The Requirement

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When Antonio de Nebrija presented the first Spanish grammar to Isabella of Castile in 1492, the queen is reputed to have responded: "Of what use is this?" Nebrija had his celebrated response waiting: "Madam, language is the perfect instrument of empire."[1] Nebrija presumably had in mind the function that language serves in homogenizing and assimilating diverse cultures incorporated by imperial expansion: as they fall under one law, they fall under one grammar. Approaching the issue from the opposite direction, however, one further realizes that to speak is to participate in a body of laws, a grammar, upon which any system of law is ultimately based. The grammar of language institutes the model for all subsequent configurations of laws or rules, and the use of language accustoms us to functioning by law and to accepting the governing structures that shape the social reality in which we live.

Language also served more directly as an instrument of empire in the performative speech acts which were used by the Spanish – in conjunction with corresponding rituals – to legalize Spain's enterprise in the Americas. One simple example of performative discourse in the conquest and colonization of Latin America is the Act of Foundation. This spectacle is explicitly described in Bernaldo de Vargas Machuca's 1599 handbook for caudillos, where the role of the *picota* and the required ceremonious participation of Indians are emphasized.[2] Earlier, during the conquest of the Incas, the act was similarly recorded with these words:

> To mark the foundation I am making and possession I am taking today, Monday 23 March 1534, on this *picota* which I ordered built a few days ago in the middle of this square, on its stone steps which are not yet finished, using the dagger which I wear in my belt, I, Francisco Pizarro, carve a piece from the steps and cut a knot from the wood of the *picota*. I also perform all the other acts of possession and foundation of this city . . . giving as name to this town I have founded: the most noble and great city of Cuzco.[3]


Ioan: Stradanus inuent.

With a few words and the hocus pocus of some ritualized gestures, Cuzco is thereby legally transformed (so far as the Europeans are concerned) from an Incan to a Spanish municipality. The Act of Foundation invited objection from the observers, but the natives – already conquered when the ceremony took place – were of course ill-disposed for dissent and coerced into tacit compliance. The speech acts of the Spaniards were thereby empowered and efficacious only when accompanied by their inverted complement: the natives' silence.

The most central role of speech acts in the conquest and colonization of Spanish America was played by the so-called Requirement, a document first read in the field during the 1514 Pedrarias expedition to Castilla del Oro. An understanding of this document requires a few words of background, beginning with the series of Alexandrine bulls dated May 3 and 4, 1493.

Following the discoveries of Columbus's first voyage, Pope Alexander VI, a native of Valencia and a friend of King Ferdinand, issued three bulls confirming Spanish sovereignty over discoveries already made, as well as all future discoveries in the region, provided that the lands were not previously possessed by another Christian sovereign. The bulls, in their own words, "donated, conceded and assigned" the New World "by authority of Almighty God conferred upon us in blessed Peter and of the vicarship of Jesus Christ which we hold on earth."[4]

The legality of Alexander's donation – highly contentious even in the fifteenth century – was grounded in the doctrine of universal papal dominion as developed by Ostiensis (Henry of Susa). Ostiensis argued that infidels could retain title to their land only by the favour of the Church, and that the pope had the right to appoint them rulers and wage just war to bring them to obedience if they failed to recognize his authority. Ostiensis's doctrine was originally conceived with the Muslim infidels in mind and reflected – as J.H. Parry puts it – "the medieval conception of the world as a homogenous Christendom with an infidel fringe."[5] The doctrine's already questionable validity rapidly eroded with the revelation of a new "fringe," a New World, across the seas. But it was precisely this unfaltering capacity to view the world from its ethnocentre that enabled the Spanish – like any imperial colonizer – to marginalize an indigenous majority and to perceive its own miniscule, fortified installation surrounded by grotesquely disproportionate "fringes" as the natural order of things willed by God. An expanding European subculture presuming worldwide prerogative by divine right thus invaded the lands that it intended to colonize and by force, discourse, and spectacle inverted hierarchical arrangements to subordinate the cultures that it conquered.

