

Fashioning Precedent: The Imperial Politics of New Christian Assimilation

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THIS ESSAY CONCERNS THE RELATIONSHIP among legal precedent, ambassadorial convention, and imperial violence. Its point of departure is the *Requerimiento*, the fascinating and still-confounding document that sixteenth-century Spanish explorers wielded as a legal instrument of conquest and conversion in the New World, and the subject of the 2015 conference out of which the essays in this special forum of *Republics of Letters* emerged. Like many scholars educated over the past two decades in the Anglophone academy, I came to know the *Requerimiento* and its history by reading Patricia Seed's *Ceremonies of Possession*, which was first published by Cambridge University Press in 1995.¹ Seed suggested that the rhetoric and logic of the *Requerimiento*, ruthlessly mocked by myriad critics of Spain's violence in the New World, make conceptual sense if understood within the context of Islamic jurisprudence. Whether or not you are convinced by Seed's formal analysis and textual evidence, which I examine in more detail below, you undoubtedly will recognize in her approach a familiar argumentative move. This move is to put Spanish cultural artifacts, literary texts, and political and social practices in a comparative context in order to unveil previously hidden medieval Islamic precedents. It is a move that requires peeling back layer upon layer of Black and White Legend polemic, and it demands close attention to the possible archival and intellectual pathways of co-option and reformulation, processes that Barbara Fuchs and others have shown are sometimes but by no means always ideologically driven.²

¹ Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492–1640* (Cambridge: Cambridge University Press, 1995), 69–99. See also Antonio Muro Orejon, *Lecciones de historia del derecho hispano-indiano* (Mexico City: Miguel Ángel Porrúa, 1989), 53–56.

² Barbara Fuchs, *Exotic Nation: Maurophilia and the Construction of Early Modern Spain* (Philadelphia: University of Pennsylvania Press, 2009), 1–10; Margaret R. Greer, Walter D. Mignolo, and Maureen Quilligan, eds.,

Experimenting with a somewhat different approach, my aim is to invert the usual lines of precedent in order to examine how Islamic scholars familiar with Spain's early modern expansion, such as the Morisco writer and Sa'adi diplomat Ibn Qasim al-Hajari and the anonymous author of the Ottoman Turkish collection of translated Americana known as the *Tarih-i Hind-i garbi*, employed the legal arguments and violent episodes of conquest to their own political ends. As I show in the first half of this essay, the result of this inquiry is a sharper picture of the mutually determined nature of Islamic and Christian conventions of diplomacy and warfare in the early modern period itself. We need not look all the way back to the expansion of Islam in the eighth and ninth centuries, as Seed does, in order to trace the circuitous flow of legal models across linguistic and religious lines. As I show in the second half of the essay, this sense of contemporaneity is not simply a late modern historiographical correction, for it was shared by Bartolomé de Las Casas, Antonio de Herrera y Tordesillas, and other early modern scholars. These scholars' comments on the *Requerimiento*, as well as their understanding of precedents for just and unjust conquest in the New World more generally, thus reflect geopolitical tensions among Christians and Muslims in the sixteenth-century Mediterranean rather than any deep awareness of each other's medieval legal traditions.

Despite the explorer Christopher Columbus's or the churchman Francisco Jiménez de Cisneros's highfalutin, self-serving rhetoric of New World conquest as a continuation of Iberian reconquest, in other words, by the second half of the sixteenth century New World conquest had in fact become a model for the still very much contested relationship among Christians and Muslims on the Iberian Peninsula and elsewhere in the Mediterranean. The Italian historian Adriano Prosperi's study of the "*otras indias*," which denoted for post-Tridentine evangelizers and historians the Venetian, Aragonese, Castilian, and other Old World populations who were as in need of Christian catechism as those neophytes in the Far East or the Americas, captures the way in which the challenges of maintaining order and policing heresy in the far-flung reaches of the Spanish Empire came to serve as points of reference for those laboring in more familiar trenches as well.³ In exploring how early modern scholars fashioned these transatlantic precedents for political diplomacy and religious coercion alike, you will see that my thinking about legal precedent and the politics of conversion has been deeply shaped by the methodological challenge of making sense of the *Requerimiento*, even if the content of my analysis strays beyond that particular text itself.

