never received the tithes, against the *encomenderos*.

At the time of the negotiations for *perpetuity* or incorporation, less than five hundred of the eight thousand Spanish male residents in Perú were *encomenderos*; this handful of *encomenderos* received over a million pesos of

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<sup>5</sup> Note that this system never came to fruition. Also, the territories covered by *encomiendas* were not necessarily contiguous, creating a patchwork of competing *encomiendas* that were also at odds with the territorial delimitations of the *ayllus*.

tribute per year from over half a million indigenous men between the ages of eighteen and fifty. Though indigenous women were not accounted for as direct sources of labor, their bodies and the products of their labor provided the excedent among the *ayllus* and were the foundation for the *curacas*' power and access to male labor for the *encomienda*. The other seven thousand five hundred Spanish residents were sons of *conquistadores* or *pacificadores* who had not received *encomiendas* but made claims to them. Then there were the vagrants, the *vagabundos* and *gente perdida*, also known as the *soldados*, in short, the armed guns, who wandered Perú as mercenaries looking to try their luck in the next insurgency. They had weapons but they also begged for food and shelter. Many Spanish *pretendientes* to *encomiendas* feared that allowing the current *encomenderos* to purchase jurisdiction in perpetuity would cut short the slim chances they might have had at receiving an *encomienda* in the *status quo*.<sup>6</sup>

The *encomenderos* of Cuzco, La Plata, Lima, Trujillo, Chachapoyas and Santiago de Moyobamba offered the King three and a half million pesos to be paid in eight installments over eight years. This must have been quite a disappointment for Philip II who had entertained and rejected another offer

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<sup>6</sup> For example, in 1563 Rodrigo Méndez and Pedro Avendaño rebelled in Cuzco in a bid to receive an *encomienda* for themselves (*Carta del Dr. Cuenca al Rey, 30 de Abril de 1563*, in Goldwert 213). In the same letter Cuenca also tells Philip II about a group of scam artists, also in the Cuzco area, who had offered to represent the interests of the *curacas* in exchange for four thousand pesos. Upon receipt of the four thousand pesos, the scam artist and his accomplices left their clients stranded.

for 7.6 million pesos from the *encomenderos* just six years earlier, when Antonio de Ribera advocated on behalf of the *encomendero* community.

The arguments in favor of the *encomienda* in perpetuity in 1556 and 1561 did not emphasize remuneration for past actions. Three decades after the bidding wars, Acosta would give a much franker assessment of the capital investment and labor contributions (when violence is accounted for as labor) of the *conquistadores* and the Crown's ensuing debt (and, to his mind, lack of relative power). Though for Acosta, the Sovereign's power in an empire would be proportional to the percentage of its original investment in *ultramar* ventures, the *encomenderos* themselves had supplied a wider gamut of arguments to justify their rebellions and claims to the *perpetuity* of the *encomiendas* in the mid sixteenth century.<sup>7</sup> Instead of speaking in terms of accounting for past debts, they made future projections and employed the metalepsis of venture capital or the confusion of causes for effects. Notably, the *encomenderos* claimed that if they received their *encomiendas* in perpetuity they would no longer have a cause to rebel against the Spanish Crown.

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<sup>7</sup> Alonso de Villanueva and Gonzalo López were coy when comparing the material contributions, made by the *conquistadores* vs. the Crown, to the conquest of New Spain, noting the success of the *conquista* in Mexico “sin que Su Majestad hubiera gastado nada del tesoro o patrimonio real” ‘even though Your Majesty spent none of your treasure or royal patrimony’ in the enterprise. As representatives of the *encomenderos* of Nueva España, they advocated a “recompensa perpetua” ‘perpetual compensation.’ Villanueva and López argued, with graphic acumen, the system's unsustainability and its oppression of the Indians of New Spain. Without perpetuity, the *encomenderos*, i.e., their clients, were “mercenarios y no agricultores,” ‘mercenaries, not cultivators’ who “sólo trataban de beber su sudor [de los indios] para luego irse” ‘would drink the [Indians'] sweat only to leave’ (qtd. in Hackett 1.56).

The *encomenderos* contended that assignment of the *encomiendas* in perpetuity, with added jurisdiction over the Indians, would be beneficial for all stakeholders in the colonial enterprise. Greater certainty surrounding their sons' patrimony would *allow* the *encomenderos* to make capital investments in bettering their charges' living conditions and those of the lands that the Indians worked. These greater investments in work and capital would lead to more prosperity and, thus, greater tribute in the king's coffers from growth in commerce, agriculture and mining. An added benefit would be the guaranteed loyalty of the *encomenderos*. Their loyalty would translate into real savings for the king's treasury since they would happily provide labor and funds for "pacifying" any future rebellions; there would be no need for the King to pay for a standing army in the Indies, because the loyalty of the *encomenderos* would be secured in perpetuity. The irony of these assertions was not lost on either party in the negotiations as the memory of Gonzalo Pizarro's rebellion in 1544, and its material ravages, was still fresh.<sup>8</sup> The cause of the *encomiendas*' perpetuity continued to inspire violent vindications, especially among the

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<sup>8</sup> See Pedro Cieza de León's *La guerra de Quito* and the *Relación anónima de las cosas acaescidas en las alteraciones del Perú* for contemporary accounts of the *encomenderos*' insurrection, led by Gonzalo Pizarro. Gonzalo Pizarro's pretensions included naming himself king of Perú, marrying a coya, granting *encomiendas* with jurisdiction in perpetuity and *also* drafting laws in protection of the Indians (Lohmann Villena, *Las ideas jurídico-políticas en la rebelión de Gonzalo Pizarro* 40-65). Bernal Díaz del Castillo has a colorful description of just how the rebels' requests for perpetuity were received by the members of the special *junta* summoned to decide the matter of perpetuity 'once and for all' in Valladolid in 1550. Bartolomé de las Casas, Pedro de Gasca, Vasco de Quiroga, and the Bishop of Michoacán, also attended.

*vecinos* residing in the richest agricultural and mining centers of Perú: Cuzco and Potosí.

The renewed prosperity of the *encomiendas* granted in perpetuity would also provide an incentive for *encomenderos* to pay the tithes from the Indians' tribute for their evangelization on time, implicitly conceding the truth to charges of laxity in payments that had infuriated many a member of the clergy. Their argument thus implied that the lack of perpetuity had created uncertainty which *had not permitted* the *encomenderos* to look after their *encomendados* properly. Interest, which as argued in chapter one, had been vaunted as the price of peril, now made its own claims. Interest, personified, made its own claims to ensure the security of its capital investments. Uncertainty surrounding lease terms for indigenous labor generated, and legitimated, the unrest of the *encomenderos*.<sup>9</sup> Yet much of the unrest was caused, of course, by the insurrections of *encomenderos* demanding the perpetuity of the *encomienda*.

Antonio de Ribera chose to negotiate with deference to the metalepsis of "love interest" whereby love for one's brethren not only did not contradict the interest one hoped to gain from one's brothers in Christ, but reinforced each other's interests. As proposed to Philip II, the *encomenderos*' love for the Indians would multiply just as the population would multiply and the capital

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<sup>9</sup> The uncertainty argument recalled similar reasoning made by the Hieronymite fathers sent to investigate the Indians' living conditions. Their report released in 1518 recommended the perpetuity of the *encomiendas* as a reform effort to ameliorate the Indians' living conditions and was attacked by Las Casas as illogical and ignorant.

investment in land and people would similarly *bear fruit*. The qualms about unnatural metaphors, of money spawning money, were no longer the common currency of moral values, at least not for the privileged membership of the social and economic station in Peruvian colonial life, known as the *encomenderos*. As a sign of their good faith the *encomenderos* accompanied their arguments for the perpetuity of the *encomienda*, couched in “love interest,” with their estimation of the value, in *pesos*, of the right to jurisdiction and tribute over the Indians in perpetuity.

This view had been supported in part by the Franciscan Alonso de Castro, who had presented a report in 1555 to Charles V and Prince Philip, at their request, on the subject of whether the *encomiendas* could be sold in perpetuity in good conscience. Castro had sided with the *encomenderos* of Perú because of, *not in spite of*, their recent rebellion. For Castro, the Papal Donation could not strip indigenous polities of their sovereignty but it provided a “supra” sovereignty to bring knowledge of God, peace and justice to the Indies. Had the *encomenderos* succeeded in their rebellion, Spain would have lost its supra sovereignty *in actu* and Christianity would lose its privileged place in the Indies: the unfaithful would not convert and the newly converted could become apostates. To postpone the granting of the *encomiendas* in perpetuity would only encourage more rebellions. *Thus*, in another nod to the metalepsis of venture capital, Castro recommended

conceding the encomiendas in perpetuity in good conscience.<sup>10</sup> Not surprisingly, following Castro's recommendation and Antonio de Ribera's multi million peso offer, the Consejo de Indias and the Crown, which was grappling with impending bankruptcy in 1556, sent commissioners to negotiate with the *encomenderos* of Perú.<sup>11</sup> However, the Consejo de Indias also issued a detailed *opinión* that outlined all of the drawbacks of perpetuity with jurisdiction, including *de facto* slavery in perpetuity for the Indians and more rebellions among the *vecinos no encomendados* (Konetzke 340-357).<sup>12</sup> The Consejo contended that the King could not give away what he didn't have, i.e. ordinary and criminal jurisdiction over the Indies. In February 1558 Mercado de Peñaloza, oidor of the Audiencia de Lima, suggested granting perpetuity without jurisdiction to the *encomenderos* of Perú. He felt that the smaller *encomenderos* would be unable to afford the higher price for jurisdiction and, also, granting jurisdiction to the *encomenderos* would place the Indians at the their mercy with hardly any oversight from the Crown.

