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Subjects of Baroque Economy: Creole and Pirate Epistemologies of Mercantilism in the Seventeenth-century Spanish and Dutch East Indies

number 1 fall 2009

John D.
Blanco

This essay places in juxtaposition the rise of Creole power in the Americas (as prefigured in Carlos Sigüenza y Góngora's enigmatic text *Los infortunios de Alonso Ramírez* in 1690) and the rise of the modern European or Eurocentric subject in the international rights theories of Dutch jurist Hugo Grotius and British philosopher Thomas Hobbes, in order to examine the divergent epistemologies of the seventeenth century with respect to the expanding global circulation of values and the role of the Americas in it. Ultimately, what these divergent epistemologies illustrate is the ambiguous and contingent nature of any supposed equivalence between modernity as a *philosophical idea*; and modernity as a *historical event* or conjunction of events. Drawing on Fredric Jameson's contention that "Modernity is not a concept but rather a narrative category," the author demonstrates how the histories of Spanish decline, the rise of Creole self-affirmation, and the European constitution of modern international law in counterpoint, engender the birth of multiple, coeval subjects of modernity, each of which responds to what Immanuel Wallerstein calls the "worlding of the world" and (in doing so) articulates new values that reflect the new forms of agency within that expansion.

In 1690, the vice regal administration of New Spain approved for publication a curious text written by a Creole polymath (mathematician, astronomer, geographer, hydrologist, botanist, royal historian), inquisitor, and aspirant to the Jesuit order, Carlos de Sigüenza y Góngora, one of the most important intellectuals of New Spain and Latin America in the colonial period.¹ The brief text in question is titled *Infortunios que Alonso Ramírez natural de la ciudad de S. Juan de Puerto Rico padeció . . . en poder de ingleses piratas*, The Misfortunes that Alonso Ramírez, a Native of the City of San Juan in Puerto Rico, Suffered at the Hands of British Pirates. The narrative, as the title suggests, documents the experience of Alonso Ramírez, another Creole, who grows up as the son of a carpenter in Puerto Rico, but leaves to seek his fortune in New Spain. Through a series of unforeseen events, he ends up working as a sailor in Cavite (Philippines) before he is captured and enslaved by the aforementioned pirates. He is released a year later, after having circumnavigated the globe in their ship, and, returning to the Americas, he relates his adventures to the governor in exchange for financial support. The latter promptly charges Sigüenza y Góngora with the task of putting Alonso Ramírez's words in writing. The result is what some critics consider Latin America's first novel.²

The publication of Sigüenza y Góngora's text coincides with the intersection of three overlapping characterizations of the seventeenth century that this article addresses. The first is the seventeenth century as the period of commercial wars between Spain, Britain, France, Portugal, and Holland, which arose out of the birth of the Eurocentric world market economy in the sixteenth century. The second is the concomitant and rapid decline of Spanish imperial authority in the Americas. The third is the emergence of a world interstate system after 1648, following two centuries of religious and civil war in Europe and England.³ It is at the intersection of these three characterizations that I want to situate a fourth: the rise of Spanish native-born Creoles in the administration (both secular and religious), economy, and culture of the Americas. In this article, I place in juxtaposition the rise of Creole power in the Americas and the rise of the modern European or Eurocentric subject in the international rights theories of the Dutch jurist Hugo Grotius and the British philosopher Thomas Hobbes.

At the root of this juxtaposition is an examination of divergent epistemologies of the seventeenth century with respect to the expanding global circulation of values and the role of the Americas in it.⁴ Ultimately, what these divergent epistemologies illustrate is the ambiguous and contingent nature of any supposed equivalence between modernity as a *philosophical idea* (which reveals itself in the discourses and institutions of predominantly western European societies) and modernity as a *historical event* or conjunction of events.⁵ Yet by examining the histories of Spanish decline, the rise of Creole self-affirmation, and the European constitution of modern international law in counterpoint, we witness the birth of multiple subjects of modernity, each of which responds to what Immanuel Wallerstein calls the "worlding of the world" and (in doing so) articulates new values that reflect the new forms of

agency within that expansion. The subject of the imperial Spanish baroque state and society, the subject–*imago* of Spanish–American Creole power, and the Dutch (and later, European) subject of natural rights, embodied in the ambiguous figure of the merchant–privateer–pirate–freebooter, represent only three attempts at apprehending modernity as the conjuncture between the philosophical idea of permanent self-reflexive critique and the historical advent of the global circulation of goods and values in the seventeenth century. None of these attempts survived unchanged by the nineteenth century. Rather, what distinguishes them today are the lines of continuity drawn by present-day formulations of modernity, counter-modernity, and even “trans-modernity” to their respective imagined pasts.⁶

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DE- / RE-ORIENTATIONS

Alonso Ramírez belonged to an emerging class of Creoles who possessed neither property nor privilege, and who joined the swelling ranks of vagabonds in Mexico City in the seventeenth century.⁷ Although Spanish by blood, Ramírez’s parents leave him virtually penniless. Although skilled in carpentry, he can find no gainful employment. “I lost hope then of making something of myself,” he recalls, “and finding myself before the tribunal of my own conscience, not only accused but [also] guilty of uselessness as tried, I decided for my punishment for this crime to do what they do in Mexico to delinquents, which is to send them to the Philippines as exiles” (37).⁸

In England and France, the numbers of disfranchised gentry and peasants would contribute to the formation of a proletarian class, the members of which had nothing to sell but their own waged labor. In the colonial Americas, however, the Creole’s racial difference with respect to the subordinated native population introduced a socioeconomic status that would complicate the formation of economic classes in the classic Marxian sense. Many Creoles inherited certain rights and privileges over indigenous subjects and territories that could be traced to the Conquest. Moreover, their educational opportunities and family ties allowed them to occupy positions in the imperial bureaucracy as well as in the field of commerce. Even under conditions of poverty, then, Creoles tended to distinguish themselves from indigenous subjects, not to mention peons and slaves. This element of racial difference serves as the point of departure for understanding both the promise and failure of political revolution in the Americas from the nineteenth century to the present. In the two and a half centuries preceding the wars of independence, however, the Creole vagrant signified at once the presence and the limits of Spanish privilege and the racial hierarchy that it implied. As scholars have shown, the persistent tension between the Creole’s inclusion in a racialized colonial aristocracy and his relative marginalization compared to those Spaniards born on the Iberian peninsula led to both a partial acculturation of “American” customs and to a “spiritual hybridization” that involved the imagination and appropriation of a glorious past.⁹ This imagined transcendence, which was expressed in everything, from clothing

fashions to the cult of the Virgin of Guadalupe, nevertheless belied the Creole's anomalous and unstable position in colonial society.¹⁰

After traveling to the Philippines, Ramírez finds himself manning the Spanish garrison in Cavite, a shipyard town south of Manila in the Philippine archipelago. He is charged with transferring supplies from another garrison in the northern part of the island of Luzon, but due to the poverty of the Spanish government, they send him on his mission with virtually no means of protecting himself against attack in pirate-infested waters (85). When the narrator's frigate is captured by British pirates, they express contempt for Spain when they see not only the pathetic ill-preparedness of the ship for self-defense, but also recognize that the frigate is royal property (86). In a later episode, when the pirates ask him to take an oath to join them as their equal, Ramírez refuses to accept the arms they offer him, which prompts them to consider him "a Spanish coward and chicken" ("Tratándome de español cobarde y gallina, y por eso indigno de estar en su compañía, que me honrara y valiera mucho, no me instaron más" [98]). The ironies of Spanish disrepute or *desprestigio* multiply. When their captors set Ramírez and his remaining companions free—a motley crew consisting of a Spaniard, two Philippine natives from Pangasinan and Pampanga respectively, two Chinese–Spanish *mestizos*, one Hindu, and a native of Mozambique who served as the narrator's personal slave—they are all eventually washed ashore on the coast of the Yucatán peninsula, where they come to depend on the unbaptized natives of the region. It is the natives who eventually lead them to the town of Tejocuco, from where they make their way back to Mexico City.

Yet the narrative of Ramírez's misfortunes as a dispossessed Creole subject, whose fate allegorically comments on the state of Spain's imperial decline, includes a counter-narrative that continually reflects and elaborates on the corresponding changes and opportunities to be discovered and exploited in this period. A surprise awaits the protagonist when he discovers that the Philippines, apart from being the most remote post on the frontiers of the Spanish Empire, also belongs to a maritime economy of world trade dominated by Asian and other European powers. Arriving in Manila, he finds that the circulation of Chinese goods can, in fact, allow him to sustain his needs and wants at a very moderate expense, and that the beauty and fortified defenses of the city make it "renowned among the colonies that Europeans have in the Orient" (83). After gaining employment as a sailor, he visits Malacca, "key to all of India and its commerce with the strategic location of the Singaporean straits" (44) [llave de toda la India y de sus comercios por el lugar que tiene en el estrecho de Syncapura], Batavia (Jakarta), and Macao, and finds a bustling commerce amongst Europeans, Muslims, Chinese, and peoples from a variety of nations in southeast and south Asia. Speaking of Batavia (Jakarta), the narrator marvels at "that most celebrated city":

Their walls, bulwarks, and fortifications are admirable. The concourse one sees there of ships belonging to Malaysians, Makassars, Siamese, Buginese, Chinese, Armendans, French, British, Danish, Portuguese and

Spaniards, is endless. In this emporium can be found numerous articles one finds in Europe, as well as those that Asia sends to them on the return journey . . . But I say it all in saying that there one finds the entire Universe in sum (46/84).¹¹

Displaced from the center of Spain's overseas empire, Ramírez discovers the existence of alternative centers where Spain has little or no influence.

