



I, HERNÁN CORTÉS

The (Second) Trial of Residency



FRANCISCO MANZO-ROBLEDO

I, Hernán Cortés: The (Second) Trial of Residency is a literary analysis of the most important documents in the Hernán Cortés trial of residency (*juicio de residencia*) using some proposed literary tools created for that purpose and the original documents in the Archivo General de Indias in Seville as well as a great variety of books on Hernán Cortés. Francisco Manzo-Robledo reveals how Hernán Cortés re-creates himself, from being the first illegal immigrant in the continent to becoming, for a short time, the highest authority in New Spain before falling into a legal limbo in the Council of Indies. This book is useful in any course dealing with Spanish colonial history or literature.

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I, HERNÁN CORTÉS



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INTRODUCTION

...a clash between two empires. Both were imaginative and inventive. Though different, they had much in common: they held many things sacred, they had conquered others, and they were fond of ceremony. Both were by most modern standards cruel, but cultivated. Both intermittently dreamed of conquering what they thought of as "the world". Both were possessed by powerful beliefs that their leaders looked on as complete explanations of human life.

Hugh Thomas, *Conquest* (xi)

In the field of colonial literature in Latin America, the literary canon has typically parted from documents of historical interest that surpass the literary, instead establishing as foundational documents those containing the production of characters having to do with the so-called ‘discovery’ and ‘pacification’ of the continent. Thus, it is considered that Hispanic American colonial literature has its origins in documents such as Cristóbal Colón’s (c. 1451–1506) *Diario de a bordo*, transcribed by friar Bartolomé de las Casas (1484–1566); *Cartas de relación* by Hernán Cortés (1485–1547), consisting of five letters in all, the first one lost and replaced by the *Carta del Cabildo de la Vera Cruz*; documents written by friar Bartolomé de las Casas such as *Breve relación de la destrucción de las Indias Occidentales*; and Bernal Díaz del Castillo’s (1492–1584?) *Historia verdadera de la conquista de la Nueva España*, among others. These documents have been studied extensively, most often from a historical perspective rather than from a literary point of view. In these documents, the line between the two areas has sometimes been lost, due to an overlay of history and literature. In some instances, history has given us myths such as the one found in the conquest of the American continent (see for example the pioneer work by William Hickling Prescott (1796–1859) and his counterpart, Mathew Restall).

One of the most important and controversial figures in the conquest of the American Continent (“pacificación y colonización” as it is called in Spanish documents), particularly of México, is Hernán Cortés (1485–1547). His known life and documents have been under scrutiny from different points of view by historians and social critics; one only has to review the bibliographic lists to see variations of the same topic. Still, very little criticism exists in regard to some of the documents produced by Cortés and his legal team pertaining to his second trial of residence (1529–). The first

Audiencia in México produced a document called **cargos**, a list of 101 charges against Cortés, presented to the *Consejo de Indias*; the reply to them is a document produced by Cortés' legal team and it is called *descargos*. To reinforce his defense, and using testimony from his own witnesses, Cortés' side also produced the document called *Cuestionario general* (the general questionnaire, consisting of 380 questions posed to his witnesses). Criticism concerning these important documents is scarce.

Throughout history, Hernán Cortés' personality has been engulfed in controversy; in modern times there have been attempts for his vindication, to some degree, that range from positions that leave him on a pedestal as a hero (although physically one could not find one monument dedicated to him in Latin America), to the cruel and violent adventurer seeking fortune. In Cortés' time, given the strict social stratification in Spanish society, the problematic economic situation in the peninsula, and the difficulties for social advancement, the New World became a attractive option for people other than *mayorazgos*, in the search for fame, riches and glory.

At this time, with relatively easy access to documents associated with different aspects of the conquest of México, Hernán Cortés' deeds awaken all types of critical reactions, some based strictly on documentation, others based on the timeless vision of history and all the alleged benefits coming from the conquest.

Ricardo Coarasa, complaining about Cortés' assigned position in history, says:

Hernán Cortés' memory has been kicked and silenced in the last five hundred years, and it is resting, ignored in the large chests of Mexican history, that same nation in which he placed its first foundations. In the Aztec country the black legend and the excesses that happened during the conquest, have fallen as a heavy burden over his figure, and the Spaniards, so given to feel shame for that period of our history, have abdicated from vindicating him, who has been labeled as bloodthirsty conqueror. (13)¹

In México, in relation to Hernán Cortés, there are at least two extreme views: 1) Studies that present Hernán Cortés' figure as the intrepid adventurer and barbarian conqueror. In this view one can see the influence of human rights considerations, conveniently non-existent during Cortés' time, says Coarasa, while talking about friar Bartolomé de las Casas, to whom Spaniards of all times concede the devious honor of being the origin of the Spanish *Black Legend*. 2) A new and alternative vision, fermenting over many years, is more critical of the conquest and, thus, of Hernán Cortés. The

¹ When a source is in Spanish, the citations are my own translations.

entire amalgam of deeds which are historically known, are now interpreted under a different light, some perspectives more limited than others, yet all stemming from the vision representative of the conquistador's side, from which we are given the greatest collection of documents corresponding to that historic event.