I begin with the Morisco Ahmad Ibn Qasim al-Hajari's early seventeenth-century representation, for an Arabophone audience, of the first encounter between the Spanish explorer Hernán Cortés and the Aztec king Montezuma. The episode appears in al-Hajari's book *Kitāb nāṣir al-dīn 'alā'l-qawm al-kāfirīn* (The supporter of religion against the infidels), which in addition to historical snippets includes as well an autobiographical account of al-Hajari's young adulthood in Spain and subsequent departure to the Maghrib, an exposition of his role in the Sacromonte lead books affair, a travel account of his return to Europe on a diplomatic mission, and a religious

Rereading the Black Legend: The Discourses of Religious and Racial Difference in the Renaissance Empires (Chicago: University of Chicago Press, 2008); and Seth Kimmel, "Local Turks: Print Culture and Maurophilia in Early Modern Spain," *Journal of Spanish Cultural Studies* 13, no. 1 (December 2012): 22–30.

³ Adriano Prosperi, "Otras indias' missionari della controriforma tra contadini e selvaggi," in *Scienze, credenze occulte, livelli di cultura: Convegno internazionale* (Florence: L. S. Olschki, 1982), 205–34; and Seth Kimmel, *Parables of Coercion: Conversion and Knowledge at the End of Islamic Spain* (Chicago: University of Chicago Press, 2015), 40–42, 151–57.

polemic on the disunity and inconsistency of Christianity.⁴ Al-Ḥajārī's book is classifiable only in the broadest sense as what scholars of Arabic call *'adab* literature. He worked across genres in order to turn both Christian theology and the political reality of Spanish imperial expansionism against themselves. Having left Spain around 1600, just a few years before the final expulsion of the Moriscos, al-Ḥajārī presented himself as a knowing outsider and traveler. He strategically employed both this personal history and his bilingualism in order to exploit the connections between New World, Protestant, and Turkish resistance to Spanish Catholic hegemony.

The Sa'adī sultan Muley Zaydān sent al-Ḥajārī on a diplomatic mission to Europe in the early seventeenth century to demand restitution for robberies suffered by expelled Andalusian Moriscos during their sea crossing to North Africa. It was not until sometime later, in Cairo during the 1630s, that he finally produced the complete text of *Kitāb nāṣir al-dīn*. Given his diplomatic role, al-Ḥajārī was highly aware of the ambassadorial conventions and agreements of the late sixteenth- and early seventeenth-century Mediterranean. By emphasizing these codes of conduct and the power relations they implied, al-Ḥajārī attempted to claim authorial power as a judge of moral, religious, and political action. Debating with a Spanish Jew in the city of Bordeaux, al-Ḥajārī employed the history of ambassadorial relations between European Christians and Ottoman Muslims to turn the rhetoric of the Spanish imperial project into a form of cross-cultural solidarity.⁵ This is a rich passage, so please indulge my citation of a somewhat lengthy section from a slightly revised version of Van Koningsveld, Al-Samarrai, and Wiegers's English translation from the original Arabic:

Each of the Sultans of the Christians is terrified by the bellicose Sultans of Islam defending the Religion.... [T]hus, the kings of the Christians deem it proper to maintain friendly relations. Every one of them sends his ambassador to reside on a permanent basis in Constantinople in order to arrange for peace and goodwill with them. However, they—may God make them victorious and make their kingship last forever and place their Christian and Infidel enemies under their feet!—do not send an ambassador to any Infidel for permanent residence in their country. It is true that the Sultan of Spain—i.e. the country of Al-Andalus—wanted to send a resident ambassador like the other Christian kings, but they did not accept him. This, they ascertained [*tahaqqūqū*], was because of his enmity against Islam and because of his treason regarding what arose with the Sultan of the West Indians in the City of Mexico called Mutashuma, when they approached him bearing a present and killed him; and because of the treaties they concluded with the Andalusian Muslims when they took their lands, which they broke afterwards... and there are other facts said of them, like the conquest of the City of Milan. No one is more hostile and obnoxious towards the Sultans of the Muslims than the Sultans of Spain.⁶