The paradox of Alonso Ramírez finding his livelihood in the center of Asian maritime trade and commerce is mirrored by the paradox of returning to America after being captured by pirates, only to be rescued by unbaptized natives. One of his encounters in Tixcacal involves a fellow countryman who masquerades as a long-lost friend in order to swindle him (Ramírez) of his personal slave, Pedro (124–26). The mayor and lieutenant of the town, seeing Ramírez and his companions indisposed, tries to buy the frigate that they have left onshore at a bargain. Later, when Ramírez and his companions reach the town of Mérida, he cannot find anyone willing to offer them the civility and charity that he had come to identify with Spanish Catholic and imperial culture:

With that city, and generally the entire province, so abundant, fertile, and very cheap, were it not for the lawyer Don Cristóbal de Muros as my only salvation, along with a servant of the *encomendero* [land trustee] Don Melchor Pacheco, who gave me a cloak, and the honorable bishop Don Juan Cano y Sandoval, who aided me with two pesos, there was no one who, seeing me and my companions half-naked and dying of hunger, would extend a hand to help me. Neither did we eat in what is called the *Casas Reales* of San Cristobal (a respected restaurant where they entertain outsiders), but rather [we ate] what the natives in charge of their upkeep gave us, which came down to corn tortillas and ordinary frijoles (126–27).¹²

During his circumnavigation of the globe, Alonso Ramírez has struggled to develop a consistent perspective of his place in the world among a diverse array of other identities and their corresponding histories: British pirates, Philippine *mestizos* or mixed-bloods, Muslim sultans, African slaves, and unbaptized American natives. In the process, Ramírez has also had occasion to reflect on the values that distinguish him from others: Christian/heretic, European/non-European, civilized/barbaric, devout/impious.¹³ Yet his return to America and his experiences there contradict the entire edifice of the value system that he has sought so hard to maintain in the face of the cruel atrocities visited across the globe by the British pirates who had captured and enslaved him for an entire year. It is the natives who feed and support him; it is the Spaniards and Creoles who try to rob him, who shortchange him, and who turn a blind eye to his misfortune.¹⁴

At the end of his journey, Ramírez is finally brought to Sigüenza y Góngora, also a Creole and yet unlike him. Where the former has failed in seeking gainful

employment in life, the latter has succeeded. This encounter results in a final, perhaps typically baroque juxtaposition in which the protagonist must account for himself before his own shadowy twin. In this moment, which also turns out to be one of self-parody for the author/transcriber of the *Infortunios*, Sigüenza y Góngora agrees to transcribe Ramírez's impressions of him, at which point the writer represents himself as an object seen from Ramírez's perspective:

The governor . . . sent me to go visit Don Carlos Sigüenza y Góngora, a cosmographer and professor of mathematics of our lord King in the Mexican Academy, as well as the head chaplain of the *Hospital Real del Amor de Dios* in the city of Mexico, (titles as these, which sound important but are worth very little, the exercise of which endows him more with *reputation than convenience* [*reputación más que conveniencia*]). Sympathetic to my efforts, he [Sigüenza y Góngora] not only set them down in writing, but also procured[,] by intercession and supplication on my behalf, for a Decree to be made to our Lord viceroy in my presence, that D. Sebastián de Guzmán y Córdoba, head official of the royal treasury, would come to my aid, as it was done (129).¹⁵

After reaching what Ramírez has earlier identified as the farthest ends of the earth, and having successfully survived his capture and enslavement by lawless pirates on the high seas, his encounter with the law (in the form of the viceroy of Mexico) and subsequent vindication turn Ramírez's captive narrative into a comedic drama.¹⁶ The expanding and somewhat random series of oppositions (center–periphery, Spanish Creole–British pirate and heretic, Creole vagabond–Spanish official, oral testimony–written document) is here brought around into a neat circle, which allows the reader to evaluate the text as a work of literary fiction rather than historical document.¹⁷ Like the picaresque antiheroes Lazarillo de Tormes and Guzmán de Alfarache, or even the character Segismundo in Calderón's celebrated drama *La vida es sueño*, the protagonist traverses the extremes of social belonging and expulsion in order to be reconciled with his destiny as a judicious and self-reflexive subject—a subject of enunciation, one might say, who sees himself (through Sigüenza y Góngora's eyes) as a subject of speech. In that moment, one might argue, a Creole subject as a “subject of modernity” is born.¹⁸

Yet even here the identification of the Creole as a self-reflexive, that is, *modern*, subject is debatable. For while the *mise en abyme* that characterizes Ramírez's final jibe at Sigüenza y Góngora has been read as an instance of the emergence of a Creole oppositional identity or consciousness in seventeenth-century New Spain, one may also read it as the difficulty, if not *impossibility*, of the Creole's existence without his continued dependence on the very system that he criticizes. This ultimately pragmatic consideration appears at least twice in the narrative. At the beginning of his account, Ramírez states:

[A]lthough from these events . . . one may deduce maxims and aphorisms, which would cultivate the reason of the one who occupies himself with

them whilst being entertained by what is delightful in the narrative, this will not be what I intend to do here; rather, [my goal is] to solicit pity [solicitar lástimas] that . . . will at last make the memory of my labors tolerable (27–28).

The solicitation of pity, as we saw above, is tied to the procurement of money, and, later, to gainful employment in Spain's equivalent of the royal navy overseas (Armada de Barlovento). To put it simply, the birth of Creole consciousness is precisely what does *not* happen; it is preempted from the beginning by the prudence of colonial subalternity.

Ultimately, what Ramírez and Sigüenza y Góngora share in common, more than their disenchantment with imperial sovereignty, is the search for a suitable accommodation to reality and a procurement of advantage or opportunity in it: as the narrator relates, "convenience [Sp. *conveniencia*] more than reputation." The word *conveniencia* connotes a variety of related meanings here; while its closest English equivalent "convenience" denotes comfort, accommodation, harmonious agreement, compromise, or expediency, Ramírez also intends the word to mean strategic advantage or opportunity, explicitly juxtaposed to reputation. The seventeenth-century *Tesoro de la lengua castellana o española* gives an illustration of the word through the Spanish proverb: "Mas vale mala avenencia o conveniencia que Buena sentencia," which means: "A bad compromise is better (or *worth more*) than a good verdict." In *A Dictionary of Spanish Proverbs*, the author adds the following gloss: "Shewing, that it is much better to compromise disputes or law suits, although a person may have the right on his side."¹⁹ Here again, the two meanings of *conveniencia*—harmonious accord or accommodation and strategic advantage—are manifest. These connotations not only render Sigüenza y Góngora's titles excessive and superfluous in Alonso Ramírez's eyes, but the narrator also pits these pompous titles against the pragmatic spirit of the seventeenth century, where the dominance of what Maravall identified as prudence [*prudencia*] served as less a value among other values and more as a permanent critique and *evaluation of all values*—a kind of "meta-value" that decenters and reorients other values, even as it calls all values into question.²⁰ "Baroque culture was a pragmatism with a more or less inductive base and regulated by prudence . . .," Maravall writes. "[Behind] the tactical prudentialism that predominated in baroque individuals [lay] the substitution of a criterion of morality by another moralistic one that was brought to bear at every step" (62).

The revaluation of values through the prudence and pragmatism of *conveniencia* introduces a paradox that forecloses the Creole's identity in the form of an impasse. On the one hand, Sigüenza y Góngora engages in a self-reflexive critique of his own insertion into the colonial order in order to indict a social order based on official titles, recognition by a sovereign authority, and the colonial subject's ultimate dependence on a highly centralized bureaucratic order to secure his or her protection and welfare in a world

of danger and limited opportunities.²¹ In the Creole's America, baroque disenchantment translates easily into Spanish *desprestigio*, disrepute or discredit. On the other hand (as the narrator himself admits), both Alonso Ramírez and Sigüenza y Góngora depend on the very authority that serves as the object of disenchantment. Not coincidentally, this double-strategy of self-reflexive critique and its corruption, and the ambivalent Creole subject that it engenders, emblemizes the floating world of original or primitive accumulation out of which the subject of (Eurocentric) modernity is born. Following Ralph Bauer's characterization of *The Misfortunes*, Alonso Ramírez/Sigüenza y Góngora expresses the "epistemic mercantilism" in the spaces where imperial hegemony falters (Bauer, 27 and 160).

REOCCUPIED SOVEREIGNTY

The pragmatic spirit of *The Misfortunes* unfolds according to an itinerary that, not coincidentally, follows the main arteries of the first truly global economy, in which the values of commodities across the world entered into comparison and competition with one another through an unbroken chain of trade for the first time in history. Alonso Ramírez (through the pen of Sigüenza y Góngora) implicitly and explicitly addresses two aspects of this new economy. The first is the role of Asia, particularly Manila and Macao, as conduits and intermediary sites between a Sinocentric network of trade and commerce, and the rise of European maritime powers. With the founding of Manila in 1571, an entrepôt between Asia and the Americas was created, which has been interpreted as marking the birth of global trade.²² The second aspect is that survival and prosperity in the new economy entails a revaluation of all values, with the objective of redefining them to accommodate the reality of a post-imperial international order. A brief discussion of these two points will illustrate the Janus-faced character of modernity as seen from the perspective of American Creoles who were also subjects of the Spanish Empire.

The origins of the wealth engendered by international commerce that Alonso Ramírez witnesses on the frontiers of the Spanish Empire at the end of the seventeenth century lie in large part in the commercial wars waged by Britain, France, and the Low Countries against each other, as well as against Spain and Portugal. In surveying this period of political and economic breakdown in Spain's possessions and the commercial wars of the Dutch, British, and French overseas, Marx highlighted the anomalous character of production and exchange—neither free nor unfree, neither feudal nor capitalist—as the last of several episodes defining the immediate prehistory of the capitalist mode of production, or "original/primitive" accumulation:

The discovery of gold and silver in America, the extirpation, enslavement and entombment in mines of the aboriginal population, the beginning of the conquest and [the] looting of the East Indies, the turning of Africa into a warren for the commercial hunting of black-skins, signaled the rosy dawn

of the era of capitalist production. These idyllic proceedings are the chief moments of primitive accumulation. On their heels treads the commercial war of the European nations, with the globe for a theatre . . . Force is the midwife of every old society pregnant with a new one. It is itself an economic power.²³

More recently, Andre Gunder Frank's fascinating revision of the account of the birth of the world economy raises three points that frame the importance of Latin America and Asia to one another between the sixteenth and eighteenth centuries.²⁴ The first is China's preeminence throughout the world in production and export. With the outpouring of silver from the mines of Brazil, Potosí, and New Spain, which China imported for use as currency, China drove the engine of a world economy based on its diverse exports of silk and other textiles, porcelain, gold, tea, and luxury goods. The world economy of Bolivian and Japanese silver, on the one hand, and Chinese manufacture, on the other hand, facilitated the exchange of commodities on a worldwide scale, an exchange that (Frank argues) did not cease to be Sinocentric until the eighteenth century, after which the global economy came to revolve around Europe. As Frank reiterates throughout his work, it is the network of intra-Asian, Asian-American, and Asian-European trade that helped to build the infrastructure of global trade and traffic. Given the extraordinary demand of the Chinese economy for silver, the precious metal extracted from Bolivian mines through compulsory labor enabled European merchants to insert themselves into the intra-Asian trade network as its parasites.