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<sup>10</sup> Suggesting that it would be even better, in good conscience, to bestow the encomiendas in perpetuity rather than sell them, Castro nevertheless conceded that a gift in perpetuity was highly unlikely. However, if the Crown were to make a sale it should do so at a moderate price (Levillier 36).

<sup>11</sup> The Consejo de Hacienda had already recommended the sale of the perpetuity of the encomienda in 1552 (Carande Thobar II. 122-24). Soon after the commissioners left for Perú, Charles I abdicated the throne of Spain on January 26, 1556.

<sup>12</sup> A detailed analysis of Philip II's counter proposal to the Consejo de Indias for granting perpetuity and civil and criminal jurisdiction *mero mixto imperi* may be found in Lohmann Villena (250) and Goldwert (353-355). As observed by Goldwert, Philip II was willing to create an aristocracy out of the *encomienda* but without contiguous landholdings. Effectively, Philip II had been willing to offer Ribera more power than he had requested before the Consejo de Indias intervened.

As soon as the *curacas* learned of the commissioners' impending visit to Perú, they met in Lima in July and August in 1559 and named their advocates, fray Domingo de Santo Tomás and Fray Bartolomé de las Casas, both of whom were in Spain at the time.<sup>13</sup> The *curacas* drew up the following proposal with eight items:

1. After the living *encomenderos* died, their benefits would return to the Crown and no more *encomiendas* would be distributed thereafter.
2. No *encomendero* or member of his household could ever enter an Indian settlement under any circumstances.
3. Indians in *corregimiento*, i.e. indios who paid labor tribute to the Crown directly, would see their tribute reduced by half.
4. Each Indian would pay tribute according to his ability to work or pay.
5. Settlements with reduced populations would be incorporated into larger towns so as not to be burdened with high taxes, based on a census of an earlier, larger population.
6. Issues of general interest to all Indians were to be discussed by a General Assembly of representatives as during the times of the Incas.
7. The *curacas*, or *señores principales*, were not to be obligated to work, and would receive their coat of arms, an *empresa*.
8. Indian lands would no longer be given to the Spaniards.

The terms sought to create an indigenous aristocracy (*curacas* or *señores principales*), distinct from the *indios* both in livelihood and in self-fashioning. Indians work; *curacas* do not work. Paradoxically, those who do the negotiating would define themselves as *ociosos* and receive the *empresa* as a sign of their class privilege. At the same time, the *curacas* advocated for a

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<sup>13</sup> Las Casas had promoted full incorporation of indios encomendados into the Crown in a letter to Fray Bartolomé de Miranda in August 1556.



reduction in tribute, making it commensurate to the Indians' ability to pay. They made this demand on behalf of the Indians directly under their jurisdiction and those rendering tribute to the Spanish Crown in *corregimientos*. The fifth proposition, the consolidation of indigenous settlements, seems to prefigure Viceroy Toledo's policy of the *reducciones* that centralized Indian populations. However, the demand to account for the losses in population, and thereby reduce the amount of tribute, speaks to the *curacas'* traditional roles of protectors of the *ayni*, inter-*ayllu* reciprocity, and the lives of their kin.

It is the sixth proposition—the convocation of the General Assembly—that deserves our undivided attention. What could this possibly mean? How were these assemblies organized during the time of the Incas? Also, could a new political structure—as proposed by the *curacas*—enact a remedy for the injuries of *conquista*? Though the *Apologética historia* had not been published, members of the lascasian network shared the conviction of Las Casas, made manifest in the *Apologética*, but also in *De thesauris* and the *Doce dudas*, that the discovery of the Indies by Spain could not be qualified as providential. However, the demand for reparations seems to be at odds with the *curacas'* bid for (limited) sovereignty following the terms of venture capital.

*The Petition of 1560*

In representation of the “caciques and señores naturales y sus pueblos de las provincias de aquel reino que comúnmente se llaman el Perú” ‘*curacas* and natural lords of the provinces of that kingdom commonly known as Perú,’ the *curacas*, and friars Bartolomé de las Casas and Domingo de Santo Tomás in their stead made an offer to Philip II that must have been difficult to refuse:

En nombre de los indios del Perú, contra la perpetuidad: y ofrecen servir con lo mismo que los españoles y cien mil ducados más; y si no hobiere comparación de lo de los españoles, servirán con dos millones, pagados en cuatro años, con las condiciones que ponen. (Las Casas and Santo Tomás 465)

In name of the Indians of Perú, against perpetuity: and they offer to meet and see the offer of the Spanish with one hundred thousand more ducats; and if the Spanish do not make a comparable offer, they will serve the Crown with two million [ducats], paid over four years, under the following conditions.

From the first line of the text, the *curacas* challenge ‘the Spanish’ “los españoles” ‘in name of the Indians’ “en nombre de los indios” by promising to outbid the Spanish no matter what their counter-offer might be. Vowing to give 100,000 more *ducados* more than anything else the *encomenderos* might have offered or would offer in the future, the *curacas* would instigate a bidding war. The text eschews any pretensions to love interest with the *encomenderos*. Instead, it accuses the Spanish, always *los españoles*, never the *encomenderos* or *vecinos*, of negotiating in bad faith; and it declares, without any caveats, that there can be no shared interest or love

between the two parties. The defining characteristic of their relationship is one of debt and liability, not love or friendship. The references to nationality, and omissions of the *encomenderos'* title or occupation, reinforces the argument that runs throughout the text: the other bidders don't belong in Perú; they are foreigners who have torn at the social fabric of *our* native societies in their greed; they have rebelled against *their* King; they are not to be trusted as they do not bid, or do the King's bidding, in good faith. Yet the constant allusion to their competitors—with whom they claim to have no shared interests—as *españoles* begs the question: isn't the King Spanish? The short answer, according to the *curacas*, is no.

In their petition, the *curacas* allude to the longstanding Roman distinction between citizen (*cives*) and foreigner (*peregrinus*) in order to impute a foreign character to the Spanish in Perú. The *curacas*, whose autochthony is a point of pride, argue in favor of an empire of Christian culture much in the same way Cicero had asserted the existence of Roman citizenship and urbanity beyond Rome in *Pro Archia Poeta* (62 BC), which had anticipated universal Roman citizenship for all free residents within the confines of the empire; citizenship along the lines of Cicero's arguments would be promulgated by Caracalla in 212 A.D. The Ciceronian interpretation of Roman citizenship contradicted the earlier practice of *ius gentium*, which had been applied to *peregrini* (foreigners) during the Republic. *Ius gentium*, as applied to "foreigners" (i.e., those who were not Roman *cives*), had made

contradictory proposals: first, all peoples had a right to govern themselves by their own laws and customs; second, these laws had to follow universal and natural laws; third, foreigners (in Rome) and natives (in conquered territories) received equal treatment under *ius gentium*, which was different from the laws governing citizens.

The *curacas*' petition to Philip II draws upon the distinction between *cives* and *peregrini* in order to transcend it. The Spanish have been so far away from their King that they have become lawless; moreover, the full incorporation of the *curacas* and their peoples into the Crown of Castile would reinforce the precarious status of the *españoles no encomendados*. As seen in the earlier section, the number of *encomenderos* vis à vis the non-encomendero Spanish population was but a small percentage of all Spanish subjects living in Perú. The *vecinos no encomendados* had not lost hope that they would one day receive the desired labor tribute in the form of the *encomienda*. If the Crown incorporated the *curacas*, however, the descendants of the *encomenderos* would find themselves like many Spanish men who did not take up a trade but instead wandered, offering their skills at arms for sale. *Vecinos* who lived as *vagabundos*; *encomenderos* who thought of themselves as *reyes*; the uncertainty surrounding the perpetuity of the *encomienda* was untenable, especially when Spanish subjects were acting like kings in a strange land:

[Con la incorporación] cesarán los bulliciosos y malos motivos y orgullosas soberbias y ambiciones que los españoles, teniendo indios, cada hora tienen y les nacen para rebeliones, porque cada uno estima de sí poder ser rey, por la libertad grande que *allá* han conseguido, por estar tan lejos de *su rey*. Y para asegurar este peligro, va la vida que allá no haya español poderoso; y esto saben bien los que cognoscan aquellas tierras y la presunción que en ella cobran los españoles. (468)

[With incorporation] the rowdy and bad motives of the prideful arrogance and ambitions of the Spanish, who have Indians, which they show at all hours in their penchant for rebellions—because every one of them thinks they could be King, because of the great liberty that they have procured *there*, because they are so far from *their* King—will cease. And to ensure against this danger, there cannot be any powerful Spanish over there; and this is well known to those who know those lands well [and see] the pretensions of the Spanish.