One thing is certain, and the documents examined in this project clearly show it: Hernán Cortés' life history, in his conquistador phase during the turbulent years of that process, was forged by Spaniards (see the document in **cargos**), and not by Mexicans.

Today, almost a half of century after what happened, there is still disagreement about the conquest, its results and its by-products. Some effects are ignored, while others are accepted in lieu of a perceived ensuing civilization of the continent, a product of Spain's influence.

With the rejection of an official history, and the new colonization of México by way of the economic sector (where Spain has an important role to play), among other forms, these views are perplexing, forming something akin to a tangled thread that is hard to undo.

In any case, placing disagreements aside, it is clear that there are documents that have not undergone sufficient analysis as literary productions, which is the objective of this study. These documents are among those contained in what is called the *Juicio de residencia* (the second), against Hernán Cortés.

Why would an analysis of these documents in the *Juicio* be of interest to literary scholars or anyone else?

Before answering such a question, let us consider what the project entails. The trial documents are stored in the *Archivo General de Indias* (AGI), in Seville, Spain, in the section PATRONATO, 17, R.24/[S/F], titled, *Residencia Segunda a Hernán Cortés* (Second Trial of Residence to Hernán Cortés), in section *Justicia*, 220 to 225 (five large bundles of documents, most of them well-preserved, a few unreadable, some in microfilm, some already digitalized and available through the Internet and, also, many of them contained in the printed books in the *COLECCIÓN DE DOCUMENTOS INÉDITOS RELATIVOS AL DESCUBRIMIENTO, CONQUISTA Y ORGANIZACIÓN DE LAS ANTIGUAS POSESIONES ESPAÑOLAS DE AMÉRICA Y OCEANÍA SACADOS DE LOS ARCHIVOS DEL REINO Y MUY ESPECIALMENTE DEL DE INDIAS*, which can also be found in *Documentos Cortesianos*, four books edited by José Luis Martínez. These documents contain the accusations, summons, replicas and questionnaires, for and against Hernando Cortés, presented by his own comrades, the First *Audiencia* and the Indian Council of Charles V. All of this effectively kept Hernán Cortés busy for many years, not having been

declared guilty, but also having been denied a verdict of innocence in response to those charges. It is clear that the trial documents were part of a strategy, a sort of enforcing legal literary game, to keep Cortés occupied and out of a unique position of power in the emerging land of New Spain.

It is also important to mention that some of the aforementioned documents present Cortés' undertakings in order to (re)construct his identity as a conqueror before the King's eyes. This was a concentrated effort on the part of Cortés, conscious of his role in the creation of history. At the end of his life, however, he saw that much was taken from him along with the riches and royalties, his own worth and recognition of himself as a worthy conqueror.

In this great collection of documents there are two works, more or less parallel, that capture what could be considered the essence of his legal defense against the serious charges. Actually, they are three documents, but in this project two of them are combined into one and thus, effectively, there are two documents analyzed in this study. One of them is presented as a form of dialogue, combining the two documents: *cargos* (accusations) presented by the accusing party, the first *Audiencia* in México, and the *descargos* (discharges) document, a form of reply to the *Audiencia's* accusations, presented by Cortés' defense.

The final one, physically, is a very large, monotonous document with a closed-question structure, and consists of 380 questions written by Hernando Cortés and his legal team. The document was designed to interrogate his own chosen witnesses, and it is known as *Interrogatorio general* (General Questionnaire). In this study the question format of each query is taken away and, by arranging the remaining paragraphs together, results in the construction of a narrative. It is a clean version of a story from Don Hernando Cortés which sometimes references to particular accusations (not present in this document) in the *Audiencia's cargos*.

Related to the trial, there are sworn statements from witnesses from both sides, but these are not included because it is clear that no witness would testify against his own side. That is, the *Audiencia's* witnesses would always testify against Cortés, and his side would always defend him. Furthermore, the types of questions (and the answers) covered give little opportunity to extract useful information.

The documents in question are designed according to the standards of the time, although one can see that they are also a product of a certain degree of creativity. Trying to converge with historical facts, Juan Miralles says in regard to the *Cuestionario general*: "...the general questionnaire was prepared c. 1534. It is then a public writing, which should have been close to

the truth, otherwise, his enemies would have torn it to pieces, pointing out the falsities found in it”(I, 75). Even then, one may notice that there exists some fictionalization, given that a historical fact is seen from different perspectives with different views and results, and in a certain way the documents become precursors to the historical novel, where the central character is always Don Hernando Cortés.