Frank's analysis, of course, only represents one point of view in a virtual sea of divergent opinions regarding the birth of global trade. Other scholars have focused on the centrality of the Indian Ocean trade network as a "pre-modern/Eurocentric" world system. Following Abu-Lughod's pathbreaking argument, one might also see the world before the sixteenth century as consisting of several "world-systems," none of which attempted to encompass the globe in a world hegemonic framework as would the European state system come to do later.²⁵ Yet while the implications of Frank's analysis bear directly on debates on the emergence of world trade within the field of economic history, for our purposes they also touch upon philosophical and historical arguments that ascribe the ostensible birth of the modern Eurocentric subject with materialist as well as idealist premises. Specifically, an entire sociological literature—beginning perhaps with Max Weber's *The Protestant Ethic and the Spirit of Capitalism* and including texts as diverse as Karl Polanyi's *The Great Transformation*, Anthony Giddens's *The Consequences of Modernity*, and Jürgen Habermas's *The Philosophical Discourse of Modernity*—has developed around the idea of modernity as a philosophical project that either emerged out of or that spurred a conjunction of historical circumstances and movements unique to Europe (or perhaps to certain countries in western Europe). Frank's analysis, among others, however, challenges this view, even to the point of suggesting that such a conjunction belongs more properly to the realm of myth and fiction

rather than, say, economic history. The basic implication to be derived from this challenge is that the modern subject, and the economic, legal, political, social, and cultural discourses that interpellate him as such, appears less as a historical necessity or predestined figure of the post-Westphalian international order, and raises the possibility that there is *more than one modern subject* whose existence is contingent upon the particular way that the modern “break” with the feudal or primitive economies occurs, or occurs partially and selectively. One such example might be this Creole “subject.” Our task would, then, be to examine the modern economy that she or he inhabits, from her or his perspective.

The rise of the world economy in the sixteenth and seventeenth centuries, as Sigüenza y Góngora/Alonso Ramírez foreshadows, had an impact on the colonial cultures of New Spain, Peru, and the Philippines in an ambiguous way. On the one hand, the period in which Sigüenza y Góngora lived and wrote came at the tail end of what Woodrow Borah and J. H. Elliott have called “New Spain’s century of depression.”²⁶ In contrast, John Lynch describes the seventeenth century as “a time of transition in the Hispanic world, when imperial controls were diluted, colonial government began to compromise, regional economies worked for themselves, and the Creoles came into their own” (347). The reasons for this transition are many. They range from the entry of the foreign competition of Dutch and British traders (both legal and illegal) in the Americas, the great Indian epidemic of 1576–79 (when the population dwindled from 11,000,000 in 1519 to 2,000,000 in 1600), the incoherence of the Crown’s fiscal policies, Spain’s incapacity to enforce the rule of law overseas, as well as its failure to sufficiently expand and maintain an imperial bureaucracy, to the sale of government offices and Philip II’s costly wars with the Low Countries, France, Portugal, and England, which led to a series of spectacular royal bankruptcies at the end of the sixteenth century and throughout the seventeenth century.²⁷ In international trade, Spanish goods could not compete with the influx of Asian goods borne on the Manila galleon (*nao de China*) to the Americas. Moreover, Spain’s inability to provide for the needs (ranging from raw materials to luxury goods) of its overseas colonies led to the aggressive penetration of other European maritime powers into the American and Asian markets. To add to the disarticulation of Spain’s transatlantic trade, Spain’s wars with Britain, France, and Holland hampered both the intra-Caribbean and transatlantic trade routes, and blurred the distinctions between commerce, war, and depredation to the point of collapsing these categories.²⁸

On the other hand, this rather bleak picture of Latin America’s economy changes when we begin to see it not from the perspective of imperial Spain but rather from that of the Latin American Creole. As Bolívar Echeverría points out, when one examines the demographic recovery, revitalized commercial activity, and the exploitation of labor between 1595 and 1635, we see two histories in counterpoint. The first constitutes the termination of a “descending line,” which consists of the decline of the indigenous, African, and peninsular Spanish populations, the decline of overseas traffic

in minerals (predominantly silver) and slaves, and the *modernized feudalism* of the *encomienda*, the system of royal land grants entrusted to peninsular Spaniards in exchange for the exaction of tribute and the tasks of evangelizing the native populations. Yet the second history illustrates the beginning of an “ascending line” of population recovery, significantly dominated by a *mestizo* population; increased traffic in regional intra-American manufactures and agricultural exports; and a “*feudalized modernity*, which mocks the mercantile equality of landowners and workers through extra-economic recourses to violence similar to those that subdued the subaltern classes of the Middle Ages in Europe.”²⁹ The isomorphism between the two historical epochs—

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between “modernized feudalism” and “feudalized modernity”—Echeverría argues, is precisely what allows the second epoch to be characterized under the terms of the first: “[T]he historical continuity does not come about *in spite of* the discontinuity of the processes that transpire in time, but rather *by virtue [of?] and through it*” (51, my translation, italics added). Echoing Hans Blumenberg’s analysis of modern rhetoric, the concepts and terms of an earlier age are “reoccupied” by later ones, obscuring the profound paradigmatic or epistemic differences between the two.³⁰

Applied to Alonso Ramírez’s narrative of Spanish imperial decline (*desprestigio*), Echeverría and Blumenberg’s observations allow us to see how the rhetoric of Spanish impotence nevertheless masks the newfound autonomy and opportunity of the Creole subject. This ranged from the growth of regional “informal” economies (that is, those characterized by the fluidity between subsistence and market economies, contraband and smuggling, and the free combination of economic trade and industry with extra-economic violence and coercion) to the proliferation of Christian syncretism, and from the proliferation of socio-racial “castas” to the explosion of a distinctively Latin American baroque art.³¹ Of course, one may argue that the flexibility and fluidity of imperial authority characterized overseas colonial rule from the very beginning. Notwithstanding the Crown’s suppression of early attempts by the Spanish conquistadores to establish an authority autonomous from that of the monarchy in the Americas, the Spanish Hapsburg monarchs acknowledged from the beginning that a dependent colonial bureaucracy and a missionary enterprise ruled strictly by the rights of royal patronage could not guarantee the integrity of imperial Christendom. Rather, Spanish rule overseas would have to depend largely on decentered and heterogeneous forms of authority in constant flux and negotiation.³² Yet the architects of what Herbert Bolton calls a “frontier system” could not have anticipated the constant undermining of what was theoretically a vertical chain of command that stretched from the will of the sovereign to the colonial subject. After 1700, Elliott writes, “In principle, a highly regulated transatlantic trading system and a vast body of legislation . . . held Spanish America in a tight metropolitan grip. In practice, the spread of systematized corruption endowed the imperial structure with a flexibility that its rigid framework appeared to belie . . . and enlarged the space in which the creole elites were able to maneuver.”³³

The flagrant violation of Spanish laws finds its fullest expression when such laws interfered with the economic incentives for bypassing them, particularly in cases like the Manila–Acapulco galleon trade and its ramifications for the whole of colonial society in both Mexico and the Philippines. Writing about the system of regulations designed to administer trade between Chinese silk and American silver, William Schurz writes: “The elaborate system of regulations which were designed to keep the galleon commerce within the bounds of the *permiso* [royal license] remained virtually a dead letter . . . the instruments for the execution of the king’s laws were for the most part very fallible men. They were either too venal to resist the advantage of an interested collusion in the violation of the laws or powerless to withstand the unanimous sentiment of the community they governed.”³⁴ A similar case of systemic corruption occurred in the contraband trade between Mexico and Peru. Despite prohibitions issued in 1609, 1620, 1634, 1636, and 1706, contraband trade facilitated by the influx of Chinese goods and the export of American silver continued unabated. In Schurz’s words, “The venality and corruption in every rank of vice regal government in Peru seems to have been almost universal” (369).³⁵

The resulting impossibility of administrative centralization and monopolization of legitimate violence overseas found its juridical expression in the near-universal quasi-legal policy of *se acata pero no se cumple* / *Obedezco pero no cumplo* [I obey but do not complete/execute].³⁶ This juridical expression of convenience or expediency has roots that date back to early medieval times and intersect with the attempt of the Church fathers to reconcile the law of the emperor with the “economy” [oikonomia] of Christian grace.³⁷ In the seventeenth century, however, its free exercise resulted in the effective sanctioning of every exception to every rule. The hyperbolic separation between the juridical–legal and practical, that is, the “economic” mode of administering—or partially administering, or refusing to administer altogether—this law, led paradoxically to the commingling of law and economy in every aspect of colonial life. The result was the collusion of Crown and Creole subject on what amounted to the practice of legal hypocrisy. To take Margarita Suárez’s work on commerce, banking, and the state in viceregal Peru as an example, the Spanish Crown came to depend heavily on an emergent native (Creole) mercantile elite for the penetration and diversification of trade in the colonies, for the development of a colonial administration to expand and maintain a corresponding system of taxation, and for the fortification of defenses against foreign incursion and piracy. Conversely, members of the Latin American elite recognized that their professed loyalty to Spain’s autonomy assured their continued participation in a flourishing economy of fraud and contraband without endangering their own autonomy or unnecessarily exposing them to colonization at the hands of the British, French, or Dutch.³⁸

The overseas economy of the Spanish Empire complicates the narratives of Spanish decline and the birth of the world economy in several ways. Echeverría demands that it be studied on its own terms:

It appears to be that . . . from the 1650s onward, and with the support of inoperative imperial prohibitions, there appeared the sketch of an economic world in American Spain: an economic life with its own autonomous coherence . . . that extended[,] to a greater or lesser degree, from the north of Mexico to the Peruvian highlands . . . an “informal” economic world, easily identified in official documents, but very difficult to capture in all its clandestine detail; an economic world whose presence can only be understood as the result of the realization of that spontaneous “historical project” of civilizing activity that has come to be called “Creole” . . .³⁹

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Whereas the European powers were in the process of developing general principles by which states would formulate mercantilist policies in the world market, the colonial procurement of *conveniencia* was by contrast predicated on the *strategic absence* of any central authority, the *tactical commingling* of law and economy, and the semi-anarchic spread of *regional economies* that engendered their own ad hoc forms of order and law. The infiltration of corruption at all levels of the colonial bureaucracy, the near-universalization of venality in government offices, and the secularization of religious parishes by indigenous and *mestizo* priests together signified a habitation or reoccupation of American institutions by a new native-born elite, which found it expedient or prudent to preserve these institutions in form while simultaneously redirecting their functions *away* from the task of state centralization and toward the reinforcement of local autonomy. If the Spanish Empire saw the proliferation of these informal economies as a necessary corollary to the conscription of labor and to the conversion of resources on which it depended, the Creoles saw imperial sovereignty as a convenient shield against the full-blown invasion of foreign powers and their commercial interests. To put it another way, the very same values of prudence and pragmatism that writers like José Antonio Maravall associated with baroque disenchantment and Spanish decline reached a stage of strategic deployment and tactical extension whereby they engendered their own microeconomies, as well as new assertions of Creole autonomy. It remains to be seen how this new form of self-assertion compares and contrasts with earlier articulations of the modern subject of natural rights.