In 1513 King Ferdinand ordered a committee of theologians to meet in the Dominican San Pablo monastery of Valladolid with the purpose of considering Spanish possessions in America and establishing the legal status of Indians. The theologians of San Pablo ruled that the Alexandrine bulls of 1493 gave America to Spain "as incontestably as the promised land of Canaan had been given to the Jews; the Spaniards, therefore, would commit no sin by treating the Indians as Joshua had treated the people of Jericho." Anthony Pagden further reminds us that this dubious ruling, "with the proviso that any Indian who willingly made over his land to the Crown might continue to live there as a vassal," was accepted by Ferdinand, who made it operational by ordering that a formal proclamation be drafted and provided to all conquistadores for use in the field.[6]

The Spanish jurist Juan López de Palacio Rubios, a Council of Castile just-war specialist, drafted the resulting document, known as the Requirement. It was the first royal proclamation attempting to legalize and moralize warfare against the American Indians, and – as its name implied – its reading was required before an attack could be made on the Indians.

Practical application of this instrument of empire was, of course, ludicrous. The Requirement was read in Spanish or Latin, usually without interpretation, and was therefore indecipherable to whatever few natives actually managed to hear it. As J.H. Parry words it, the reader often found it prudent "to stand out of range of arrows and slingshots, and presumably, therefore, out of earshot."[7] Even if the Indians were able to hear the reading and understand the language or the interpretation, the Requirement's doctrine – with its references to pontiffs, Moors, monarchs, saints – was obviously incomprehensible in native frames of reference. The absurdity of this "solemn pantomime"[8] was further enhanced by the various extraordinary circumstances in which the Requirement was read. Gonzalo Fernández de Oviedo describes an attempt to read it to a deserted village, and Pizarro first used it in Cajamarca to justify an unprovoked attack on the Inca Atahualpa and then incorporated it after the fact into the ceremony celebrating victory in Cuzco.[9] Oviedo, who had occasion as notary to proclaim the Requirement to Indians under conquest, later ironically observed the following: "My Lords, it appears to me that these Indians will not listen to the theology of this Requirement, and that you have no one who can make them understand it; would Your Honor be pleased to keep it until we have one of these Indians in a cage, in order that he may learn it at his leisure and my Lord Bishop may explain it to him?"[10] The obligatory use of the Requirement was nevertheless still taken literally as late as 1542, when Viceroy Antonio de Mendoza had the document read to Chichimeca warriors.[11]

The text of the Requirement specifically stated that the king and the queen, as "subduers of the barbarous nations," had sent conquistadores to inform the natives that God created heaven and earth, including Adam and Eve, of whom Spaniard and Indian alike were descendants. In the five thousand years since the world's creation, the multitude of Eden's descendants had gone their various ways, but all of them – no matter what their kingdom was and who their leader was – were ultimately responsible to Saint Peter, since God "gave him the world for his kingdom and jurisdiction." It is precisely at this moment in the text that divine prerogatives – that is, the proprietary rights God enjoys with respect to his creation – are disengaged from their heavenly source and are assumed in a gesture of mock-delegation by a mortal, Saint Peter, who is numinous by virtue of his divine affiliation as the vicar of Christ. The link required to justify imperial theocracy is thus established. When Saint Peter passed on, other pontiffs were designated to succeed him, the mystery in heaven now governed on earth by mortals progressively more distanced – at least temporally – from the saint guaranteeing their authority via his intimacy with Christ. One of these popes – as the Requirement puts it in reference to the 1493 bulls – "made donations of these isles and mainland to the aforesaid King and Queen." With that donation the secularization of power and title is completed: sovereignty over the land and its inhabitants – in the present case, the Americas and their natives – passed from God through the bridge of Christ as god-man to Saint Peter, from Saint Peter to the succession of popes following him, and from one of those popes, Alexander, to secular monarchs, who simultaneously but not coincidentally have their secular status downplayed and their vicarious divinity stressed through a title conferred on by them the pope, "Catholic Monarchs."

It was thus a delegate of Christ himself who appeared before the natives, dressed for war but offering peace. The Requirement then "asked and required" that the Indians "acknowledge the Church as the ruler and Superior of the whole world, and the high priest called Pope, and in his name the King and Queen . . . as superiors and lords and kings of these islands and this mainland. . . . " If the Indians were to do so, their highnesses and the conquistadores in their name "shall receive you in all love and charity, and shall leave you your wives, and your children, and your lands, free without servitude . . . and they shall not compel you to turn to Christians. . . . "

The events, of course, turned out otherwise on all scores. When the Requirement had its debut reading by the captain on the Pedrarias expedition, the natives responded by stating that if the captain tried to take their lands, "they would put his head onto a pole as they had done with the heads of other enemies, which they showed him."[12] One spectacle

is thereby met with another in a pre-battle display of cultural artefacts attempting to establish and defend what the rivals respectively perceive as legitimacy. Hernán Cortés likewise mentions use of the Requirement in his letters relating the conquest of Mexico, but the results are always the same:

> When the captain of artillery read the requerimiento before a notary to these Indians, telling them, through the interpreters, that we did not desire war but only peace and love between us, they replied not in words but with a shower of arrows.

