CHAPTER 6

Creating Authority and Promoting Normative Behaviour

Confession, Restitution, and Moral Theology in the Synod of Manila (1582–1586)

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1 Introduction

Not long after the first bishop of the Philippines – the Salamanca-educated Dominican Domingo de Salazar – arrived in Manila in 1581, he summoned a meeting of ecclesiastics to address a number of issues in the archipelago. The Spanish conquest and settlement of the Philippines had begun in 1565, and the colonial society that greeted the bishop 15 years later was still struggling to find its form: on one hand, it was necessary to address the violence and disruption caused by the wars of conquest and the arrival of European settlers, and on the other, to remedy corruption and abuses of power in the nascent institutions and social structures of this new colonial society. Meetings were held irregularly between 1582 and 1586 which came to be known as the Synod of Manila.¹

There is no single complete copy of the constitutions that emerged, and our knowledge about its deliberations comes from several later redacted texts of varying length which have been carefully compiled and edited by José Luis Porras Camúñez.² There is much speculation about what the synod actually addressed, in part due to the observations of later chroniclers, but from the surviving texts the only certainty is that the constitutions pertained to the

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¹ For the debate on the technical accuracy of the congregation being called a synod, see Salazar, Sínodo de Manila, 9–11, De la Costa, The Jesuits in the Philippines, 23, and Schumacher, “The Manila Synodal Tradition”. For an overview of the chronology of the synod see De la Costa, The Jesuits in the Philippines, 21–36.

² Salazar, Sínodo de Manila, which was also published in English (Quezon City, 1993). See in particular 172–176 for a discussion of the surviving texts, the earliest of which date from the 17th century. The original text was probably destroyed in the fire that broke out at the time of the death of Governor Gonzalo Ronquillo de Peñalosa in 1583 (Salazar, Sínodo de Manila, 164). A facsimile edition of the longest of these texts, which is held in the Archives of the University of Santo Tomas in Manila, was published in Philippiniana Sacra (“Actas del primer sínodo de Manila”).
sacrament of Penance, with the self-declared aims of seeking to “remove qualms from confessors regarding serious matters that should be remedied and to soothe penitents”. The main focus was to regulate the relationship between lay Spaniards of all ranks and the indigenous population of the Philippines.

The extant texts are divided into chapters and grouped into subsections arranged hierarchically according to the social and political rank of its subjects, starting with the king and his just title to the Philippines, through the governor and royal officials, captains and soldiers, to encomenderos and their families and associates. The texts were explicitly aimed at confessors in order to help guide them by setting out what they needed to ask people of different ranks when administering the sacrament so that they did not neglect to examine sins that penitents were likely to have committed. As a result, the guidance was specifically tailored to problems that had already arisen in the Philippines. Although the texts included a number of questions, in the manner of many contemporary confesionarios, this was not their predominant format. Instead, the constitutions tend to have a more flowing prose style, characterised by a lot of descriptive detail about specific issues, why these were problematic, and how they were to be remedied. This style and this richness of detail have therefore been very useful to historians attempting to understand the broader social and economic situation in the Philippines at the time.

Scholarship on the synod has tended to focus on two particular areas: firstly, its justification of the conquest, and secondly, the evidence it contains of abuses perpetrated by lay Spaniards at all levels of society against the Indians.

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3 Salazar, Sínodo de Manila, 299. See 141–165 for a description of how later chroniclers and historians wrote about the content of the synod with potentially distorting effects.

4 In the absence of detailed studies and printed editions of many of the synods held in the Americas in the early colonial period and of comparative surveys of them, it is presently difficult to assess how usual this was for synods held within a similar time period from the initial conquests. My work on the provincial councils of Lima and Mexico, and synods and provincial council of Santafé de Bogotá suggest that discussion of the king’s rights to the Indies within the setting of a synod was unusual. However, Juan Friede’s work on the first bishop of Popayán, Juan del Valle (Friede, Vida y luchas de Don Juan del Valle, 211–216), would suggest that many of the discussions of the Synod of Manila were not unique, given that the Second Synod of Popayán (1558) reached many similar conclusions: that the wars of conquest were unjust, that the king had no right to remove lordship from the natural lords of the Indians, and that encomenderos who had acted unjustly were obliged to make restitution to the Indians and that confessors were obliged to deny them absolution until they did. Friede wrote that this synod was radical, innovative, and so controversial that it led to royal decrees and provisions prohibiting ecclesiastical synods from conducting such debates (Friede, Vida y luchas de Don Juan del Valle, 212), suggesting that this was indeed unusual but it is clear that further comparative studies are needed to assess this conclusion.
Within the latter, special attention has been paid to the requirement that _conquistadores_ and _encomenderos_ make restitution _in solidum_ to the indigenous people they robbed, murdered, maltreated, forced to work without adequate remuneration, and otherwise affected by their actions in the conquest and within the _encomienda_ system. Both aspects have been analysed in scholarship to reflect on the ways in which the Church strove for a better standard of treatment of indigenous peoples. However, by focusing on these two areas, scholars of the synod, almost all of whom have been priests themselves, have frequently cast it as a noble but ultimately doomed struggle between Lascasian missionaries fighting to protect indigenous peoples against universal cruelty and oppression of Spanish laymen. Although there is a great degree of truth in the assessment that priests were attempting to make up for what they perceived as the deficiencies of the secular government by applying their own additional coercive measures to exact a certain standard of behaviour, this reading fails to take account of the broader intellectual background, of other moments and places across the empire where similar approaches were taken, of the relationship between the normative behaviour promoted by the synod and positive law, and of the practical considerations addressed by the synod.

This partly relates to a broader trend in Philippine historiography, which has tended to examine the region in isolation and with little comparative reference to the Spanish empire in America. This in part is due to its unique geography and attendant differences, but also due to historical divergences that further separated it from the rest of the Spanish empire: firstly by remaining a Spanish possession after most other regions had obtained their independence.

5 The key authors who have examined the synod are De la Costa *sj* (Jesuits in the Philippines, 15–36), who provided a narrative account of the synod and contemporary situation, ultimately concluding that, despite his pessimistic assessment of its actual effect, "it was something to have made so bold a bid for justice, when silence and conformity would have been by far the easier course." Schumacher *sj* ("The Manila Synodal Tradition" 285–348) took a slightly different angle as he was analysing all the synods that had been held in Manila and his account was again quite descriptive of what the synod addressed but his final assessment about its impact was more positive than De la Costa’s, demonstrating that not an insubstantial amount of money was paid in restitution (307–309). Gayo Aragón *op* ("The controversy over justification of Spanish rule in the Philippines") was more interested in how the question of the just title to the conquest played out in the Philippines so only addressed that section of the synod, 9–12. And finally, Gutiérrez *op* (Domingo de Salazar, 123–152) has analysed the synod in as much as it relates to the subject of his biography, Bishop Domingo de Salazar, and again the account is fairly descriptive of the matters addressed, with the same assessment that it showed the "spirit of the crusade" on the part of the missionaries who participated and attempted to ameliorate conditions, and like Schumacher, he erred on a more positive assessment of its impact.
and then by becoming a US colony, which resulted in the near-disappearance of the Spanish language and a powerful reshaping of the image of the Spanish past. However, it can also be seen as a local manifestation of a broader trend in Latin American scholarship where, in the wake of independence, Catholic scholars sought to distance the Church from the colonial Spanish government in order to retain a place for it in the new republics, often resulting in a binary narrative that cast it as the defender of indigenous peoples against the oppression of Spanish colonialism.

This chapter will therefore seek to situate the constitutions of the Synod of Manila within a broader context and to consider them as part of a corpus of literature that emerged across the Spanish empire in response to the practical difficulties of constructing colonial societies around the early modern world. It will also examine the degree to which they can be considered to be part of a particularly Salamancan production of knowledge in a global context: engaging with, developing, and co-evaluating the methods and ideas of the School as part of the epistemic community described by Thomas Duve in his introduction to this volume, towards the pragmatic end of creating a translatable approach to justice that could be practically applied to the specific circumstances of the Philippines.

2 The Practical Problems of Establishing Social Norms in a New Society

The introductory section of the synod, “The purpose of this assembly and book”, claimed that the assembly’s purpose was not “to make new positive laws” or “to state ancient cases that are general and common to all lands”, but rather “to make a summary and memorial of the ancient and general cases, and doctrine of the doctors and royal decrees, and the common and particular laws for the Indies” tailored to the conditions of “these new lands and islands, [...] where there are not many schools, or studies, or education for men, [...] or very many copies of books”, and where those on the ground would in any case lack “the time to read or study or find something [in texts] as broad and diffuse as authors generally write” owing to their other commitments. For this reason, the synod proposed to provide a general summary of information that

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6 See Gloria Cano “Evidence for the deliberate distortion of the Spanish Philippine colonial historical record in The Philippine Islands 1493–1898” and “Blair and Robertson’s ‘The Philippine Islands, 1493–1898’ Scholarship or Imperialist Propaganda?”