⁴ For more on al-Ḥajārī's biography and his text's manuscript history, see the editors' introduction in Aḥmad Ibn Qāsim al-Ḥajārī, *Kitāb nāṣir al-dīn 'alā'l-qawm al-kāfirīn*, ed. and trans. P. S. Van Koningsveld, Q. Al-Samarrai, and G. A. Wiegers (Madrid: Centro Superior de Investigaciones Científicas, 1997), 11–59. A recently published second edition includes information about a previously unknown manuscript discovered in Cairo.

⁵ On Mediterranean ambassadorial convention and relations between Spain and North Africa in a slightly later period, see Oumelbanine Zhiri, "Mapping the Frontier between Islam and Christendom in a Diplomatic Age: Al-Gassānī in Spain," *Renaissance Quarterly* 69, no. 3 (2016): 966–99.

⁶ Al-Ḥajārī, *Kitāb nāṣir al-dīn*, 126–27 (Arabic), 183–84 (English).

The Ottoman refusal to accept a Spanish ambassador was a calculated exception to what al-Ḥajārī painted as European strategic goodwill some one hundred years after the Turkish advance upon Vienna. Collapsing the Spanish categories of alterity of which he himself formed a part, al-Ḥajārī demonstrated the usefulness of recognizing the global nature of Spanish aggression before a Muslim audience. Significantly, he presented Cortés's taking of Mexico City not as a moment of first triumph but rather as a treasonous breaking of diplomatic rules. In al-Ḥajārī's view, just as the essential mythology of New World conquest rested on the empty foundation of treason ("they approached him bearing a present and killed him"), the consolidation of religious hegemony on the Iberian Peninsula stood on similarly shaky ground. Carlos V's and Felipe II's gradual erosion of the guarantees outlined in the capitulations of Granada ("which they broke afterwards") reveals a repeated tendency toward ambassadorial duplicity. The supposedly crowning mythological moment of the reconquest was in fact the major piece of evidence that Spanish Christians were not to be trusted.

Moreover, al-Ḥajārī's rendering of the famous encounter between Cortés and Montezuma is a variation on what we might call the "*Requerimiento* gap," by which I mean the chasm between the contractual language and rituals of embassy, on the one hand, and the chaotic and violent reality of warfare, on the other. The debate between Inga Clendinnen and Tzvetan Todorov about what Cortés and Montezuma thought they were up to when they exchanged gifts is in fact an extension of an early modern struggle to frame and interpret the episode: Who was the vassal and who the sovereign? Who deceived whom? How to interpret accounts of the scene from two sources that al-Ḥajārī perhaps knew, Cortés's letters and the *Historia verdadera de la conquista de la Nueva España*, attributed to Bernal Díaz del Castillo?⁷ The *Requerimiento* is laughable to Las Casas and others because of the disconnection between an eschatological rhetoric of diplomacy and a rapacious desire for power and wealth. Although their broader objectives are distinct, al-Ḥajārī's indignation and Las Casas's laughter are similar in argument as well as form: they both point toward the Old World's rules of diplomacy as offering nothing more than a cover for brute force. As Michel Foucault put it, inverting the famous formulation of the Prussian general and military theorist Carl von Clausewitz, "politics is the continuation of war by other means."⁸ Al-Ḥajārī and Las Casas both wished that it were not so.

