

**CONTESTED KINGSHIP. CONCEPTIONS OF MONARCHY AND
CIVIL POWER IN SPANISH AND DUTCH POLITICAL
THOUGHT, 1555-1598**

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INTRODUCTION

In the recent historiography of the Dutch Revolt historians have emphasised the importance of liberty as the key motive of the Dutch rebels⁽¹⁾. In political terms liberty was central to the conflicts about the independence and self-government of the Dutch towns and provinces. In religious terms liberty referred to conflicts about freedom of conscience, freedom of worship and the acceptance of religious pluriformity. In the conflict about the persecution of heresy the religious and political dimensions of liberty came together. The question of how to deal with Protestant heretics in all their variety involved issues of political, legal and juridical autonomy and centralisation, matters of faith, toleration and the interlinkage between political and religious unity, between church and state. All of these issues raised important questions concerning the office of government in the commonwealth. The conflicts between Philip II and the Dutch rebels about political and religious liberty entailed crucial differences in the conceptions of monarchy and civil power.

Dutch authors recognised the political and intellectual connections between liberty and civil power from the beginning of their protest against the policies of Philip II. In 1570 a *Libellus Supplex*, presented to the Imperial Diet, argued that 'idle men' under the leadership of Cardinal Granvelle and the Duke of Alba were conspiring to subject the Low Countries' 'to one form of laws and jurisdiction', to bring them 'to the name and title of kingdom', so that the Dutch provinces could be governed 'with new laws by discretion as the Kingdoms of Sicily and Naples are, that have been acquired by conquest'⁽²⁾. In 1570 Granvelle and Alba were the main villains. Throughout the 1560s Dutch authors did not hold Philip directly responsible for the policy of the central government. The picture of the cruelly misled, yet au fond virtuous prince was dropped by the *Libellus Supplex*. In the 1570s the reputation of Philip II crashed. In the Dutch

view Philip II wanted to rule the Low Countries 'freely and absolutely' with absolute power, just as he was doing in the Kingdoms of Naples and Sicily, in Milan and in the Indies. The *Apology* of William of Orange was the final blast in a long series of pamphlets. William presented Philip II as the tyrant of all tyrants, 'an incestuous king, the slayer of his sonne, and the murtherer of his wife'⁽⁵⁾. As these words reverberated throughout Europe, William's *Apology* wrecked the reputation of Philip II. For future generations in the Netherlands, England and other European countries the Dutch Revolt was in its essence the juxtaposition of Spanish tyranny and Dutch liberty.

This paper explores the intellectual interlinkage between Dutch and Spanish conceptions of civil power in general and monarchy in particular. The focus is not only on the clashes, which have featured so prominently in European historiography, but also on the surprising connections between Spanish and Dutch political thought in the time of Philip II.

THE CASTILIAN IDEA OF MONARCHY

The Dutch rebels imputed a Spanish conception of monarchy on Philip II as being built on the claim to absolute power. In conformity with trends elsewhere in Europe, Castilian authors had started to include the concept of absolute power in their theories of monarchy in the late middle ages. Castilian theorists were at the forefront of the revival of the maxims of Roman Laws which strengthened monarchical claims to power and legislative authority⁽⁶⁾. Ulpian's phrase *princeps legibus solutus est* (Digest 1.3.31) was used to argue that the prince was not bound by human law but that the will of the king was the supreme source of civil law⁽⁷⁾. In the fifteenth century the idea of the king as lawgiver was enriched with the notion of the king as supreme temporal authority, the *rex qui superiorem non recognoscit*. The union between the concepts of 'poder absoluto' and 'señor sobrano' provided the juristic foundations for the claims to sovereignty and absolute power under Charles V and Philip II.

This juristic idea of monarchy was intertwined with the theological conceptions of kingship, which dominated monarchical theory until the late sixteenth century. Castilian theories of monarchy were imbued with the notion of the king as God's vicar, *vicarius Dei*, who received his authority directly from God. The divine origin endowed kingship with celestial 'grandeza', which imposed supreme authority and moral obligations on the king and also entailed stories about the sacred powers and virtues of kings, including their amazing powers of healing⁽⁸⁾. In their personal convictions Charles V and Philip II were greatly indebted to these theological conceptions of monarchy. They accepted not only the political but also the intellectual legacy of the Catholic Monarchs and applied it their own circumstances. In the various instructions to his son, including those of 1543 and the political testament of 1548, Charles insisted on the divine origin of monarchy, spelling out the religious, moral and political duties of the office. As God's vicar the principal duties of the prince were the protection of religion and the administration of justice. Charles urged his son to stamp out heresy and to administer justice with mercy, enlightened by the virtue of clemency⁽⁹⁾. Philip accepted the burden. In the public representation of his policy the protection of the true religion featured pro-

minently. In 1566 Philip promised Pius V 'rather than suffer the least damage to the Catholic church and God's service I will lose all my states, and a hundred lives if I had them'. The promise was repeated frequently, acquiring messianic proportions during the final decades of Philip's reign⁽⁸⁾. Poets such as Fernando de Herrera celebrated Spain as the *Civitas Dei*, with Spanish imperialism combining the best of the Hebrews and Romans⁽⁹⁾.