7 Salazar, Sínodo de Manila, 382.
was “confusing and scattered in books” to render it accessible and thus ensure that confessors did not neglect to examine serious matters.  

The synod’s self-declared purpose bears witness to a serious practical issue across the Spanish empire, particularly in more peripheral zones: the difficulty of knowing what royal legislation contained or even what the guiding principles of that law might be. Legislation tended to be issued in the form of individual decrees by the monarch, which might redouble or modify previous royal rulings, or in instructions that were sent from the king to governors and officials, which were sometimes locally collected into cedularios. In later periods, much legislation was compiled officially into comprehensive collections and accompanied by works of jurisprudence by leading scholars and administrators, but little is known about how widely these texts circulated beyond administrative centres.

The problem was exacerbated in the Philippines, the furthest territory of the Spanish empire and its only long-term possession in Asia. The vast distance that separated it from Spain or even Mexico, and a particularly difficult eastward Pacific crossing, made communications irregular, with replies to letters taking up to three years to arrive, if they arrived at all. Still, this was by no means the only place in the Spanish empire where local officials operated with limited resources and manpower, and so it was not unusual, as in the case of this synod, for local actors, particularly those who were university-educated and understood the administrative system, to take action within a broadly understood legal and political framework in an effort to address local issues, or

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8 Salazar, Sínodo de Manila, 382.
9 See García-Gallo, “La ley como fuente del derecho en Indias en el siglo XVI” for an overview of the creation, form, content, and force of the laws in the Indies, and García-Gallo, Cedulario de Encinas, 20–22, for an account of some of the practical difficulties of knowing contemporary laws.
10 The first compilation of the legislation of the Indies was Diego de Encinas’s Cedulario and it was widely used despite its small print-run, limited circulation, and various errors (see García-Gallo, Cedulario de Encinas, 47–50 and 59–64). The Recopilación and Disputationem de Indianum Iure, by Juan de Solórzano Pereira (the first co-compiled with Antonio de León Pinelo) represent the apogee of the compilation of the laws and jurisprudence of the Indies during the Habsburg period. See Duve and Pihlajamäki “New Horizons of Derecho Indiano”, surveying the field of colonial Latin American legal history and its new areas of development.
11 “Translated into terms of time, they were separated by years. It required nearly three years for an exchange of communications, a circumstance which strained nearly to the breaking point the sentiment of obedience to the orders of the crown, when those orders conflicted with self-interest.”, Schurz, The Manila Galleon, 186. See 216–287 for the difficulties of the route and the sailing conditions.
for this to result in pragmatic texts, such as this synod, that aimed to promote a certain standard of behaviour. The role of pragmatic literature in the early modern Spanish empire – especially that produced by clerics, such as confessors’ manuals, catechisms, and handbooks of moral theology – is only beginning to be studied as a universal practice that was fundamental to governance and the creation of normativity in the Spanish empire. Its apparent simplicity and accessibility, and the fact that it was composed for local audiences, made it extremely functional in colonial societies where a lack of manpower and resources, as the Synod of Manila explicitly noted, meant that it was difficult to access official texts or find what was relevant.12 Because it was aimed at guiding conscience based on moral theology, rather than specific legislation that was in any case mutable and revocable and likewise informed by the principles of moral theology, it provided these new societies with a translatable approach to justice and what constituted correct conduct, which was not dependent on particular rulings.13

The Synod of Manila is a prime example of this kind of literature and should be analysed as such. As will be discussed below, the synod repeatedly emphasised the pernicious effects of the ignorance of law on society. Moreover, the fact that it acknowledged that it could be difficult to know what the law was suggests that there were additional factors at play in explaining the crimes and abuses committed by Spaniards perceived by the clergy beyond the usual tropes of Spanish depravity that are familiar to scholars of this early modern polemic.14 By allowing that ignorance of proper conduct could play a role in

12 The “Knowledge of the Pragmatici: Presence and Significance of Pragmatic Normative Literature in Ibero-America in the late 16th and early 17th Centuries” project, based at the Max Planck Institute for European Legal History in Frankfurt, has started to shed light on the role of pragmatic literature, especially produced by ecclesiastics, in forming “notions of legitimacy and basic moral assumptions which became a part of the moral economy of the colonial society” (https://www.rg.mpg.de/completed-project/research/knowledge_of_the_pragmatici). See also Danwerth, “La circulación de literatura normativa pragmática en Hispanoamérica”, 360–62.

13 Danwerth, “La circulación de literatura normativa pragmática en Hispanoamérica”, 362.

14 There is an interesting example given in a letter of 1573 by the Augustinian Diego de Herrera (AGI Filipinas 84 N 3, fol. 2v) which claims that “all or most of the Spaniards, when they go around the villages, make justice and examine the lawsuits and pending [cases] that the Indians have among themselves and take pay for it, judging many times without justice in favour of he who pays best”. The king and his officials were supposed to hold the monopoly on the administration of justice and so this could be seen as a usurpation of royal authority, but it could also be seen as a praxiological phenomenon where Spaniards were performing something that they took for granted and expected, unaware of the deeper implications or illegality of that action.
interactions between Spaniards and Indians, it highlighted the difficulties of establishing a new society composed of two sets of people with different legal statuses and obligations, especially in the context of Spain's overseas empire where the very humanity of indigenous people had been subject to huge debate and controversy for decades after Columbus's first voyage.\textsuperscript{15} However, this type of language might also have been a deliberate and widely-used rhetorical strategy on the part of the clergy to avoid immediate, direct conflict with the \textit{encomenderos} and officials whose actions they criticised as it implied that such individuals would act better if only they had full knowledge, rather than attributing it to malice. This simultaneously suggested that the participants of the synod alone had true and proper knowledge, something that would be important as they made their own bid for power and authority.

Even though many of the synod's constitutions coincided with royal legislation and official policy, its central preoccupation was justice and how Spaniards should treat the indigenous population. Therefore, it can be seen as a local intervention in a much broader phenomenon observable across the Spanish empire whereby learned individuals interpreted and evaluated their own knowledge and used it to produce practical solutions to address specific issues. But before setting out what these rules were or should be, the synod first had to establish its moral authority to be the arbiter of justice.

3 Justifying the Conquest of the New World

The constitutions of the Synod of Manila began with a critical analysis of the justice of the political power claimed by Spaniards in the Philippines. It was part of a much broader debate that centred on what precisely justified the Spanish conquest of the New World, a question that was much vexed and never definitively settled, with the debate continuing long into the 17th century, and which powerfully shaped the institutions and practices of Spanish imperialism.\textsuperscript{16} The most contentious points of the debate focused on whether the wars

\textsuperscript{15} For an overview of the shifting debate about how Spaniards perceived the nature of indigenous peoples in the Americas see Rodríguez-Salgado, “How Oppression Thrives Where Truth Is Not Allowed a Voice” and Anthony Pagden's classic study, \textit{The fall of natural man.} See Rodríguez-Salgado, “How Oppression Thrives Where Truth Is Not Allowed a Voice” for an analysis of the long-term developments of these debates and the importance of the perceived nature of indigenous peoples to them, with particular consideration of how they developed characterisation of Amerindians and how this affected their treatment by Spaniards. Also see Muldoon, \textit{The Americas in the Spanish World Order} for how the 17th-century jurist Juan de Solórzano Pereira analysed the ten commonly cited titles in
of conquest in the New World were just and if and how the kings of Spain could, in safe conscience, assume political government over foreign peoples.

The theologians of the School of Salamanca, led by Francisco de Vitoria, played a critical role in this debate, rejecting two of the most commonly assumed titles, those of papal donation and the universal jurisdiction of the Holy Roman Emperor, and promoting instead justifications that were based on Thomist ideas about natural law and *ius gentium* to analyse the nature and rationality of indigenous peoples, as discussed by Dolors Folch and Virginia Aspe Armella in this volume. However, theirs were not the only voices in the debate. Shortly after the arrival of the Spanish, polemics about the maltreatment of indigenous peoples were brought before the Crown in abundance, proclaiming horror at the brutal treatment, violence, enslavement, and demographic collapse of indigenous populations that resulted from wars of conquest and the early *encomienda* system, most famously and most extensively articulated by Bartolomé de las Casas. Las Casas was not the first or only individual to fight for the protection of indigenous peoples of the Americas against the Spaniards but he was incredibly influential on account of his voluminous writings, activism, and persistent lobbying of the Crown to improve the conditions of indigenous peoples and to reduce the material impact of Spaniards on their lives.