This project, besides serving as a literary criticism, confronts one very important question: How was it possible for Hernando Cortés to save his life (and possessions), attain the title of *Marqués del Valle de Oaxaca*,² and obtain 23,000 Indians for his service, including the towns where they resided,³ despite all the grave charges made against him? It is noteworthy to mention that the accusations against Cortés came from other Spaniards, his contemporaries, and, as it will be shown, the documents provide, apart from the historical content given to them, interesting possibilities for literary interpretation.

Contemplating the project in a general way, it is worth considering that Cortés was the first illegal immigrant in the continent, since he came without permission from his superior, Diego Velázquez de Cuéllar (1465–1524), to conquer. Diego Velázquez de Cuéllar, in turn, did not have permission either, nor did any legal representative of the Crown of Spain.

Recently, and with respect to the title of “conqueror,” Demetrio Ramos writes the following about the role of Cortés: “But what the cited biographer did not know [Gómara/Madariaga?] was that the deformation extended itself forward, because once Cortés arrived on the Veracruz coast, he did not want to be a conquistador, with the ending paradox of being one, to his demerit, when he did not have another option.” (43)

It can be seen that the same “historical” facts could lend themselves to different interpretations, and also emerge as products of a relative—reality. In this case Ramos considers that Cortés was pressured by his colleagues to go ahead with the conquest and thus it was not his own decision. The concept of “relative—reality” is presented in another chapter.

It is also pertinent to consider that even without the accusations from the *Audiencia*, which were a convenient and solid base for Charles V and his Council to withhold the position of maximum authority from Cortés, he was not going to be viceroy or governor of New Spain. His self-accentuated protagonist concept was too much for the monarchy. Besides, the Spanish Crown had already avoided giving the viceroy position of power to Christopher Columbus (and his relatives), and later on to Francisco Pizarro

² A.G.I.:México,1088,L.1,F.27v-28v=07-1529

³ A.G.I.: México,1088,L.1,F.11r-23r/06-07-1529/

(and relatives) and Lorenzo de Almagro (and relatives.) Looking at the situation from a modern perspective, it is clear that Cortés was destined to lose the position of power he held prior to the *Juicio* (The Trial). Therefore, not having that responsibility, or not being a viceroy, was not so much a punishment as it was a logical consequence or byproduct of Cortés' self centeredness dreams, which pushed the limits of fidelity with respect to the king. It is not unreasonable to think that the lack of 'royal' blood was also a limitation for Cortés (just as it was for Colón and Pizarro) to receive the viceroyalty in the new land.⁴

During the *Juicio de residencia*, Cortés and his legal team produced written documents containing a defensive posture against accusations from Spaniards, his own comrades. The defense's documents are of fundamental importance to this project.

⁴ Serge Gruzinski says: "Under to authority of Antonio de Mendoza, the first European Kingdome and the first court were established in America. The coming of the viceroy strengthen the central power in as much as at last it would incarnate in an aristocrat of such a illustrious Castilian stock..He fought against Cortés to limit his prerogatives. ..." (Bernard, 162)

CHAPTER I: RELATIVE—REALISM

Usually, Cortés writes away from formality proper of official documents; even more, it is possible to notice certain irony in his words, as well as in the use of sayings and colloquial expressions. Texts that present an intuitive Cortés, who knows very well the strings he needs to pull, the most convenient sceneries and who he has to include in his circle of influence and relationships.

Jesús Paniagua Pérez: Presentación,
Cartas y memoriales (11)

NOTES FOR CRITICAL ANALYSIS

One important question for criticism of a literary document is what type of critical theory will be involved in the process. However, it often becomes problematic to apply a critical theory to documents produced much before, time-wise, such a theory was proposed. When dealing with documents produced at the outset of the Spanish colony, this becomes a point of contention, questioning the validity of the application of critical terms and theories produced much later. There are instances when critics do not accept labelings, for example the application of the term “racist” to characters such as Martín Fierro, because of his clear position against the blacks in the poem; the same is said for the narrator in “El matadero,” also using derogatory adjectives against marginal members of society. One excuse is that, first, those expressions or ways to address minorities were “common” at the time, and that it is not fair to apply modern terminology to such works. Which prompts the question: Are those expressions just a product of the time, and not of a political—social philosophy, used to catalog the subject in question? Taking the risk of naivety, let us accept it that way. But, could it be fair to question why it was a “common” expression? Why was the expression not offered in a less offensive way? Why wasn’t it questioned at the time? It would be difficult to construct a theory that avoids such situations, situations that for many remain unsolvable. Fortunately, however, such outlooks are becoming less common, and there is a greater acceptance of different modern tools for criticism applied to documents produced in the early times of Latin American literature.

In this chapter, useful concepts are introduced that help generate the criticism of the chosen documents. Three concepts were developed to use in the discussions in later chapters:

1. The *relative—reality*: This is a basic concept and its importance will be seen in later chapters.
2. The construction of an *act—space*, individual and for the society.¹
3. The augmentation of the *act—space* by the process of writing.