The petition was presented in person by Las Casas and Santo Tomás in Valladolid, though the text itself had been redacted in Perú. However, the deictic markers (*allá, su rey*) point to Perú from the *origo*, or originating point of Spain, and, thus, underscore the marginal status of “los españoles” who live without the law of *their* King, ‘because of the great liberty they have procured there’ “por la libertad grande que allá han conseguido,” and without the law of the Church; to act in bad faith (*malos motivos*) and full of prideful arrogance (*orgullosas soberbias*) was a mortal sin;<sup>14</sup> to do so in a land where preachers

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<sup>14</sup> *Origo* refers to the speaker’s self-defined spatial relationship to her interlocutors in the deictic markers of her utterance. As defined by Green, *deixis* refers to “the encoding in an utterance of the spatio-temporal context and subjective experience of the encoder. It is primarily linked with the speech or discourse event [that foregrounds] the encoder’s subjectivity and various contextual factors [...] grammatically or lexically[...] Any utterance refers to the speaker’s ‘centre’ (*origo*) and surrounding cognitive environment” (121-122). Personal and demonstrative pronouns, certain adverbs, time-space references, vocative particles and subject modifiers (adjectives and past participles which generally decline along gender,

were denying *encomenderos* absolution was reckless. To speak for the *curacas* from Spain about the ambitions of the Spanish in Perú was to accuse them of impertinence, in literal and figural terms: they do not belong *there*; they belong *here*, with their King, because they have demonstrated that they are unable to behave properly in remote lands, far from their King. Granting perpetuity to the *encomenderos* would make them kings in a foreign land, and Philip II would be King in name only, and just barely, of the roads (*no queda más rey ni señor que de los caminos y aún esto le quitarán*).

The *curacas* and their advocates recur to the epideictic tradition (“pointing,” figuratively) of the orator in an *apolitical* setting: encomia, invectives and literary portraiture all belong to the epideictic tradition as elaborated by Aristotle, Cicero and Quintilian (*Rhetoric* 1.9, *On Oration* 11.84, and *Orator’s Education* 3.7). Properly speaking, these classic rhetoricians proposed rhetorical strategies for oratory that were not pronounced in legislative or judicial processes. As such, it is something of a mixed bag, but by definition a trope used by a speaker intent on reifying, even further, the object of his speech. Thus, Quintilian emphasized that signaling a figure in order to emphasize its strong or weak points could be employed equally for men or inanimate objects (such as a vase). However, in the classic epideictic tradition,

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feminine marked) are deictic terms. However, verbs conjugated in the first person, are also an obvious marker of the ‘zero-point’ while discourse organizers are more obscure indicators. Green emphasizes that whether an utterance is deictic or not depends on the speaker’s and interlocutor’s shared context. Thus, “deixis is distinguished by use” (123). Also, deictic terms can either be indexical or symbolic. The term *deixis*, in turn, references the *epideictic* tradition in encomia and invective.

the orator “pointed out” the moral and ethical qualities or inferiorities that a man could possess; his distance from the speaker was not, in itself, a sign of vice or virtue. Moreover, indicating could only be done by an orator who was invested with authority by his public. Las Casas and Santo Tomás, however, invest the trope of *deixis* with a political argument for belonging. Their self-references emphasize their indigeneity to Spain; the *curacas*, in representing the Indians, speak with the authority of autochthony *from* Perú. The Spanish in Perú are neither here or there, with no sense of belonging and thus no rights to pertinence and the tribute from the land and its peoples.

By alluding to “los españoles” as if *they* were the *peregrini*, which they were, the *curacas* made a bid for Christian centrality in the Viceroyalty of Perú. Contending that a Christian empire must have a leader who transcended local identity not only functioned within the universal aspirations of the *requerimiento* but also acknowledged the *realpolitik* of Spain under the rule of German princes, the Hapsburgs, and their claims to the title of Holy Roman Emperor. Charles V had only abdicated his reign as Holy Roman Emperor two years earlier, and had passed on the rule of Spain and its colonies to his son Philip in 1556. Thus, bankruptcy, succession and the fragmentation of the territories held under Charles I came to a head within two years time. The *curacas*’ insistence on treating Philip II as a Christian King and referring to their rivals as Spanish, sustained the split in identity that Las Casas had promoted so forcefully in the *Brevísima*, published less than a decade earlier. Paradoxically, the would-be partners in the *negocio* at hand, in the bidding

taking place in Spain, but from Perú, were treating the Spanish King, who had just lost the title of Holy Roman Emperor, as a Christian emperor by glossing over the fact of the recent loss in title. The rhetorical (and pecuniary) generosity of the *curacas* and their Dominican advocates would require a reciprocal demonstration of good faith, but in kind, from their Christian king: recognize us as your fellow Christians and loyal subjects who only possess local aspirations to labor and tribute.

As seen in the earlier section, the *encomenderos* accused the *curacas* of bluffing and, thus, negotiating in bad faith: where would they procure so much gold and silver? The *curacas* give a hint at the source of their prosperity, what would become the defining topic of Las Casas' *De thesauris*:

Y porque en aquella tierra hay muchas sepulturas que tienen grandes riquezas, y éstas no las quieren descubrir los caciques porque no les tomen sus riquezas y tesoros los españoles, que mande Su Majestad por edicto público que *ningún español toque en ella en descubriéndolas los indios*, y de todo el oro y plata y piedras preciosas quieren dar a Su Majestad la tercia parte, y que a ellos les quedan las dos. (468)

And because in that land there are many burials with many riches, which the *curacas* do not wish to locate (*descubrir*)[for fear that] the Spanish will take their riches and treasures, [they require] that His Majesty order, by public edict, that no Spaniard touch [these burials] if these are located (*en descubriéndolas*) by the Indians. [The *curacas*] wish to give His Majesty a third part [of this treasure] and they would keep the other two parts.

The *curacas* make several claims in this short paragraph: secret knowledge of hidden treasure in as-yet-to-be discovered burials; ownership of both the



knowledge of their locations (intellectual property) and of the treasure itself (physical property); and a bid to increase the king's carried interest from the customary fifth (*la quinta*) to a third (*tercia*). The *curacas* also acknowledge a conflict of interest with the *indios*, who also share knowledge of these locations, though the *curacas* insist that the Indians' knowledge is not proprietary; the knowledge of the *indios*, for the *curacas*, is illegitimate. Fearing that the *indios* might share knowledge of these burials with the Spanish, in effect, the *curacas* seek an edict from the King to preempt the Indians from sharing intellectual property (location, i.e. *inventio* of treasure) with other would-be-usurpers (*los españoles*). Does the *curacas'* recognition of possible conflicts of interest with the *indios* in the matter of buried treasure undermine their advocacy (and thus, their petition) made 'in name of the Indians of Perú'?

The *curacas* define themselves as a *mancomunidad*, not as a *sociedad*, and the distinction is an important one. Rather than associate for a shared interest in material gains, the members of the *mancomunidad* exact reciprocal obligations of one other around a specific goal. Often, *mancomunidad* is the term preferred by translators into Spanish of the English "commonwealth." According to *Autoridades* (1724), *mancomunidad* is "la unión que dos o más personas se obligan al cumplimiento o ejecución de una cosa. Latín. *Communitas. Communis obligatio, vel in solidum*" "the union of two or more people who commit themselves to the performance or execution of something. Latin. *Community*. The common bond, or the whole (*in solidum*). The

*solidum*, in this definition for *mancomunidad*, insinuates a synecdochic relationship between obligation and community when *solidum* is understood as “whole”; however, *solidum* can also mean gold coin, money (in its plural form, *solida*) or salary. Are the terms of communal obligations set by bonds in capital? Are communal obligations synonymous with money? Is community synonymous with debt? The exact trope is difficult to define in the rendering of *mancomunidad* in Latin by *Autoridades*. Yet by invoking *mancomunidad* in their Petition to Philip II, and showing a willingness to receive less tribute from the Indians, the *curacas* suggest a desire to define their community without the strictures of capital even as they bid within its terms.

As opposed to the *societas*, which is structured around a partnership of shared interests and inter-subjectivity (recall the etymology, *inter esse*), the *mancomunidad* of the *curacas* defines itself as a community of persons committed to one another’s welfare. Moreover, a *mancomunidad* of cities or of towns need not share territorial cohesion, but it aspires to a community of bodies. Though the petition is often referred to as an effort by the *curacas* of the Mantaro Valley, in central Perú, because the majority of signatories were of *Huanca* ethnicity, *curacas* from areas as disparate as Cuzco and Chachapoyas also participated in the joint effort. Thus, a *mancomunidad* of *curacas*, by definition, displays an inter-ethnic level of organization that speaks with one voice (*prestan voz*) but for a sole and finite purpose. But how do you procure consent as an advocate for *mancomunidad*? Is an exchange implied, in the *lending* of one’s voice to a common cause? Is it *gratis*, i.e. charitable?

If the *curacas*' recourse to the term *mancomunidad* may be ambiguous, it indicates, nevertheless, the political consciousness behind its invocation, as the *curacas* outline their sixth condition to Philip II. Their sixth "condition" for payment of at least two million ducats for full incorporation into the Crown of Spain was a return to Prehispanic practices of self-rule based on principles of consent and dissent:

Lo sexto, que cuando *no* hobieren de tratar los negocios generales tocantes al estado de sus repúblicas, que se convoquen procuradores de los pueblos y sus comunidades, para que lo entiendan y consientan si fueren cosas útiles, o den razón de lo contrario, como lo solían hacer en tiempo de sus reyes ingas, y se acostumbra en las Cortes *acá* de España. (466)

The sixth, that when they are to discuss the general business of the state of their commonwealths (*repúblicas*), that they summon solicitors of the *pueblos* [towns, but also peoples] and their communities, so that they may understand and consent if they be useful things [i.e., the business at hand], or dissent, as they used to do in the times of the Inca kings, and is the custom in the Cortes *here* in Spain.