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his own treatise about the just title, and Hanke, *The Spanish Struggle for Justice*, which perhaps best charts the development of these debates in practice in the New World and their impact on royal policy.

17 See Vitoria, *Political writings*, 233–292, *de Indis*, for his analysis of the just titles, and Pagden’s *The fall of natural man*, 57–108 for a contextual analysis of this reflection and of his considerable impact on this debate. Vitoria has traditionally been seen as the founder of this academic culture — although this notion is increasingly being challenged and reconsidered, see, for example, Aspe Armella’s chapter in this volume —, known as the School of Salamanca or the Second Scholastic, that came to be predominant in Spain and promoted the role of theologians over jurists in settling contemporary issues, in contrast to how similar issues, like conquest, had previously been debated (see, for example Egío and Birr, “Alonso de Cartagena y Juan López de Palacios Rubios”). He was an adviser to the king and royal officials and many of his students — who, as Egío notes in his chapter in this volume, had some notion of belonging to a group by virtue of being students of Vitoria — also wielded a strong political and intellectual influence. Pagden’s writings, along with other intellectual historians like Quentin Skinner and Berenice Hamilton, have shown that the desire to counter Protestantism by promoting natural law theories of government based on Thomist thinking was common in the School. Although the Cambridge School, spearheaded by Pagden, focused on the role of natural law, the School’s reflections on *ius gentium*, which were particularly important with regard to whether Indians held true dominium and could therefore expect restitution, were also pertinent to this debate (Olveiro y Silva, “The concept of *ius gentium*”).
This debate profoundly shaped the Crown’s approach to empire.\textsuperscript{18} The championing of the primacy of evangelisation as the founding justification for the Spanish presence in the New World saw the Crown devote vast amounts of resources to the promotion of that aim and the granting of far-reaching privileges to the religious of the New World to carry out that work. Inevitably, the nature of indigenous peoples had been fundamental to inquiries about just war against them and Spanish dominium over them, and officially the paternalistic idea emerged that they needed to be protected by the tutelage of Spaniards until they were improved enough to govern themselves in Christian republics. Christian conversion was stated as the primary aim of the enterprise and this also entailed establishing \textit{policía} among the Indians, a notion of civilised behaviour which signified good governance and customs as well as Christianity. In practice, this objective proved perpetually elusive, with those categorised as Indians transformed instead into perpetual neophytes and \textit{personas miserables}.\textsuperscript{19} Spanish government came with the charge that it should always be to the benefit of the Indians, provoking much soul-searching over the extent to which labour and taxes could be demanded from them and further debates about the circumstances in which war and enslavement were permissible.\textsuperscript{20}

\begin{thebibliography}{10}
\bibitem{Hanke} Hanke, \textit{The Spanish struggle for justice}.
\bibitem{Estenssoro} Estenssoro Fuchs, “El simio de Dios”, argued that just as the methods and content of evangelisation were constantly shifting, so too were definitions of so-called “idolatry” in such a way as to permanently exclude indigenous people from an autonomous expression of Christianity. See also Duve “La condición jurídica del indio y su consideración como persona miserabilis en el Derecho indiano”. This hardening of the category that permanently separated Spaniard from Indian was particularly seen with regard to holy orders. See Rodríguez-Salgado, “‘How Oppression Thrives Where Truth Is Not Allowed a Voice’”, 37–39; Duve “Venerables y miserables”; Cobo Betancourt, \textit{Mestizos heraldos de Dios}; and Martínez Ferrer “La ordenación de indios, mestizos y ‘mezclas’ en los Terceros Concilios Provinciales de Lima (1582/83) y México (1585)”.
\bibitem{Phelan} The shift from a vocabulary and strategy of conquest to one of pacification came following concerns raised in the conquests of the Americas about the violence and subsequent demographic collapse of indigenous populations (see \textit{Recopilación}, book 3, title 4 \textit{de la guerra}). It is often said that the conquest of the Philippines was more peaceful than that of the Americas, but early letters written by Augustinian priests show that it was far from bloodless. Also see Phelan, \textit{The Hispanization of the Philippines}, 8–10. The enslavement of indigenous peoples was outlawed from very early on in the Spanish empire, but exceptions were made for certain types of Indians in very limited circumstances but this too eventually ended, see Seijas, \textit{Asian slaves in colonial Mexico}, 212–246, and Scott, \textit{Slavery in the Colonial Philippines} for an overview of its history more generally in the Spanish empire and specifically in the Philippines.
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Some voices emerged as especially influential in these discussions, particularly those of Vitoria and Las Casas, and the ideas and the methods they promoted and to some extent represented (the scholastic and the humanitarian) were engaged with and adapted by local actors on the ground, including Domingo de Salazar, who declared himself a student of both. Traces of their ideas are evident in the Synod of Manila, but this was not a straightforward transfer: it was rather an engagement with and development of certain lines of thought to suit local circumstances. This also raises an interesting question of how to relate Las Casas to the School of Salamanca. Las Casas, although not considered part of the School, had a profound influence on figures in the New World, such as Salazar, who might be considered part of that epistemic community, as this volume argues. The shared experience of evangelisation and interaction with indigenous groups in the Americas gave these men a different understanding to Peninsula-based intellectuals, as Aspe Armella demonstrates in her comparison of Alonso de la Vera Cruz and Vitoria on the just titles to the Indies. Although trained in the methods, ideas, and auctoritates that made them part of the Salamanca discourse community by virtue of being its students, they were also open to intellectual influence from figures outside of it, like Las Casas, who shared that New World experience and were relevant in different ways within this new context. This too is an important consideration as we try to define a School of Salamanca in a global context, moving beyond the traditional parameters of who might be considered part of it.

The Philippines were among the last overseas territories acquired by the Spanish Crown and historians have often struggled to understand why Spaniards remained in this lone, costly territory in Asia. The spice trade that centred on the Moluccas had initially lured the Spanish to the area in 1521 and the Philippines was where the leader of that voyage, Ferdinand Magellan, was killed in battle. There were various subsequent attempts to reach the Philippines and the Portuguese-held Moluccas over the next 40 years, but it was only the expedition of Miguel López de Legazpi in 1564/65 that succeeded in settling the archipelago. In the interim there had been many key

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21 See Gutiérrez, Domingo de Salazar, 1–18 for an overview of the doctrines of Vitoria and Las Casas and their intellectual influence on Salazar, also 35–38, 77–78, 131–150, and 181–191.

22 Currently, the economic argument for maintaining the territory suggests that it was largely in the interests of Mexican merchants to do so, as they made large profits from the trade with China, even though the economy of Spain suffered as a result, Bjork, “The Link That Kept the Philippines Spanish”. Furthermore, there has been a recent reassessment of how much the Philippines actually cost the central government to maintain (Álvarez, “Financing the empire”).
developments in the debates concerning the perceived nature of the Indians and the structure of imperial institutions, particularly the promulgation of *Sublimis Deus* by Pope Paul III in 1537 declaring the Indians rational men and forbidding their enslavement; the introduction and partial repeal of the New Laws; and the “great debate” between Las Casas and Juan Ginés de Sepúlveda in 1551, which definitively repudiated the notion that the Indians were Aristotle’s natural slaves.

Nevertheless, many religious had serious qualms about the legitimacy of establishing a colony in the Philippines. Famously, Andrés de Urdaneta, who discovered the *tornaviaje* from the Philippines to New Spain, had not wanted to settle the archipelago, urging for New Guinea to be settled instead, because he was convinced that the Philippines had been ceded to the kings of Portugal by the Treaty of Zaragoza. The issue was further confused by the fact that Magellan had apparently made converts in Cebu during his fatal stay there in 1522, which convinced some that conquest was justified on the grounds of the subsequent apostasy of the locals, including the same Urdaneta who, according to several *conquistadores*, “gave a sermon saying that they were apostates and that war could justly be waged on them.” The accusation of apostasy changed the dynamic of the conquest entirely. Once a person was baptised, the pope could claim jurisdiction over them in spiritual and temporal matters, at least insofar as they related to spiritual matters, and this extended, according to Vitoria, to the forcible baptism of the descendants of those who had been baptised but subsequently apostatised.