Part of this material is contained in documents published before.²

THEORETICAL FRAMEWORK

Realism” is a term defined in literature as a reference “to the subject matter of as well as the technique by which a literary work has been created. In theory, the realist, wishing to record life as it is, refrains from imposing a predetermined pattern (based perhaps on a philosophic orientation) upon his materials. He allows the story ‘to tell itself’, for truth, he feels, resides in the events themselves rather than in his imagination...” (Beckson and Ganz, 225). “Magical realism” is another concept defined as “a kind of modern fiction in which fabulous and fantastical events are included in a narrative that otherwise maintains the ‘reliable’ tone of objective realistic report.” (Baldick, 146). These terms have been applied to literary products of Latin-American authors, for example *Los pasos perdidos* (1953, Alejandro Carpentier: Cuba, 1904–1980) and *Cien años de soledad* (1967, Gabriel García Márquez: Colombia, 1927) respectively.

In this project the term *relative—realism* is introduced. This concept, together with the concept of act-space, previously developed and available in several publications, becomes a useful tool for our purpose.³

With the intent of objectively explaining *relative—realism*, let’s use an allegorical situation found in science. The figures below, used for this purpose, were taken from Walter Mih’s book listed in the bibliography. In 1905, Albert Einstein published some of his best writings, considered master-pieces in the world of science; these were the products of his uncompromising and incomparable mind. One of his early ideas is illustrated in figures 1 and 2.

¹ A concept started in 1996 and latter on expanded, in several articles.

² See *Las dos caras del discurso homofóbico en México* (2001) and in *El discurso de la dominación: Casos coloniales* (2008).

³ The *act—space* is the space of action for each individual, along with the *act—space* for society, which includes all *act—spaces* for people.