The allusion to the Cortes of España with the deictic *acá* generates an ambiguity in the comparison of political and cultural institutions. In the *here* (*acá*) can be heard the intervention of Santo Tomás and Las Casas in Valladolid. Yet this *here* refers to the *Cortes* of Spain, not of Castille. In effect, the comparison refers to a false similitude with a non-existent entity.

The fiction, *Cortes* of Spain, as a metaphor for the Andean Assembly, thus blurs the degree of autonomy proposed by the sixth condition. The origin of the parliamentary system, known as the *Cortes*, go back to the 13th century,

and the power sharing systems of Castile, León and Galicia (*xunta*); the Cortes represented the three estates (*estados*)—nobles, prelates and commoners—in Leon and Castile, and had decision powers over taxation and the financing of armies. Though Isabel and Ferdinand reduced the power of the Cortes of Castile and Leon, making it a largely redundant body in the state apparatus during the 16th century, other Cortes, such as those of Aragon (comprising Catalonia and Valencia) or Navarre retained a significant level of autonomy. Since there were no Cortes of Spain as a whole (i.e., *in solidum*), the allusion to *acá*, in the phrase *en las Cortes acá de España*, begs the question, where in Spain? Castile? Aragon? Navarre? The ambiguity allows for a spectrum of autonomy in the *curacas*' bid for incorporation with the Crown. In effect, it is a political demand made in a bid for sovereignty in terms of capital (literally, a bidding war) that couches its request in ambiguous, juridical terminology that suggests a *return* to institutions, as in the past, in the Andes and perhaps in Spain.<sup>15</sup>

Yet there is also a grammatical ambiguity in the sixth condition. Is the *no* used in a negative enunciation or is it employed with an expletive value? If the former, the *no* would limit summons of a general, pan Andean assembly to

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<sup>15</sup> The *curacas*' gesture toward a comparable periodization in Spain in their bidding for sovereignty in the Andes, offers yet another layer of complexity to the assertions made by Kathleen Davis about historiography's stakes in periodization during the sixteenth century. The metaphoric use of a fictional institution, the Cortes of Spain, to allude to the indigenous past (*tiempo de sus reyes ingas*) in a bidding war where degrees of sovereignty were at stake, gives the reified past a specific value, i.e., it is part of the "package" of conditions requested by the *curacas* in exchange for payment in millions in ducats. Might Esposito's thoughts on community and melancholy be relevant to discussions of the *curacas*' and the friars' Transatlantic gesture?

make decisions as a whole (*entiendan y consientan, o dar razón de lo contrario*) over matters that would not affect the whole. Much more likely is the use of *no* with an expletive value in sub-clauses that employ the subjunctive mood (as in Latin). This is the only emphatic use of ‘no’ in the seven conditions stipulated by the *curacas* as conditions for their bid. The grammatical structure serves to underscore the importance of this final condition both for the *curacas*, in continuation of practices under the Incas, and their Dominican advocates. The “medieval” form of the Cortes, as an assembly where at least three estates were represented, may have been particularly appealing to Las Casas and his preference, as articulated by Gustavo Gutiérrez, for the salt of the earth.

The *curacas* contrast their *mancomunidad* and their aspiration to hold regular *Cortes* with the *sociedad* of the *encomenderos*, a social organization motivated purely out of self-interest. As alleged by the *curacas*, the *encomenderos* had joined forces out of a shared interest (*su proprio particular interese*); the offer of the *españoles* to buy the perpetuity of the *encomiendas* was a bid to purchase the freedom of the *curacas* and of the *indios* and make slaves of them (*en cautiverio perpetuo*). Yet their freedom was unalienable, the *curacas* argued; it could not be bought and sold. The *encomenderos* wished something unnatural, “to enslave peoples that are free” “de pueblos y gentes libres que son, hacelles esclavos.”

In their petition, the *curacas* make their bid from without the metalepsis of love interest. There is no love lost or shared interests that bind

them to the Spanish, they argue; to the contrary, the Spanish are their enemies, for these foreigners would make slaves of them, buying their freedom for their own usufruct and toward the fulfillment of their wayward political ambitions. Though the *encomenderos* had continued to make their bids within the metalepsis of “love interest,” i.e. perpetuity would be a “win-win-win” for all parties involved, the *curacas* declared that the *encomenderos*’ proposal on the Indians’ behalf was nonsense, by definition, “because the Spanish are always against what is good of the Indians, because [they follow] their own interest” “porque los españoles son siempre del bien de los indios contrarios, por su propio interese” (466). The reasoning of the *curacas*, when doing the bidding of empire, recalls the distinction of Christian/ infidel in the *conquistas* of Bishop Diego Gelmírez of Santiago de Compostela in North Africa. The infidels’ losses are the Christians’ gains. In their petition to Philip II, the *curacas* have no qualms in acknowledging that the Spanish Sovereign’s acceptance of their terms would result in total losses for the *encomenderos*, equivalent to the net gains of the native lords of Perú.

Nonetheless, the *curacas* sustain the metalepsis of “love interest” when presenting their case for incorporation in terms of maximized benefits for the Spanish Crown. Their counter-offer thus maintains, in part, the discourse of “love interest” when the gains pertain to the Spanish Sovereign. Let us recall that the *encomenderos* had presented a “win-win-win” scenario wherein the *encomenderos* would treat the *indios* with greater dignity and love because they would be able to do business in a climate of certainty, knowing that they

were working toward the future of their heirs. Greater certainty for business translated into better living conditions for the indigenous which, in turn, would mean greater rewards for the Spanish monarch, who would receive more tribute from a more productive work force. By contending that the *Indios* would flourish better under their rule, the *curacas* aligned themselves with the Spanish King as fellow Christians who shared the same interests; they, and not the *encomenderos*, were the better custodians of the Indians' biopower.

The *curacas*' pretensions heighten the conflicts between the partners of the imperial enterprise, allying with some while glossing over others. Speaking of the *españoles no-encomendados*, they noted that granting perpetuity of the *encomiendas* to the current *encomenderos* would give this already problematic population—the majority of *españoles* in Perú—even more cause for despair, as they would lose all hope of winning a fortune with an *encomienda*; peace in Perú seemed to dangle on the thread of Spanish hopes for Fortune to smile on their desires for indigenous tribute. Yet the *curacas* offered no answers to the obvious riposte to their argument: how would incorporation of the *curacas* to the Spanish Crown benefit the interests of this group of *españoles* without *encomiendas*? Their glaring omission of a competing group's interest increases the friction between *caritas* and *cupiditas* that had always existed between the juxtaposed, and later synthesized, terms; what had become the metaleptic habitus of venture capital, the synonymous use of love and interest, began splitting at the seams. The demands for a return to an earlier, prehispanic form of the political, the proposal of an alternative form of self-government,

indicate a weakness in the persuasive force of venture capital; it infused the novel habitus of venture capital with a contrast to past practices. Though the terms of the petition were spelled out in the terms of capital, the authors reminded their *Christian* sovereign, *it was not always thus*.

The rhetoric employed by the *curacas* is also a small mercy for the *fama* of Philip II. Framed as a “petition,” but structured as a bid for sovereignty in exchange for demands, the text, in other words, could have offered a king’s ransom. After all, Philip II had a great need for gold, to recall the words employed by Hernán Cortés in his *Segunda carta de relación*, when addressing Charles I, the new king’s father. The fear of *mala fama*, of once again losing his credit, had forced the newly anointed King, Philip II, to make the first offer, putting the sovereignty of Perú on the proverbial negotiating table. The synonymous use of *petition* for *bid*, and, at certain points in the text, for *remedies* and *reparations* treads ever so softly around Philip II’s needs and the *curacas*’ demands. How could the call for reparations, ever incommensurate to the losses suffered by the Indians, become another bargaining chip in negotiations with the Sovereign, Christian or no?

Is bidding for sovereignty just another way of doing the bidding of empire? Can there be negotiation *without* domination? As argued by Baber, the *caciques* of Tlaxcala, who negotiated with the Spanish Crown for city status, which held the promise of greater independence in the tradition of the *fueros*, were ultimately successful. But how is this success “qualified”? Is



negotiation, when the enterprise of *conquista* was built around *negocios*, just another aspect of domination? Should we speak, instead, of the “tragedy of success”?<sup>16</sup> Though the *curacas* spoke in the code of shared interests with the Spanish King, they do not gloss over the language of reparations for losses and injuries. The *curacas* make one cursory concession to the logic of “love interest” in their offer to Philip II.