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23 See Duve, “Spatial Perceptions, Juridical Practices, and Early International Legal thought around 1500” for a full discussion of the development of these jurisdictional conflicts between the Spanish and Portuguese with regard to their overseas territories, particularly 431–440 for the division of territories in the Pacific, and Padrón “A sea of denial” for an analysis of the impact of the underestimation of the size of the Pacific Ocean on this issue. Folch’s chapter in this volume further highlights the value of cartographic knowledge and the scarcity of men sufficiently learned in producing it, a factor that ultimately led to the death of Martín de Rada, a key figure in the early history of the Spanish colonisation of the Philippines and Sino-Spanish relations.

24 AGI Patronato 24 R 29, fol. 1r. This letter from 1574 was co-signed by a dozen *conquistadores* including the interim governor, Guido de Lavezaris.

25 Vitoria, *Political Writings*, 260–262 and 350–351. The apostasy of Filipinos baptised by Magellan apparently made missionaries initially hesitant to baptise indigenous peoples after the first permanent Spanish presence was established in the archipelago (see Grijalva, *Cronica de la Orden de n. p. s. Augustin en las provincias de la Nueva España*, 124v and Phelan, “Prebaptismal Instruction and the Administration of Baptism in the Philippines during the Sixteenth Century”, 26) and this apparent apostasy figured so importantly in the Spanish imagination that the early chronicles asserted that Filipinos
During the 15 years between the initial conquests and the Synod of Manila, contradictory letters poured into the royal chancery from the religious, decrying the injustice of the wars of conquest and especially the collection of tribute, and from conquistadores, denying these accusations and claiming that the conquest had been carried out peacefully and with great forbearance on the part of the Spaniards in the face of native treachery, and that the collection of tribute was necessary. The way in which each side presented its case shows deep engagement with the broader debates about the just title and its perceived significance for justifying and obtaining support for certain actions.

A set of letters sent to the king in 1574 from both the Augustinians and the conquistadores is illustrative of the way in which each side engaged with the idea of justice to defend their actions and provides the broader context in which the debate about the just title happened during the synod. In one, Martín de Rada, the Salamanca-educated Augustinian provincial who, as is explored in Folch’s chapter in this volume, is a key figure for thinking about the Salamanite production of knowledge in the global context especially with regard to geography, was particularly prominent in these debates and vociferously complained in his letter about the injustices of the wars of conquest and violence and the excesses of the collection of tribute, and urged the king for their remedy. He explained that a junta of all the religious had declared that “no place in this land has come with just title into the power of the Spaniards” and that royal instructions were being disobeyed, so that force of arms rather than peaceful means had been used. He and others also complained about the collection of tribute, which they portrayed as an annual cycle of armed robbery by the Spaniards, with the Indians obtaining nothing in return except violence, and they argued that in any case, the rate of such tribute was so high that it was driving the indigenous population into penury.

The conquistadores and encomenderos presented a very different case, emphasising that everything had been carried out peacefully and that the
wars were in fact just because they had happened at and strictly according to the order of the king (something that Rada had denied), and that if anything, “the Indians have given reason for it [war] for being traitors and breaking the peace [...] especially in this city of Manila”.\textsuperscript{30} On the thornier issue of the collection of tribute, their argument for collecting it and for the amount that was demanded was that Filipinos were very wealthy, that “even slaves wear and have gold and jewellery on their persons”, even though they did not do any work, and that “without any work they could pay it”. For them, the locals refused to do so “not because they lacked the ability but because they are spirited and have it as a point of honour to pay the tribute by force”.\textsuperscript{31} Demonstrating their own awareness of the law, the conquistadores also emphasised that the rate was adjusted to what each region produced and that it was also appropriate to prices in the archipelago, which were very high, and that were it not to be paid, the Spaniards would not be able to sustain themselves.\textsuperscript{32}

Their argument is interesting because it is also based on juridical principles and royal legislation, even though their conclusions differed from those proposed by the religious who argued that tribute was for the cost of evangelisation and the administration of justice alone. The laymen relied instead on their own need and the superfluous, luxurious wealth of Filipinos, whilst also emphasising that their requests were moderate and fair. These arguments were a far cry from academic treatises about the just titles, but they demonstrate just how central concerns about justice, and more concretely justifiable action, were to local actors as they sought to promote their own deeds and gain official support for them. It is also clear that both sides were acutely aware of the vocabulary of the debate and language of justice which they could employ to bolster the persuasiveness of their arguments.

This debate surrounding the problem of the just title to the Philippines and the collection of tribute continued until the end of century, despite the intervention of the synod in these matters. Nonetheless, both the debates about the just title and tribute had an impact on governance in the long term: it became necessary for Spaniards to ask indigenous groups whether they freely submitted to the king to satisfy concerns about the just title, and Salazar’s personal

\textsuperscript{30} AGI Patronato 24 R 29, fol. iv.
\textsuperscript{31} AGI Patronato 24 R 29, fols. 3r–3v.
\textsuperscript{32} AGI Patronato 24 R 29, fols. 2r–4r. As early as 1536, royal orders concerning tribute demanded that tribute should be paid in things that were found in the region, Encinas, \textit{Cedulario Indiano}, vol. 11, 190–191.
theory about tribute, which represented a more extreme position even among the religious, was later partially accepted.33

4 Creating Moral Authority: The Debate over the Just Title to the Philippines

The debate over the just title to the Philippines was fundamental to the discussions of the synod because the way in which it positioned the clergy in relation to the justice of Spanish dominium was essential for establishing its own authority – a necessary precondition to its primary aim of establishing the normative code of behaviour for this new colonial society. The synod focused on relations between Spaniards and Indians in particular, and used the spiritual censure of the denial of absolution in an attempt to enforce its vision of correct conduct.34 This vision was derived from the principles of civil and canon

33 Gayo Aragón, “The controversy over justification of Spanish rule in the Philippines”, 18–21, discussed the just title and specifically the practice of asking indigenous groups to submit to the Crown and also the eventual success of Salazar’s policy on tribute, although there he expressed a degree of cynicism about the veracity of the former and scepticism about the real impact of the latter. Salazar believed that full tribute could only be collected from Indians who had converted and were receiving doctrina (religious instruction) and justice, but not from those who had not converted, even if they were receiving the same services; that only a third or half of the tribute (depending on the size of the encomienda) could be collected from those receiving justice but not doctrina; and none at all from those who received neither doctrina nor justice, with the obligation of restituting all tribute that had been taken unjustly. His proposals were partially successful, but the Jesuits and Augustinians disputed some of his arguments and advised the governor, Gómez Pérez Dasmariñas (1590–1593), on this matter. Ultimately it was ruled that no tribute should be collected from encomiendas with neither doctrine nor justice, contrary to the common practice up until that point, and that only partial tribute should be collected from encomiendas with justice but no doctrina. However, Salazar’s opinions that nothing could be taken from infidels, that restitution had to be made for tributes unjustly taken according to his criteria, and the reduction of tribute to a half or a third where there was no doctrina were all rejected. See Gutiérrez, Domingo de Salazar, 277–317 and Hidalgo Nuchera, “Una solución al problema de la cobranza de tributos en las encomiendas filipinas sin doctrina” and Encomienda, tributo y trabajo, 135–226.

34 Annual confession during Lent really became a feature of Christian practice after the Fourth Lateran Council (1215) and became particularly important after the Reformation, and the denial of it was seen as a severe punishment as it endangered the immortal soul, Martínez Ferrer, “Casos de conciencia, profecía y devoción”. Las Casas faced much criticism for proposing that this method be used against individuals, particularly when they were dying, Orique, To Heaven or to Hell, 35–38.
law rather than specific legislation in order to suit the specific circumstances of the Philippines, and so its starting point was the just title.