Expressed slightly differently, al-Ḥajārī's rewriting of the Cortés-Montezuma episode is characterized by the tension between a religious definition of Mediterranean conflict and the hope for political relationships that might transcend religious lines. Although Foucault considered this hope naïve, it nevertheless strikes me as the very condition of diplomacy. Diplomacy depends upon rituals and fictions that in the end are not all that more ridiculous than those embodied in the *Requerimiento*. Think, for instance, of the legal fiction that an ambassador living abroad is juridically speaking at home and on sovereign territory. This is why he can speed with impunity and she can park wherever she damn well pleases. We allow this particular legal fiction to structure and regulate behavior, even though it is characterized by a certain romanticism

⁷ Tzvetan Todorov, *The Conquest of America: The Question of the Other*, trans. Richard Howard (New York: Harper Perennial, 1992), 51–123; and Inga Clendinnen, "Fierce and Unnatural Cruelty": Cortés and the Conquest of Mexico," in "The New World," special issue, *Representations* 33 (Winter 1991): 65–100.

⁸ Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–1976*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey (New York: Picador, 2003), 48.

or naïveté, not to say duplicity.⁹ To pull an ambassador in a moment of conflict is a sign that the fiction has begun to fray. Al-Ḥajarī proudly celebrated the Ottoman refusal of Spanish ambassadors because it was a sign of an Islamic leader's power to determine the limits of this sort of legal fiction.

But as we have already seen, al-Ḥajarī nonetheless traded in another sort of fiction, which is represented by the imagined alliance among those wronged “Sultans” of the world, whether Ottoman, Italian, or Mexican. He presented the defenders of Islam as defenders of wronged parties more generally. The description of Spain's diplomatic injustices across the globe is “ascertained” in overlapping diplomatic and religious language. The verb pattern of this Arabic root (ḥ-q-q) signifies a range of meanings that include not only the journalistic “to ascertain” or “verify” but also the more religiously inflected concept of “to render something binding.”¹⁰ The paradox here is that the exclusionary religious language with which al-Ḥajarī opened the above passage eventually blended into a more strategic ecumenism. His prayer for an Ottoman victory over Spanish foes ultimately served a political purpose that exceeded religious and cultural boundaries.

The anonymous Ottoman author of *Tarih-i Hind-i garbi* accomplished something similar in his corresponding late sixteenth-century description of the Cortés-Montezuma episode, which he culled from sixteenth-century Italian translations of classic Spanish and Latin sources on the New World conquest, such as Francisco López de Gómara's *Historia de la conquista de México* and Gonzalo Fernández de Oviedo y Valdés's *De la natural historia de las Indias*. The Ottoman text describes Montezuma as “of medium height, lean, and of *arabī* complexion,” which is a notable culturally marked way to say “brown skinned.” Similarly, earlier in the same section of the text, the leader of one of Montezuma's vassal states offered the following introduction: “We have a great king,” he said. “They call him Moctezuma. On the face of the earth there is no exalted *padishah* like him.” *Padishah* is a Persian loanword for “great king” that became the more familiar “shah” in the Ottoman context.¹¹ Just as in the case of al-Ḥajarī, here too the subtle “Islamization” of Montezuma and this episode of gift exchange were double-edged. Sometimes it was a claim to the defense of wronged parties, and other times it was a call for Ottoman conquest, if not in the New World then at least in the Indian Ocean, where, as Giancarlo Casale has argued, Ottoman leaders sought to stem Portuguese expansion.¹² Like al-Ḥajarī, the author of this collection of Ottoman Americana mimicked the Spanish apologetic rhetoric and imperial chauvinism that he sought to criticize.

Patricia Seed presented a diachronic account of the relationship between medieval Islamic legal models and early modern Spanish reformulations of those models. My story is instead a synchronic one. In al-Ḥajarī's strategic portrayal of several generations of Spanish monarchs betraying their geopolitical interlocutors and vanquished foes, we see an effort not only to control the historical narrative of Spanish conquest but also to define and justify the rules of political conduct in the early modern present. As al-Ḥajarī explained many times in *Kitāb nāṣir al-dīn*, he wanted

⁹ On diplomatic fictions and Renaissance humanism, see Timothy Hampton, *Fictions of Embassy: Literature and Diplomacy in Early Modern Europe* (Ithaca, NY: Cornell University Press, 2009), 1–44. For an account of the classical history of legal fictions and their legacy in the medieval period, see Yan Thomas, “*Fictio Legis*: L'empire de la fiction romaine et ses limites médiévales,” *Driots* 21 (January 1995): 19–29.