SOVEREIGNTY INDIVIDUALIZED

When we turn our eyes from the proliferation of *conveniencia* in the Americas to the seeming universality of what we understand today as piracy, pillage, contraband, and smuggling during the period of the commercial wars among the European powers in the Pacific and Indian Oceans, one may argue that claiming a specifically “Creole” epistemology amounts to overstatement. Anne Pérotin-Dumon’s study on the limits of addressing piracy in the Americas and Asia in the seventeenth century, for example, begins with the observation that violence, war, plunder, and commerce were inseparable in this period. Given the absence of clear hegemony on the seas beyond the shipping routes

of various trade monopolies, the definition of piracy shifted according to the national legal framework.⁴⁰ Making matters more complicated was the use of privateers or “freebooters” to supplement the weakness of a state’s overseas armed force (220–21). Finally, in the age of trade monopolies, “contraband had to make up for the chronic undersupply and exorbitant prices imposed by chartered commercial companies and state-controlled trade circuits Smuggling and legal trade were imbricated. In every case, the acceptance of a monopoly over the main routes required a state’s tolerance of smuggling outside them” (223–24).

Being the primary agent of primitive accumulation in Alonso Ramírez’s narrative, the pirate assumes all the negative values against which the protagonist defines himself: if the latter is native to the Spanish possessions and is pious, honorable, and just, the pirate “other” is foreign, heretic, impious, immoral, tyrannical, and even cannibalistic. Every act of depredation that the pirates commit—from the sacking and pillaging of a native population in the East Indies to their planned treachery against a fellow British ship—gives Ramírez an opportunity to distinguish himself from them. Yet, following Pérotin-Dumon’s analysis, the pirate can also be seen as the Creole’s shadowy twin. Both represented and enacted the uneven extension of European state authority into a vast and unknown frontier. Both moved about freely in the ambiguous space where laws confronted their necessary limitations or exceptions, and where micro or regional economies were propelled, guided, or restrained by extra-economic forms of coercion and violence.⁴¹ Both participated in the same circuits of contraband and smuggling that characterized the growth of regional economies in Latin America and the gradual penetration of European markets in the Western Hemisphere.

The Creole and the pirate, then, often shared the paradoxical condition of existing in opposition to the centralized or sovereign authority of European powers when both professed at times to be in the service of that authority, and ultimately worked for the benefit of those economies when conducting the business of contraband smuggling and privateering.⁴² Janice Thomson’s work, for instance, illustrates how the exercise of non-state violence, which included piracy, privateering, mercenary activity, and mercantilism, grew out of the desire of European state leaders to “exploit the capabilities of nonstate actors. In doing so, they largely marketized, democratized, and internationalized coercion.” The resulting ambiguity in the exercise of authority through violence leads Thomson to characterize the world of such non-state actors as one might characterize the world of the American Creole: in both cases, “it is impossible to draw distinctions between the economic and the political, the domestic and the international, or the nonstate and state realms of authority when analyzing these practices. All lines were blurred.”⁴³ It is in the blurring of these lines, as Ralph Bauer has shown in his reading of Sigüenza y Góngora’s text, that the author/transcriber (Sigüenza y Góngora) comes to recognize and even perform a kind of metaphorical “abandonment” of the imperial bureaucracy in favor of the volatile realm of the (literary) marketplace.⁴⁴

At the same time, however, the interpretation of *conveniencia* from the perspective of both the pirate and Dutch jurists like Hugo Grotius and Pieter de la Court diverges from that of Alonso Ramírez. For while the latter never relinquishes his conviction about the importance of redrawing boundaries, however blurred, between the “inside” and “outside” of the Spanish Empire, the pirate begins his activity under the assumption that such boundaries only exist when they can be enforced by violence. On a larger level, while Spain and Portugal under the Spanish Crown never relinquish their claim to exclusive trading rights in the Americas and Asia until the eighteenth century, the anomalous status of the pirate with respect to laws limited to state jurisdiction becomes the point of reference and departure for the articulation of a *new* law and a *new* right, one on which a post-imperial international legal order would be based. If, as we have seen, the baroque epistemology of imperial Christendom in the Americas was characterized by the fluid, excessive, and overlapping jurisdictions of authority and exception, commerce and war, then the economic and extra-economic instances, the freebooter, privateer, and mercenary as test cases for the articulation of a modern political subject of Eurocentrism would depart from a different premise: the notion of a universal human being as bearer of *natural rights* in an area defined by the *absence of state authority*. A discussion of this difference begins with the identification by the Dutch jurist Hugo Grotius of *Mare liberum*, The Free Sea (1609).⁴⁵

This little pamphlet came out of a larger unpublished work by Grotius titled *De Iure Praedae Commentarius* or Commentary on the Right of Spoils.⁴⁶ It was written as a response to the Dutch seizure of a Portuguese vessel in the Straits of Singapore (in 1603), not far from the sites of pillage and plunder witnessed by Alonso Ramírez in Sigüenza y Góngora’s account. The seizure of this vessel, facilitated by the alliance between the Dutch East Indies Company and the Sultan of Johore, amounted to a declaration of war against Portugal (at that time united with Spain under the Hapsburgs) and to the need to draft a defense of such actions in the face of Portuguese retaliation, further alienation from the Church, and the possible involvement of other countries (particularly France and England) in the dispute. Grotius outlines the stakes of the Dutch claim in the introduction:

A situation has arisen that is truly novel, and scarcely credible to foreign observers, namely: that those men who have been so long at war with the Spaniards and who have furthermore suffered the most grievous personal injuries, are debating as to whether or not, in a just war and with public authorization, they can rightfully despoil an exceedingly cruel enemy who has already violated the rules of international commerce . . . If the Dutch cease to harass the Spanish blockaders of the sea (which will certainly be the outcome if their efforts result only in profitless peril), the savage insolence of the Iberian peoples will swell to immeasurable proportions, the shores of the whole world will soon be blocked off, and all commerce with Asia will collapse (*De Iure Praedae Commentarius*, 1–2).

Like his predecessors, Grotius asserted the need for knowledge of a natural law that, however derived from the Creator, would not necessarily depend upon metaphysical claims on the divinity for the understanding and shaping of European society.⁴⁷ Like his predecessors, too, Grotius repeatedly invoked the precedents of Roman law and biblical scripture, in addition to citing the Salamanca jurists themselves, in order to lend legitimacy to his arguments. Yet *Mare Liberum* bears witness to a new approach to the question of *jus* that did not rely or center on the relationship of natural law (enshrined in concepts like *comercium liberum* that sustained the Spanish missionary endeavor) with the “proper” exercise of sovereignty. Rather, Grotius focused on a conception of natural rights that come into play *outside* the civil order or sovereignty, that is, with the recognition of the limits of sovereignty. This limit to sovereignty appears in the form of the Free Sea. Grotius’s main contention against the Portuguese or Iberian claim to the exclusive use of the sea is that the sea “cannot be made proper,” that is, it cannot belong to any sovereign or individual by right of seizure, possession, or occupation, precisely because the sea cannot by its very nature be seized, possessed, or occupied.⁴⁸ It cannot provide a foundation for building and cannot be measured or “staked,” as a territory might be.

This assertion, and the short treatise that develops it, contains a series of corollaries that introduce an emerging spatial order distinct from that of the Spanish Empire.⁴⁹ Many of these developed in ways unforeseen even by Grotius. First of all, understood in a broad and negative sense, this spatial order springs from an appeal to a universal law beyond empire and Christendom, in which relations between Christian princes and the non-Christian world took the form of direct collaboration or (more significantly) conflict with other Christian princes.⁵⁰ The Free Sea took an initial step in that direction by designating an *exceptional space* as the arena where the law of Christendom (whether by Portuguese or Spanish right of discovery, papal bull, or customary use) did not hold, insofar as *no* civil or public law did or could. Beginning with this designation, Grotius marked a limit, a zero-degree of law, that came to be regarded as the point of departure for establishing a modern, that is, “secular,” international order.