Its reasoning was far more detailed than the earlier correspondence in which this discussion had previously taken place, and more closely displayed a Salamancan method of reasoning and sources of justification. For the synod’s purpose, it was essential to discover the precise nature of the just title that permitted Spanish government in the archipelago. Only by establishing this could it then settle what actions were permissible, demonstrating that even though these debates are frequently treated as abstract intellectual exercise with a vaguely defined practical impact, they were in fact highly important in informing specific, local policies. Despite repeatedly complaining about the practicality of such a task because it was a question that was “too complex, large, and obscure”, and more significantly because the de facto reality was that Spaniards had conquered and now governed a number of territories and had done so for a long time, the synod’s authors were able to reach their own conclusion.35

Their justification for the Spanish title was based on two principles. The first was that the pope had the “right to go and send men to preach the Gospel across the whole world”, and that he had entrusted the task to the king of Spain. However, it did not see the papal grant of the right to evangelise as sufficient reason to justify the transfer of temporal government to Spaniards because the pope, they argued, “does not have the right to take away […] the property of any people, or kingdoms from kings, or government from republics”.36 Therefore the justification depended on a further principle: that indigenous societies did not have laws conducive to spreading the faith, violated natural law, and that indigenous leaders were incapable of governing – or indeed of being trusted to govern – according to Christian laws after their conversion, so that Spanish temporal government was necessary to facilitate evangelisation and to provide an example of good government.37 Moreover, it argued that because the aim of Spanish temporal government was to promote evangelisation, the failures of individual officials did not undermine the principle on which the legality of that temporal government was based, because it would still always be undertaken to a spiritual end, unlike that of the Indians.38

This conclusion was entirely typical for the time. Even though there was no doubt that evangelisation was an obligation and justification for Spanish

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35 Salazar, Sínodo de Manila, 386.
36 Salazar, Sínodo de Manila, 385–386.
37 Salazar, Sínodo de Manila, 388–390.
38 Salazar, Sínodo de Manila, 386–88.
imperialism, the idea that the papal grant alone could justify that imperialism had always provoked a mixed reception. Vitoria and a number of other thinkers in the 16th century tended to strictly limit papal power over infidels to indirect power orientated towards spiritual aims thereby denying its validity, but later on in the 17th century, the championing of papal jurisdiction experienced something of a renaissance. Therefore the ability of the Indians to govern themselves according to Christian customs became the critical component of the justificatory argument.

The constitutions record that doubts were raised on a few occasions and that some priests had argued that “the Indians have the capacity, and have very good government in some matters” and that “we have done much wrong to the Indians in thinking that they are not capable of governing, because we do not understand or know their languages or customs, or how they govern themselves”, but to little effect. Ultimately, it was declared that only “when we judge that they are capable [...] they are to be left to govern, but not before”. This was strengthened by the statement that the synod had not erred in declaring them incapable and that in any case, “it is normal that the whole body of the republic of the Indians is incapable, speaking absolutely”. At no point did the synod cite examples of their inept government or violations of natural law or explain what made their societies hostile to spreading the faith, speaking instead only in general terms and at best attributing it to pagan blindness.

The lack of specificity in discussing indigenous societies, and even using the term “Indians” to describe all the inhabitants of the Philippines, reveals a broader ethnological process by which all non-Christian American and Asian peoples could fall within the category of “Indian”, and membership of this category alone indicated a degree of barbarity that could always justify Spanish evangelisation and temporal government. The idea of the innate hostility of

39 See Folch in this volume, Muldoon, Popes, lawyers and infidels and The Americas in the Spanish World Order, and Rodríguez Salgado, “How Oppression Thrives Where Truth Is Not Allowed a Voice”.
40 Salazar, Sínodo de Manila, 387 and 389.
41 Salazar, Sínodo de Manila, 389.
42 Salazar, Sínodo de Manila, 387.
43 This was also noted by Hanke in his discussion of the Valladolid debates when he said of Las Casas that “He lauded the virtues of all the Indians as though they were a single nation, and thus laid himself open to grave charges, since the Indian nations were in fact so diverse, being besides on different levels of civilisation” (The Spanish struggle for justice, 128). Even though José de Acosta later sought to redefine the typologies of barbarians with his tripartite categorisations that separated so-called barbarian peoples according to their perceived level of civilisation (De procuranda Indorum salute, iv–x), the works
Indian societies to Christianity was also a common stance for the period. By this stage, the humanity and capacity of the Indians had been largely accepted but, after what seemed initially to be a very promising period of conversion, manifestations of supposed idolatry and religious backsliding had created a broad consensus that Indian societies *per se* were unable to govern themselves according to Christian principles.\(^4\)

The presentation of this argument is interesting for several reasons that make it possible to think about the School of Salamanca as a case for the global production of knowledge. The debates surrounding the just titles are generally thought of in terms of academic debates and treatises written by key authors such as Vitoria and, a century later, the jurist Juan de Solórzano Pereira, who used scholastic methods to provide an interpretation of the matter based on the weight of authoritative texts and legal traditions. It has also been considered with regard to individuals such as Las Casas who lobbied a certain agenda at court to affect official policy and royal legislation. The debate that took place in the Synod of Manila therefore provides a different way to consider the production of academic debate at a local level and its impact on local realities. Although learned in scholastic methods (many of the religious present were university educated) and working within the same intellectual environment, the extant texts of the synod contained few references to specific authorities, perhaps because the synod was ultimately a forum of discussion aimed at reaching a broad consensus in order to formulate practical remedies, and could therefore dispense with the usual methods of proof required in written treatises. Its conclusions were also far more abbreviated, drawing only on those possible justifications deemed relevant or too important to omit, rather than considering everything that was commonly argued. It was also a conclusion that resulted from a collective process of debate and consultation, rather than being the thesis of an individual, and so disagreements were reflected in the text, even though it concluded with an overall declaration. And finally, it is clear that this discussion took place for a practical end that was highly specific to local circumstances, despite drawing on and adapting a more universal vocabulary.

\(^4\) Rodriguez Salgado, “‘How Oppression Thrives Where Truth Is Not Allowed a Voice’”; Estenssoro Fuchs, *Del paganismo a la santidad*. 

Of Tatiana Seijas (*Asian Slaves in Colonial Mexico*) and Nancy van Deusen ("Indios on the move") demonstrate that within the context of Spanish territories outside the Philippines (where Chinese people fell into an intermediate, non-subject people called *sangleyes*, see *Recopilación*, book 6, title 18, *de los sangleyes*) Asian peoples tended to be folded into the legal category of *indios*. 

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This was not an abstract debate that is interesting only insofar as it relates to the broader Spanish struggle for justice, as it has frequently been presented, but a discussion that had a highly practical end. The synod explicitly questioned the relevance of such a debate, but the way in which it then constructed its own justification of Spanish governance to prove the centrality of the Church and evangelisation to the entire enterprise allowed it to establish a moral authority for the evangelisers and endow them with political relevance. The synod presented a situation whereby the primary aim of secular Spanish government was essentially to facilitate evangelisation, which placed lay officials – whom the synod had universally condemned for not correcting abuses that were inhibiting the spread of the faith – in a subordinate position, especially because a hostile environment to evangelisation was one of the reasons that had justified stripping the Indians of their own government. It maintained the common trope that the king’s laws were always good but that his justice was being abused by corrupt ministers, which implied that the present failure of the civil sphere would justify priests taking a more active role to correct injustice. This attack on the inadequacy of Spanish temporal government therefore suggests that the synod was trying to do more than establish its own moral authority: it was also making a claim for political power.

The Synod of Manila was not alone in making such a case. Evangelisation was fundamental to Spanish imperialism, and the Crown, along with other individuals at all levels of society, directed many resources to that end. However, who exactly was to be the arbiter of how evangelisation should be carried out and how the rest of society should relate to it was not as clear cut as the synod attempted to present here. That kings of Spain had been granted broader powers over the Church of the Indies under the terms of *patronato real* than they were able to exercise in Europe is essential to understanding the claim to authority that the synod was attempting to make. This struggle between secular and ecclesiastical figures to assert the power, authority, and jurisdiction they represented against each other was characteristic of the relationship between lay and ecclesiastical authorities across the empire. As Osvaldo Moutin shows in this volume, when asked to submit a report to New Spain about the state of the Church in the Philippines for the Third Provincial Council of Mexico, Bishop Salazar deplored the erosion of ecclesiastical authority that resulted from *patronato real* above all else, and urged the council to take measures to counter it.45 Salazar also repeatedly came into conflict with governors and other officials in the Philippines, whom he claimed were

45 Burrus, “Salazar’s Report to the Third Mexican Council".
violating his authority and jurisdiction, but which they and the king’s laws denied. Therefore, the discussions of the synod about the just title must be considered as more than an extension of the Spanish struggle for justice: they were also establishing the position of the Church in relation to secular government in this new colonial society, and promoting the authority of the evangelisers above that of the temporal administration.

This understanding of the argument in terms purely of the moral authority of the Church, rather than as a debate with important implications for temporal government, has proven so persuasive that even modern historians have taken these constitutions at face value and continued to assert that the Church fought to correct abuses committed by lay Spaniards against Indians as though the clergy themselves did not stand equally accused of these crimes. This misreading is made easier by the fact that the synod at no point accounted for what needed to be examined during the confession of priests, and so its absence has implicitly suggested to scholars that abuses were absent – further contributing to the image of the synod as an assembly of fiery, zealous, and just clergymen defending the indigenous population from a universal onslaught of abuse and oppression by Spanish laymen, and allowing for the easy perpetuation of a binary Church-State narrative. Across the Spanish empire, general councils and synods, as well as aranceles (tables of fixed charges for certain services) acknowledged that the clergy was not always perfect by describing and setting penalties for wrongdoings such as charging excessive fees for the performance of sacraments, failing to perform duties properly, and playing and betting on games of chance. Contemporary accounts of the Philippines reveal that its clergy proved to be no exception.