Much like the *taquiy ongoy* (singing or dancing sickness) movement that would take hold of Southern Perú during the same decade as the perpetuity negotiations with Philip II, the *curacas* had proposed a political vision for the Andes with a minimal presence of their invaders. However, unlike the *taquiungos*, the *curacas* made a distinction between friars, prelates, and encomenderos; their negotiation with Philip II could hardly be called an insurgency. The figure of Francisco Tenamaztle, exiled insurgent from the area known as Nueva Galicia, points to the discontinuity between insurgency and negotiation. As Rabasa contends, the once naked Tenamaztle, the nomad in the desert, now an exile in Valladolid, must clothe his case for reparations in the discourse of *jus gentium* and natural law as a Christian, with Las Casas as his advocate; his insurgency, much like his former nudity, does not belong in the annals of history (*Without History* 178-94). Las Casas argued his case before Philip II in the same year that the Crown’s *hacienda* declared bankruptcy, in 1556. Four years later, bidding for a measure of sovereignty

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<sup>16</sup> Stern speaks of the “tragedy of success” with reference to the Andean *indios* and *indias* who managed to thrive in the new colonial economy and make the jump from the *república de indios* to the *república de españoles*.

would be grafted onto the language of reparations in a petition sent from the *curacas* of Perú.

The *curacas* show more complicity with the terms of *negocios*, much like Ruiz Medrano's Mexica or Baber's Tlaxcalans. Yet the terms employed by the *curacas* to settle the matter of the *encomiendas*, once and for all, are rather unsettling. We hear the voice of Las Casas in the *curacas*' calls for reparations, but cannot reconcile these calls with the despair of Las Casas in the *Doce Dudas*: the desolation is irreparable, no remedy is commensurate to the loss. At the same time, the demand for reparations contradicts the gesture of negotiating the terms, in ducats of gold and silver, of the limited sovereignty of indigenous states under Christian Empire.

Is bidding for a social contract within empire equivalent to doing the empire's bidding? The *curacas* show indices of picking and choosing the elements of empire that they were prepared to accept: the *empresa*, a coat of arms, and salary of landed nobles in the Castilian tradition; increasing the king's share of buried treasure and mined ore; reducing indian populations into dense settlements, a policy later pursued by Viceroy Toledo in the 1570s; what had been and remained unacceptable for the *curacas* was the cohabitation between Indians and *españoles*. Could it be that the *curacas* were invested in a parallel system of government that would later become the *república de indios* and *república de españoles*? If so, their bid for a *república de indios* with themselves as the sole mediators between native labor and the King was rejected.

How can we approach this failed bid with the respect it deserves? Listen to the bid in the integrity of its moment, without recourse to the narrative arc of historic development? Were the *curacas* doing the bidding of empire (obeying it) or just making a bid for indirect rule within the imperial framework? Theirs was clearly not a peasant insurgency, but their attitude toward the *encomenderos*, at least in this moment in time, veers far from their characterization, by Stern and others, as the middlemen between the *república de indios* and the *república de españoles*. In the decade of the 1560s, prominent native elites were attempting to bid out of this parallel system of government in the colonies. Can we speak of negotiation as a “counterbalance” to domination, as suggested by Owensby? The more urgent question remains: can negotiation exist *without* domination, when its activity—busy-ness, negotium—belongs to the time and activity of capital? And yet there remains the nagging feeling that this question responds to the *a priori* of capitalism’s categories. What remains beyond dispute, however, is that the *curacas* had waged a bidding war against the *encomenderos* in terms of absolute hostility. Is insurgency the only way out of empire? Can we speak of a bidding “insurgency” as opposed to a “bidding war”?

If Philip II had accepted either offer, perpetuity or incorporation would not have taken effect until after the expiry of the two lives limit on the *encomiendas* as it stood then. It is worth noting that the *encomenderos* had chosen to bypass those who, indeed, possessed local jurisdiction over the Indians by virtue of *jus gentium*, i.e., the indigenous elites or *curacas*, even

after the Consejo de Indias and the King, eventually, admitted that jurisdiction over the Indians was not theirs to give.<sup>17</sup> Why was that? Why not negotiate directly with the *curacas*? Both the *encomenderos* and, later, the *curacas* engaged in bilateral offers and counter offers with the Crown, but did not negotiate among themselves in Perú. If the *encomenderos* had wanted civil and criminal jurisdiction over the Indians, why didn't they make two offers, one, to purchase the jurisdiction from the *curacas* and two, to purchase perpetuity of the *encomienda* (rights to labor) from the Crown? It may be rash to venture an opinion based, in part, on a lack of evidence, but the lack of overtures between the *encomenderos* and the *curacas* were an implicit confession, despite the rhetoric of a "win-win-win" proposal by the *encomenderos*, that their differences were irreconcilable; they could not negotiate with each other, that is, do *negocios*, let alone engage in dialogue; that *jus gentium* was unalienable; the ties among peoples and land could not be bought and sold. So, within one territory, two groups of elites ignored each other and *negotiated* with the Sovereign on another continent.

In other words, the *curacas'* rejection of the *encomenderos* as a party to negotiations also rejects the advances of the *conquistador* as the middleman, or matchmaker, of a loving empire. Unlike the Incas or the Mexica whose creation myths follow the emergence of the first ancestors from distant caves to the foundational moment of an urban center, of the polity that would have authority over different peoples, the *curacas* had always emphasized their ties

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<sup>17</sup> Charles V passed the (in)famous "Derecho de suceder por dos vidas" in 1536.

to the local *huacas*. As direct descendants of the local, foundational ancestors they are the truly autochthonous, since their identity and power are tied to the local *cthonie* power.<sup>18</sup> In initial contacts with their Spanish invaders, some peoples in Mexico and Perú cast their lots in favor of greater local autonomy. Like the Tlaxcalans who had allied themselves with Cortés, and later demanded recognition and greater autonomy from the Crown for lending their support to the European invaders, the Huancas in the Mantaro Valley and other Andean peoples under the yoke of Inca rule in the territory comprised by the Tahuantinsuyu similarly allied themselves with the Spanish to defeat the Incas.

Were these alliances motivated purely by strategy or self interest? As Gose has argued, much like the identification of Cortés with Quetzalcoatl, or the native Hawaiians' identification of Captain Cook with Lono in the 18th century, the indigenous of Perú positioned the European invaders within their own origin stories.<sup>19</sup> This native positioning of the outsider as insider not only

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<sup>18</sup> See Shell's *Children of the Earth*. See also Marcel Detienne's *Comment être autochtone* for a nuanced discussion of the political negotiations involved in the construction of autochthony, from classical Athens to the Third Republic in France. As employed by Viceroy Toledo during the 1570s, the narrative of the original journey of the Incas from Pacaritambo to Cuzco would be used as evidence of their non-indigeneity and, thus, illegitimacy.

<sup>19</sup> Sahlins' *Historical Metaphors and Mythical Realities* (1981) emphasized indigenous forms of rationalizing contact with the Europeans on their own narrative terms. Thus, the identification of Captain Cook with Lono on his first trip to the Hawaiian islands, and his killing on the second trip followed the structure of native mythology. In response, *The Apotheosis of Captain Cook* by Obeyesekere turned Sahlins' thesis on its head, by arguing that the narrative of natives receiving Europeans as Gods was a form of European mythology. Similar tensions have animated the scholarly debates surrounding the identification of Cortés with Quetzalcoatl and Pizarro et al. with Viracochas. David Carrasco, Miguel León Portilla,

served to make sense of the upheaval in the Andean experience of the world following the death of Huayna Capac and the events that followed, but also contested emergent Eurocentricism by articulating a “politics of connection,” which according to Gose, engaged in a “deliberate, counteracting response to racism,” a trope that is characteristic of indigenous accounts of colonialism worldwide (20).<sup>20</sup> The Andean trope of the *conquistadors* as *viracochas* would have served an “inter-ethnic collaboration” that led to a system of indirect rule. In this scenario, *curaca*-led insurrection against the Inca state in alliance with the Spanish invaders would eventually generate the system of Spanish colonialism but, initially, until the crisis of the 1560s, it resembled greater provincial sovereignty.

Why did the *curacas* abandon their erstwhile partners in insurrection against the Incas? No triangle of negotiation has come to light; negotiations were done in parallelism, despite the rhetoric of the “win-win-win” by the proponents of the perpetuity of the *encomienda*. Yet the discourse

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and Jacques Lafaye, to mention but a few, accept the identification of Cortés with Quetzalcoatl in native narratives of *conquista*. Townsend’s *Burying the White Gods* revises the identification in an attempt to rectify what she views as a “dehumanizing narrative” meant to satisfy European historians’ needs to provide a satisfactory justification for the relatively small number of Spanish who “conquered” the Mexica and the Inca. Similarly, Adorno’s treatment of Mala Cosa in the *Naufragios* by Cabeza de Vaca as a vision that responded to medieval Spanish narratives, would be contested by Rabasa in *Writing Violence* with reference to chamanic practices in beliefs by the indigenous of the Native American Southwest. See also Rabasa’s *Tell Me the Story of How I Conquered You*. The repeated gestures of scholars such as Obeyesekere and Townsend to explain away indigenous myths as the product of a European prerogative for self-apotheosis threatens to undermine the power of myth to organize past and present events meaningfully in terms other than the rationalism of secularizing imperatives.

<sup>20</sup> As discussed in the Introduction, my use of the term “event” follows that of Badiou in *Being and Event*.

accompanying these parallel tracks of negotiations, between King and *encomenderos*, between King and *curacas*, followed the rhetoric of “love interest,” the synonymous use of *caritas* and *cupiditas*; this was especially true in the texts composed by the *encomenderos*. Perhaps these parallel negotiations serve to prefigure the Spanish juridical arrangement known as the *república de españoles* and the *república de indios*.<sup>21</sup> However, pinpointing an origin for a juridical structure, in this case, the parallel *repúblicas*, does not mean that our analysis of the same ought to replicate its discursive parameters. By the same token, the widespread use of “negotiate” as a catchall phrase for actions and practices of indigenous and other marginalized peoples ignores the actual practice of negotiating, the busy-ness of it.<sup>22</sup> Negotiating with identity is most certainly relevant to the experience of conquest; recall the *negocio* of indigenous identity in Isabel of Castile’s instructions to Ovando, discussed in the third chapter. To negotiate, first and foremost, is to engage in a practice that negates an unproductive use of time.