How do we conceive of this law outside the law, which takes place on the Free Sea? In the larger work from which *Mare liberum* is taken, *De Iure Praedae Commentarius* or *Commentary on the Right of Spoils*, Grotius accomplishes this not by conceiving the law (either the law of the sovereign authority or that of nature) in terms of the primary obligations that it bestows on all. Rather, he displaces this point of departure by instead interpreting the law primarily as a question of *rights*, which can be exercised either as a remote extension of sovereignty in an area beyond its jurisdiction (like the Free Sea) or in the name of one’s freedom to occupy land, seize another’s possessions, or mete out punishment to another party in the absence of sovereignty.⁵¹ The question for Grotius, then, is no longer: To what laws is humanity subject outside sovereignty? as it was for his predecessors. Rather, it is: What rights can or does humanity exercise in “free” space that it does not or cannot

necessarily exercise under sovereignty's jurisdiction? By reversing the analysis, Grotius suspends the difficulty arising from the impasse that the project of authenticating a paradoxical "law" outside the law had engendered. Such an impasse, of course, had first arisen from the very first attempts to determine the basis for a natural law that could be distinguished from both divine law and the laws of the emperor or prince. But it was only in the context of war, such as the Eighty Years' War between the Dutch Republic and the Spanish Empire (1568–1648), as well as war against the Portuguese for control of the expansion of world trade, that the questioning of the politico-theological order of the Spanish Empire could lead to the necessity of breaking with any recourse to the "exceptional" instance of divine will or law.⁵²

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Beginning with the existence of the Free Sea as a kind of "prime immovent" in human affairs, Grotius allows for the possibility of re-conceiving the law from the basis of a minimum requirement that would allow human beings to still be considered human beings outside the jurisdiction of sovereignty, a minimum requirement that marks the threshold of visibility of the pirate, privateer, and mercenary. Needless to say, such a premise transgressed the dichotomy established by Aristotle and Aristotelian-inspired Scholastic jurisprudence, which contended that man as a "political animal" (*zoon politikon*) had his existence already distinguished by considerations of civil society and sovereignty. In Grotius's conception, the reduction of natural law to the question of natural rights and their acknowledgment allowed for the existence of natural man's sufficient reason outside both, and in so doing removed the dependence of law and judgment upon the exceptional claims of sovereign jurisdiction, as well as the resulting anomaly arising from piracy and the extreme relativism in defining it.⁵³

According to Tuck, Grotius's *De Iure Praedae* achieves this in his discussion of natural ownership (*dominium*) and the natural right to punish (*ius gladii*).⁵⁴ Regarding the first, Grotius differentiates between the way in which civil law understands property (*dominium*) and common possession (*communio*) and their earlier, perhaps "natural" antecedents. Under civil law, "*dominium* connotes possession of something peculiarly one's own," and "we say 'common' [commune] to refer to that which is owned by several parties together, and by mutual consensus is excluded to others." However, "with reference to that early age, the term 'common' is nothing more nor less than the simple antonym of 'private' [proprium]; and the word 'ownership' [dominium] denotes the power to make use rightfully of the common [i.e. public] property" (translation modified).⁵⁵ In other words, the origin of civil law comes from natural right, which works in a manner *analogous* to civil law but in a realm *outside* or *previous* to its jurisdiction.⁵⁶

In similar fashion, natural rights accorded to humanity outside sovereign law the right to punish the breach of one's "natural right" to a kind of pre-civil ownership, as described above:

[W]ar is rightly undertaken for the defense of everyone's goods, so it is no less rightly undertaken for the use of those things which by the law of

nature ought to be common. Wherefore he that shall stop the passage and hinder the carrying out of merchandise may be resisted by way of fact, as they say, even without expecting any public authority.⁵⁷

Elsewhere in *De Iure Praedae*, this right of an individual to punish the breach of natural right outside the boundaries of sovereign law is more fully fleshed out:

Is not the power to punish essentially a power that pertains to the state? Not at all! On the contrary, just as every right of the magistrate comes to him from the state, so has the same right come to the state from private individuals The law of nature, or law of nations, is the source from which the state receives the power [to punish] in question.⁵⁸

As recent scholars of Grotius have shown, we can understand this affirmation of natural rights in at least two ways, both of which are pertinent to the unfolding of a new spatial order both within and outside Europe. On the one hand, natural rights as they take shape in *De Iure Praedae* provided the foundation for a modern, radical universalism in Grotius's age and our own: the reorientation of law and rights from a matter of obligation to an ever-changing measurement and transgression of the limits of inalienable freedom.⁵⁹ On the other hand, when we examine natural rights from the perspective of the East Indies (as well as the Americas), these assertions carry a diametrically opposed valence. According to Grotius's logic, acts of aggression, violence, and war may be pursued and deemed just in the eyes of sovereign princes, even or *precisely* when they occur outside the boundaries of sovereignty—on the Free Sea or in the future colonies.⁶⁰ For Keene, Van Ittersum, and Wilson, such a claim effectively blurs the line between sovereign law and personal revenge. Indeed, Van Ittersum's analysis of Grotius's original manuscript of *De Iure Praedae* shows that Grotius himself was unclear or ambivalent about distinguishing clearly between the two.⁶¹ Returning to Tuck's analysis, "[B]y attributing rights of dominium or a kind of sovereignty to individuals in a state of nature, [the rights theorists] immediately made the distinction between the two realms fluid and in effect purely a question of numbers."⁶² Elsewhere, he writes, "The natural individual was, morally speaking, like a miniature sovereign state, to which the vocabulary of liberty could be applied" (84).

In Keene's critique of modern international rights theory, the author shows how the natural rights of individuals that have often been used in the name of freedom, liberty, and human dignity, even in our day, were used in the East Indies of Grotius's time to justify the rights of seizure, dispossession, and depredation invoked by mercenaries and privateers, as well as rapacious trading companies, outside the jurisdiction of the European sovereigns.⁶³ This was particularly the case in an age where the criterion of validating non-European sovereignty was still a question of debate. Indeed, one may argue that such a criterion did not exist for European nations until the nineteenth-century Scramble for Africa, and only then under terms that

were highly prejudicial to the depredation of the world for the benefit of modern imperialism.⁶⁴

Needless to say, Grotius was not the first to blur the lines between natural rights, privateering, and outright piracy. Most European powers had, by the seventeenth century, grown accustomed to issuing letters of marque and reprisal, in which a sovereign authority granted an aggrieved party permission to seek revenge or compensation from the aggressor.⁶⁵ In Elizabethan England, the queen had justified the predatory expeditions of Sir Francis Drake by appealing to an international law that sanctioned such hostilities in England's war with Spain, effectively collapsing the distinction between privateering (the wartime enlistment of private naval mercenaries) with piracy.⁶⁶ Richard Hakluyt, the compiler, editor, and publisher of England's most famous seafaring expeditions, openly supported state-sponsored aggression against any opposition to English colonization of Virginia, whether this opposition took the form of Spanish claims to the New World by right of discovery, or right of treaty with the Portuguese by papal decree, or whether it took the form of non-European sovereignty:

If we fynde any kinges readye to defende their Tirratoryes by warre and the Countrye populous desieringe to expell us that seeke but juste and lawful Traffique, then by reason the Ryvers be lardge and deepe and we lordes of navigacion, and they without shippinge, we armed and they naked, and at continuall warres with one another, we maye by the ayde of those Ryvars joyne with this kinge here or with that king there at our pleasure and soe with a fewe men be revenged of any wronge offered by them and consequentlie maye yf we will conquere fortrefye and plante in soyles moste sweete⁶⁷

There are at least three points to be taken from Grotius's conception of the modern subject of international law, which coincides with the golden age of primitive accumulation.

1. The first is that, while trade, war, privateering, and piracy constituted the same *material* conditions of modern international law as they did the decline of the Spanish Empire—the universality of primitive accumulation from the perspective of the European powers—they contribute to the former through the articulation of the modern political subject. As we saw earlier, Sigüenza y Góngora represented the American Creole as divided between the reoccupation of overlapping and oftentimes conflictive claims to legitimacy under imperial rule, none of which completely fit his or her reality; and the recognition of a new, autonomous ideal of cultural identity in the Americas (the *imago*). The resulting values of prudence and convenience reflected a historical project that entailed the strategic evacuation of any central authority, the tactical commingling of law and economy, and the semi-anarchic spread of discrepant regional economies. In contrast to this historical project, Grotius takes the absence of central authority as the *founding premise* of international law, reduces the tactical commingling of law and economy

to a *question of individual natural rights*, and universalizes the right to free trade. While Sigüenza y Góngora's Creole Alonso Ramírez demonstrated the *expediency* of applying the criterion of convenience/*conveniencia* in order to render the execution of laws and policies compatible with the lives they affect, Grotius projects a political fiction designed to create laws that *preempt any recourse to expediency, exemption, or exception*, insofar as they already provide the lowest common denominator (in Leibniz's phrase, a "principle of sufficient reason") for the imagination of a new international order.

2. Perhaps not surprisingly, the fate of Grotius's protagonist also oscillates between two destinies, both of which emerge from the ideal(ized) space of radical freedom that is the Free Sea. At one extreme, the subject of natural rights as the basic unit of constitutional struggle endows social movements in both the metropolis (for instance, the Levellers and the Diggers during the English Civil War) and the periphery (the "many-headed hydra" of pirate codes and republics) with a new rhetoric and claim to legitimacy.⁶⁸ At the other extreme, political freedom from a Eurocentric perspective comes to authorize the very same acts of conquest, war, enslavement, tyranny, and exploitation overseas that had been banned or prohibited in Europe. As Elizabeth Mancke has shown, the expansion of the maritime powers into the Americas and Asia "necessitated state-to-state negotiations about the terms of interaction in this nonstate area."⁶⁹ This ultimately had the effect of buttressing the concept of an interstate order in Europe while at the same time unleashing what amounted to the anarchy of free trade and war overseas.