In 1582, not long after the opening and most intensive sessions of the synod, Salazar had in fact sent a letter of complaint to the king about the abuses committed by the religious, particularly the Augustinians and Franciscans who, he claimed, not only refused to respect his authority but were also guilty of an array of serious abuses. The responses to these accusations by the religious themselves were also enclosed. A few particularly flagrant problems were that many of the religious were very young and “so ignorant that they hardly know how to read” and had been settling matrimonial cases and others, despite having no training in theology or canon law, with disastrous consequences. Worse still was that they treated the Indians very harshly and whipped them, threw them in prison, imposed heavy fines and corporal punishments on them,

46 Gutiérrez, Domingo de Salazar, 277–334.
47 AGI Filipinas 59 N 7, which will be discussed below.
48 AGI Filipinas 59 N 7, fol. iv.
made them row in the galleys for the slightest of reasons, and also charged high prices for burials. This behaviour was actively hindering evangelisation because it frightened potential converts, with the result that “they do not dare to convert” and that moreover it was causing “very great scandal among Spaniards and Indians”.

These kinds of accusations were common across the New World and reflect an internal Church struggle between the secular clergy, which had recently been reinforced by the Council of Trent, and the religious, with the extensive, pre-Tridentine privileges they had been granted for the evangelisation of the New World, creating a general struggle between the two over power and jurisdiction. From these accusations, it is clear that the clergy itself also left much to be desired in the eyes of the bishop and that some were failing in precisely the same ways as laymen: ignorance leading to the perversion of the law and justice, and the mistreatment of indigenous people. And yet, this part of the story is entirely absent from these constitutions, and this omission has made it easy to take for granted that the clergy were the ideal moral authority and arbiters of justice in colonial society.

49 AGI Filipinas 59 N 7, fols. 1v–2r.
50 In 1522 Pope Adrian VI promulgated the bull Exponi nobis which gave omnimoda potestas to the religious in the New World to administer the sacraments and hold cure of souls because initially only the religious orders had the institutional flexibility and resources to undertake the evangelisation of the New World. As the number of converts increased and the Spanish position became stronger, attempts were made to convert the Church structure in America to the parochial, secular structure of Europe, particularly in the wake of the Council of Trent, which had significantly bolstered the position of the bishops. This proved unworkable because the resources and manpower of the orders far outstripped those of the secular church, and it was usually enough for the religious to threaten to resign their doctrinas if they thought that bishops were encroaching on their privileges. See González González, “Fray Alonso de la Veracruz, contra las reformas tridentinas” for an examination of this struggle in New Spain, and page 102 in particular for how Veracruz noted the changing priorities of Salazar once he became a bishop. Salazar was a Dominican but, as in many other cases, as soon as he became a bishop he found himself trying to assert the jurisdiction of the secular church over the religious, almost immediately coming into conflict with the Augustinians who, as the first order active in the Philippines, had been able to act with a great deal of freedom before the arrival of the first bishop, see De la Costa, “Episcopal jurisdiction in the Philippines in the 17th century” and Gutiérrez, Domingo de Salazar, 228–236. Salazar’s complaints about the Augustinians and Franciscans here can also be seen as rooted in general conflicts between the orders as each sought to assert itself over the others. It was not uncommon for Dominicans, who tended to have a rigorous training in theology, to denounce the religious of other mendicant orders as uneducated. For an Augustinian perspective on this conflict with Salazar, see Grijalva, Cronica de la Orden de n. p. s. Augustin en las provincias de la Nueva España, 171v–172v.
Restitution in solidum

Once the synod had established the basis of its authority and the need to take corrective action, it turned to address how Spaniards were supposed to interact with the indigenous population and, more importantly, to formulate what constituted an injustice and an appropriate remedy. These ideas often coincided with royal policy, which is unsurprising in light of the synod’s assertion that it was not trying to make new laws but rather to draw on those secular and ecclesiastical traditions that were relevant to the archipelago. An examination of legislation compiled in the *Recopilación* shows that many of the constitutions they proposed coincided with extant royal legislation. For example, the idea that *encomenderos* had to repay any tribute that was unjustly taken had long been part of royal legislation. Similarly, trying to prohibit indigenous *servicio personal*, except in times of “need for the common good” (the definition of which was much debated by jurists), or at least to limit it to when it was necessary, also had parallels in royal legislation. The role they proposed for the *encomenderos* as primarily a religious one, as spiritual coadjutors and assistants in spreading of the Gospel, could also have been taken straight from royal legislation. Given that both ecclesiastical and secular normative codes were orientated towards the temporal and spiritual wellbeing of their subjects, which were seen as inextricably connected, this overlap is not unusual.

The practice of *encomenderos* making restitution has been well studied for Peru by Guillermo Lohmann Villena and more recently by Aliocha Maldavsky.

51 *Recopilación*, book 6, title 5, law 51 (issued in 1550) stated that *encomenderos* had to make restitution for over-payments, title 9, law 3 (1536 and 1551) stated that tribute could not be taken if there was no religious instruction, and title 5, law 45 (1546) stated that tribute should be moderated during times of plague, and law 15 tried to address the common frauds of covering tribute for the dead or absent, although this was later than the Synod of Manila (issued in 1609) suggesting that it was promulgated in reaction to reports like this.

52 *Recopilación*, book 6, title 12, law 1 (1549, 1563, 1601) banned the previous form of personal service, law 3 (1563) insisted that labour should be paid and that it should be performed within a certain distance of a person’s village. See Solórzano Pereira, *De Gubernatione* (1639), book 1, chapters 1–17, and especially 13–15, for a later discussion about how to define the “public need and utility” in relation to forced indigenous labour.

53 *Recopilación*, book 6, title 9, law 1 (1554) about the duty of the *encomendero* to instruct the Indians in the faith, and protect and defend them, law 2 (reign of Philip II) about making reductions and instructing the Indians in the faith, law 3 (1536 and 1551) about only being able to take tribute if there was religious instruction, and law 37 (1537) which stated that they had to swear to treat the Indians well.

54 See Duve, “European Legal History – concepts, methods, challenges” which proposes a new methodology for the study of legal history, promoting in particular the importance of legal spaces and multinormative approaches to legal production.
Lohmann Villena saw this practice as a direct result of a crisis of conscience caused by the efforts of Las Casas – particularly his *Avisos y reglas*, which will be discussed below – which brought extant doctrines of canon law and of making reparation to the fore. He examined examples of *conquistadores* and *encomenderos* making such restitution in Peru to demonstrate its practical effect, and also reflected on the fact that the crisis of conscience and promotion of the idea of restitution there was part of a broader phenomenon that took place across Spanish America in the 1550s – as evidenced by the production of texts about *encomenderos* and restitution in other regions as well.\(^{55}\) More recently, Maldavsky has examined the importance of restitution in her work on the role of *encomenderos* in promoting and financing evangelisation, mainly through acts of charity, which she identified as being connected to particularly Tridentine developments.\(^{56}\) She also argued against the commonly held view in contemporary scholarship that *encomenderos* were necessarily obstacles to evangelisation, demonstrating that far from being a burden, the sponsorship of evangelisation through practices of charity and restitution could actually be used by Spaniards to their own advantage, such as to enhance their social positions and even to retain control over indigenous groups in the face of the limitations imposed on succession to *encomiendas*.\(^{57}\) This suggests that these practices were widespread in the New World and that it is not necessary to infer, as many scholars of the Synod of Manila have, that restitution would automatically be rejected by *conquistadores* and *encomenderos*.

In some instances, the synod seems to have moved considerably beyond what had been established by legislation, particularly when discussing the restitution owed by *conquistadores* for things they had taken in the wars of conquest.\(^{58}\) In the section in the *Recopilación* dealing with the so-called pacifications, which described the ideal of settling territories and engaging with local populations, there was no discussion of the idea that *conquistadores* had to repay things they had taken from the Indians in times of conquest.\(^{59}\)

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55 Lohmann Villena, “La restitución por conquistadores y encomenderos”.

56 Maldavsky, “Les encomenderos et l’évangélisation des Indiens dans le Pérou colonial”, “De l’encomendero au marchand”, and “Giving for the Mission”.

57 Maldavsky, “Giving for the Mission”.

58 The synod did allow that, in such circumstances, the soldiers would not have to make restitution themselves, but only in a very limited number of circumstances, Salazar, *Sínodo de Manila*, 228–32, and that royal officials had to make sure that expeditions were properly supplied, 219.