The 'confesionalismo' of the Spanish monarchy was not just the result of the personal religious convictions of Charles V and Philip II and the enthusiasm of Spanish poets and priests. The representation of Spain as the most Catholic Monarchy on earth was related to crucial external affairs, including the policy to establish Spain's independence, indeed superiority vis-à-vis Rome. In addition, the debate on the Catholic monarchy and its relationship with Rome played a major role in the factional strife at Philip's court, where factions used these issues to strengthen their membership, internal cohesion and their position at the court⁽¹⁰⁾.

As far as the Dutch Revolt was concerned Philip's messianic statements were also related to profound political worries. Philip was not the scourge of Dutch heretics only because he thought it was his duty as a Catholic monarch to protect the Roman-Catholic church but also, and maybe principally, because he thought that maintaining religious unity within the empire was a precondition for maintaining the empire itself. Throughout the vast territories of the monarchy Philip pursued a prudent policy of centralisation. Political prudence was bolstered by conceptions of universal monarchy. The idea of universal monarchy had been extremely popular in the Erasmian circles around Charles V and his chancellor Gattinara, where humanists – though not Erasmus himself – hailed the emperor as the modern Renaissance replica of Marcus Aurelius, the philosopher-king who as universal monarch would be the keeper of peace and concord⁽¹¹⁾. Philip not only endorsed his father's policy of centralisation, his poets, pamphleteers and propagandists also revived the notion of universal monarchy. In the 1580s ideas of universal monarchy were employed to support the inclusion of Portugal, the continuing war in the Low Countries, and the plans for the conquest of England with the expensive Armada.

FROM DUTCH LIBERTY TO BATAVIAN REPUBLICANISM

Spanish claims to universal monarchy were contested throughout the political literature of the Dutch Revolt. William of Orange and a host of other authors insisted that Philip's kingship did not extend to the Low Countries: 'Let him be a King in Castile, in Arragon, at Naples, amongst the Indians, and in every place where he commaundeth at his pleasure: yea let him be a king of he will, in Ierusalem, and a peacable governour in Asia and Africa, yet for all that I will not acknowledge him in this countrey, for any more than a Duke and a Countie, whose power is limited according to our privileges, which he sware to observe, at his gladsome entraunce'⁽¹²⁾.

From the very beginning of the protest against the policies of Philip's government, Dutch authors built their conceptions of good government on the constitutional legacy of their provinces and cities, which, as elsewhere, consisted of the great charters of the

late medieval period. Principal examples were the charters of 1477 and the famous Joyous Entry of Brabant, to which, from 1356, every duke of Brabant had to take a solemn oath on the occasion of his inauguration by the States of the Duchy. Philip himself took the oath in 1549. The charters had played a major role in the formulation and codification of political rights and duties. In their cumulation they began to form a sort of 'implicit constitution'⁽¹³⁾, which in combination with other written and unwritten customs and rules, restricted the power of the prince, codified participatory claims, guaranteed civic rights and, in doing so, secured the rule of law in the Burgundian Netherlands.

The charters were the expressions of a long-lasting, powerful ideological current in the Low Countries. Being extorted at moments of weakness of the central government, they reflected the political views of the most important towns and provinces of the Low Countries. During the late medieval period the powerful towns in the Burgundian Netherlands, and those of Brabant and Flanders in particular, tried to create a political order marked by a weak but efficient central government and dominated by self-governing city-republics⁽¹⁴⁾. The charters of 1477 and the Joyous Entry were the expression of this ideal of self-government.

In legitimating their resistance against the government of Philip II Dutch authors represented the charters as an essential part of the 'ancient constitution' which had been created by wise ancestors to safeguard Dutch liberty. Within the 'ancient constitution' the charters functioned as constitutional guarantees of liberty. As pointed out by many treatises, under special reference to the Joyous Entry of Brabant, to become lord of the country, Philip II had to take a solemn oath to uphold and respect the charters. They were the fundamental laws of the country, which no prince was allowed to violate or change; they were the bridles of the prince and they contained the conditions on which the prince had been accepted by the States on behalf of the people. Whilst the charters were the constitutional and legal guarantees of liberty, the States assemblies and the citizens of the Netherlands were presented as its virtuous guardians. In the course of the 1570s the Dutch rebels formulated an interpretation of the Dutch political order as based on liberty, constitutional charters, representative assemblies, and civic virtue.