While it is beyond the scope of this study to extend our analysis of Grotius to his successors in political philosophy, one can see how, despite Grotius's profound differences with Thomas Hobbes in his approach to international law, these individuals nevertheless share in common the identification of an exceptional space, beyond all laws, on which the new norms of law and civil society in Europe would have to be based. For Hobbes, the exceptionality of the Free Sea comes to encompass the Americas as a whole, which Hobbes designated as a "state of nature," which was also a state of unending war and conflict. He writes: "It may peradventure be thought there was never such a time nor condition of war as this, and I believe it was never generally so, over all the world: but there are many places where they live so now. For the savage people in many places of America . . . have no government at all, and live at this day in that brutish manner, as I said before."⁷⁰ The underlying implication of this continuity in the designation of an exceptional space that gives the rule to the articulation of new norms is that the early juridical concept of Europe itself as an entity—Europe as a group of sovereign states or commonwealths, which guaranteed private property, civil peace, and individual prosperity—was inseparable from the designation of the American continent and the "Free Seas" in the Atlantic and the Pacific, as permanent war zones where the assertion of "natural rights" preempted the establishment of civil laws and political authority. For Europe, the birth of the world economy held at once the great promise of unlimited prosperity and freedom, as well as the danger of opening a space of unlimited war and

conflict. Grotius's *Mare liberum* takes stock of Spain's hopelessly impossible task of reconciling the universalization of commerce and exchange with the universalization of imperial power. Hobbes's *Leviathan* takes Grotius's insight one step further and shows how within the anarchic spread of "free" trade, contraband, corruption, collusion, and fraud in the transoceanic world of the American Creole, the salvation of Europe's sovereigns lay in their recognition of a common interest in simultaneously limiting this "state of nature" to the world overseas, and at the same time fomenting it, participating in it, seizing whatever advantage could be gained by primitive accumulation for the self-preservation and prosperity of the European commonwealths. The so-called temporal "break" between modernity and its "pre-modern" antecedents, which is of crucial importance to scholars of international law today, thus belies a geopolitical *spatial* division that remains continuous between Grotius and Hobbes, allowing for the emergence of state rationality, a Europe-centered interstate order, and the individualization of the subject of rights.

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The juristic writings of Grotius and Hobbes in the seventeenth century bear testimony to Europe's first attempt to invent itself as a precinct safe from the unmitigated chaos of the Free Sea and the state of nature. Yet they also, in negative fashion, sketch the epistemology of Spain's imperial bankruptcy overseas as the inseparable collusion of war, commerce, plunder, and the theory of natural rights and international jurisprudence. If the Free Sea in Grotius and the state of nature in Hobbes were meant to serve as legal abstractions that were necessary for establishing the juridical foundations of international law, they wittingly or unwittingly also contributed to the designation of a *de facto* zone of conflict and commerce where western nations were allowed to reassert the exceptional, extraterritorial affirmations of natural rights, self-preservation, and the war of all against all. In a remarkable congruence between Marx's analysis of primitive accumulation and the Catholic jurist Carl Schmitt's argument for the establishment of a United States empire after the Cold War, both demonstrate how the "accident" of discovery and overseas conquest led to the postulation of their historical necessity in order to guarantee the coherence of Europe as a historical project. As we have seen, for Marx, the baroque economy of international conflict between the Spanish, Portuguese, Dutch, British, and other powers in the Atlantic and Pacific worlds made possible the political economy of laissez-faire capitalism and the birth of the republic in the writings of British and French philosophers in the eighteenth century. At the opposite end of the ideological spectrum, Schmitt traces the genealogy of Eurocentrism to the attempt of European nations to rescue themselves from the civil wars and catastrophes of the seventeenth century. In his words, "[G]reat areas of freedom were designated as conflict zones in the struggle over the distribution of a new world The designation of a conflict zone outside Europe contributed to *the bracketing of European wars*, which is its meaning and its justification in international law."⁷¹ Hobbes's theory of European sovereignty and interstate peace thus relied on the existence of a "New World" that also meant a world where natural rights as freedom

could be exercised with wide latitude: "The English construction of a state of exception, of so-called martial law, obviously is analogous to the idea of a designated zone of free and empty space" (98). If Europe represented for Hobbes the "exception to the universal state of exception," then all lands west of the Atlantic Ocean represented to the European sovereigns the "bracketing of the [intra-European] bracketing of war."

FROM ECONOMIC EXPEDIENCY TO STATES OF EXCEPTION

These two basic phenomena accompany the rise of the world economy established by the inter-Asian and American network of trade and commerce—to reiterate, the universalization and proliferation of microeconomies throughout the Spanish Empire and the attempt to subordinate the chaotic explosion of world trade under a theory of natural rights (Grotius) and state sovereignty (Hobbes). They engender divergent narratives, each of which involves the imagination of different protagonists capable of suturing the idea of modernity as a philosophical enterprise with the possibility of conceiving modernity as the subject of historical experience. These narratives return us to a profound insight made in different ways by Homi Bhabha, Arjun Appadurai, and Fredric Jameson: in the latter's words, "Modernity is not a concept but rather a narrative category," whose protagonists can only be defined by the "situations of modernity" in which they appear.⁷²

One obvious conclusion to be drawn from these "situations" is that the modern subjects they engender cannot be synthesized or hypostatized into *one* subject of modernity, reducible to a Cartesian ego, a Leibnizian monad, or a British or German Protestant burgher, to whom one can assign the values of self-reflexive rationality, disenchantment, secularism, and acquisitiveness. As our example of the American Creole has shown, the same values made to animate different narrative situations yield divergent epistemologies of the early modern period and of the articulation of agency during this time. To overgeneralize distinctions between Spanish "baroque hedgehogs" and British "gothic foxes," as Claudio Véliz has done in his controversial and unabashedly Anglophilic work on comparing the cultures of the British and Spanish colonial empires of the Americas, is to oversimplify not only the multivalent tendencies of the values that we associate with philosophical modernity in a historical context, but also the cultural politics that lead present-day countries to revise or reinvent their respective "European" or "Creole" pasts.⁷³ Yet we do no better to question whether the spirit and values of the Indies baroque (*Barroco de Indias*), expressed by the fragile *imago* of Creole subjectivity in the figures of Sigüenza y Góngora and his protagonist Alonso Ramírez, are "truly" or "authentically modern," as Jorge Larrain does in his critique of Véliz and earlier theorists of Latin American baroque culture (like Octavio Paz and Carlos Fuentes).⁷⁴ The more we attune ourselves to the surreptitious transmigration of modernity from a philosophical idea and aesthetic ideal to a historical event or series of events (the decline of the Spanish Empire, the rise of world trade), the more the question of

“alternative modernities,” “tropical enlightenments,” and “globalizations from below” lead us to identify modernity as a *floating signifier* and a *fiction of convenience* (the Creole’s Spanish-American empire, Grotius’s Free Sea, Hobbes’s America), rather than a sociological or quasi-sociological norm and principle of evaluating society and culture.

I believe this question has wide implications for the study of colonial Latin America and the Philippines. For now, I would simply like to conclude by reiterating that the rise of the world economy corresponded to the European designation of a colonial frontier whose defining characteristic was the primacy of economic expediency or concord—what Alonso Ramírez along with other Spaniards of the time would call *conveniencia*—over imperial *sovereignty* and theological *dogma*. In speaking of “economic expediency,” I have tried to emphasize two senses of the phrase: first, the threshold at which colonial law gives way to a “practical” consideration of the colonial frontier, outside the space of the law’s jurisdiction. But I mean also and especially the threshold at which such exceptions to the rule of order by law, canon, or sovereign jurisprudence begin to engender their own forms of order, “shadow empires,” as Wilson (following George Winius) calls them, which take on the de facto status of law or dogma in the absence or weakness of sovereignty throughout the Spanish Empire and Christendom.⁷⁵ It is through our attention to this threshold that we can begin to show how the rise of Creole patriotism in the Americas, the legitimation of folk Christian cults (like that of Nuestra Señora de Guadalupe in Tepeyac), and the proliferation of a distinctly Latin American and Philippine baroque art and architecture, are all tied to the connection established between Asia and Latin America through the early globalization of international exchange, which reconstituted the multiple world systems of economy and culture around an internally divided, externally hegemonic Eurocentric world order.

NOTES

¹ I would like to thank Ryusuke Ishikawa, Anna More, Sandra Pérez-Linggi, Kiko Benitez, Vicente Rafael, Chandan Reddy, Enrique Bonus, Ivonne del Valle, Monica Kaup, and my anonymous reviewers for their insightful comments on this paper and the larger intellectual currents that inform it. Needless to say, I take full responsibility for any and all errors of fact or opinion expressed herein.

² Besides his numerous studies in a wide variety of intellectual fields of his time, Sigüenza y Góngora remains best known today for his assiduous promotion of the cult of Nuestra Señora de Guadalupe, as well as for his rescue and preservation of colonial Mexican documents from the vice regal palace archives in 1690, which was set afire by a crowd during the famous riot of that year. For a biography, see Irving Leonard, *Baroque Times in Old Mexico: Seventeenth-century Persons, Places, and Practices*.

³ *Infortunios de Alonso Ramírez, describelos D. Carlos Sigüenza y Góngora* (Madrid, 1902) (original title: *Infortunios que Alonso Ramírez natural de la ciudad de S. Juan de Puerto Rico padeció . . . en poder de ingleses piratas.*) On the question of the work’s status as a historical document vs. a fictional tale, see Aníbal González, “Los infortunios de Alonso

Ramirez: Picaresca e historia," 189–204; Julie Greer Johnson, "Picaresque Elements in Carlos Sigüenza y Góngora's *Los Infortunios de Alonso Ramírez*," 60–67; Beatriz González S., "Narrativa de la 'estabilización' colonial," 7–52; José Joaquín Arrom, *Imaginación del Nuevo Mundo*, 175–96; Kimberle López, "Identity and Alterity in the Emergence of a Creole Discourse: Sigüenza y Góngora's *Infortunios de Alonso Ramírez*," 253–77 (<http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=9701312300&site=ehost-live> [last visited May 13, 2009]); Mabel Moraña, *Viaje al silencio: exploraciones del discurso barroco*, 217–30; José Buscaglia-Salgado, *Undoing Empire: Race and Nation in the Mulatto Caribbean*, 128–82.

⁴ Leo Gross, "The Peace of Westphalia, 1648–1948," 20–41; Richard Faik, "The Interplay of Westphalia and Charter Conceptions of International Legal Order," 32–70.

⁵ While the bibliography on Creole patriotism, subjectivity, and the baroque aesthetic is rather large, virtually none of the key texts by Octavio Paz, José Lezama Lima, Alejo Carpentier, Mariano Picón Salas, Irving Leonard, Jacques Lafaye, David Brading, Solange Alberro, Benedict Anderson, Mabel Moraña, and others considers this question in relation to the rise of European mercantilism, commercial wars, and the establishment of rival trading monopolies. Ralph Bauer's more recent book, *The Cultural Geography of Colonial American Literatures*, analyzes Sigüenza y Góngora's *Los infortunios de Alonso Ramírez* as an example of "epistemic mercantilism," which I examine below.