The “invaders as ancestors” trope insists on an indigenous framework for appropriation of the imperial *modus operandi* and agency in the generation of colonialism in the Andes. It is also an argument that depends, to a certain extent, on the *longue durée* of politics, belief and religion in the

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<sup>21</sup> For a summary of colonial studies’ rejection of the analytical utility of the Spanish administrative arrangement of two republics for a meaningful examination of colonial culture, see Rappaport and Cummins (28-31).

<sup>22</sup> Although Gruzinski invites his readers to visualize cultural contestation not as an opposition of polar opposites, but as a “series of modulations,” this perspective may not prove meaningful for analyzing discrete moments of cultural confrontation (213). As noted by Gruzinski, but also his proponents, such as Rappaport and Cummins, this approach aims at an understanding of cultural contestation over the *longue durée*.

Andes. By the time the *curacas* were petitioning Philip II for incorporation, however, this identification of invaders as ancestors seems to have been expendable to the extent that the *curacas* were requesting a renewed system of indirect rule without the involvement of the *conquistadors* turned *encomenderos*. While it is true that the *Petición* was mediated by Domingo de Santo Tomás and Bartolomé de las Casas, it is difficult to imagine the latter suppressing such an important part of the native lords' belief if the *curacas* had indeed taken it into consideration.

Yet the *curacas'* alliances with Christian leaders did not immunize them from existential threats to their sources of power. The regulation of indigenous marriage according to Christian precepts increasingly undermined a crucial aspect of self-rule until, by the late 16th century, the festive consumption of corn beer (*qura*) and the women, married or not, who produced it became associated with sexual *excesses*, transgressions of Christian precepts on which, paradoxically, the "native" system of labor, and thus the colony, depended (Gose 140). The *curacas'* bid for incorporation is no less interesting because they continued to enjoy a pivotal role in the exchange of labor for spiritual tutelage, despite their failed bid for self-rule in the bidding wars of the 1560s. At the same time, their adherence to Christianity through indirect rule acquiesced to an important limitation on the *curacas'* power to control the *minka* through women's labor and marriage. The *minka*, as opposed to the state enforced *mita*, functioned on reciprocal exchanges among *ayllus*, or kinship groups with a common ancestor; the *curaca* accessed an excess of



labor in these horizontal exchanges by offering an excedent of food and drink, products of women's labor. The issue of polygyny, thus, accounted for the power of the *curacas* to control access to labor by the state, whether Inca or Spanish. Yet polygyny was illegitimate under Christian doctrine, especially after the Council of Trent reinforced the treatment of marriage (one man and one woman) as a sacrament. How, then, to resolve the contradiction between Christian tutelage and its material dependancy on pagan practice? Moreover, when practiced among baptized Indians and *curacas*, polygyny was a sign of apostasy.

The economic and moral values of the system contradicted one another, but Christian hegemony *depended* on a contrary system of moral and economic values. How could the fruits of indigenous labor in a domestic and political economy, which was dominated by polygyny, pay for the salaries of the Christian *doctrineros*? Could the *doctrineros* simply turn a blind eye to the material contingency of their evangelizing enterprise? Or could Christianity embrace the indigenous practices that seemed to turn their backs on Christian doctrine? Part of the answer to these questions was provided by the heresy trial of the Dominican friar Francisco de la Cruz, with repercussions for the lascasian movement after the transitional decade of the 1560s. Fray Francisco de la Cruz's testimony bore witness to the complicity among members of all sectors of colonial society, including the *curacas* (Abril Castelló, *Francisco de la Cruz, Inquisición, Actas I* 195). But Cruz's delirium also responds to the

structure of venture capital's "love interest" and its contingency on the Andean habitus.

*Other Proposals: The heresy of fray Francisco de la Cruz*

Friar Francisco de la Cruz's trial by the Inquisition in Lima, in which José de Acosta participated, gave voice to the fears of what an Assembly or Cortes of various indigenous estates could have enacted if their bid with Philip II had succeeded.<sup>23</sup> Francisco de la Cruz was a Dominican friar who arrived on the same ship that brought fray Domingo de Santo Tomás to Perú at a time when, as contended by Marcel Bataillon, Perú suffered from rapid criollization (323). Yet the criollization process began almost as soon as Hernando Pizarro returned to Perú from his trip to Spain to deliver the massive *quinta* to Charles I. Armed with a *cédula* from Charles I, which promised *encomiendas* granted in perpetuity, and a series of *cédulas*, from 1534-36, that gave Francisco Pizarro the power to name his successor to the governorship of Perú, the *encomenderos* cannot be faulted for believing that they *belonged* in Perú (Lohmann Villena, *Las ideas jurídico-políticas en la rebelión de Gonzalo Pizarro* 49-50).<sup>24</sup> The promise of legal ties to indigenous labor *in perpetuity*,

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<sup>23</sup> Acosta dedicates an entire chapter to Fray Francisco de la Cruz's heresy in his book *De Temporibus Novissimis*, to illustrate the arrogance of the Antichrist (Bataillon 313).

<sup>24</sup> Following the vague language of the earliest *cédula*, whose numerous loopholes may have been conditioned by Charles I's enthusiasm for the grand scale and speed of returns in the Peruvian enterprise, more precise language specifying the limits of

combined with marriages and *mancebazgo* (concubinage) between conquistadors and Inca noblewomen had contributed to a burgeoning sense of autochthony among the conquistadors.

The prophecies and ambitions of Francisco de la Cruz offer a monstrous refraction of the *conquista*, its insurrections and its doubts: the *requerimiento* had asserted that the Pontiff could move his seat of power anywhere in the world; Francisco de la Cruz prophesied that Lima would be the new seat of Catholicism and his son by Doña Leonor de Valenzuela, Gabrielico, would reign as new Pontiff with his father, de la Cruz, ruling at his side as temporal sovereign. The union of temporal and spiritual powers represented in the chivalric fiction of Fernández de Oviedo's *Claribalte*, discussed at length in the first chapter, errs and is recentered in this other New World fiction, also the center for the end of times.

Just as Acosta would apply a cost-benefit analysis to martyrdom in the Indies twenty years after the *escrutinio* of Francisco de la Cruz, the dominican heretic would propose a similar reasoning to massacre during his trial for heresy. For Cruz, it would be better 'that more than a few Spaniards go on *conquistas*, because when the *indios* see few Spaniards, they are reckless in their attacks and resist them even more, which gives way to the butchery

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Francisco Pizarro's authority to name a *provisional* governor, until Charles I could name a permanent replacement, was not immediately forthcoming. By 1537, however, it was apparent that Francisco Pizarro had made *caso omiso* of the subsequent royal *cédulas* because he transferred the governorship of Perú to Gonzalo Pizarro Yupanguí, his son, and, in 1539, named his brother, Gonzalo Pizarro, as temporary governor until his son, Gonzalo Pizarro Yupanguí, would come of age.

(*carnicería*) of the Indians’ “que no vayan a la conquista pocos españoles, porque los indios, viendo a pocos españoles, se atreven a acometerles y a resistirles más, y es ocasión que se haga mucha carnicería en los indios” (Abril Castelló and Stoffels 621). Cruz perceives that a larger group of armed men will have a dissuasive power over the Indians. Thus, coerced consent would be worth the extra expense *and* save more lives. Though Cruz aims to convince his audience that the End of Days is approaching, he does not stray far from the economics of *conquista*. For suggesting that the Church had its own Casa de la Contración, Francisco de la Cruz turns on himself, denying his voice as he utters his condemnation, charging God with the task of damning God’s

Church:

Y así ahora, aunque conoce que está obligado a decir las cosas que ha dicho del Papa y de la Iglesia, y tuviera por pecado mortal dejarlas de decir, pues que se lo ha dicho Dios para que se enmienden, por otra parte las dice con vergüenza, hablando como hijo que es de la Iglesia Romana, y viendo que habla contra sus padres y cabezas. Y por esto dijo *no quiero decir que lo digo yo*. Y que siente que es así por lo que Dios le ha declarado: Que la Iglesia Romana, adonde está el sumo poder espiritual, *trata las cosas del gobierno espiritual como por vía de contratación*. (829-30)

And so it is now, though he recognizes that he is obligated to say [repeat] the things that he had said against the Pontiff and the Church, for silencing them would be a mortal sin, for God has told him these things so that [the Pontiff and Church] be reformed, he says these things in shame, speaking as a son of the Roman Church, speaking against his fathers and leaders. And for this reason he said, “I do not wish to say that I say this.” And he feels this way because God has declared to him: the Roman Church, where the great spiritual power resides, *treats the matters of spiritual government like a negotiation for contracts*.