¹⁰ J. G. Hava, *Al-Farā'id Arabic-English Dictionary*, 5th ed. (Beirut: Dar el-Mashreq, 1982), 133–34.

¹¹ Thomas D. Goodrich, *The Ottoman Turks and the New World: A Study of “Tarih-i Hind-i garbi” and Sixteenth Century Ottoman Americana* (Wiesbaden: Otto Harrassowitz, 1990), 22–23, 222, 235.

¹² Giancarlo Casale, *The Ottoman Age of Exploration* (Oxford: Oxford University Press, 2010), 3–52, 84–116.

restitution for his own Morisco community from the Spanish Crown, as well as leverage among his ambassadorial and scholarly counterparts elsewhere in Europe. Transatlantic legal precedents were for him and for the author of the Ottoman collection tools of negotiation and apology. This is the imperial politics of New Christian assimilation that I refer to in my essay's title.

With al-Ḥajari's calculated presentism in mind, we might revisit the evidence that Seed and others have employed to argue that at least some early modern commentators on the *Requerimiento* were well aware that Juan López de Palacios Rubios drew on Islamic models for the document, even if such models were filtered through Jewish and Christian interpretations of Old Testament narratives of coercion and diplomacy. Foremost among these sources are Bartolomé de Las Casas's remarks about the *Requerimiento*. These comments are included along with a version of the legal text itself in the third book of the *Historia de las Indias*, which remained unpublished during Las Casas's lifetime. In a citation that is partially quoted by Seed, Las Casas plays with various hypothetical legal precedents. Since the precise language is key here, I first provide the original Spanish and then offer an English translation:

Si vinieran los moros o turcos a hacerles el mismo requerimiento, afirmándoles que Mahoma era señor y criador del mundo y de los hombres, ¿fueran obligados a creerlo? ¿Pues mostraban los españoles mayor testimonio y más verdadera probanza de lo que protestaban en su requerimiento, de que el Dios suyo había criado el mundo y los hombres, que mostraran los moros de su Mahoma?¹³

If the Moors or Turks were to come to administer to them [i.e., New World indigenous peoples] the same *Requerimiento*, affirming to them that Muhammad was lord and creator of the world and of man, would they be obligated to believe it? For did the Spaniards show greater testimony and more truthful proof of what they claimed in their *Requerimiento*—that their God had created the world and man—than that which the Moors might show of their Muhammad?

Las Casas's questions were rhetorical. If the Moors and the Turks were to come and read the same *Requerimiento* to the indigenous peoples of New Spain or some other non-Muslim group, would those people be obligated to believe it? The negative answer to this question was for Las Casas self-evident. This was not simply because the Muslims had the facts of salvation wrong but also and more importantly because a document like the *Requerimiento* failed to offer the necessary "testimony" and "proof" of its own cosmological, theological, and political claims. But note the grammar of the passage: in Las Casas's view, while the Spanish *actually* failed repeatedly to make their case in the recent history of New World conquest—Las Casas described their use of the *Requerimiento* in the imperfect tense and indicative mood—the Muslim failure was a *hypothetical* one, as denoted by the subjunctive.

There is nothing in Las Casas's comments that suggests recognition of medieval Islamic precedents for the principles described in the *Requerimiento*. The hypothetical nature of Las Casas's formulation instead evokes his contemporaries' fear of future Ottoman expansion through coastal attack and invasion, both on the Iberian Peninsula and elsewhere. This is not to say that Las Casas was uninterested in or uninformed about the early history of Islam or possible parallels between that history and present violence in the New World. In *De unico vocationis modo*,

¹³ Bartolomé de Las Casas, *Historia de las Indias*, ed. Agustín Millares Carlo (Mexico City: Fondo de Cultura Económica, 1986), bk. 3, chap. 58.