⁶ This contention, of course, constitutes a central thesis in the more recent work of world-systems theory as well as the Indian Subaltern Studies scholarship. See, for example, Janet L. Abu-Lughod, *Before European Hegemony: The World System A.D. 1250–1350*; Andre Gunder Frank, *ReOrient: Global Economy in the Asian Age*; Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*; and Walter Dignolo, *Local Histories / Global Designs*, as well as the work of Latin American scholars Enrique Dussel and Aníbal Quijano; see the essays by these authors in *Nepantla: Views from South* 3:2 (2002): 221–44 and 1:3 (2000), 533–80. For a succinct presentation of their work and its implications for questions of globalization and anti-globalization in the present, see Arturo Escobar, "Beyond the Third World: Imperial Globality, Global Coloniality and Anti-Globalisation Social Movements," 207–30, especially 217–20.

⁷ Dussel, "World System and 'Trans'-Modernity," 221–44.

⁸ J. H. Parry, *The Spanish Seaborne Empire*, 274; J. H. Elliott, *Empires of the Atlantic World*, 46–47. Sigüenza y Góngora elsewhere refers to this group as "the all-too plebian plebians" [plebe tan en extremo plebe]. See Bauer, *The Cultural Geography of Colonial American Literatures*, 163.

⁹ Desesperé entonces de poder ser algo, y hallándome en el tribunal de mi propia conciencia, no solo acusado, sino convencido de inútil, quise darme por pena de este delito la que se da en México a los que son delincuentes, que es enviarlos desterrados a las Filipinas.

¹⁰ Solange Alberro, *Del gachupín al criollo*; and Jacques Lafaye, *Quetzalcoatl and Guadalupe: The Formation of Mexican National Consciousness, 1531–1813*, 51–76.

¹¹ In the Philippines, the "Creole problem" does not receive serious attention from the colonial authorities until the early nineteenth century, with the attempted secularization of parishes managed by the missionary orders. See John D. Blanco, *Frontier Constitutions: Christianity and Colonial Empire in the Nineteenth-century Philippines*, 129–56.

¹² Sus murallas, baluartes y fortalezas son admirables. El concurso que allí se ve de navios e Malayos, Masacares, Sianeses, Bugifes, Chinos, Armenios, Franceses, Ingleses, dinamarcos, Portugueses y Castellanos, no tiene número. Hállanse en este emporio cuantos artefactos

hay en la Europa, y los que en retorno de ellos le envía la Asia Pero con decir estar allí compendiado el Universo lo digo todo.

¹³ Es aquella ciudad, y generalmente toda la provincia, abundante y fértil y muy barata, y si no fue el Licenciado D. Cristóbal de Muros mi único amparo, un criado del encomendero d. Melchor Pacheco que me dio un capote y el Ilmo. Sr. Obispo D. Juan Cano y Sandoval que me socorrió con dos pesos, no hubo persona alguna que viéndome a mi y a los míos casi desnudos y muertos de hambre extendiese la mano para socorrerme. Ni comimos en las que llaman Casas Reales de S. Cristóbal (son un honrado mesón en que se albergan forasteros), sino lo que nos dieron los indios que cuidan de él y se redujo a tortillas de maíz y cotidianos frijoles.

¹⁴ Kimberley López, "Identity and Alterity in the Emergence of a Creole Discourse."

¹⁵ Ralph Bauer, *The Cultural Geography of Colonial American Literatures*, 157–78.

¹⁶ Mandóme . . . fuese a visitar a don Carlos Sigüenza y Góngora, cosmógrafo y catedrático de matemáticas del Rey nuestro señor en la Academia mexicana y capellán mayor del hospital Real del amor de Dios de la ciudad de México (títulos son estos que suenan mucho y valen muy poco, y a cuyo ejercicio le empeña más la reputación que la conveniencia). Compadecido de mis trabajos, no sólo formó esta Relación en que se contienen, sino que me consiguió con la intercesión y súplicas, que en mi presencia hizo al Excmo. Sr. Virrey, Decreto para que D. Sebastián de Guzmán y Córdoba, factor veedor y proveedor de las cajas reales me socorriese, como se hizo (129).

¹⁷ On the contradictory form of the popular *comedia* during the seventeenth century, see John Beverley, "Nuevas vacilaciones sobre el Barroco," *Revista de Crítica Literaria Latinoamericana*, 14:28 (1988), 215–27.

¹⁸ See above, note 2.

¹⁹ Critics like Mabel Moraña read this passage as reflective of the emergence of a Creole consciousness in New Spain. At one extreme, the subaltern speech of the speaker is appropriated and disciplined by discourse. At the other extreme, a creative, dialogical interaction arises between the one who dictates and the one who transcribes, to the point that each takes on the positions and characteristics of the other. In this interaction, a truly hybrid Creole voice becomes discernible, which turns the misadventures of a Puerto Rican seeking employment in New Spain into the unmasking of the putative glory and prestige of imperial Spain throughout the world. See *Viaje al silencio*, 224. For a wider-ranging reflection on the "subject of modernity," and one that privileges the Spanish baroque as an early aesthetic expression of the philosophical modernity articulated in the eighteenth and nineteenth centuries, see Anthony Cascardi, *The Subject of Modernity*.

²⁰ John Collins, *A Dictionary of Spanish Proverbs, Compiled from the Best Authorities in the Spanish Language*, 350.

²¹ This distinction echoes an observation made by Gilles Deleuze on the concept of values in the work of Friedrich Nietzsche. "On the one hand," Deleuze writes, "values appear or are given as principles: and evaluation presupposes values on the basis of which phenomena are appraised. But, on the other hand[,] and more profoundly, it is values which presuppose evaluations, 'perspectives of appraisal,' from which their own value is derived. The problem of critique is that of the value of values, of the evaluation from which their value arises, thus the problem of their creation. Evaluation is defined as the differential element of corresponding values, an element that is both critical and creative." See *Nietzsche and Philosophy*, 1. The idea of convenience/*conveniencia* is closely related to Maravall's identification of prudence [Sp. *prudencia*] and to the pragmatic spirit in Spanish baroque culture. See *Culture of the Baroque*, 62.

- ²² Beatriz González S., "Narrativa de la 'estabilización' colonial," 41.
- ²³ Dennis O. Flynn and Arturo Giráldez, "Born with a 'Silver Spoon': The Origin of World Trade in 1571," *Journal of World History* 6:2 (1995), 201–21.
- ²⁴ Marx, *Capital*, v. 1, chapter 31 (emphasis added). See <http://www.marxists.org/archive/marx/works/1867-c1/ch31.htm>. Last visited May 14, 2009.
- ²⁵ See Andre Gunder Frank, *ReOrient: Global Economy in the Asian Age*, particularly 264–96.
- ²⁶ On the centrality of the Indian Ocean trading network to the rise of capitalism, see R. J. Barendse, *The Arabian Seas: The Indian Ocean World of the Seventeenth Century*.
- ²⁷ Woodrow Borah, *New Spain's Century of Depression*; J. H. Elliott, *Imperial Spain, 1469–1716*, 292.
- ²⁸ See Bernard Lavallé, in *Agencias criollas*, ed. José Antonio Mazzotti, 37–54.
- ²⁹ J. H. Parry, for instance, describes the last thirty years of the seventeenth century in the Caribbean as "years of extraordinary anarchy and violence, in which the leading figures were not so much the colonial governors as the buccaneer leaders with whom they allied themselves . . . [No other force established] a reign of terror over so vast an area, or influenced so strongly the conduct of civilized states" (*The Spanish Seaborne Empire*, 224 and 226).
- ³⁰ Bolívar Echeverría, *La modernidad de lo barroco*, 50–51.
- ³¹ Hans Blumenberg, *The Legitimacy of the Modern Age*, trans. Robert Wallace, 63–123.
- ³² In addition to the aforementioned works by Paz, Carpentier, Lezama Lima, Moraña, and Echeverría, see Irlemar Chiampi, *Barroco y modernidad*; and Monika Kaup, "'The Future is Entirely Fabulous': The Baroque Genealogy of Latin America's Modernity," 221–41.
- ³³ John L. Phelan, "Authority and Flexibility in the Spanish Imperial Bureaucracy," *Administrative Science Quarterly* 5:1 (1960):47–65; and Frank Jay Moreno, "The Spanish Colonial System: A Functional Approach," *Western Political Quarterly* 20:2 (pt. 1) (1967): 308–20. John Lynch calls this form of flexible administration "compromise government." See "The Institutional Framework of Colonial Spanish America," *Journal of Latin American Studies* 24 (1992): 69–81. For an excellent study of the culture of flexible authority in colonial Mexico, see Alejandro Cañeque, *The King's Living Image: The Culture and Politics of Viceregal Power in Colonial Mexico*.
- ³⁴ J. H. Elliott, *Empires of the Atlantic World: Britain and Spain in America, 1492–1830*, 229.
- ³⁵ William Schurz, *The Manila Galleon*, 185.
- ³⁶ Throughout the eighteenth century, a number of councils were convened to address the glaring disparity between the declared profits made by merchants in the galleon trade and the actual cargo shipped between Manila and Acapulco. In 1772, the Council of the Indies condemned Manileños of embracing "the spirit of corruption which has always been typical of the citizens of the Philippines" (Schurz, *Manila Galleon*, 189). As Estuardo Nuñez notes in his study on the influence of Asia on culture in Peru during the sixteenth and seventeenth centuries, the numerous decrees issued by the Spanish Crown to limit and administer the trans-Pacific Asian American trade throughout the colonial period not only failed to suppress contraband trade but, in fact, increased it (Nuñez, "Huellas e influencia de Oriente en la cultura peruana de los siglos XVI y XVII," in *La expansión hispanoamericana en Asia Siglos XVI y XVII*, ed. Ernesto de la Torre Villar, 149–61).
- ³⁷ *Recopilación de las Leyes de los Reynos de las Indias*, Book II, title 1, law 22. John Phelan describes this formula as it appears in both official and unofficial correspondence of the colonial period in the following manner: "The 'I obey' clause signifies the recognition by subordinates of the legitimacy of the sovereign power who, if properly informed of all circumstances, would will no wrong. The 'I do not execute' clause is the subordinate's assumption of the responsibility of postponing the execution of an order until the sovereign is informed of those conditions of which he may be ignorant and without a knowledge of

which an injustice may be committed." See Phelan, "Authority and Flexibility in the Spanish Imperial Bureaucracy," 51.