On another occasion Cortés notes:

> I began to deliver the formal requerimiento through the interpreters who were with me and before a notary, but the longer I spent in admonishing them and requesting peace, the more they pressed us and did us as much harm as they could.[13]

From the legal perspective, that response to the Requirement was desirable, since it was necessary to allow the speech act to perform its most essential function, that of transforming an imperial conquest into a just war waged to subdue rebels on real estate properly deeded to the Spanish crown. The Indians' failure to comply with the demands of the Requirement entitled the Spanish, "with the help of God," to "make war against you in all ways and manners": "We shall take you and your wives and your children, and shall make slaves of them, and as such shall sell and dispose of them . . . and we shall take away your goods, and shall do all the mischief and damage we can." Pursuant to just-war theory, these acts were deemed not malicious or evil but rather the benevolent expressions of Christian love made manifest in the punitive wrath designed to bring sinners from their wrongful ways. Also typical of such discourse is the assignment of responsibility for violence to the very group against which it is directed: the Requirement states that "the deaths and losses which shall accrue from this are your fault, and not that of their Highnesses, or ours. . . . " The reading of the Requirement thus performed an additional act: the reversal of roles between the aggrieved state and the guilty state. The status of the war as "just" is established tautologically, and ultimately absurdly, by the Indians' refusal to submit voluntarily to their own enslavement, by the projection of guilt onto the attacked rather than the attacker, and by justifying the entire enterprise in a tenet that serves as proof but cannot itself be proven, namely, the pope's dominion over the world and his corresponding right to delegate it to secular leaders.

What ultimately played out in the field through reading of the Requirement was a ceremonious redrawing of the lines of jurisdiction, with installation of the European state displacing indigenous traditions, imposing a corresponding series of redefinitions and hierarchical reversals, and instituting the dubious use of theology that would soon sanctify

the colonization that followed. The discourse, however, could only provide a script for the force; the speech acts, efficacious from the Spanish perspective, ultimately failed to perform in a broader view, for the lack of felicity – the dissent of indigenous parties ostensibly bound by the contract – necessitated another requirement, violence, to enforce imposition of the conqueror's laws. Without the sword behind it, the Requirement could inspire only an echo of Isabella's "Of what use is this?"

NOTES

1. Anthony Pagden indicates that Nebrija borrowed the phrase from Lorenzo Valla. See *Spanish Imperialism and the Political Imagination* (New Haven: Yale University Press, 1990), 58.

2. Bernaldo de Vargas Machuca, *Milicia y descripción de las Indias* (Madrid: Pedro Madrigal, 1599), 105-06.

3. Francisco Pizarro, qtd. in John Hemming, *The Conquest of the Incas* (New York: Harvest/Harcourt Brace Jovanovich, 1970), 142-43. For another example see Américo Castro, *Aspectos del vivir hispanico* (Madrid: Alianza Editorial, 1987), 37. See also Lyle McAlister, *Spain and Portugal in the New World, 1492-1700* (Minneapolis: University of Minnesota Press, 1984), 166.

4. From the *Bull Inter Caetera*, in Frances Gardiner Davenport, ed., *European Treaties Bearing on the History of the United States and Its Dependencies to 1648* (Washington, DC: Carnegie Institute, 1917), I, 62.

5. J.H. Parry, *The Spanish Theory of Empire in the Sixteenth Century* (New York: Octagon Books, 1974), 13.

6. See Hernán Cortés, *Letters from Mexico*, trans. and ed. Anthony Pagden (New Haven: Yale University Press, 1986), 454.