an evangelical guidebook, for example, Las Casas described Muhammad and his first followers as examples of zealots who converted by the sword, and he lamented that the Christian conquerors and *encomenderos* of the New World mimicked Muhammad's example.¹⁴ Yet in that text, Las Casas cited a dialogue from the *Speculum historiale*, which emerged from Peter the Venerable's twelfth-century translation workshop, and Las Casas probably knew this text through the version included in Alfonso de Spina's late fifteenth-century *Fortalitium fidei*. The line of transmission is important because it shows that even when Las Casas invoked the medieval example of Islamic coercion as a model for early modern Christian imperial violence, he employed an overtly polemical source from the recent peninsular history of forced conversion and assimilation.

Moreover, Las Casas's primary concern in this section of *De unico vocationis modo* was not to map competing paradigms of conquest or conversion in either the Islamic or the Christian imperial context. His goal, rather, was to shift his fellow evangelizers' focus to the long and messy processes of education, accommodation, and acculturation. Las Casas recognized that all religions were in essence habits with histories. He wanted indigenous neophytes to participate in Christian social and religious life, even if they did not at first completely buy into the system. In other words, even in *De unico vocationis modo*, where Las Casas cited Christian conquistadors' mimicry of Muhammad's alleged embrace of conversion by the sword, Muhammad is allegorical shorthand for religious coercion. He is a contemporary "figure of thought," as David Nirenberg might put it.¹⁵ In my view, to employ Muhammad in this figurative and portable way had more to do with the Mediterranean geopolitics of the sixteenth century than it did with the transmission of medieval Islamic legal precedents concerning *jihād*, empire, and conversion.

Other early and mid-sixteenth-century scholars concerned with New World conquest used Muhammad and Islam in a way similar to how Las Casas made use of them. Francisco de Vitoria's 1539 special lecture on the American Indians, *De indiis*, and his related commentary on the second part of Thomas Aquinas's *Summa theologica* are peppered with references to peninsular Muslims. The humanist Juan Ginés de Sepúlveda, Juan López de Palacios Rubios's collaborator Fray Matías de Paz, and others did the same.¹⁶ That late medieval and early modern peninsular Islam became for these scholars the paradigmatic example for a consideration of the sources and limits of imperial power in the Americas highlights their immediate frame of reference. The purchase of Mediterranean Muslims as a legal precedent for the Americas was intimately tied to the

¹⁴ Bartolomé de Las Casas, *Del único modo de atraer a todos los pueblos a la verdadera religión*, ed. Agustín Millares Carlo, introduction by Lewis Hanke, trans. Atenógenes Santamaría (Mexico City: Fondo de Cultura Económica, 1942), 460. I discuss this text and related debates about conversion in more detail in Kimmel, *Parables of Coercion*, 61–65.

¹⁵ Nirenberg uses the phrase when discussing Judaism in David Nirenberg, "Figures of Thought and Figures of Flesh: 'Jews' and 'Judaism' in Late-Medieval Spanish Poetry and Politics," *Speculum* 81, no. 2 (April 2006): 398–426; but he develops the idea most extensively in his *Anti-Judaism: The Western Tradition* (New York: Norton, 2013).

¹⁶ Juan Ginés de Sepúlveda, "Demócrates," ed. J. Solana Pujalte, trans. I. J. García Pinilla, in *Obras completas* (Madrid: Excmo. Ayuntamiento de Pozoblanco, 2010), 15:80–192; and Matías de Paz, *Del dominio de los reyes de España sobre los indios*, published with Juan López de Palacios Rubios, *De las islas del mar Océano*, introduction by Silvio Zavala, ed. and trans. Agustín Millares Carlo (Mexico: Fondo de Cultura Económica, 1954), 232–54. For the original Latin of Vitoria's presentations, see Francisco de Vitoria, *Relecciones*, ed. Luis G. Alonso Getino (Madrid: Asociación Francisco de Vitoria, 1933), 356, 370; and Vicente Beltrán de Heredia, *Los manuscritos de Fray Francisco de Vitoria* (Madrid: Santo Domingo el Real, 1928), 200, respectively. For English versions, consult Pagden and Lawrance's translations in Anthony Pagden and Jeremy Lawrance, eds., *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), 244, 263, 348. See also Kimmel, *Parables of Coercion*, 43–65.

still-unfolding reality of peninsular conversion and assimilation. This open-endedness suggests that legal precedents traveled eastward as well as westward across the early modern Atlantic.