A delicate and elaborate synthesis of the legitimation of the Revolt was offered by Aggaeus van Albada in his annotations to the *Acts of the peace negotiations* which took place in Cologne in 1579. Albada was a gifted Frisian jurist who had received a thorough humanist education in Paris, Orleans, Bourges and Italy. In Cologne he acted as the principal spokesman on behalf of the States General⁽¹⁵⁾. Albada's political thought was based on the premise that the essence of political authority was to foster and protect the common good of the community. Albada argued that God had created men 'free and equal'. The sole purpose for the creation of princes had been, to the profit of the people, to enlighten the maintenance of 'human and civil society or citizenship and to make it easier for people to help each other with 'mutual benefactions'. What the republican authors of the Italian Renaissance had called a *vivere civile* was the principal aim of politics.

Albada emphasised that princes had been made by the people, and not the people by princes. He rejected the argument that all men had been created for the sake of 'hun-

dred' princes as absurd and he wondered who, 'since a king is made by the people and because of the people, and without the people could not remain king, will be surprised that we conclude that the people is above the king?'⁽¹⁶⁾.

Albada maintained that this principle applied to all magistrates, amongst whom the prince held but 'the first place'. He concluded that 'the right of ruling' was 'nothing but a right of the common people'⁽¹⁷⁾. The authority of all magistrates, including both prince and States, rested on the 'supreme rule of the common people'⁽¹⁸⁾.

On the basis of these fundamental principles Albada offered an elaborate analysis of the position and authority of prince and States in the Netherlands. Realising that the position of Philip II was, as Albada himself pointed out during the negotiations, next to religion the principal point of conflict, the Frisian humanist emphasised that the prince was but a 'custodian, servant and executor' of the law, 'a servant of the ship'. In the ship of the community the prince held the place of the 'steersman', while the people was the master of the ship.

The States had been created for the same purpose as the prince: it was their bounden duty to serve the 'fatherland', 'to foster the common welfare and good, yes, to consider their own welfare inferior to the common'⁽¹⁹⁾. The States were the representatives of the community. They were elected officers of the community, not of the prince. Albada emphasised that the States had been fully entitled to 'take up arms to the defence of their life and freedom'. On the basis of the principle of popular sovereignty he concluded that the States, being those who had established a prince in his authority, retained the power to take the latter's authority back, if he violated the conditions on which he was appointed.

Albada was the first Dutch author to give a full account of popular sovereignty as an active force in the Dutch constitution. His views were elaborated in the political and intellectual quest for the optimal state of the commonwealth which followed the Abjuration of Philip II in 1581⁽²⁰⁾. For decades Dutch theorists continued to discuss the issues of sovereignty, representation and participation. Hugo Grotius was a major contributor to these debates. In a series of manuscripts and publications Grotius glorified the new republic of Holland in elaborate comparisons with Athens, Republican Rome and the Hebrew Republic. Comparing the constitutions of these glorious republics, Grotius accepted the arguments of the wisest men for a *respublica mixta*, 'in the sense that a single *civitas* combined 'the majesty of a prince with the authority of a senate and the liberty of the people'. Grotius had a distinct preference for a *respublica mixta* where the aristocratic element dominated: 'the republic that is most properly organised is the one in which the prominent part is with a proportionate number of men of outstanding virtue and prudence'⁽²¹⁾.

In the *Treatise of the Antiquity of the Batavian Republic* Grotius explained that Holland had always been such a virtuous republic of optimates. In Grotius' hands the ancient constitution of Holland reached the age of antiquity with amazing ease. The Batavian resistance against the Romans was presented as 'the just beginning of a free republic, constituted in liberty by a people of free origin'⁽²²⁾. Celebrating the Batavians as 'the authors of liberty' Grotius drew a sharp contrast between *libertas* and *regnum*

and he argued that Tacitus had described the people, assemblies and citizenship of the Batavians in terms of 'what we nowadays call a free *respublica*, what Caesar called the *civitas* of the Helvetians, a republic'⁽²³⁾.