7. Parry, *Theory of Empire*, 7.

8. J.H. Parry, *The Spanish Seaborne Empire* (New York: Knopf, 1969), 138.

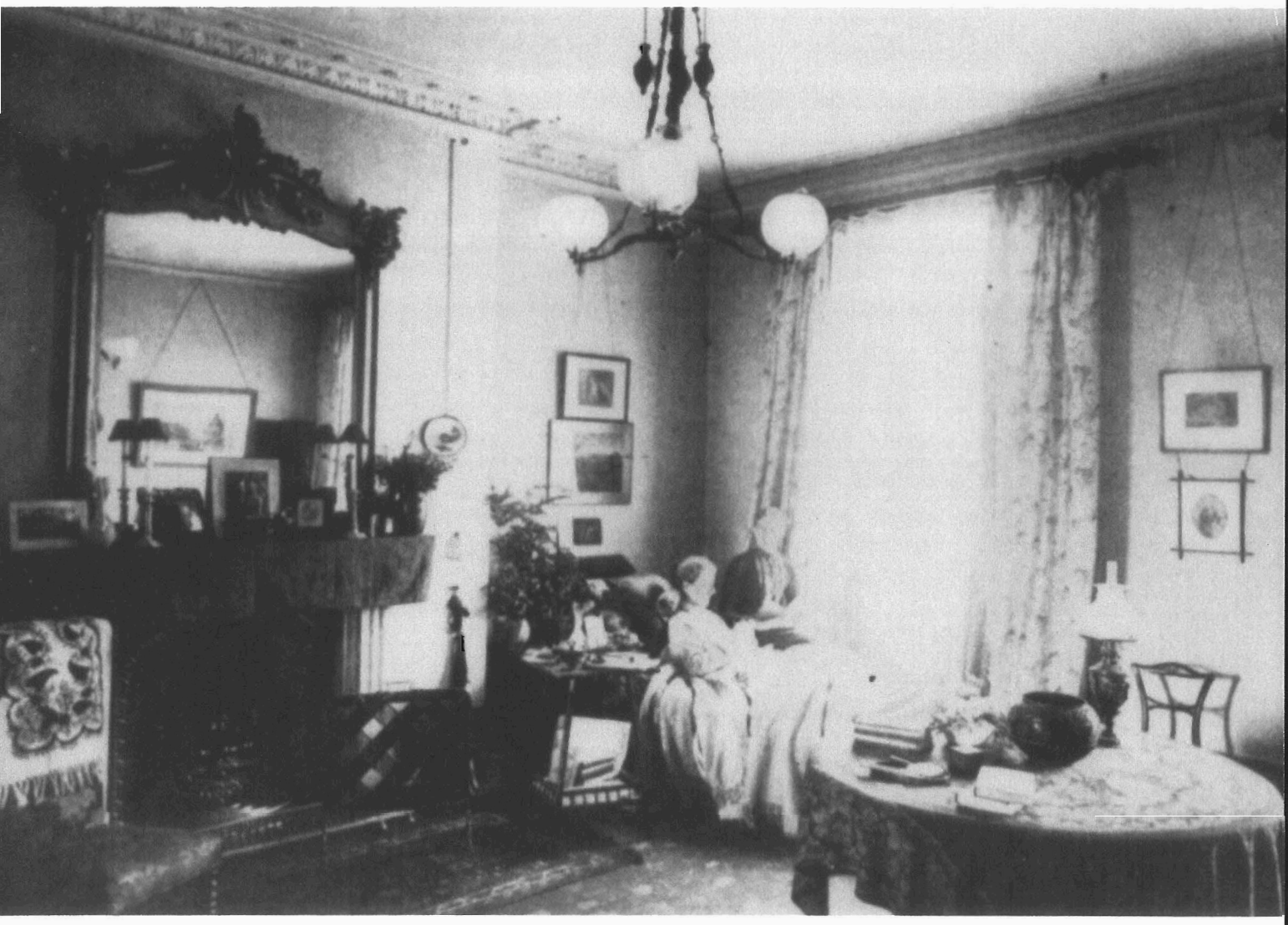
9. Regarding Pizarro, see Hemming, 130. For the famous meeting of Pizarro and Atahualpa in Cajamarca, see Agustín de Zárate, *The Discovery and Conquest of Perú*, trans. J.M. Cohen (Baltimore: Penguin, 1968), 101.

10. McAlister, 90.

11. Parry, *Spanish Seaborne Empire*, 138. See also Mario Gongora, *Studies in the Colonial History of Spanish America*, trans. Richard Southern (Cambridge: Cambridge University Press, 1975), 41; and Parry, *Theory of Empire*, 7. After 1542 use of the Requirement was no longer mandatory.

12. Silvio Závala, *New Viewpoints on the Spanish Colonization of America* (Philadelphia: University of Pennsylvania Press, 1943), 10.

13. Cortés, 21 and 59, respectively. See also Bernal Díaz, *The Conquest of New Spain*, trans. J.M. Cohen (New York: Penguin, 1985), 70.



archival photograph of Alice James