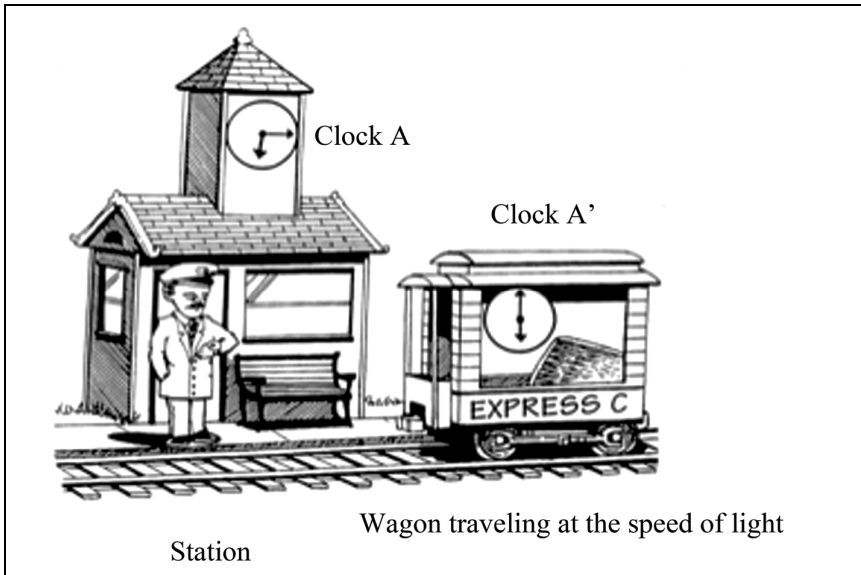


Figure 1. Station Agent looking at his watch

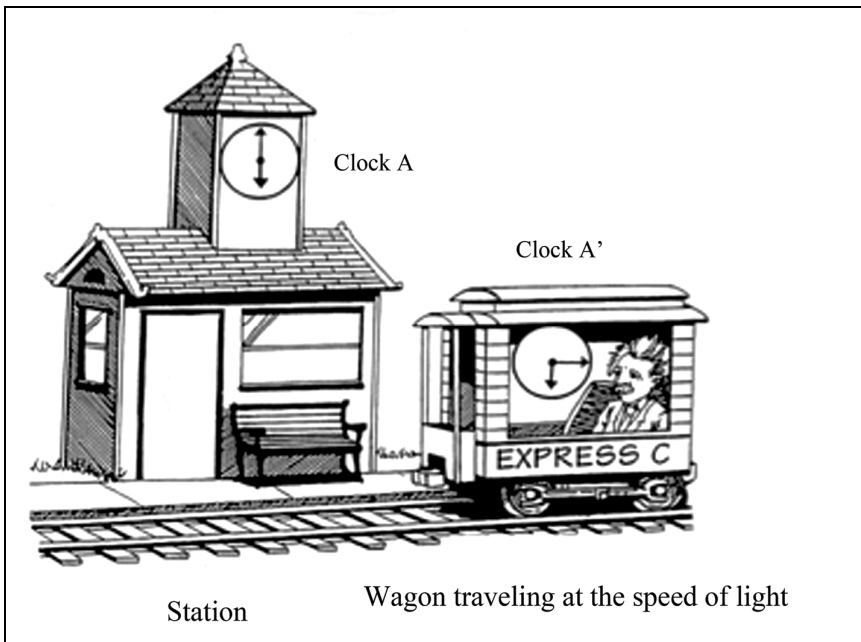


Figure 2. Passenger looking at the clock in the wagon

The situation is as follows: A train wagon (“Express C”) leaves from the station at the speed of light. This velocity will place the wagon in a special condition or special surrounding environment. Now let’s suppose that there are two observers, one on the train station’s platform (the Station Master) and another inside the wagon (the passenger). These observers are under different immediate conditions, and so, they will apparently have a different vision at the same instant in time: the man on the platform (the Station Master), standing at rest here (such condition is not necessary, for even if he was in movement at any velocity, the same phenomenon will appear), and the passenger in the wagon (which is traveling at the speed of light), each look at a different clock. The Station Master takes a look at the watch on his wrist, which has the same time as the station’s clock tower (watch A); the passenger in the wagon, looks at the clock inside the wagon (watch B). Even when both of them had the correct time at the instant of departure (6:00), each one’s perception will be different once the wagon is traveling at the speed of light: under this condition, the Station Master (Fig. 1) looks at his watch, for example at 6:15 (same time as the station’s clock tower), but when he looks at the clock inside the train wagon, he sees that it has 6:00 as the time.⁴ But, at the same instant, the passenger, looking at the clock inside the wagon, sees 6:15 (Fig. 2), but looking at the train station’s clock tower, he sees a time of 6:00, the same time as when the wagon left the station. This is one of the examples used by Einstein to explain his theory of relativity. In this case, notice that both observers are under different circumstances, and each observer questions the validity of what is being seen outside their environment, although there is clearly a given fact, relativity plays a role in the situation.

For our purpose, this is the explanation for *relative—realism*: one event can be interpreted in different ways by different observers, submerged in different immediate environments (act—space). In this case the observer on the platform is relatively at rest (though it was said that even if he was moving, the situation would not change), while the passenger is moving at the speed of light, which makes his own immediate environment quite different.

In this example, the Station Master thinks that his watch is correct (same time as the time in the station’s clock tower) and that the clock inside the wagon has stopped. The passenger in the wagon thinks that the clock inside

⁴ This is assuming that both observers, the one on the platform and the one in the wagon can see the watches 15 minutes after departure, since the wagon would be something like 270’000,000 kilometers away. It really does not matter at what time they see their watch, the situation will be the same.

the wagon is correct and the one on the tower has stopped. Which is right?⁵ As can be seen, the “correctness” is relative to the environment of each one: relativity.

In another publication, I made reference to the concept of *act—space*, and the existence of a social *act—space*, managed by the patriarchal economy.⁶ These concepts are applied in this project.

Consider how the author’s production is subject to criticism: first, the author elaborates his/her product (a private act), and then when his production gets to the public, to the reader, for example, the product is now in the public area. In ideological terms, one’s evaluation of the product depends on the act—space perceived in the product itself and how this act—space conforms with that of the public: relativity.

It is important to see that relative—realism, as proposed here, shares points of agreement with the “perspectivism” theory utilized by Bartolomé de las Casas in his famous debate with Ginés de Sepúlveda. Though, for example, in the case of human sacrifices offered by the indigenous people to their gods, both of them thought it to be wrong and against catholic believes, but las Casas proposed some ways to mitigate such wrongdoings before European eyes, even proposing that indigenous people were more religious than the Spanish Christians; this is not the case for relative—realism, as will be seen later.

An example of creation is Hernán Cortés’ elaboration, through his writings, of his own act—space, for example through his *Cartas de relación*, and after that, when he elaborated his defense in the *Juicio de residencia*. In those letters, starting with the first letter (lost), known as the letter from the *Cabildo* of the Vera Cruz,⁷ he arranges his position relative to the rest, the others, by choosing two reference points, both very important and powerful: King and God. It is well-known that Hernán Cortés comes to the continent against the variable wishes of Diego Velázquez de Cuéllar (1465–1524), at that time, the highest authority in Cuba, official representative of the Crown in Spain. In such a situation it is then appropriate to label Cortés as the first illegal⁸ on the continent.

⁵ Take into account that one does not see objects, but the light reflecting on them, thus, in a dark room one does not “see”, even though the objects are there. Once the light is on, one would see those objects.

⁶ Manzo-Robledo, Francisco: *Las dos caras del discurso homofóbico en México*, and, *Del romance español al (narco) corrido mexicano*.

⁷ Which substitutes the first letter to Charles V, lost in transit.