THE SPANISH-DUTCH CONNECTION: SOTO, VÁZQUEZ AND ALBADA

In the clarity and forcefulness of Grotius' argument the distinction between Spanish tyranny and Dutch liberty, which had dominated Dutch political thought since the 1560s, evolved into the opposition between kingship and republic. Although this overt anti-monarchism was relatively rare, the opposition between the Castilian idea of monarchy and the Dutch *respublica mixta* was one of the driving forces of the Dutch Revolt. The Castilian pleas for a monarchy where the king as *vicarius Dei* had the fullness of power and the Habsburg dreams of universal monarchy could not be reconciled with the Dutch passion for a *respublica mixta* based on liberty, ancient constitution, popular sovereignty, representation and civic virtue.

In terms of intellectual history the battles did not run along a neat line of Spanish-Dutch division. Monarchism was not the only trademark of Spanish political and intellectual traditions; liberty was not the patent of Flanders, Brabant and Holland. The political union between Spain and the Burgundian Netherlands had contributed to the intensification of economic and cultural contacts. Erasmus was the towering figure of Dutch and Spanish humanism. When Philip II visited Rotterdam in September 1549 during his grand tour of the Low Countries he and his Spanish entourage paid homage to the prince of humanism⁽²⁴⁾. Spanish humanists were integrated into the humanist circles of Antwerp, the economic and cultural metropolis, and the place of publication of studies such as Furió Ceriol's *Concejo y Consejeros del Príncipe* and Sebastian Fox Morcillo's *De regni regisque institutione*, both of which appeared in 1556. The University of Louvain was another centre of the exchange of ideas. Louvain was not only a centre of humanist studies, but also of neo-scholasticism, manifesting itself in theology, law and political theory. The Frisian humanist Joachim Hopperus was one of the Louvain jurists who made their career in the government of councils that characterised the reign of Charles V and Philip II. Between 1566 and 1576 Hopperus was *presidente de Flandes* in Spain. His works included *Ferdinandus, sive de institutione principis*, a mirror-for-princes in the form of a dialogue featuring two of most the prominent members of Philip's government, Granvelle and Viglius, and Hopperus himself. Fully in line with the Castilian idea of monarchy Hopperus celebrated the king as *vicarius Dei* who was to protect and promote the *bonum commune* of his subjects through rightful and merciful administration of justice and through excellence in the virtues⁽²⁵⁾. Hopperus elaborated his views in his unfinished commentary on Psalm 119, *Doctrina y Officio del Rey*⁽²⁶⁾, which is mainly devoted to the duties and moral obligations of the royal office. In the second and third chapter of the *Doctrina* Hopperus elucidated how the king was tied through his office to the *bonum commune of the respublica*, to justice and to the law of God. This insistence on the moral duty of kingship to serve *bonum commune and iustitia* and on the subservience of the *princeps* to eternal, natural and divine law was commonplace in theories of monarchy in the Low Countries, in Spain and elsewhere in Europe. The implications of this commonplace were, however, the subject of

intense controversy. It was one of the themes which dominated the political thought of the School of Salamanca of Francisco de Vitoria and his pupils such as Domingo de Soto.

The political language with which the theologians of the School of Salamanca discussed the political issues of their times was shaped to an important extent by Thomas Aquinas and his appropriation of Aristotelian thought⁽²⁷⁾. This did not mean that the neo-Thomists of the School of Salamanca were slavish followers of Aristotle and Aquinas. On the contrary, they were fully aware of the novelties of humanism in general and the renaissance of stoic thought in particular.

Following Aquinas, Vitoria and his pupils wanted to deal with political problems in rationalistic terms, which meant that the neo-Thomists put their full weight on natural law theory. Endorsing Aquinas' definition that natural law was the 'participation in the eternal law by rational creatures'⁽²⁸⁾, neo-Thomists regarded natural law as the foundation for the analysis of political issues such as the origins, scope and limits of civil power. The 'first principles' (*prima praecepta*) of this foundation consisted of those self-evident rules which every man by virtue of his reason recognised as his natural inclinations. Neo-Thomists assumed that these first principles were 'implanted' in each and every man. As Soto put it in the fourth book of his masterpiece *De Iustitia et Iure*, which he dedicated to Charles and Philip, 'the law of nature...is promulgated by the light of natural reason and instinct...so that, as far as the first principles of natural reason are concerned, no human being can plead ignorance as excuse'⁽²⁹⁾.

Via the law of nature civil power was a divine ordination. Accounting for the origins of the commonwealth and civil power, Soto argued that 'God though nature gave to individual things the faculty of conserving themselves and resisting their contraries': God endowed human nature with the faculty of conserving not only their temporal but also their spiritual well-being. He added the instinct of sociability as man was unfit for solitary life⁽³⁰⁾.