59 *Recopilación*, book 4, title 4, 9 laws issued between 1513 and 1580. These laws stated that Spaniards were only to attract Indians by peaceful means and not be the first to attack, so there was no explicit consideration of what should happen were they to violate that
In extending restitution to soldiers, the synod did no more than expand upon the idea that the ideal pacification, as established in law, assumed that nothing would be taken from the indigenous population, and therefore anything that was taken would need to be repaid. Furthermore, it was an idea that had been promoted elsewhere in the Indies, most famously by Las Casas, and so was not a particularly innovative demand.

The synod demanded that restitution had to be made by soldiers who had participated in a war knowing that it was unjust, for stealing anything (including basic provisions) from the Indians, and for any unremunerated labour they had compelled Indians to undertake. The consciences of the governor and captains were particularly burdened with this as they were supposed to have ensured that expeditions were well provisioned before setting out in order to prevent troops from resorting to theft and banditry. Governor Francisco de Sande’s 1578 expedition to Borneo was explicitly condemned as an unjust war because it was not carried out at the command of the king and therefore lacked justification. However, conscience was absolutely central to whether or not the participants of that unjust war were bound to make restitution, and the amount of that restitution depended on the degree of their participation, knowledge, and will to participate, all of which needed to be closely examined by the confessor.

Another concession was that in cases of just war where supplies had been exhausted soldiers would not have to restitute a very moderate amount of food, clothing, or other necessities, because they were ultimately carrying out these wars to propagate the faith by protecting preachers from danger, although this was only valid if there was some success in pacifying and converting the Indians. Here the uneasy relationship between the Church and the soldiery is clear: on one hand experience had shown that soldiers inflicted terrible damages on indigenous populations, but on the other priests needed their protection. Some missionaries, like Las Casas, had proposed evangelisation in modo apostolico without soldiers, as in the early Church, thinking that this best fulfilled the terms of the just title (in his opinion, the papal donation precept, and book 3, title 4, law 1 (1549) made it clear that no campaigns were to be undertaken without an express royal licence.

60 Salazar, Sínodo de Manila, 305 and 334–335.
61 Salazar, Sínodo de Manila, 335–336 and 392–393. It should be noted that Sande does not seem to have been seriously punished for this apparently unjust war as he returned to Mexico as an oidor after his governorship in the Philippines and was later made governor of the New Kingdom of Granada.
62 Salazar, Sínodo de Manila, 392–393.
63 Salazar, Sínodo de Manila, 331–333.
alone), but a few failed experiments and a great deal of hostility had seen this idea fall from favour as a general policy. Even when Salazar, a fervent admirer of Las Casas, organised and carried out missionary work in Florida it included a provision of soldiers, albeit in a way that attempted to limit violence. However, in a letter to the king written at the time of the synod, Salazar regretted that bishops and prelates did not have more authority in determining the nature of expeditions, arguing that the primary purpose of the Spanish presence was evangelisation and that there were times when this was best achieved by sending preachers *in modo apostolico* and without arquebuses. The complaint is the same as that voiced by the synod: that the Church needed to have a greater control in furthering the ultimate (evangelical) aims of colonial society.

The most controversial constitutions of the synod demanded that *conquistadores* and *encomenderos* make restitution *in solidum* for crimes they had committed against the Indians. They had to make restitution publicly with an explanation being provided as to why they were doing it, “firstly, to help the edification and trust of the Indians” and “so that they understand what matters they have been wronged in [...] and so that Spaniards cannot trick them”. This also reflects the two-way process of justice: part of it was to punish the Spaniards and exhort them to act better, but the other part was to educate the indigenous population about their own juridical character as subjects of the Spanish Crown and all that this identity entailed. Similarly, the synod outlined the conditions on and degree to which the wives and heirs of *conquistadores*, as well as servants and merchants who had bought things from them, had to make restitution for property that had been ill-gotten. The restitution that was to be made by *encomenderos* centred on tribute payments and whether these had been collected justly, with a great deal of attention devoted to who was to be charged tribute, under what circumstances, and how it was to be collected. This included further descriptions about common abuses, some of

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64 Las Casas led such a mission to Vera Cruz in Guatemala, 1537–1550. His treatise *De unico vocationis modo* (only part of which survives) set out the theological argument for the peaceful conversion of the Indians following such methods, Hanke, *The Spanish struggle for justice*, 72–83.

65 Gutiérrez, *Domingo de Salazar*, 59–67.

66 AGI, Filipinas 6 R 10 N 180, fols. 25r–25v.

67 When a group of people were considered to have inflicted damage jointly and to the point where it became impossible to divide the damage to attribute to individuals, the entire group was bound to make restitution of the entire damage collectively.

68 Salazar, *Sínodo de Manila*, 400.

69 Salazar, *Sínodo de Manila*, 395–400.
which later found expression in royal legislation, and concluded that anything taken otherwise needed to be returned.\textsuperscript{70}

The position taken by Salazar on this issue, especially in demanding restitution \textit{in solidum}, was extreme but it was not unknown. Las Casas had articulated and theorised this stance in his \textit{Avisos y reglas} of 1545, and the denial of absolution was even a tactic that had been used on him as a young \textit{encomendero} in Hispaniola.\textsuperscript{71} Similarly, in 1560, Gerónimo de Loaysa, the first archbishop of Lima, also a Dominican, sent instructions that \textit{conquistadores}, their servants, and merchants who sold equipment for war were to make restitution or be denied absolution.\textsuperscript{72} The denial of absolution and delivering sermons to condemn certain actions were tactics used by priests in order to encourage a better standard of behaviour from their parishioners on a whole variety of matters. Therefore, the focus of the synod on \textit{conquistadores} and their families, \textit{encomenderos}, and merchants was not particularly novel.

The stance of the synod was less severe than that of Las Casas, who would have denied Spaniards all their possessions in the New World many times over. This was because he firmly believed that the papal donation, which in his opinion consisted of preaching alone, was the sole reason why Spaniards could be in the New World, making no concession to the practical necessity of temporal government. He declared that any wealth accrued by Spaniards in the New World was theft and needed to be returned, although he did allow the retention of a pittance for the children of \textit{conquistadores} to maintain a very modest standard of living at the discretion of the confessor.\textsuperscript{73} This further highlights the importance of the precise formulation of the just title in establishing how individuals should behave and act.

The synod also softened the public nature of the restitution which, in Las Casas's text, had to be made publicly before a notary, with the confessor making an inventory of the individual's goods and how they had been acquired. He later had to defend this position because public confession had largely fallen out of practice.\textsuperscript{74} Even though there was a public element in how the synod

\textsuperscript{70} Salazar, \textit{Sínodo de Manila}, 243–274. See note 47 above.
\textsuperscript{71} Orique, \textit{To Heaven or to Hell}.
\textsuperscript{72} Tibesar, “Instructions for the Confessors of Conquistadores Issued by the Archbishop of Lima in 1560”.
\textsuperscript{73} Orique, \textit{To Heaven or to Hell}, 81.
\textsuperscript{74} See Orique, \textit{To Heaven or to Hell}, 91–105 for Las Casas's appendix which explained why making a public document was necessary and legitimate. Martínez Ferrer, “Casos de conciencia, profecía y devoción”, 275–293 provides a comprehensive overview of developments in the sacrament of Penance between the medieval and early modern periods and an account of the scholarship about the sacrament for this period.
proposed that restitution was to be made, this was more for the benefit of the Indians than for creating further legal ties of obligation to make sure that restitution was made. The synod also shifted the focus of merchant participation, moving away from those who supplied the arms to those who sold the spoils.

This demonstrates that priests in the Philippines, as elsewhere, were adapting to the new situations they found themselves in and that there were some similar fundamental problems, albeit with regional differences. The responses and priorities differed according to local and temporal specificities, but there are some broad similarities in the conclusions and methods that clerics proposed to use to create and enforce their vision of correct conduct. As the different cases above demonstrate, many were in little doubt that the wars of conquest had a debatable just cause, that they had been accompanied by horrors in need of restitution, and that the *encomienda* was riddled with abuses that also required that damages be paid. This is because the priests promoted to positions of power within the Church and responsible for positioning it in these new societies were often highly educated, which partly determined their responses, and so it is only by looking comparatively at their approaches to similar situations that a sense of the universal and the local emerges. They were all operating within the same intellectual environment and drawing from the same academic framework in order to argue convincingly to defend their positions.