⁸ Demetrio Ramos pointing out to Cortés’ critics, that to this action, Cortés’ critics, in the conformation of myths and adjectives given to him “...through time, over the character

It is also accepted that three factors move the *conquistadores* (*adelantados*) to the New World: Gold, God and Glory, as shown in figure 3. Cortés uses the same triad as Colón, but does so in a way that works to better rationalize his “illegal” position. In order to be more pragmatic, he chooses a triad that could, potentially, rearrange his sensitive position as seen by the official powers.

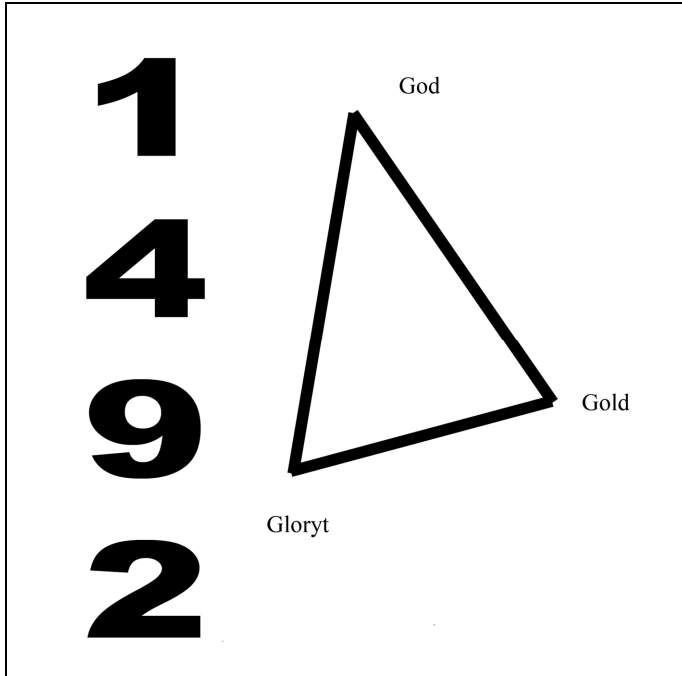


Figure 3. Christopher Columbus' Triad

In the referred publication,⁹ it is shown how Cortés elaborates his triad, making himself a very significant link. This triad is constructed in his writing; one could see how he becomes an important link between God and King, only possible, in this New World, through him. Thus Cortés becomes, from his point of view, the most important point in that triad. It is within this triad where Cortés (again, by his writings, based on his deeds) formed an augmented act—space, in the following way: consider a point “c”, as a center of ‘pseudo—gravity’ (inverse, since Cortés is the one with the smaller

has fallen such an amount of appraisals and adjectives, that as is always the case, he was getting away from reality...”(11)

⁹ See Manzo-Robledo, Francisco. *El discurso de la dominación: Casos coloniales*.

act—space, thus the point “c” is closer to him). From “c” to each defining point in the triad, there is a radius that in turn, by drawing a circle, defines the act—space (qualitatively) in human terms, representing what each figure in the triad could do (God is also measured, in human terms, to be infinitely powerful). Cortés’ act—space is obviously smaller compared to the King’s and God’s. The same act space could be drawn, again qualitatively, sketching a distance (of how far each one can go) from the center of the axes (see figure 5) in any direction, then drawing the corresponding circles, to obtain the same as figure 6, and 7.

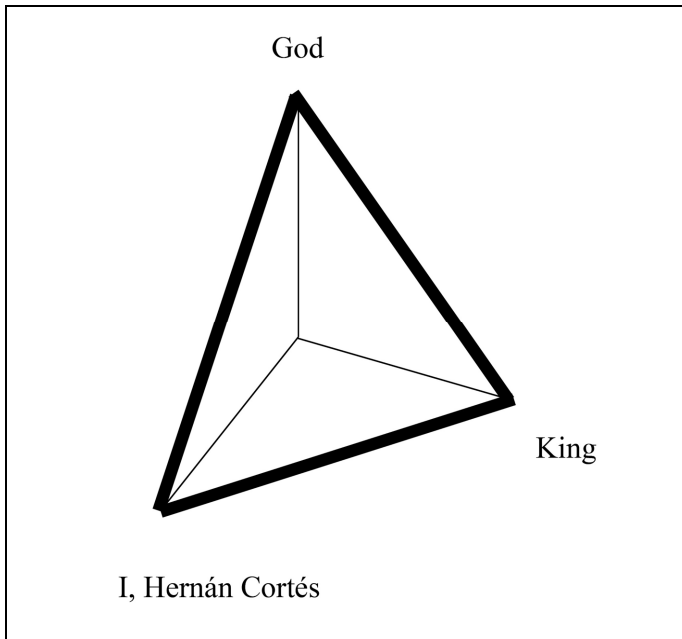


Figure 4. Hernán Cortés’ Triad

By acknowledging Cortés as conquistador and illegal (not explorer as Velázquez considered him), Cortés’ act—space is determined, qualitatively, by a circle with a radius delimited by “c—I”, as shown in figure 6. The circle with Cortés’ act—space encompasses the acts that Cortés is allowed to perform according to the rule and limitations of the time, in his condition as mentioned before. Any such action outside of this circle (act—space) would violate the rules and provoke potential punishment.