The congregation of the *respublica* led to the institution of *civilis potestas*. As the commonwealth was unable to defend itself and to administer justice --indeed to govern itself in the words of Soto-- it selected 'magistrates, to whom it granted its faculty'. As Soto explained civil power was instituted by the people: 'Kings and monarchs are not 'created proximately, and, as they say, immediately, by God...but, as the law 'quod placuit' has it, kings and princes are created by the people'⁽³¹⁾. This act of creation consisted of the total transfer of 'imperium et potestatem' from people to king, establishing him as the principal source of civil law. The transfer of 'imperium et potestatem' entailed duties on both sides. Having ceded their faculty to the king by natural reason and instinct --and therefore by divine ordination-- the members of the commonwealth were obliged to obey him. The transfer turned them into subjects. Whilst civil laws were binding in conscience, the king could not wield his 'imperium et potestatem' at will. Soto insisted throughout *De Iustitia et Iure*, that the purpose of the law was the protection and prosperity of the *bonum commune*: 'lex est regula dirigens in commune bonum'⁽³²⁾.

Soto's account of the origins and duties of civil power and monarchy, represented the mainstream of the political thought of the Spain's neo-scholastics. It was taken up

by jurists such as Fernando Vázquez de Menchaca, who served Philip II in the 1560s. In 1564 Vázquez dedicated his main study, *Controversarium illustrium aliarumque usu frequentium*, to the king.

—The foundation of Vázquez's account of civil power is the presumption that before the establishment of the first acts of human law all res are in a state of natural liberty. In the case of some res, most famously the sea, this natural liberty can never be relinquished. In the case of human beings 'the natural appetite for society, the *naturalis appetitus socialis*, and the necessity of human beings to protect themselves against wrongdoers led to the formation of society and civil power⁽³³⁾. In strong contrast with Soto, Vázquez draws a sharp line between the natural movement to society and the artificial establishment of civil power⁽³⁴⁾. Natural sociability leads to the congregation of free citizens in society. As men do not naturally live at peace with each other society will suffer from discord and dissent. For their own protection free citizens then decide to establish civil power. As Vázquez puts it, all kings 'are understood as created, elected or given not for their own sake or that of their own utility, but for the sake of the citizens and the utility of the citizens'⁽³⁵⁾. In Vázquez's theory *civilis potestas* is power conceded by free citizens to the king, who should govern them to their own good.

Even more than Soto's account of civil power and monarchy Vázquez's theory raised the question of the legitimacy of resistance in situations where the king abused his 'imperium et potestatem' and turned into a tyrant. In the case of Vázquez the radical answer was that if the jurisdiction of the king was based on the consent of the citizens, 'then that consent is of its nature revocable, since they are seen to have subjected themselves for their own utility, not that of their prince'⁽³⁶⁾.

The theories of civil power and monarchy, as developed by Vitoria, Soto and other members of the School of Salamanca and then radicalised by Vázquez were taken up by Dutch authors in the course of the Revolt. The principal example is Aggeaus van Albada, who bolstered his theory of popular sovereignty and the civil power of the Dutch States with references not only to the classical works of Plato, Aristotle, and Cicero's *De Officiis*, but also to the medieval Commentators on Roman Law such as Bartolus and Baldus, and to the more recent studies of Soto, Vázquez, Mario Salomonio, and the *Vindiciae contra Tyrannos*.

Albada's main sources were Vázquez's *Controversies* and Salomonio's *De Principatu*. Albada referred to Vázquez at almost all stages of his legitimation of the Dutch Revolt in general and the civil power of the States assemblies in particular. The basic premise of Albada's argument, 'that all forms of government, kingdoms, empires and legitimate authorities were founded to the common utility of the citizens, and not of the rulers' was a direct quote from the *Controversies*⁽³⁷⁾, which was then followed by a long reflection on Salomonio's *De Principatu* as the main source for Albada's notion of popular sovereignty. The argument that princes in general were bound by the laws and that Philip II in particular was bound by the charters of the Low Countries was supported with references to both Soto and Vázquez⁽³⁸⁾. The defence of the active policy of intervention by the States was based on Vázquez's theory of jurisdiction and 'natural protection'. The legitimacy of Dutch resistance against Philip II was supported with the argument 'that if a community is oppressed by its Prince or Stadtholder, it shall take

recourse to its overlord; but if there is no overlord, the community is entitled to take up arms'. According to Albada this argument was first formulated by Soto and then endorsed by Vázquez³⁹.