However, as the priests acknowledged, there was a great deal of poverty among the Spanish population due to a number of factors, particularly the greed and cronyism of governors past and present, the small number of tributes that composed many *encomiendas*, and the attitude of the Spaniards, who were characterised as acting like lords and refusing to work. This poverty and the inability of individuals to make restitution, and far less to make up for those no longer there, was mentioned by the synod and frequently alleged in the following years. The policy attracted many complaints and it was claimed that some simply stopped going to confession, knowing that they would be denied absolution, so it was eventually necessary to soften this stance.75 The demand that restitution had to be made *in solidum* was dropped and the amount was fixed at a flat rate according to an individual’s means, rather than following rigorous examination by a confessor.76

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75 Schumacher, “The Manila Synodal Tradition”, 307.
76 Schumacher, “The Manila Synodal Tradition”, 307–309 and De la Costa, *Jesuits in the Philippines*, 36.
The scholarly assessment of the efficacy of the policy of restitution has been largely negative, its virtue seen predominantly in the fact that it demonstrates how priests were striving for the rights of Filipinos. John Schumacher, however, presented a slightly more positive account, describing the payments made by some, including the king, to individuals and the caja de restituciones which was established by Salazar. There is much work to be done on the amount of restitution that was made and how it was spent because the position of the scholarship has always been to assume that nobody would have any reason to want to make restitution, even if they had the means. This ignores the fact that paying restitution for damages was deeply embedded in Catholic culture and tradition and that there are examples of how encomenderos could use it to their advantage.

A letter from the dean of the ecclesiastical chapter of Manila 20 years after the synod shows that the caja de restituciones was still very much in use, and that the proceeds were spent on maintaining a hospital for the Indians, on rescuing Indians who had been captured (slave-raiding was a very common practice in the region), and on feeding them in times of hunger with "all the money that there is being spent every year for the good and benefit of the same Indians who suffered damages". This seems to differ slightly from the original intentions of the synod, which expected restitution to be made to the individual, his family if he had died, or the village if there was no family, and only to the more general benefit of the Indians if there was no longer a village standing. Nevertheless, being based on general principles of restitution, it is unsurprising that similar requirements are found in the Second Provincial Council of Lima and in the unpublished Directorio para confesores which was meant to accompany the promulgation of the Third Provincial Council of Mexico.

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77 De la Costa, Jesuits in the Philippines, 35–36.
78 Schumacher, “The Manila Synodal Tradition”, 307–308. AGI Filipinas 6 R 7 N 87 accounts for more than 10,000 pesos paid as restitution by eight conquistadores.
79 Maldavsky, "Giving for the Mission".
80 AGI Filipinas 77 N 12, fol. 1r.
81 Lima 11, Constitution 121, “It is necessary to restitute the Indians what has been taken, doing them grievances, and uncertain restitutions will be well given to the hospitals or churches of the Indians, [giving] what is owed to them, and the scribes should be given notice of this when they make testimonies”, in Vargas Ugarte, Concilios Limenses, 239. See Carrillo Cázares, Manuscritos del concilio tercer provincial Mexicano, 91–95 for a broader articulation of the principles of restitution.
6 Policing Royal Officials: The Binding of Positive Law to the Internal Forum

One consequence of the relatively late conquest of the Philippines was that there was more clarity about how the new society should look, of the form institutions and offices should take, and of the way in which indigenous peoples were to be incorporated into the Spanish regime. As a result, unlike in other moments and other places where these institutions were still being tested, there was no doubt about their basic structure. For example, there had been a great deal of debate and experimentation as to whether the encomienda was the only system that could be implemented or if there were alternative ways of governing the Indians. The synod took these institutions for granted and never questioned them, instead looking only to reform and correct abuses within them.

The synod was very clear that the figure of the governor lay at the heart of the corruption of colonial government and held the ultimately responsibility for the severely distorted relations that presently existed between Spaniards and Indians because he was “the head and source of good or bad government” and, as such, “the root of all evils”. His main error was that he did not punish grievances perpetrated against the Indians, and “so it happened that all the Spaniards, of whatever quality or age they might be, considered themselves lords of the Indians and their property”.

The synod then proceeded to detail abuses that were committed at every level of the administration, from overcharging for services, rushing or exacerbating legal disputes for more pay, fixing the prices of goods for personal profit, or using status to obtain goods below market value, and confessors were enjoined to ask the penitent about each of these in order to determine just penance. At every level of the administration, from the governor to public notaries, the synod framed the correct performance of official duties as a moral obligation and imposed spiritual censures and demands for restitution on top of the secular penalties for misdeeds in office.

Andrés Lira González has examined the works of Bartolomé de las Casas, Alfonso de Medina, and Jerónimo Moreno that related to Penance to examine the relationship that confession bore to juridical procedure, ultimately concluding that in the 80 years between Las Casas and Moreno, upholding

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82 See Hanke, *The Spanish struggle for justice*, 39–105.
83 Salazar, *Sínodo de Manila*, 391.
positive law came to be considered something that needed to be examined in that sacrament. Brian Owensby built upon this argument – also focusing on Víctor Tau Anzoátegui’s analysis of the casuistic nature of the Spanish legal system which he argued was based on notions of justicia – to affirm that upholding the positive order increasingly became an area that confessors were expected to examine in confession. The constitutions of the synod can clearly be added to the growing body of evidence that supports these conclusions. The beginning of the chapter “On what pertains to the governor”, included a section about the obligations of confessors, where it is stated that the reason why the governor was the root of all evils was because he did not keep the laws of the kings and that therefore “the confessor sins mortally and is obliged to make restitution of the damages if he does not ask him if he has read and knows the decrees of the king [...] and if he has any decree which he does not wish to declare for his own particular reasons”. He would also need to make restitution to those who would have benefitted from the legislation which had been ignored. There is a similar statement in the Directorio para confesores where it is made clear that the “principal and most prejudicial sin to the republic that temporal lords can commit” was to fail to “keep the laws and ordinances given to them” and that they also sinned “if they do not keep the laws that bind all generally”.

It seems that a general sense had emerged and been articulated with increasing clarity throughout the early years of the Spanish colonial period that upholding the positive legal order fell within the purview of the examination of conscience in the sacrament of Penance. Because of the need to unburden the conscience of the king and the anxiety over the justice of the conquest of the New World, particularly in a system riddled with abuses and the suffering of indigenous peoples, there was a need to impose further controls on the actions of laymen and hold them to a higher standard of action. As these examples demonstrate, the clergy coincided in various instances in their reasoning that the correct performance of office and the upholding of positive law fell within the interior forum, and can perhaps be viewed as another example of global knowledge production, whereby, based on similarities in training and of situation, similar solutions were proposed to practical problems.

84 Lira González, “Dimensión jurídica de la conciencia”.
85 Owensby, “The Theater of Conscience in the ‘Living Law’ of the Indies”.
86 Salazar, Sínodo de Manila, 304–305.
87 Carrillo Cázares, Manuscritos del concilio tercero provincial Mexicano, 219–221.
Conclusion

The Synod of Manila has often been studied as an example of how the clergy of the Philippines fought for the rights of Filipinos against the cruelty of the conquering Spaniards, and to understand the general social and economic conditions of the archipelago at the time. The constitutions certainly highlight crimes and abuses prevalent in the Philippines and demonstrate the ways in which individual actors fought to correct these problems. By setting the constitutions of the Synod of Manila in context to reflect on the broader significance of its debates and resolutions, and situating them in their wider imperial background, we can see them as a local manifestation of a much broader process by which local actors evaluated imperialism across Spanish territories and proposed practical, local solutions to universal problems. By comparing the issues discussed by the Synod of Manila with similar issues in other parts of the Spanish empire, addressed in those regions by men operating within similar legal and intellectual backgrounds, it is possible to gain a better sense of how universal or distinctive specific responses to particular problems really were.

The priests present in the synod felt the need to justify the Spanish title to the Philippines, and this was part of an exercise of re-centring the Church in society at a time when the far-reaching rights of royal patronage were encroaching on privileges traditionally held by prelates and the broader Church. In order to endow itself with political relevance and authority, the synod drew on broader debates that had been happening across the empire to construct a particular justification of the conquest which suited the local situation and furthered its own aims. The synod built the justification of the just title around evangelisation, and was then able to place priests as supervisors of the positive order by asserting that upholding the king's law was a matter of conscience that needed to be examined in confession. Parallel trends have been observed elsewhere in the Spanish empire, where confession was also proposed as a means of policing royal officials in other contexts rife with abuses against indigenous peoples and where it was feared that this could ultimately undermine the evangelical mission that theoretically underwrote the entire enterprise. In the Philippines, as in other parts of the Spanish empire where central authority was less present and local freedoms thus greater, debates about the nature of justice, conscience, and obedience were pushed to their limits, and their outcomes fundamental to the establishment and promotion of normative orders in those nascent colonial societies.
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