³⁸ See Marie-José Mondzain, *Image, Icon, Economy: The Byzantine Origins of the Contemporary Imaginary*, trans. Rico Franses; see also Blanco, *Frontier Constitutions*, 95–128.

³⁹ See *Desafíos transatlánticos: mercaderes, banqueros y el estado en el Perú virreinal, 1600–1700*.

⁴⁰ Echeverría, *La modernidad de lo barroco*, 49. See also J. H. Elliott, *Empires of the Atlantic World*, 227 ("Although dependent on Portuguese and other foreign merchants for a steady supply of African slaves, and still relying on Europe for luxury products and essential commodities like paper and hardware, the economies of New Spain and Peru were therefore becoming more self-sufficient, and, as a result, less vulnerable to the vagaries of Spanish and European economic movements").

⁴¹ Anne Pérotin-Dumon, "The Pirate and the Emperor: Power and the law on the seas, 1450–1850," in *The Political Economy of Merchant Empires*, ed. James Tracy, 202.

⁴² As J. H. Parry has noted, the commercial wars of the European maritime powers installed not only four or five territorial powers in the Americas, but also their corresponding systems of trade. He added that it was only piracy that could "create a reign of terror over so vast an area, or influence so strongly the conduct of civilized states." See Parry, *The Spanish Seaborne Empire*, 266.

⁴³ "In every case, the acceptance of a monopoly over the main routes required a state's tolerance of smuggling outside them Officials even encouraged their own subjects to engage in smuggling if it produced a greater benefit than [a] loss for the economy of a colony as a whole Such [a] strategy might even meet with royal approval." Pérotin-Dumon, "The Pirate and the Emperor," 224.

⁴⁴ Thomson, *Mercenaries, Pirates, and Sovereigns*, 41. Similarly, J. H. Elliott writes, "Trade and piracy were liable to be synonymous in this lawless Caribbean world of the later seventeenth and early eighteenth centuries, and buccaneers, merchants and planters became fickle accomplices in the enterprise of stripping the Spanish Empire of its assets." See *Empires of the Atlantic World*, 224. For a comparative perspective of trade and piracy in the Indian Ocean and the South China Seas, see Eric Wilson, *Savage Republic: De Indis of Hugo Grotius*.

⁴⁵ Bauer, *The Cultural Geography of Colonial American Literatures*, 177–78.

⁴⁶ *The freedom of the seas: or, The right which belongs to the Dutch to take part in the East Indian trade*, trans. with a revision of the Latin text of 1633. For an account of this event and its importance to Grotius, Martine Julia van Ittersum's book is indispensable: see *Profit and Principle: Hugo Grotius, Natural Rights Theories and the Rise of Dutch Power in the East Indies (1595–1615)*.

⁴⁷ Significantly, Grotius originally titled this larger work *De Indiis* after the work of the same name by the Spanish Dominican jurist Francisco de Vitoria. For an extended reading of this comparison, and for a corresponding comparison between Vitoria's opponent Luis de Molina and Grotius's opponent Serafim de Freitas, see Mónica Brito Vieira, "Mare Liberum vs. Mare Clausum: Grotius, Freitas, and Selden's Debate on the Dominion over the Seas," *Journal of the History of Ideas* 64:3 (2003): 361–77; and Wilson, *Savage Republic*, 393–512.

⁴⁸ "[Grotius] was not engaged in a philosophical enquiry into the best form of government . . . his project was not to determine what prerogatives people *should* hold, but rather to identify those which in fact they did hold." Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge University Press, 2002), 42–43.

⁴⁹ Grotius, *The Free Sea*, 20.

⁵⁰ One of the first works (and by far the most illuminating) to analyze the implications of the Free Sea in the division of geopolitical space is Carl Schmitt. See *Nomos of the Earth in the International Law of Jus Publicum Europaeum* (New York: Telos Press, 2003).

⁵¹ "But the right which we desire," he writes in the introduction, "is such as the king himself ought not deny unto his subjects, nor a Christian to infidels, for it hath his original from nature, which is an indifferent and equal parent to all" (*The Free Sea*, 8).

⁵² The two "rights" under discussion refer to the "division" or rather the *divisibility* of sovereignty "between several institutions . . . [so that] it would be possible for a state to acquire some of the sovereign prerogatives that had originally belonged to another and exercise them on its behalf"; and the right to appropriate unoccupied lands and conduct "private war in their defense." See Keene, *Beyond the Anarchical Society*, 3–11.

⁵³ See Van Ittersum, *Profit and Principle*, 53–104.

⁵⁴ Peter Zagorin contends, *contra* Tuck, that Grotius remained firmly wedded to the conception of *jus* as law and not right, which only appears fully in the political philosophy of Thomas Hobbes (Zagorin, "Hobbes Without Grotius," *History of Political Thought* 21:1 (2000): 16–40). In a similar vein, Carl Schmitt believes that Grotius remained too caught up in the question of the just vs. unjust war (*justa causa*) to recognize the Hobbesian abandonment of this approach to justice in favor of identifying the criterion for recognizing the essential equality of one's friends and enemies (*justa hostes*), beyond the question of a war's "justice" or "injustice" (Schmitt, *Nomos of the Earth*, 161–62). Beginning with the notion of the Free Sea, however, Grotius has already identified a caesura that allows for the conception of "a law operating between rather than above states and a power operating between rather than above states," hence a law articulated in terms of rights instead of obligations (Gross, "The Peace of Westphalia, 1648–1948," 29). Grotius's position that the criterion of just war does not affect the right of each warring party to the spoils garnered at the expense of the other (in *The Laws of War and Peace*, III.6.2) already exemplifies the understanding of *jus* in terms of rights.

⁵⁵ Tuck, *Natural Rights Theories: Their Origins and Development* (Cambridge: Cambridge University Press, 1979), 67.

⁵⁶ Hugo Grotius, *De jure praedae commentarius / Commentary on the Law of Prize and Booty*, 226–27 (translation modified).

⁵⁷ In Tuck's words, "Natural man was the subject of rights. Moreover[,] the rights he possessed, though not strictly property rights, were not categorically dissimilar" (Tuck, *Natural Rights Theories*, 61).

⁵⁸ Grotius, *Mare liberum*, 60.

⁵⁹ *De jure Praedae*, 91–92.

⁶⁰ As Keene points out, Grotius himself attempted to preempt this interpretation; see *Beyond the Anarchical Society*, 49.

⁶¹ Keene, van Ittersum, and Wilson have shown how Grotius deploys this reversal in their respective works. In particular, Grotius demonstrates the relationship of both the extension of (public) sovereignty and the right to private property to the ultimate incorporation of colonial aggrandizement and depredation into the sphere of Eurocentric law (the *jus publicum Europaeum*). On the one hand, Grotius argues that the Dutch–Johore alliance effectively transferred the Muslim sultanate's sovereignty to the Dutch. This gave the Dutch a sovereign "right" to attack the Portuguese and claim the spoils of war, in retaliation for Portuguese interference with Johore's right to free trade. In this instance, the extension of sovereignty onto the Free Sea is justified by the consequences of Portuguese interference with the population of Johore as well as in its territory. On the other hand, in *De Jure Belli*

ac Pacis (1625), Grotius develops an idea that only appeared in nascent form throughout his earlier work: that a private "right" to ownership could be maintained outside the jurisdiction of sovereignty (European or otherwise), in other words, *as a natural right*, provided that certain conditions were met (actual occupation, cultivation of the land) (Keene, 52–59). The implications are: (a) that one can possess ownership (*dominium*) of the land without the agreement of or subordination to any sovereign law (beyond natural rights); and (b) that one can pursue or punish any trespass of that ownership (*ius gladii*), again without contract or due process of law under state supervision.

⁶² Van Ittersum, *Profit and Principle*, 43–52.

⁶³ Tuck, *Natural Rights Theories*, 63.

⁶⁴ *Beyond the Anarchical Society*. For an earlier critique of the position adopted by Hedley Bull on the "Grotian" conception of international law and jurisprudence, see R. P. Anand, "Maritime Practice in South-East Asia Until 1600 A.D. and the Modern Law of the Sea," *International and Comparative Law Quarterly* 30:2 (1982), 451.

⁶⁵ For a discussion of the 1883–84 Berlin conference, which formalized the criterion for distinguishing the legitimacy of sovereign states outside Europe, see Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law*, 32–114.

⁶⁶ See Thomson, *Mercenaries, Pirates, and Sovereigns*, 22 and 164–65, n. 7; and Garrett Mattingly, "No Peace Beyond What Line?" *Transactions of the Royal Historical Society* (Fifth Series) 13: 145–62.

⁶⁷ Richard Waswo, "The Formation of Natural Law to Justify Colonialism," *New Literary History* 27:4 (1996): 747; Thomson, *Mercenaries*, 23.

⁶⁸ Quoted in Richard Tuck, *Rights of Peace and War*, 110–11.

⁶⁹ Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic*.

⁷⁰ Elizabeth Mancke, "Early Modern Expansion and the Politicization of Oceanic Space," *Geographical Review* 89:2 (1999): 232.

⁷¹ Thomas Hobbes, *Leviathan*, book 1, ch. 13, paragraphs 10–11.

⁷² Carl Schmitt, *Nomos of the Earth*, 97–98, italics added.

⁷³ Fredric Jameson, *A Singular Modernity: Essay on the Ontology of the Present*, 17–95. See also Homi K. Bhabha, "DissemiNation: Time, Narrative, and the Margins of the Modern Nation," *The Location of Culture*, 139–70; and Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization*, 27–65.

⁷⁴ Claudio Véliz, *The New World of the Gothic Fox: Culture and Economy in English and Spanish America*.

⁷⁵ Jorge Larraín, *Identity and Modernity in Latin America*.

⁷⁶ "[The] sub-division of Corporate Sovereignty constituted two parallel para-political networks extending throughout the whole of the Indian Ocean world system: a 'Shadow Empire' of informal patronage systems and an underground economy of 'Private Trade,' centered around contraband and fraudulent book-keeping" (Wilson, *Savage Republic*, 420–21).

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