The peace negotiations at Cologne failed, marking the final rupture between Philip II and the Dutch rebels. In terms of political history the Cologne negotiations can be described as the ultimate clash between 'Spanish tyranny' and 'Dutch liberty'. However, as Albada's annotations to his own arguments show, in terms of intellectual history such a juxtaposition makes no sense. Monarchism did not exhaust Spanish political thought in the sixteenth century. In the tradition of Aragonese constitutionalism the celebration of ancient liberties and political liberty was as dominant as it was in the political thought of the Dutch Revolt⁴⁰. However, from the intellectual point of view, the outright Aragonese rejection of Castilian monarchism was perhaps less threatening to claims of absolute power and universal monarchy than the subtle theories coming from Salamanca. Vitoria, Soto and Vázquez were no anti-monarchists. Their theories of civil power were to an important extent the result of the exploration of the links between divine ordination, natural law and the authority of the prince. Vitoria, Soto and Vázquez tried to clarify themes which had been part of the Castilian conception of monarchy for centuries. In the hands of Albada and other Dutch authors the arguments of Soto and Vázquez were brought to a radical conclusion. To an important extent the intellectual foundation of the Dutch rejection of Philip II was provided by the theory of civil power of two of Philip's own counsellors.

CONCLUSION: VÁZQUEZ AND GROTIUS

The political rupture between Spain and the Netherlands in the time of Philip II did not lead to the breakdown of intellectual connections. The best was yet to come. The political theory of Hugo Grotius was the culmination of the interlinkage between Spanish and Dutch political thought. Grotius made no qualms about his admiration for Spanish thinkers. When, in 1615, the ambassador of France in The Hague, Aubéry du Maurier, asked Grotius' advice on the proper education for a *politicus*, Grotius included a section on law. He recommended the study not only of Plato, Cicero and Thomas Aquinas but also of the three outstanding 'jurists' of his own days: François Hotman, Alberico Gentili and Fernando Vázquez⁴¹. The acclamation was repeated in the prolegomena of *De Iure Belli ac Pacis*, where Grotius praised Vázquez for 'treating the controversies of peoples and kings...with great freedom'⁴².

Grotius' engagement with Vázquez started at an early age. In 1603 the seizure of a Portuguese vessel by ships of the Dutch East India Company prompted a number of Mennonite shareholders to question the right to wage war against the Portuguese and to take prize. Between 1604 and 1606 Grotius wrote the work which is now known as *De Iure Praedae*, and which he himself called *de rebus Indicis opusculum*⁴³. Grotius' defence of Dutch colonial enterprises was greatly inspired by the works of Spanish theorists. *De Iure Praedae* contains 68 references to Vitoria and 74 to Vázquez.

Most famously Grotius supported his defence of the freedom of the seas in chapter 12 of *De Iure Praedae* with elaborate references to both Vitoria and Vázquez. The fre-

edom of the seas was a key issue in the peace negotiations between Spain and the Dutch Republic. To substantiate the Dutch claim to freedom of trade and freedom of the seas Grotius published chapter 12 in 1609 as a separate work, his famous *Mare liberum*⁽⁴⁴⁾.

Grotius used his Spanish sources undoubtedly partly for political reasons, just as Albada had done in 1581. Both Albada and Grotius must have been delighted to be able to reject the claims of Philip II and Philip III with the theories of their own counsellors. These were fine moments of political embarrassment.

It would, however, be wrong to reduce the interlinkage between the Spanish theories of Vitoria, Soto and Vázquez and the Dutch works of Albada and Grotius to a mere matter of political convenience. *De Iure Praedae* was much more than a meticulous political defence of the activities of the Dutch East India Company. It was Grotius' first major attempt to formulate a new humanist theory of natural law⁽⁴⁵⁾. Grotius' first important innovation was to establish a new *methodus*. According to Grotius, the problems of colonialism, of war and peace, could not be solved 'solely on the basis of written laws'. A turn to the *ratio naturae*, 'to the ordered plan of nature' was needed. Dutch colonial adventures prompted Grotius to formulate a theory of natural law inspired by those 'jurists of antiquity', who as Grotius put it, 'refer the art of civil government back to the very fount of nature'⁽⁴⁶⁾. He argued that the 'discipline of law' should be derived 'from the inmost heart of philosophy'. The problems of war and peace should be tackled with a *methodus* based on persuasion by 'natural reason'. Grotius underpinned his new *methodus* with references to Cicero, Baldus and the *Controversies* of Fernando Vázquez.