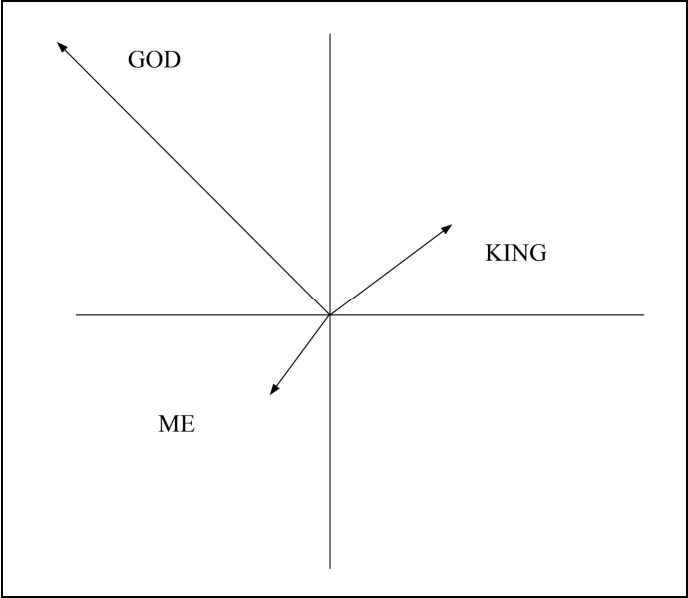


Figure 5

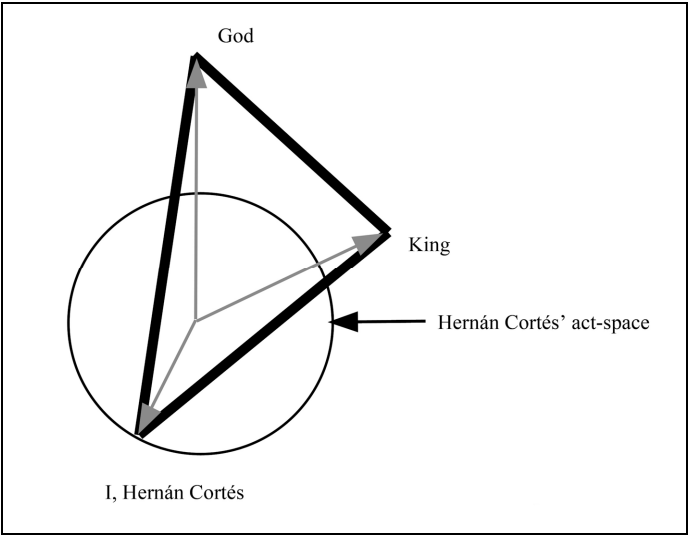


Figure 6. Hernán Cortés' act-space

This triad, in its conception, is not Cortés' original, because it was already noted in Cristóbal Colón's (~1451–1506) writings, mainly in his *Diario de abordo*; the main difference is that in the case of Cortés, there was much more gold compared to what Colón could obtain to grant the Catholic Kings.