If I have dedicated so much of this essay to the movement of legal precedents for Spanish conquest through space, it is because of the methodological limits of tracing such precedents across time. This may seem confusing, for legal precedents seem to be historical by definition. They are episodes or judgments from the past that serve as models for the present. This is why it is so enticing to try to retrace genealogies of co-optation, particularly, given current scholarly debates about Islam and the West, on the chance that texts like the *Requerimiento* traversed linguistic or religious lines. Yet it should come as no surprise that the jurists, historians, and rulers who invoke precedents necessarily do so for their own specific and contemporary reasons. This anachronistic quality is a sign of a precedent's ongoing vitality. Consider in this regard the use of the *Requerimiento* by longtime court historian Antonio de Herrera y Tordesillas in his *Historia general de los hechos de los castellanos en las islas i tierra firme del mar oceano*, published over the first two decades of the seventeenth century. Herrera y Tordesillas included the *Requerimiento* in the section of his *Historia general* dedicated to Alonso de Ojeda's expedition toward the South American mainland, undertaken several years before Palacios Rubios even composed the text. Herrera y Tordesillas did not comment on this incongruity, but he did explain that he thought it was important to incorporate the *Requerimiento* somewhere into his history because, as he put it, "it served on all of the other occasions of the Indies, wherever the Castilians set foot."¹⁷ To put the text in the voice of Ojeda was to lend the *Requerimiento* a longer history and more stable legitimacy than it actually had. It was also to present a legal document as a rhetorical set piece, one that suited the narrative needs but undermined the historical accuracy of the *Historia general*.¹⁸ My point here is a conceptual and literary historical one: stylistic and narrative considerations shape legal precedent, and all legal precedents are ahistorical in this way to some degree. The principal stakes of interpreting the juridical past necessarily concern the power to narrate the present.

In sum, the early modern rules and representation of diplomacy and warfare were in a constant state of negotiation in the early modern period. The untidiness of this negotiation does not in all or even most cases totally obscure genealogies of the generic, linguistic, and institutional conditions of such negotiation. In telling a synchronic, rather than a diachronic, story about the *Requerimiento* and other texts treating Spanish conquest in the New World, however, I have followed the paths most readily opened by the strengths and weaknesses of the available sources for cross-cultural encounter, sources that present peninsular Muslims and Moriscos as figures of transatlantic thought and Montezuma as a Sultan of Islam. A

¹⁷ Antonio de Herrera y Tordesillas, *Historia general de los hechos de los castellanos en las islas i tierra firme del mar oceano* (Madrid: Emprenta Real, 1601), dec. 1, bk. 7, chap. 14: "porque siruio en todas las demas ocasiones de las Indias, adonde los Castellanos metieron pie."

¹⁸ There are many other such rhetorical set pieces in peninsular historical writing, but the example that comes to mind is the inclusion of the so-called *memorial* of the Morisco negotiator Francisco Núñez Muley as a speech in both Diego Hurtado de Mendoza and Luis de Mármol Carvajal's histories of the Second Alpujarras War in Granada, which began in 1568. An archival version of the *memorial* was first edited in Keith Garrad, "The Original Memorial of Don Francisco Núñez Muley," *Atlante 2* (1954): 199–226. See also Diego Hurtado de Mendoza, *Guerra de Granada*, ed. Bernardo Blanco-González (Madrid: Castalia, 1970), 119; and Luis de Mármol Carvajal, *Historia del rebelión y castigo de los moriscos del Reino de Granada*, Biblioteca de autores españoles (Madrid: M. Rivadeneyra, 1852), chap. 9, www.cervantesvirtual.com.