The speech of reform is motivated by shame, by a self-proclaimed son speaking against his fathers. Ashamed by what God impels him to declare, he fears the mortal sin of remaining silent. The Church, he confesses, *trata* (treats, but also trades) the things of spiritual government as if by contract, as if it were another Casa de la Contratación. He dares to speak like a Lutheran, he continues, so as to preempt Lutheran speech against the Church. His heresy would preempt heresy. Following his death at the stake, the Inquisition retried his case to verify if he was indeed *hereje o loco*. The binary proposition (*hereje o loco*) raises questions reminiscent of the conundrum posed by Aquinas of the child in the cave: is a rational rejection of the Catholic faith even possible? Is radical reform of the Faith a proposition for the mad?

The prophecies of Francisco de la Cruz manifest the imperial impulse toward synthesis, a vast monster that would consume all sources without prejudice in an effort to reconcile all contradictions by any means. The strain of the enterprise creates a discourse full of fissures. In the pretensions of Cruz for his native-born son, Gabrielico, can be heard the echoes of the pretensions of Gonzalo Pizarro, and the chauvinism of Fernández de Oviedo y Valdés. Francisco de la Cruz, heretic, accuses the indigenous of apostasy; they are the descendants of the lost tribes of Israel who turned against God and chose to worship the devil. As apostates, they may be *conquered*; an argument that hews to the logic of Vitoria's legal titles of war, while straying from the position, more generally accepted, that the indigenous had no prior explicit knowledge of the mosaic covenant or the law of grace before the arrival of the

Spanish. However, his advocacy for polygyny and practice of adultery not only made him a heretic and a sinner, but also an apostate, though one subsumed by the practices he enjoyed and observed among his parishes in Southern Perú and Lima. This turning away from his native Spain and orthodoxy resounds in the preponderance of *apostophe* in his testimony on the prophecies of the angel that spoke to María Pizarro.

Turning away from God, betrayal, adultery, these are all tropes for apostasy in the Old Testament (2 Jeremiah 1: 3; 6 Ezechiel 9: 16). The forced reconciliations of love interest became distorted, doubly confounded; Cruz's insistence on aligning trope and prophesy create an 'uncanny' coherence to his message.<sup>25</sup> It is almost as if one can recognize his heresy solely on the tropes of apostasy that he impugns against the native peoples of Perú. From Cruz's delirium, the deviation from the furrows of cultivated soil, what is also known as the area without the *nomos*, i.e. the law, he accuses others of stepping out of bounds but he is incapable of imagining the expulsion of Christianity from Perú. Even so, Cruz is the first to admit that he knows not whether the angel that speaks to him through María Pizarro is good or evil; it matters not, he must obey.

Beyond the injunctions to practice polygamy or the twisted reasoning behind his recommendations for armed campaigns against the indigenous, it is this uncertainty about the origin and *value* of the oracular voices that

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<sup>25</sup> "Uncanny" as explored by Freud for *heimlich*, which, unlike *ocio* and *negocio*, shares the same meaning with its negation, *unheimlich*.

Francisco de la Cruz turned to, that so confounded his inquisitors. Francisco de la Cruz's tenacity was the object of begrudging admiration from his inquisitors, including Acosta. His belief that *these things had to be done* belonged in an amoral system whose imperatives he nonetheless felt compelled to obey.

How could Cruz have obeyed those voices if he was *uncertain* about the moral provenance of these orders, good or evil? If it had not been so viscerally performed, Cruz's delirium almost seemed a parody of probabilism's moral theology. Though he questioned the sanctity of his source, Cruz nonetheless offered his wisdom to the theologians who would be meeting at the upcoming Tercer Concilio limense, so that everyone would understand how 'this *business* belongs to God' "estos *negocios* son de Dios" (890). At the same time, Cruz's unquestioning obeisance to the voices' imperatives reflected a monumental shift in consciousness to the widespread delirium, in its etymological sense, (en)forced by venture capitalism on a universal scale but experienced in the daily transgressions of Spanish and Andean systems of value. If we were to replace "market" for "angel," in the prophecies given by Cruz's testimonies, we find something eerily close to modernity's subscription to free market capitalism.

### *In a Manner of Conclusion*

In January 1562, in the town of Mañiques on the outskirts of Lima, the *curacas* chose their own legal representation to make a counter offer to Philip

II. In addition to Domingo de Santo Tomás, who had just returned to Perú from Spain, where he had recently published his *Vocabulario* and *Gramática* of Quechua, Gerónimo de Loaysa, the Archbishop of Lima, and Fray Francisco de Morales, a Franciscan. Bartolomé de las Casas was named as a replacement, along with Fray Pedro de Cepeda, the Prior of the Augustine monastery in Cuzco, among others.

Licenciado Polo de Ondegardo and fray Domingo de Santo Tomás traveled together from Lima to La Plata to argue their respective cases, for *perpetuity* of the *encomienda* and incorporation of the *curacas*, respectively. Both solicitors would later claim, in their correspondence with Philip II and the Council of the Indies, that the *indios* overwhelmingly supported the offers for incorporation, or perpetuity, of their respective clients. Though the support of Las Casas for the *curacas'* offers lends support to the claim made by these native elites to be the *true* advocates for the *indios* of Perú, even their petition concedes, in part, that they could not ensure the consent of *all* Indians to their enterprise, at least not without the coercive power of Philip II in the matter of the *huacas* and the ongoing *conquistas* for their treasures.

There is a powerful figure for the remnant in Andean society, for those who reject the metalepsis of venture capital in taking possession of their lives, but nonetheless feel its claims on their life force: a visceral fear of the Spanish *viracochas* and their exploitation of the Indians' bodies, alive or dead. For Gose, the fear of the *naqaaq* in the 1560s were a sign of the rupture that Andean peoples felt in their relationship, mediated through sacrifice, between



themselves and their deities (107). To this day, Andean collective memory recalls the horror of conquistadors rendering Indian fat for skin salve. Known as the *naqaq* or *pishtacos*, the *pishtacos* appear during periods of chaos to kill native peoples for a commodity that fetches a high price in international markets (Manrique; Theidon); these vampire-like creatures kill to make their product of human grease, but never sell it locally. The *pishtacos* have found different uses for human fat over the centuries: candlemaking and smelting for Church bells; greasing railroad locomotives; lubricating jet gears during the Space Race; or condimenting dishes in Lima's fine dining scene.

In the 1560s, Cristóbal Molina dismissed these fears as nonsense. For Molina, the fears that their bodies might provide grease for the tools in the Church's daily functioning (candles and bells), were but fictions proffered by the Indians of Huamanga to disguise their true desires: to continue practicing idolatry. Yet one of Molina's contemporaries, a *vecino* of the empire residing further north, Bernal Díaz del Castillo, may shed some light on the trope's material origins; writing his *Historia verdadera de la conquista de México*, Bernal Díaz repeatedly alludes to the practice of rendering Indians' fat (*el unto del indio*) for the purposes of curing the wounds of conquistadors (233).

Over the *longue durée* of Andean experiences with violence for corporate profits, there has been no consensus on the existence of the *naqaq*, but, perhaps, the *naqaq* is a trope, embodied by the very bodies for whom the horror felt at the (ab)uses of human flesh, traded as a commodity on world markets, has become second nature. An unnatural creature, much like capital

breeding capital in the Scholastic trope for usury, the *naqaq* gestates within the empire's reliance on the (ab)uses of biopower, and terrorizes by rendering the human body for consumption and production in the service of another embodied trope: scalability.

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## Epilogue

Symerons, a black people who about eighty years past fled from the cruelty of their Masters the Spaniards, and grew since into a Nation under two Kings of their own, one inhabiting Westward, and the other East in the way from Nombre de Dios to Panama.

-R.B. *The English Hero* (1692)

Over millenia, venture capital has been practiced under the guise of different names: *societas*; *commenda*; triple contact; merchant capitalism, to mention but a few. My approach to *conquista* has been contingent, all this while, on an anachronistic term: venture capital. Privileging a term, “venture capital,” because its name references the performative aspirations of its past and future practitioners does, admittedly, approach the caricature of Scholastic nominalism that Rabelais satirizes in the *Gargantua*. Yet the fact of venture capital’s happy translation, all these years, so many names, so many practitioners on a smaller or larger scale, points to the successes of a practice that has performed its figurative and fictional tropes exceedingly well in various cultural contexts. Alluding to White’s work on the tropes of writing history, Genette claimed that the pretensions of metalepsis in historical writing showed more audacity than the same trope used in fiction (13); after all, nobody can truly control the past or the future. The metalepsis of venture capital, in the performative texts and enterprises of *conquista*, laid claim to the future in its gestation of legal fictions that haunt us to this day.

Yet one salient aspect of venture capital, in its original guise, has been lost in translation. In chapter one, I argued that two exceptions to usury allowed for the practice of venture capital enterprises on a larger scale in the Indies. Sharing risks, to life and property, underwrote seafaring expeditions in moral terms; the risks taken by partners in an enterprise could justify extraordinary, *unnatural*, usufruct as the stakes were so high. These two exceptions to usury and *jus gentium* were enough to drive a wedge between use and property values. The conjunction between capitalism and evangelization led material and spiritual wealth to be confounded, in concept and in practice. Pursue your own interest, lovingly. Risk your life to win a fortune: the labor from new Christians. The contradiction between *caritas* and *cupiditas*, though never far from view, was submerged, in part, by the immediacy of the exception in these ventures into inhabited *terrae incognitae*: financial and labor partnerships and the imperatives of free trade and evangelization.