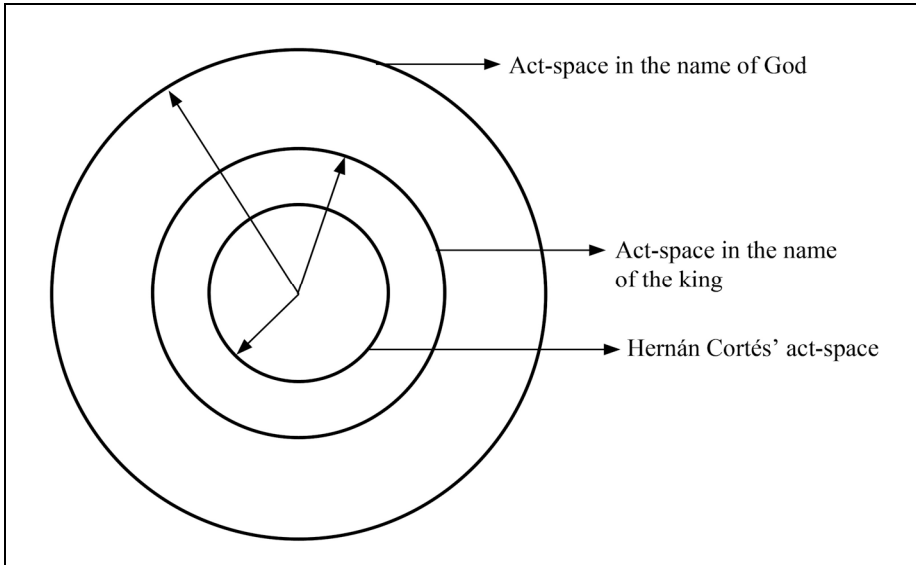


Figure 7. Hernán Cortés' augmented act-space

Figure 7 shows how Cortés' original act—space increases, noted in his writings, by acting in the name of the King, effectively including a new point (King, Charles V). Thus acting in the name of the King, Cortés' act—space is now increased, with a radius (c, King). But this is not the end of Cortés' actions. In his writings, it is also shown that he claims to act in the name of God. Thus again, his act—space increases with a new radius and a new circle (act—space) which contains the other two points, and effectively, contains all possible ones in the new land: Cortés becomes god.

The first move to enlarge his act—space becomes clear in the *Cartas de relación* where he swears obedience to the authority in Spain: "...then, arriving to the land called Yucatán, having a knowledge of its greatness and richness, he determined to do, not what Diego Velázquez wanted, which was

to look for ransom for gold, *but to conquer the land and win it, to place it under the Crown of Your Majesty...*"¹⁰ (My translation/emphasis, 19)

It could be noticed that the other two points in the triad are "proposed" by the members of the *Cabildo*. Cortés gave the *Cabildo* its name, and its members now act as new representatives of the Spanish Crown (of Queen Juana "La Loca", mother of Carlos V) in the newly discovered, conquered, and populated land. They wrote:

And this agreed, we all got together, and all with the same wish and desire, we made a requirement to the said Captain, in which we said: that he was seeing how in the service of our God our Lord and your Majesties, it was convenient that this land were populated, giving the causes above related to you and asked him to stop trading in the manner he was doing it, because it would destroy the land in many ways, and your Majesties would not be well served, and in the same sense we asked and required that he named for that villa that would be built by us, majors and aldermen in the name of your Majesties with some protests that we would present against him if he did not do it as requested] (33)

Thus, the Vera Cruz' *Cabildo* officially proposes Hernán Cortés as the "legal" representative of the Crown and God in the new land. Through his self-serving writings, a new act—space is created by Cortés, but seemingly "given" by his peers. When Cortés writes (through his legal representative, García Llerena) against the charge of his illegal status, he wrote: "...and because don Hernando Cortés saw that by populating the land, God Our Lord would be well served, and Your Majesty consequently, and your *real hacienda* incremented, he wanted to populate it in the name of Your Majesty..." (Martínez, 150)

These concepts, found in the documents, will be proposed in later chapters.

¹⁰ Knight says: "Given the Crown's ultimate—but always distant and sometimes tenuous—authority, ambitious conquistadors were eager to secure royal legitimization of their conquests, especially in circumstances of inter-Spanish rivalry, which were common enough. This eagerness was sharpened by the pervasive legalism of Spanish society". (215)

CHAPTER II: THE DOCUMENTS

... many of the cruelty acts attributed to the conquistadores have been exaggerated or judged with a different criteria from that time, because then, they enclosed a sense or need for justice. Such is the way with the ones attributed to Hernán Cortés to whom, falsely, not a few acts of cruelty are attributed...

Enciclopedia Universal Ilustrada, Tomo 21:
España. Madrid: Espasa—Calpe, 1923, pag. 694

TRIAL OF RESIDENCY

One of the first things that the Crown of Spain considered important to establish in its colonial territories was the Royal Treasury for the collection of the *quinto*¹ (the fifth corresponding to the King), taxes, charges for permits, and control of the lands and riches that the conquerors took in the name of the King. In addition, the colonies experienced the enactment of the justice entities whose role was to rule (by Spain's command), judge, execute decrees and correct, as much as it was possible and practical, acts of abuse. The *audiencias* were the first official institutions of authority with the king's representation in the colonies. The *audiencias*, along with the *visitadores*, were in charge of informing the Crown and the Council of *Indias* about the misconduct of any individual, even when committed by authoritative figures in those colonies.

The trial of residence was an important supervisory and controlling device that normally would take place at the end, or before if needed, of a public servant's service period. This mostly applied to higher authorities such as governors, viceroys and *oidores* (hearers) who were in the new continent from the XVI century and onward. This system of control was applied, if not entirely by the King's wishes and his Council's (which followed his instructions), to people whose performance was not entirely satisfactory. For example, Antonio de Mendoza² (1492?–1552), who served twice as viceroy, first in the New Spain (14 of November, 1535–1550) and then in Perú (1551–1552), was from an aristocratic royal family but was not

¹ Quinto Real—"medieval tax paid to the monarch from the booty obtained in moor's/Muslim lands ..." (Miralles, I, 30).

² Count of Tendilla, son of marquis Mondéjar, Bernardino de Mendoza's brother, new holder of that title.