Grotius and Vázquez had more in common than a couple of legal and political arguments. They were the seminal figures of an intellectual tradition of humanists, who combined the languages of jurisprudence and neo-Scholasticism, of Roman Law and the School of Salamanca, with the Renaissance vocabulary of civic humanism and republicanism⁽⁴⁷⁾. Aggaeus van Albada and his main Italian source, Mario Salomonio, belonged to the same tradition of legal humanism. In *De Principatu* Salomonio offers a smooth integration of Roman Law and Italian Republicanism, which in combination with Vázquez's *Controversies* shaped Albada's theory in structure and substance⁽⁴⁸⁾.

The connections between the Spanish works of Vitoria, Soto and Vázquez and the Dutch works of Albada and Grotius show that in terms of intellectual history the Dutch Revolt can not be reduced to a simple clash between Spanish monarchism and Dutch republicanism. Decades of war led to a profound political rupture between Spain and the Netherlands which tainted Spanish-Dutch relations for centuries. Between the ashes Spanish and Dutch legal humanists, struggling with the issues of universal monarchy, civil power, war and peace, shaped a rich intellectual tradition which in the hands of Grotius led to the modern theory of natural and human rights. It was the cruel irony of early modern Spanish-Dutch history.

NOTAS

- ⁽¹⁾ For a fine overview see Henk van Nierop, 'De troon van Alva. Over de interpretatie van de Nederlandse Opstand', *Bijdragen en mededelingen betreffende de Geschiedenis der Nederlanden*, 110 (1995), 205-223.
- ⁽²⁾ *Libellus Supplex Imperatoriae Maiestati caeterisque sacri Imperii Electoribus, Principibus, atque ordinibus, nomine Berlgarum ex inferiori Germania, Evangelicae Religionis causa per ALBANI Ducis tyrannidem electorum, in comitijs Spirensibus exhibitus, 1570, 17*. For the English translation, 'A defence and True Declaration', see Martin van Gelderen (ed.), *The Dutch Revolt, Cambridge Texts in the History of Political Thought*, Cambridge, 1993, 20.
- ⁽³⁾ William of Orange, *The Apologie of Prince William of Orange against the proclamation of the King of Spaine*, Leiden, 1969, 44.
- ⁽⁴⁾ See José Manuel Nieto Soria, *Fundamentos ideológicos del poder real en Castilla (Siglo XIII-XVI)*, Madrid, 1988, 111-134; José Antonio Maravall, *Estado Moderno y Mentalidad social*, I, Madrid, 1972, 278-283; J.H. Burns, *Lordship, Kingship, and Empire. The Idea of Monarchy, 1400-1525*, Oxford, 1992, 71-96.
- ⁽⁵⁾ See Digest 1.4.1: Quod princeps placuit.
- ⁽⁶⁾ See José Manuel Nieto Soria, *Fundamentos ideológicos del poder real en Castilla*, 49-107.
- ⁽⁷⁾ For Charles' instructions see J. A. Fernandez-Santamaria, *The State, War and Peace. Spanish political thought in the Renaissance, 1516-1559*, Cambridge, 1977, 237-247.
- ⁽⁸⁾ See Geoffrey Parker, 'David or Goliath? Philip II and his world in the 1580s' in Richard L. Kagan and Geoffrey Parker (eds.), *Spain, Europe and the Atlantic world. Essays in honour of John H. Elliott*, Cambridge, 1995, 245-266.
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- ⁽¹²⁾ William of Orange, *Apology*, 48.
- ⁽¹³⁾ Wim Blockmans, 'La signification constitutionnelle des Privileges de Marie de Bourgogne (1477)' in Wim Blockmans (ed.), *1477. Le privilege general et les privileges regionaux de Marie de Bourgogne pour les Pays-Bas*, in the series *Ancien Pays et Assemblies d'etats*, vol LXXX, Kortrijk-Heule, 1985, 507.
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- ¹¹⁷ *Ibid.*, 144.
- ¹¹⁸ *Ibid.*, 26.
- ¹¹⁹ *Ibid.*, 123.
- ¹²⁰ See Martin van Gelderen, *The Political Thought of the Dutch Revolt, 166-212* for the debates of the 1580s.
- ¹²¹ Hugo Grotius, *De Republica Emendanda*, Arthur Eyffinger ed., *Grotiana*, new series, vol. 5, 1984, 81.
- ¹²² Hugo Grotius, *Liber de Antiquitate Reipublicae Batavae*, Ledien, 1610, v.
- ¹²³ *Ibid.*, 18.
- ¹²⁴ Henry Kamen, *Philip of Spain*, New Haven and London, 1997, 43.
- ¹²⁵ For Hopperus' ideas see Paul David Lagomarsino, *Court faction and the formulation of Spanish policy towards the Netherlands (1559-1576)*, PhD-thesis, Cambridge, 1973, 290-319 and G. Janssens, 'Barmhartig en Rechtvaardig. Visies van L. de Villavencio en J. Hopperus op de taak van de Koning' in W.P. Blockmans, H. van Nuffel (eds.), *Etat et Religion aux XV^e et XVI^e siècles*, Brussels, 1986, 25-42.
- ¹²⁶ I have used the edition in Gustaaf Janssens, *Brabant in het verweer. Absolute monarchie of staat bewind van Alva tot Farnese, 1567-1578*, PhD-thesis, Leuven, 1981, 353-371.
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- ¹²⁸ Thomas Aquinas, *Summa Theologiae*, I-II, Qu. 91, art. 2.
- ¹²⁹ Domingo de Soto, *De Iustitia et Iure*, book iv, question iii, article 1. I have used the edition published in Lyon, 1569. For Soto's theory of political society and civil power see in particular Brett, *Liberty, Right and Nature*, 154-164.
- ¹³⁰ Soto, *De Iustitia et Iure*, book iv, question ivi, article 1 (fol 107v).
- ¹³¹ *Ibid.*, book i, question I, article 3 (fol 4r).
- ¹³² *Ibid.*, Book 1, Question 1, Article 4 (fol 4r).
- ¹³³ Fernando Vázquez de Menchaca, *Controversiarum Illustrium aliarumque usu frequentium libri tres* (Venice, 1564), Preface, nrs 121-122. I have used the edition of Fidel Rodriguez Alcalde, which also has a Spanish translation, Valladolid, 1931.
- ¹³⁴ See for this point in particular Brett, *Liberty, Right and Nature*, 173, whose analysis I am following.
- ¹³⁵ Vázquez, *Controversiarum*, Preface, nr 119.
- ¹³⁶ *Ibid.*, Book ii, Chapter lxxxii, nr. 6.
- ¹³⁷ Albada, *Acten*, 166 referring to Vázquez, *Controversarium*, book 1, chapter 1, nr. 40.
- ¹³⁸ Albada, *Acten*, 16, 106 and 121.

