Introduction
On Heterogeneity and the Origin(s) of De Indis of Hugo Grotius

Naming is at once the Bible and what makes epistemology possible. How does one go about naming things? Naming consists in putting together common elements, things; but it quickly becomes clear that this amounts to no more than naming parts. When one limits oneself to naming parts one becomes lost in an infinite process and in reality names nothing. One decides nothing.

(Antonio Negri)

The production of a manuscript devoid of a Title disrupts the ‘natural’ relationship that is ordinarily assumed to exist between Authorial ‘Presence’ and textual ‘Essence’—or transcendent Meaning. Such an occurrence is rich in deconstructive potential; the absence, or even the active ‘erasure’, of the Title creates a space

In his pioneering study, Fruin divides the manuscript he names De iure praedae into three parts: the first part ‘the author himself entitled… Dogmatica de iure praedae’; the second part ‘bears the superscription Historica’; and the third part ‘begins with Mare Liberum’. Robert Fruin, ‘An Unpublished Work of Hugo Grotius’, Bibliotheca Visseriana, V (1925), 3–74 at 45.

‘Presence’ is the invocation of the ‘Real’ and/or the ‘Originary’ that verifies the truth of either the spoken or written utterance. The ‘Author’ guarantees Presence/Origin/Truth through his or her hierarchical status as ‘author-ity’, or auctoritas. ‘Immediacy is derived… all begins through the intermediary.’ Jacques Derrida, Of Grammatology (Baltimore: Johns Hopkins University Press, 1976), 157. For Culler, ‘Presence is not originary but reconstituted.’ Jonathan Culler, On Deconstruction: The Theory and Criticism of Structuralism (London: Routledge & Kegan Paul, 1983), 106. See ibid.100–9, 159–87 and 200–5.

Meant here not as the Platonic ‘other-worldly’ or ‘supra-sensible’, but as the Derridean notion of a non-evident but logically necessary ‘sub-text’ that governs the production of meaning within the superficial or apparent Text. For the vital nexus between Modernity and its sub-set Law as co-bearers of ‘deific substitutes’, see Peter Fitzpatrick, “What are the Gods to Us Now?”: Secular Theology and the Modernity of Law, Theoretical Inquiries in Law, 8/1 (2007), 161–90, passim. Insofar as Law invokes the transcendental out of an ontological lack of its own, Law can never be self-grounding. ‘No matter how constrained, how seemingly settled a law may be, what remains somehow intrinsic to it is an always unsettling, restless appetency for what is illimitably beyond its existent realization.’ Ibid. 188.
of textual blankness within which the logic of iterability—or ‘rhetorical reversibility’—is given free reign; in prosaic terms, the Reader is invested with unlimited scope to ‘guess’ what the Author’s intentions actually are (were), and, from the self-proclaimed determination to deductively infer the objective meaning (or ‘purpose; or ‘end’) of the Text. Hugo Grotius’ unpublished manuscript concerning the seizure of the Portuguese carrack Santa Catarina—conventionally dated as being composed sometime between 1603 to 1608—constitutes precisely such an event. The disassociation between Authorial Presence and Textual de-notation—‘Naming’—compels serious consideration of the practical relevance of the vital Derridean notions of heterogeneity, origin, the graft, the arche-trace, and hierarchy/differance to the historical recovery of early International Law.

Deconstruction is a thoroughly historically grounded process: ‘broaching a deconstruction depends upon on a historical hermeneutics that justifies its beginnings as “subject to a certain historical necessity”’. For Derrida

The incision of deconstruction, which is not a voluntary decision or an absolute beginning does not take place just anywhere, or in an absolute elsewhere. An incision, precisely, it can be made only according to lines of force and focus of rupture that are localizable in the discourse to be deconstructed. The topical and technical determination of the most necessary sites and operators—beginnings, holds, levers, etc—in a given situation depends upon historical analysis. This analysis is made in the general movement of the field, and is never exhausted by the conscious calculation of a ‘subject’.

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6 The recent pioneering, albeit contentious, work by Borschberg and van Ittersum on the watermarks of the pages in the original manuscript provide evidence that Grotius may have been working on the Text as late as 1613. Peter Borschberg and Martina Julia van Ittersum, ‘Profit and Principle? Hugo Grotius, the VOC, and the Estado da India: the Historical Context of De Jure Praedae’, conference paper, ‘Piracy, Property, and Punishment: Hugo Grotius and De iure praedae’, Netherlands Institute for Advanced Study in the Humanities and Social Sciences, Conference June 9–11, 2005, Wassenaar.

7 Gasche, The Tain of the Mirror, 170; Derrida, Of Grammatolgy, 162.