As the biopolitics and bioeconomy of indigenous labor were scripted into imperial institutions, unabashedly, the audacity of *conquista*'s metaleptic habitus took on a new guise: the establishment of rules and protocols to limit moral and material risk taking. What had justified, morally, the immoral and unnatural pursuits of usury had become dispensable as a source for legitimation after the fact. As argued in chapters two and three, the increasing importance of love rhetoric emphasized indigenous consent in the law and contracts of *conquista*, to the point that *conquista* itself became an outlawed

term in 1573. Yet the premises behind the economy of liberty and productivity, as seen in Isabel of Castile's instructions to Ovando in chapter three, did not change with the 1573 *ordenanzas*.

My intention has not been to question the sincerity of the Sovereign's struggles with her conscience. The stated goals of *paz*, *amor* and *caridad* in relations with new indigenous subjects were all too real. Outlawing *conquista*, paradoxically, was a sign of the empire's heavy investment in the metaleptic habitus that made *conquista* possible in the first place. *Conquista* was risky business, *descubrimiento* perhaps less so, though the terms, as Gibson pointed out, were largely synonymous.

Without risk to life, limb and property to support risky business (i.e., usury) as a common, moral demoninator, the metalepsis of venture capital became self-perpetuating: its habitus was anti-risk. As the metalepsis of "love interest" became the second nature to empire and its agents, risk and unruliness were considered *unnatural* to the desired order. Thus, Fray Castro and the *encomenderos* could propose their arguments for the perpetuity, couched in concerns for risk, in all sincerity. They had to do their business (with indigenous labor) with peace of mind; the risk of material losses (from the loss of the *encomienda*) did not allow them to make the necessary investments in indigenous wellbeing; risk, once integral to the metalepsis of venture capital, was externalized,. However, risk continued to justify "love interest," but from without a legal tautology that relied, it declared, unabashedly in 1573, on peace. *In order to show our love to the indigenous*

*placed under our tutelage*, the encomenderos and their allies in the Church, argued, *our interest must be ensured, in perpetuity*.

How can one counter such arguments leveled, in all sincerity, when the categories governing comportment have been confounded on such a grand scale? The moral stakes in telling and retelling the recent past with a view to the immediate future could not have been higher. In response, Las Casas told and retold the prehispanic past and the *conquista*, from Africa to Goa to the Spanish Indies, in order to remember and reiterate the real sacrifices made in the name of legal fictions. What had been cast as an academic debate, was recast by Las Casas and his followers as a *dubium*.

This doubt haunts José de Acosta even as he attempts to cast it aside and promote *cupiditas* as a model for *caritas*. For Acosta, the relationship between Christian love and empire is one of synecdoche, the part for the whole. Yet power is refracted along the fault lines of investment that divvy up the proverbial pie. In his conceit for imperial power, Acosta leaves little *actual* power for the Church that is fully subsumed into the Spanish or Portuguese imperial projects. He also divests real power from Christian love; power, for Acosta, as we have seen in the first and third chapters, exists in proportion to capital investment. If one does indeed reap what one sows, as Acosta repeats, tirelessly, his proposals for the liberation of the Indies' barbarous peoples would undermine his own authority as a member of the Church. The contradictions inherent to the synonymous, metaleptic treatment of love interest leads Acosta to upend the moral hierarchy of *caritas* and *cupiditas* in

favor of interest. Biopower expended in favor of *cupiditas* has born more fruit than that spent on *caritas*. The utility of *caritas qua caritas* becomes Acosta's main source of doubt.

Determining the nature of the *conquista*, of its legal status, whether it could be qualified as a Christian enterprise or not, were re-discovered as matters of conscience. The confessional, the preferred means of conversion for the Dominicans, via acceptance and consent of the neophyte, was used to cultivate doubt in all participants of the *conquista*. The *Avisos para confesores* in the Viceroyalty of Perú adjudicated complicity to anyone who received material benefits, directly or indirectly, from the injuries made to the Indians. Who would not be implicated after such a far reaching inquiry into the habitus of the empire's inhabitants? The extent of the devastation, according to Las Casas, was impossible to remedy; the irreparable losses of *conquista*, which had damaged the souls of so many of his countrymen, including that of the Sovereign, had created an *aporia* from which Spain had no choice but to retreat. Another prominent Dominican, Fray Francisco de la Cruz, would attempt to resolve the contradictions of empire by recentering it with a new political and spiritual seat in Lima. This program for reform remained beyond his inquisitors' scrutiny, even after his death at the stake, to qualify either as madness or heresy. Can we infer from this opposition that heresy remains a rational option, even when it goes against the law? Where does apostasy begin and heresy end?



Who could make a claim to *usufruct* without the metalepsis of *conquista* in the Indies? The doubts raised by fray Francisco de la Cruz and his inquisitors (*heresy* or *madness*?) might allow us to imagine other similarly incongruous oppositions: *pirate* or *conquistador*? Maroon or loyal subject? Fact or Fiction? Or, rather, to rediscover situations, even “emergency situations,” that allow us to recast those binaries for concepts that favor the traditions of the oppressed.<sup>1</sup> The tale of the maroons of Panama, and their alliances with the dread pirate (and knight), Sir Francis Drake (d. 1596), in the employ of Elizabeth Tudor, is a case in point. Narrated in episodes within Lope de Vega’s epic, *La Dragontea*, the descriptions of the maroons, and their actions, underscore the empire’s fraught relationship with insurgency, as argued by Ranajit Guha in *Elementary Aspects of Peasant Insurgency*, both to document, rationalize and suppress. It also exemplifies the tenuous hold of empires on the peoples and the material resources that fueled its hold on power.

Francis Drake made an important alliance with the insurgents in and around Nombre de Dios in the late 1560s.<sup>2</sup> This alliance led to his military and economic successes in Nombre de Dios and Cartagena in 1572. Notably, the English apologists of Drake’s forays into Spanish “dominions” would

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<sup>1</sup> The call for a new concept of history was made by Walter Benjamin in his Eighth thesis in his *Theses on the Philosophy of History*: The tradition of the oppressed teaches us that the “ ‘emergency situation’ in which we live is the rule. We must arrive at a concept of history which corresponds to this. Then it will become clear that the task before us is the introduction of a real state of emergency” (257).

<sup>2</sup> See both articles by Sánchez Jiménez for documents held by the Archivo General de Indias that makes reference to these alliances.

emphasize the rights of the ex-slaves as a people with legitimate rulers. For example, an English source for the episode, known only by his initials (R.B.), emphasizes the heroics of the *cimarrones* and also their status as a *nation* in his *English Hero* (1692): “Symerons, a black people who about eighty years past fled from the cruelty of their Masters the Spaniards, and grew since into a Nation under two Kings of their own, one inhabiting Westward, and the other East in the way from Nombre de Dios to Panama” (emphasis in original, 6). More than one hundred years after the maroons’ incorporation into the Spanish empire, the possibilities for an English alliance with this Nation remain open, narratively speaking, by omitting Spain’s incorporation of the latterday insurgents. Is the struggle for the recognition of a people’s rights another form of consent to the imperial project? Is insurgency the only way out? If so, how can we speak of insurgency without recurring to the figures and fictions of the metalepsis of venture capital and its unrelenting pursuit of scale and scalability?

Lope de Vega’s conflicting portrayals of the maroons of Panamá point to the limits of form in defining what, by definition, exists out of bounds. Fomented by Greed (*Codicia*) in the *Dragontea*, the maroons are motivated by “treachery” and vengeance against their former masters. The epic narrative, however, comes across a stumbling block in its characterization of the insurgents: how to rationalize the subsequent turn of events. Following Drake’s and the *cimarrones*’ victories in the Caribbean and Pacific coasts, Spanish colonial officials set out to incorporate the ex-slaves into Spanish

dominion. By 1592, the *cimarrones* had been “reduced” and re-located to Santiago del Príncipe to live “civilly” (*con policía*), and had accepted the authority of the Spanish Crown and Church.

They proved their allegiance to the Spanish Crown by attacking Drake upon his return to the coasts of Panamá in 1592, and Drake retaliated against his former allies by burning down their town. By then, the *cimarrones* were no longer *cimarrones* (by definition, insurgents) but Spanish subjects whose kings, Diego and Pedro Yalonga, were accountable to Spanish officials in the Audiencia of Panama. Paradoxically, becoming subjects of the Crown with its recognition of local rites, customs and leadership (*jus gentium*) entailed, at the same time, an abdication of their identity. Having disparaged the “treachery” of the *cimarrones* of Panama in earlier cantos, Lope de Vega hailed their valor against Drake by describing them as “almost European” (*como si fueran naturales de Europa*) but also compared their prowess to Ottoman soldiers. Once incorporated, the former insurgents are clothed with the mixed metaphors of empire.

How might we qualify these partnerships for profitable violence that are defined *per se* as outlawed but on which empire depends? Did the maroons show a political consciousness *without* the law? What differentiates a pirate from a *conquistador*? Or a band of outlaws from a Nation? What happens when people, formerly reified as property, become insurgents? And from their insurgency consent to be transformed into subjects? Grammatically, but also politically, does insurgency exist at the interstices of the figural relation

between producer and produced in the metaleptic habitus of venture capital?

What are the traditions of insurgency? Can they be transformed into the forms governed by the *nomos*? Or does the *nomos* require translation, *per se*?

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