- ⁽³⁹⁾ Ibid., 122 referring to Soto, *De Iustitia et Iure*, book 5, question 1, article 3 and Vázquez, *Controversarium*, book 1, chapter 8, nr 33.
- ⁽⁴⁰⁾ See Xavier Gil, 'Aragonese constitutionalism and Habsburg rule: the varying meanings of liberty' in Kagan and Parker, *Spain, Europe and the Atlantic world*, 160-187.
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- ⁽⁴²⁾ Hugo Grotius, *De Iure Belli ac Pacis*, ed. Jean Barbeyrac, Amsterdam, 1725, Prolegomena 55, page xxxviii.
- ⁽⁴³⁾ P.C. Molhuysen (ed.), *Briefwisseling van Hugo Grotius. Eerste deel*, 72.
- ⁽⁴⁴⁾ Hugo Grotius, *Mare liberum sive de iure quod Batavis competit ad Indicana commercia dissertatio* (Leiden, 1609). For the historical context of the publication of *Mare Liberum*, see C.G. Roelofsen, 'Grotius and the International Politics of the Seventeenth Century' in Hedley Bull, Benedict Kingsbury, Adam Roberts (eds.), *Hugo Grotius and International Relations*, Oxford, 1990, 108-12 and Frans de Pauw, *Grotius and the law of the sea*, Brussels, 1965, 14-22.
- ⁽⁴⁵⁾ See especially the work of Richard Tuck, including Richard Tuck, *Philosophy and Government, 1572-1651*, Cambridge, 1993, 154-201 and Richard Tuck, 'Grotius and Selden' in J.H. Burns (ed.), *The Cambridge history of political thought, 1450-1700*, Cambridge, 1991, 499-522.
- ⁽⁴⁶⁾ Hugo Grotius, *De Iure Praedae commentarius*, ed. H.G. Hamaker, The Hague, 1868, 6. For the English translation see Hugo Grotius, *De Iure Praedae commentarius. Commentary on the law of Prize and Booty*, vol. 1, Oxford, 1950, 7.
- ⁽⁴⁷⁾ For Vázquez see Brett, *Liberty, Right and Nature*, 175; for Grotius see in addition to Tuck's works Martin van Gelderen, 'The Challenge of Colonialism: Grotius and Vitoria on Natural Law and International Relations', *Grotiana*, new series, vol. 14-15, 1993-1994, 3-37.
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